

Request for data on tooth decay in Taranaki children

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	Taranaki District Health Board
Ombudsman	Ron Paterson
Case number(s)	382464
Date	23 November 2015

Section 9(2)(a) OIA applied to identifying details (NHI number, addresses, dates of birth, dental clinics), but not to information about fluoride and dental decay which would not identify individuals—partial release

Background

The New Zealand Health Trust (NZHT) sought judicial review of the South Taranaki District Council’s decision to fluoridate water. The Council relied on an affidavit by the Medical Officer of Health to support its decision.

The affidavit included a graph on the decayed-missing-filled teeth (DMFT) and decayed-missing-filled surfaces (DMFS) scores of 5-year olds in Taranaki. DMFT and DMFS are ways of describing the amount of tooth decay in a population.

NZHT asked the Council for the raw data on which the graph was based. The Council transferred the request to the Taranaki District Health Board (the DHB).

The DHB refused the request on privacy grounds (section 9(2)(a) Official Information Act (OIA)), saying that although it was possible for obvious identifying details to be removed from the data, the very small sample sizes meant there was the potential to identify individuals. Subsequently the DHB advised NZHT that its OIA request had led to the detection of errors in the affidavit, and provided updated information. The DHB did not change its mind on release of the raw data, however, and the NZHT complained to the Ombudsman.

Investigation

The DHB provided the Ombudsman with a table containing the anonymised data for the 1641 children at issue, and a list of all potential fields that would comprise the 'raw data'. The DHB noted that the data identified one 5 year old with all their teeth removed, and said the risk of breaching this individual's privacy was high.

Privacy

Section 9(2)(a) of the OIA applies where withholding is *'necessary to protect the privacy of natural persons'*.

The Ombudsman consulted the Privacy Commissioner. The Privacy Commissioner said that *'with the few details contained in [the anonymised data], it would be nearly impossible to look at the data and identify any one child in the Taranaki region as being part of the study'*. However, he was concerned that the child who had all their teeth removed would be able to be identified. With respect to the raw data, the privacy interest could be protected by removing identifying details (NHI numbers, addresses, dates of birth, and the names of dental clinics in which the individuals were enrolled).

The Ombudsman concluded that section 9(2)(a) provided good reason to withhold the identifying details, but that there was no good reason to withhold information that was not about an identifiable individual. This included whether fluoride was present or absent in the child's home or school, the extent of decay in the child's teeth, and the child's ethnicity.

The Ombudsman acknowledged the Privacy Commissioner's concerns about the one child who had all their teeth removed. However, he noted that the only people who could identify this child by virtue of the fact that they had had all their teeth removed would be people already privy to this information. Given the passage of time since the data was gathered, it seemed unlikely the child would now be identifiable from their lack of teeth.

Public interest

Section 9(2)(a) is subject to a public interest test. This means the need to withhold must be balanced against the countervailing public interest in release. If the countervailing public interest weighs more heavily, the information must be released. If not, it can be withheld.

The Ombudsman considered that there was a public interest in release of the raw data to ensure transparency and accountability, as the information related to claims by health officials about fluoridation. Fluoridation is a controversial topic and it is important that there is transparency in relation to the information on which the Medical Officer of Health relied in support of his claims. The public interest was heightened due to the errors that were subsequently detected in the data.

Outcome

The Ombudsman formed the opinion that the anonymised table should be released, as should the raw data other than NHI numbers, addresses, birth dates and dental clinics. The DHB agreed to release the information to the complainant and the complaint was resolved.

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