

Privacy

A guide to section 9(2)(a) of the OIA and section 7(2)(a) of the LGOIMA

One reason for withholding information that has been requested under the OIA is the protection of personal privacy.

Section 9(2)(a) of the OIA¹ applies where withholding is necessary to ‘protect the privacy of natural persons, including that of deceased natural persons’.

This guide explains how section 9(2)(a) works, and what factors to consider in deciding whether it is necessary to withhold official information on privacy grounds.

Section 9(2)(a) is subject to a public interest test. See our [Public interest](#) guide for more information about how to apply that test.

You can also find information about section 9(2)(a) in our [Names and contact details of public sector employees](#) guide.

¹ References to the OIA should be taken as references to the LGOIMA; references to s 9(2)(a) OIA should be taken as references to s 7(2)(a) LGOIMA.

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What the Act says

The starting point for considering any request for official information is the **principle of availability**. That is, information must be made available on request unless there is a **good reason** for withholding it.²

Reasons for refusal fall into three broad categories: conclusive reasons,³ good reasons,⁴ and administrative reasons.⁵ Among the ‘good reasons’, section 9(2)(a) applies where withholding is necessary to ‘*protect the privacy of natural persons, including that of deceased natural persons*’.

‘Good reasons’ are subject to a ‘*public interest test*’, meaning that if they apply, agencies must consider the countervailing public interest in release.⁶ If the public interest in release outweighs the need to withhold, the information must be released. See our [Public interest](#) guide for more information on how to do the public interest test.

See [our website](#) for information on other withholding grounds.

What about the Privacy Act?

The Privacy Act does not limit or affect the operation of the OIA.⁷

The Privacy Act governs requests made by individuals for **their own** personal information. It does not apply when agencies are considering OIA requests for personal information about other people.

OIA requests cannot be refused ‘*because of the Privacy Act*’. However, the OIA provides for the protection of personal privacy. When an OIA request raises privacy interests, these must be considered under section 9(2)(a).

Agencies are protected from liability in civil or criminal proceedings for releasing information in ‘*good faith*’ under the OIA.⁸ This means that people cannot generally complain under the Privacy Act about their personal information being released under

² See s 5 OIA and LGOIMA.

³ See ss 6 and 7 OIA and s 6 LGOIMA. ‘*Conclusive*’ reasons are not subject to a ‘*public interest test*’, meaning that if they apply, there is no need to consider any countervailing public interest in release.

⁴ See s 9 OIA and s 7 LGOIMA. ‘*Good*’ reasons are subject to a ‘*public interest test*’, meaning that if they apply, agencies must consider the countervailing public interest in release.

⁵ See s 18 OIA and s 17 LGOIMA. ‘*Administrative*’ reasons for refusal are not subject to a ‘*public interest test*’, meaning that if they apply, there is no need to consider any countervailing public interest in release.

⁶ See s 9(1) OIA and s 7(1) LGOIMA.

⁷ See s 24(1)(a) Privacy Act 2020, and [413631](#) and [133048](#).

⁸ See s 48 OIA and s 41 LGOIMA. ‘*Good faith*’ means that an agency has released the information ‘*in the honest belief that the OIA requires disclosure*’: *Director of Human Rights Proceedings v Commissioner of Police* HC CHCH CIV-2007-409-002984 14 August 2008 at paragraph 47.

the OIA (unless it was done in bad faith). However, it may be possible to complain to the Ombudsman under the Ombudsmen Act 1975.

People can complain under the Privacy Act if their personal information has been proactively released without an OIA request.

When does section 9(2)(a) apply?

Section 9(2)(a) applies when withholding is necessary to protect the privacy of natural persons, including deceased natural persons.

For withholding to be *'necessary'*, there must be a reason to believe release would affect the privacy of the individual(s). There is no requirement for the effect to be significant, unreasonable or unwarranted, but it should be more than negligible.

The release of official information may affect the privacy of the individual(s) where it would:

- reveal their [personal information](#); or
- in some way intrude on their privacy—for example, by affecting their dignity or their mental or emotional wellbeing, by damaging their reputation, or by exposing them to unwanted contact or attention.

Agencies should assess:

1. whether there is a privacy interest in the information, and if so;
2. how strong that interest is.

The next section discusses factors to consider in [assessing the privacy interest](#).

Personal information

Personal information is information about an identifiable individual.

Personal information does not have to be factual; it can also be expressions of opinion or intention about the individual. The information may or may not be true. Personal information does not have to be of a particularly personal (private or sensitive) nature. It is information of any nature that is about an identifiable individual.

Common examples of personal information include a person's name, address and contact details; information about their family life, hobbies, interests, and political or religious beliefs; financial information; employment information; health information; and photographs or audio/video recordings of a person.

What is privacy?

Broadly speaking, privacy is the right to be left alone, or freedom from interference or intrusion. Information privacy is the right to control how your personal information is collected, used, and disclosed.

The right to privacy is recognised in foundational human rights documents, like the *Universal Declaration of Human Rights* (Article 12) and the *International Covenant on Civil and Political Rights* (Article 17):

No one shall be subjected to arbitrary interference with [their] privacy, family, home or correspondence, nor to attacks upon [their] honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

The OIA recognises privacy as a particular interest warranting protection. One of the purposes of the Act is to ‘to protect official information to the extent consistent with the public interest and the preservation of personal privacy’.⁹ This reflects ‘the public interest in protecting privacy’,¹⁰ and ‘serves as an indication that the interests represented by section 9(2)(a) of the Act are strong ones’.¹¹

Can organisations have privacy interests?

Section 9(2)(a) protects the privacy of **natural persons**. This means human beings, not organisations, like companies or government agencies. Organisations do not have privacy interests ([462024](#) and [391635](#)).

Section 9(2)(a) will not protect information about organisations, unless it can reasonably be argued that releasing information about the organisation would reveal personal information about the individuals who are part of it.

⁹ See s 4(c) OIA and LGOIMA.

¹⁰ Law Commission. [The Public’s Right to Know: Review of the Official Information Legislation](#). (NZLC R125, 2012) at 110.

¹¹ Former Ombudsman Nadja Tollemache, *Ninth Compendium of Case Notes of the Ombudsman* at 180. Available in hard copy from the Office of the Ombudsman.

Assessing the privacy interest

The following factors will help you to assess whether there is a privacy interest in the information and, if so, how strong it is.

<p>The nature and content of the information</p> <p>448845 & 450946, 446634, 416215, 302561 & 302600 and 173434</p>	<ul style="list-style-type: none"> • Is the information personal information about an identifiable individual? • What would it reveal about the individual? Is it the kind of information a reasonable person would expect to remain private? For example, it is more likely to be necessary to withhold: <ul style="list-style-type: none"> - Information that is of a private or sensitive nature. Some subjects that are generally regarded as private or sensitive include an individual’s health, personal relationships or finances (405640, 399726, 177615 and 133048). - Information that relates to an individual’s private life (their home, family, social life or finances), rather than their public life (work undertaken in their professional capacity)—499319, 446391, 430771, 387054, 376377, 346787, 320402 and 302966. • The sensitivity of the information may depend on the context. Even information that is not obviously private or sensitive can give rise to a privacy interest that is deserving of protection.
<p>The circumstances in which the information was obtained</p>	<ul style="list-style-type: none"> • What were the circumstances in which the agency obtained or created the information? What was the purpose of obtaining or creating the information? What assurances were given to the individual who the information relates to about how it would be used or disclosed? • Withholding is more likely to be necessary if the information was obtained in circumstances that support a reasonable expectation of privacy. • Note, however, that <i>‘the concept of privacy is contextual, [and] information which may not appear to be personal or intrusive in the context in which it is supplied or obtained may well be so in another context’</i>.¹²

¹² *R v Alsford* [2017] NZLR 710 at paragraph 134 (SC).

<p>Who the information relates to</p>	<ul style="list-style-type: none"> • Who does the information relate to? Is there anything about their personal circumstances that increases or decreases the need to withhold? For example, children, young people and vulnerable individuals may require particular protection, in contrast to people in high profile or public positions, who might reasonably expect that some information about them will be disclosed (463915, 462024 and 342959 & 341270). • Does the information relate to a deceased person? Section 9(2)(a) is capable of protecting the privacy of the deceased, and their surviving family members (for example, 489358 and 360811). However, the privacy interests of deceased persons can diminish with time. For example, the limits on disclosure of health information in rule 11 of the Health Information Privacy Code 1994 do not apply in respect of individuals who have been dead for more than 20 years (see rule 11(6) and 177511). <i>Freedom of Information in New Zealand</i> notes:¹³ <p style="text-align: center;"><i>Whatever rights to privacy the deceased enjoy, these rights cannot be perpetual. One would expect that the privacy of the deceased would weigh less heavily against the countervailing public interest in disclosure as time recedes even if the right to privacy did not itself diminish.</i></p>
<p>Whether the individual is identifiable</p> <p>458292, 448845 & 450946, 416215, 290369 (2015) and 346787</p>	<ul style="list-style-type: none"> • Is the individual that the information relates to identifiable? • This includes situations where the individual's identity is plainly apparent, for example, because the requester knows the identity of the individual, or because the information includes their name or image (see 290369 (2015) on images). It also includes situations where the individual's identity can be reasonably ascertained. • An individual's identity may be reasonably ascertained from the information on its own, because it includes sufficient descriptive information about the individual to be able to identify them (for example, a reference to the Chief Executive of a particular agency); or from a combination of the information and other details that are known to the requester or publicly available.

¹³ Eagles, I, Taggart, M, and Liddell, G. *Freedom of Information in New Zealand*. Oxford: Oxford University Press, 1992 at 283.

	<ul style="list-style-type: none"> • The individual does not have to be identifiable to the ‘<i>world at large</i>’, or to a significant number of people. So long as information has ‘<i>the capacity to identify [the individual] to some members of the public</i>’, it is personal information.¹⁴ However, there must be a realistic prospect of the individual being identified (173989). If the risk of identification is negligible, it will not be necessary to withhold the information on privacy grounds. • Where only statistical information is sought, this is less likely to result in the identification of individuals. However, where the numbers are very small there is a higher risk that individuals will be identifiable, and personal information about them disclosed (473280, 458292, 441597 & 442496, 382464, 348307 and 173989).
<p>Reasonable expectations about use or disclosure</p>	<ul style="list-style-type: none"> • What would a reasonable person in the individual’s position expect about how the information would be used and disclosed? Would they reasonably expect it to remain private? Would they reasonably expect that it might be disclosed under the OIA, or subject to public scrutiny? • What is a reasonable expectation will be influenced by the nature and content of the information; the circumstances in which it was obtained (for example, an individual may not expect information that was obtained for one purpose to be used or disclosed for another purpose); who the information relates to, and the extent to which the information is publicly known.
<p>The views of the individual</p>	<ul style="list-style-type: none"> • Agencies should consult with affected individuals before releasing information that could affect their privacy. As the Ombudsman has noted, ‘<i>consulting the subject of the information is giving recognition to the privacy values that section 9(2)(a) seeks to protect—the opportunity for the person to have some influence over what will happen to the information about them</i>’ (416215). • If the individual consents to the information being disclosed to the requester, withholding is unlikely to be necessary in order to protect their privacy. Consent must be freely given, specific, informed and unambiguous (416215 and 290369 (2012)).

¹⁴ *Proceedings Commissioner v Commissioner of Police* [2000] NZAR 277 at 285 (CRT).

	<ul style="list-style-type: none"> • If the individual does not respond when consulted, the agency may fairly assume they do not consent to release. • The individual's views are relevant to the agency's decision whether to withhold or release, but they are not determinative. The individual cannot veto disclosure. The agency must consider what the individual has to say and reach its own independent view on the applicability of the privacy withholding ground, and the countervailing public interest in release. • See our Consulting third parties guide for more information about when, who and how to consult, including template consultation letters. • If the agency does not consult the individual(s) concerned, the Ombudsman may decide to do so if a complaint is received.
<p>The consequences of disclosure</p>	<ul style="list-style-type: none"> • Would disclosure cause the individual harm or distress? For example, would it: <ul style="list-style-type: none"> - Expose them to harassment, or safety and security concerns (450093, 387054 and 348307)? - Expose them to unwanted, unwarranted or unfair public scrutiny or attention (463915, 462024, 446634, 379151)? - Enable fraudulent use of the disclosed information (for example, details of bank accounts)? - Risk their mental or emotional wellbeing by, for example, causing them distress or humiliation (448845 & 450946 and 379151)? - Damage their reputation or affect their chances of promotion or employment (450093, 376377 and 355627)? - Damage their relationships with others? • The likelihood of harm may depend on the size of the community in which the individual lives. A disclosure may have a disproportionate effect in a smaller community.

	<ul style="list-style-type: none"> • In assessing the likely consequences of disclosure, agencies should bear in mind that there is generally no way to control or restrict the use or dissemination of information once it is released under the OIA.¹⁵ • Agencies should also consider whether the risks are heightened by the potential for the information to be broadcast or published online. For comment on the impact of publication, see 448845 & 450946.
<p>The extent to which the information is publicly available</p> <p>499319, 463915, 462024, 446634, 413631 and 302561 & 302600 and 176472</p>	<ul style="list-style-type: none"> • Is some or all of the information at issue publicly available, or a matter of public knowledge? It may not be necessary to withhold such information on privacy grounds. • Agencies should consider: <ul style="list-style-type: none"> - The scope of the publicly available information: Is it the same or different, in either content, character or form, to the information at issue? Disclosure of information that is different in content, character or form can still infringe privacy (for example, 405640). There can be a difference between knowing something to have occurred and seeing it in photos or videos, for example (448845 & 450946, 416215 and W61471). - The accessibility of the publicly available information: Is it easily and generally accessible, for example, on the internet? Or is it only available for public inspection at a particular location? Would releasing the information in response to an OIA request make it easier to access the information and therefore more likely to affect personal privacy? - The source of the publicly available information: Is it the individual themselves? If it is not the individual themselves, how authoritative is the source of the information? There is an important distinction to be drawn between public speculation about an individual, and official confirmation. There may still be a privacy interest to protect if the information was posted by another person without the individual's authorisation, or leaked through a data breach (489358).

¹⁵ The exception may be where the information is disclosed subject to conditions on its use or dissemination. However, such conditions are not enforceable under the OIA itself, and rely on a relationship of trust and confidence, or the establishment of a formal deed or contract. For more information about conditions, see [The OIA for Ministers and agencies](#) and [The LGOIMA for local government agencies](#).

	<ul style="list-style-type: none"> - The timing of the prior disclosure: If a lot of time has passed, so that the information has largely been forgotten, the information may have moved out of the public domain (176472). The republication of known but publicly forgotten facts may amount to an invasion of privacy.¹⁶ • Even if there is a lot of information in the public domain, there may still be a residual privacy interest that requires protection (405640 and 379151). The right to privacy is broader than ‘<i>information privacy</i>’ and includes the right to be left alone (see What is privacy?). • It may also be relevant if the information is known to the requester, as opposed to being in the public domain more generally. This may mean it is not necessary to withhold the information from that requester in order to protect the individual’s privacy (for example, where a parent knows information about their child, like their date of birth). However, the views of the individual in this situation still matter. As discussed above, an important part of privacy is the individual being able to control who has access to their personal information, even if the requester may to some extent already be aware of it (174056 and A13008).
<p>Whether disclosure would be fair</p> <p>430771, 355627 and 342959 & 341270</p>	<ul style="list-style-type: none"> • Taking into account all the above considerations, would it be fair to disclose the information about the individual? For example, it may be unfair to disclose unsubstantiated allegations or complaints about an individual. In contrast, disclosure of proven or substantiated allegations or complaints, after a full and fair process, is more likely to be warranted, and within the reasonable expectations of the individual.

¹⁶ See note [13](#) at 259.

The Privacy Commissioner

The Privacy Commissioner, an independent Crown entity, is an expert on the privacy interests of individuals.¹⁷ The Ombudsman is required to consult the Privacy Commissioner before forming an opinion that section 9(2)(a) does not apply.¹⁸ The Ombudsman will take the Commissioner's views on the privacy interest into account before forming an opinion.

Public interest

As noted above, section 9(2)(a) is subject to a '*public interest test*'.

This means that, if section 9(2)(a) applies, agencies must go on to consider the countervailing public interest in release. This requires assessing the relative strengths of the privacy interest and the public interest in release. If the public interest in release outweighs the need to withhold, the information must be released. In the absence of a public interest that outweighs the privacy interest, the information should be withheld.

Some public interest considerations that may be relevant in this context include:

- Accountability for how agencies make decisions and perform their functions, spend public money, and take appropriate action when things go wrong ([448845 & 450946](#), [446634](#), [446391](#), [430771](#), [399726](#), [379151](#), [346787](#), [348307](#), [133048](#)).
- Enabling individuals to pursue their legal rights and remedies ([173434](#) and [W42175](#)).
- Ensuring procedural fairness in the investigation of complaints, so that people know the nature of allegations made about them by others ([174402](#)).
- Keeping the public adequately informed of risk or danger to public health or safety or the environment, and measures to promote public health or safety, or protect the environment ([178767](#)).

See our [Public interest](#) guide for more information, including factors that can affect the weight of the public interest in release.

¹⁷ See www.privacy.org.nz.

¹⁸ See s 29B OIA and s 29A LGOIMA.

Other ways of getting the balance right

Before refusing a request, it is important to consider whether there are any other options to protect privacy and/or address the public interest in disclosure. These include:

- Deleting personal information that is private or sensitive, or would identify individuals ([448845 & 450946](#) and [382464](#)). Agencies should seek appropriate advice before releasing datasets or other sensitive personal information on an anonymised basis.¹⁹
- Releasing key information rather than everything requested.
- Releasing an excerpt or summary of the information ([430771](#), [399726](#), [379151](#), [348307](#) and [133048](#)).
- Providing the information in an alternative form, for instance allowing information to be inspected rather than providing a copy ([448845 & 450946](#) and [W49969](#)).²⁰
- Imposing conditions on how the information can be used or disseminated ([360811](#)).²¹
- Releasing other information, such as information for a larger cohort to make it more difficult to connect the information with identifiable individuals ([473280](#)).

Further information

The [appendix](#) to this guide has a list of relevant case notes and opinions. There is also a [work sheet](#) to help you decide whether section 9(2)(a) provides good reason for withholding. Other related guides include:

- [The OIA for Ministers and agencies](#)
- [The LGOIMA for local government agencies](#)
- [Public interest](#)
- [Consulting third parties](#)
- [Names and contact details of public sector employees](#)

You can also contact our staff with any queries about section 9(2)(a) on info@ombudsman.parliament.nz or free phone 0800 802 602. Do so as early as possible to ensure we can answer your queries without delaying your response to a request for official information.

¹⁹ Statistics New Zealand. [Data Confidentiality Principles and Methods Report](#). October 2018.

²⁰ For more information about the manner of release, see [The OIA for Ministers and agencies](#) and [The LGOIMA for local government agencies](#).

²¹ For more information about conditions, see [The OIA for Ministers and agencies](#) and [The LGOIMA for local government agencies](#).

Appendix 1. Relevant case notes and opinions

Case	Year	Summary
499319	2020	<p>Request for email between journalist and source</p> <p><i>Section 9(2)(a) OIA did not apply—one party consented to release—both parties were acting in their professional capacities—information already in the public domain—information released</i></p>
489358	2020	<p>Request for information about death in custody</p> <p><i>Section 9(2)(a) OIA applied to audio recordings of interviews—withholding necessary to protect high privacy interest in information about deceased prisoner and interviewees—privacy interest not lessened by leaked information or prisoner’s passing—‘the improper release of official information does not defeat otherwise legitimate privacy interests’—no public interest override</i></p>
473280	2020	<p>Request for average remuneration of 10 highest paid staff broken down by gender</p> <p><i>Section 9(2)(a) OIA applied—small numbers in top 10 meant there was a real likelihood release could reveal fairly accurate salary information about identifiable individuals—withholding necessary to protect their privacy—public interest in transparency around the gender pay gap required release of the requested information for top 20</i></p>
462024	2018	<p>Request for information in relation to overseas acquisition of property in Northland</p> <p><i>Section 9(2)(a) OIA did not apply—allegations did not constitute personal information about the applicants—information was already in the public domain—matter had already been traversed in the media, and risk of further interference with privacy as a result of unwanted media attention was minimal—applicants would have been aware of this risk when submitting their application</i></p>
458292	2018	<p>Request for information about staff grievances and allegations of bullying</p> <p><i>Section 7(2)(a) LGOIMA did not apply—high-level statistical information on staff grievances and bullying allegations could not be linked with identifiable individuals</i></p>
450093	2018	<p>Request for names of members of the Auckland University European Students Association</p> <p><i>Section 9(2)(a) OIA applied—withholding necessary to protect high privacy interest in information that would directly or indirectly identify AUESA members—potential consequences of disclosure included harassment, threats and reputational damage—no public interest override</i></p>

Case	Year	Summary
448845 & 450946	2018	<p>Request for camera footage of three Taser incidents</p> <p>Section 9(2)(a) OIA applied—footage of two incidents particularly sensitive—pixelation not sufficient to address privacy interests—footage of third incident not so sensitive—pixelation would make the risk of identification negligible—strong public interest in release because the footage raised concerns about Police use of the Taser—public interest met by allowing requesters to view footage of two incidents, and by releasing a pixelated copy of the third incident</p>
441597 & 442496	2018	<p>Request for statistics on allegations of assault by Corrections staff</p> <p>Section 9(2)(a) OIA did not apply—information was not about an identifiable individual</p>
463915	2017	<p>Request for job application file of National MP</p> <p>Section 9(2)(a) OIA provided good reason to withhold some information—low privacy interest in information about MP’s work and study history in China, due to the amount of information in the public domain and his high public profile—outweighed by public interest in transparency</p>
446634	2017	<p>Request for the number of days Peter Thiel spent in New Zealand before gaining citizenship</p> <p>Section 9(2)(a) OIA applied—withholding necessary to protect low privacy interest in the number of days Peter Thiel was in New Zealand—risk of unwanted attention acknowledged, but matters had already been well-traversed in the media, and this was a risk Mr Thiel would have been aware of—public interest override—transparency and accountability for the Minister’s decision to exercise discretion to grant citizenship in exceptional circumstances</p>
446391	2017	<p>Request for names of guests invited to Mayor’s Christmas function</p> <p>Section 7(2)(a) LGOIMA applied—low privacy interest in the names of the guests—as guests were representatives of local businesses or other organisations the information was more about their public lives than their private ones—the function was a public event not a private affair—public interest override—transparency and accountability for public spending</p>
430771	2017	<p>Request for information about decision to grant diversion</p> <p>Section 9(2)(a) OIA applied—withholding necessary to protect highly private details of alleged offender’s personal life—public interest in accountability for the Police decision to grant diversion in contentious circumstances required disclosure of summary</p>
416215	2017	<p>Request for Taser camera footage and tactical operations report</p> <p>Section 9(2)(a) OIA applied—no consent to release—providing an opportunity to view the footage would still infringe privacy—pixelation would not negate privacy concerns—difference between knowing something and seeing / hearing it—no public interest override</p>

Case	Year	Summary
413631	2017	Request for CSV copy of the Teachers' Register <i>Section 9(2)(a) OIA did not apply—not necessary to withhold publicly available information in order to protect privacy</i>
405640	2016	Request for affidavits relied on to establish diagnosis of Fetal Alcohol Spectrum Disorder <i>Section 9(2)(a) OIA applied—strong privacy interest in information about childhood, family life and health—privacy interest not extinguished by prior disclosure of certain information in court—no public interest override</i>
399726	2016	Request for David Bain's contribution to legal aid grants <i>Section 9(2)(a) OIA applied—strong privacy interest in release of information that would reveal financial circumstances—public interest in accountability for the administration of legal aid required disclosure of whether any contributions were required (but not the amount), any steps taken to recover these, or reasons why recovery was not enforced</i>
355627	2016	Request for health practitioner's complaint history with HDC <i>Section 9(2)(a) OIA applied—withholding necessary to protect health practitioner's privacy—consequences of disclosure could include unwarranted damage to professional reputation and standing—no public interest override</i>
391635	2015	Request for whether company vehicles issued infringement notices <i>Section 7(2)(a) LGOIMA did not apply—information about company not natural person</i>
387054	2015	Request for names of submitters who opposed an application by the Ban1080 party to register its name and logo <i>Section 9(2)(a) OIA applied—withholding necessary to protect the privacy of submitters who were individual members of the public—potential consequences of disclosure included harassment and threats to safety—in view of these consequences the public interest in disclosure did not outweigh the need to withhold—compare with 320402</i>
382464	2015	Request for data on tooth decay in Taranaki children <i>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</i>
379151	2015	Request for serious incident review <i>Section 9(2)(a) OIA applied—although significant information was already in the public domain withholding was necessary to protect the family's right to be left alone in circumstances where highly distressing events had resulted in significant media and community attention—public interest in accountability for the clinical competency of DHB staff and the proper investigation of serious incidents required disclosure of summary</i>

Case	Year	Summary
376377	2015	<p>Request for information about appointment of public service chief executive</p> <p><i>Section 9(2)(a) OIA applied to names of unsuccessful candidates—release could be perceived to impact negatively on their reputations—s 9(2)(a) did not apply to names of external panellists—although private persons, there was no reasonable expectation of privacy when performing this public function</i></p>
360811	2015	<p>Request for reports into prisoner deaths in custody</p> <p><i>Section 9(2)(a) OIA applied—withholding necessary to protect the privacy of the deceased prisoners—public interest in organisations like the Howard League being able to contribute effectively to inquests required release on conditions</i></p>
346787	2015	<p>Request for executive summary and recommendations in MOTAT organisational review</p> <p><i>Section 9(2)(a) OIA applied to information about Chief Executive, though privacy interest was low as the information was about him in his professional capacity—section 9(2)(a) did not apply to information about ‘staff’, ‘volunteers’, ‘board’ or ‘management’ as this was about the collective not the individuals—public interest in accountability outweighed low privacy interest in information about the Chief Executive</i></p>
290369	2015	<p>Request to view camera footage of 47 incidents where the Taser was discharged</p> <p><i>Section 9(2)(a) OIA applied—videos / photos can be personal information about an identifiable individual even if their name is not known—high privacy interest in images of individuals being restrained by Police—no consent to release—providing an opportunity to view the footage would still infringe privacy—no public interest override</i></p>
348307	2014	<p>Request for location of sex offenders</p> <p><i>Section 9(2)(a) OIA did not apply to number of sex offenders released into cities because this would not enable individuals to be identified—section 9(2)(a) applied to number of sex offenders released into smaller towns because there was a risk that they could be identified and targeted—public interest in appropriate management of high risk offenders met by releasing this information on a Community Corrections District basis</i></p>
342959 & 341270	2013	<p>Request for Hon John Banks’ statement to Police</p> <p><i>Section 9(2)(a) OIA applied—while public office holders and people standing for public office ‘can be taken to surrender some of the privacy interest they would otherwise reasonably expect’, Mr Banks had a reasonable expectation of privacy in his statement to Police given no charges had been laid—public interest in promoting integrity of elections required disclosure of information about solicitation of campaign donations and contact with potential donors</i></p>

Case	Year	Summary
302561 & 302600	2013	<p>Requests for information regarding the production of The Hobbit and film production generally</p> <p><i>Section 9(2)(a) OIA did not apply—the content of the communications was not of a personal nature—the primary privacy interest was in who wrote them, however the key protagonists and their views were in the public domain—there is not generally a reasonable expectation of privacy for people petitioning the government for a law change</i></p>
133048	2013	<p>Request for independent report into care and treatment given to convicted murderer</p> <p><i>Section 9(2)(a) OIA applied—high privacy interest in offender’s health information—public interest in release of summary information to promote accountability of the DHB for the standard of care provided, given the gravity of the offences and the proximity of their commission to his discharge from care</i></p>
320402	2012	<p>Request for the identities of members of the public making submissions and PHARMAC staff involved in decision making on funding of drug (the ‘PHARMAC case’)</p> <p><i>Section 9(2)(a) OIA did not apply—submitters were acting in their professional capacities—general expectation of openness and transparency when participating in the development of public policy—compare with 387054</i></p>
302966	2012	<p>Request for information about assessment of community organisation as approved community service</p> <p><i>Section 9(2)(a) OIA did not apply to correspondence from the chair of the community organisation—the fact that a person signed a letter does not make that letter personal information about them—signatory was acting in his professional capacity on behalf of the community organisation—the letter was about the organisation not the signatory—correspondence released</i></p>
290369	2012	<p>Request for Taser camera footage (subjects gave consent to release)</p> <p><i>Section 9(2)(a) OIA did not apply—consent to release—discussion of informed consent—Released with pixelation</i></p>
177615	2011	<p>Offender’s request for victim’s medical examination</p> <p><i>Section 9(2)(a) OIA applied—withholding necessary to protect highly sensitive personal information about the victim of sexual offending—no public interest override</i></p>
W61471	2010	<p>Request for Taser camera footage</p> <p><i>Section 9(2)(a) OIA applied—no consent to release—pixelation would not negate privacy concerns because the individual would still be identifiable to people who knew about the incident—difference between knowing something and seeing/hearing it—no public interest override</i></p>

Case	Year	Summary
176472	2010	Request for Police prosecution file <i>Section 9(2)(a) OIA applied—low privacy interest in information that was either known to the requester or publicly available was outweighed by the public interest in the requester knowing the full details of the accident that led to her mother’s death—remaining information properly withheld on privacy grounds</i>
178767	2009	Request for Hazardous Activities and Industries List <i>Section 9(2)(a) OIA applied—withholding necessary to protect the privacy of landowners who were natural persons—need to withhold outweighed by the public interest in release of information about environmental risks—information released</i>
177511	2008	Request for deceased relative’s medical file <i>Section 9(2)(a) OIA did not apply—no meaningful privacy interest in information about an individual deceased for nearly 90 years—information released</i>
A13008	2008	Request for adult daughter’s ACC file <i>Section 9(2)(a) OIA applied—in the absence of consent withholding was necessary to protect the daughter’s privacy—no public interest override</i>
174402	2007	Request for letter of complaint <i>Withholding investigated by the Privacy Commissioner under the Privacy Act 1993 and the Ombudsman under the OIA—personal information about requester released—s 9(2)(a) OIA applied to the remainder—withholding necessary to protect the privacy of the complainant and her children—public interest in knowing the nature of a complaint made against the requester already met</i>
174056	2007	Request for information about Children’s Commissioner investigation <i>Section 9(2)(a) OIA applied to redacted material from draft investigation report—requester no longer authorised to act as advocate for the family—withholding necessary to protect the family’s privacy—requester’s prior knowledge did not affect the family’s privacy interest—the mother had a right to revoke the agency relationship and control who could access her personal information—no public interest override—good reason to withhold</i>
173989	2006	Request for blood test results of 52 past or present residents of Paritutu <i>Section 9(2)(a) OIA did not apply—results could not be linked with identifiable individuals—information released</i>
173434	2006	Request for confirmation of debtor’s removal from New Zealand for purposes of insurance claim <i>Section 9(2)(a) OIA applied—withholding necessary to protect ‘modest’ privacy interest—outweighed by public interest in enabling pursuit of legal rights and remedies—information released</i>

Case	Year	Summary
W42175	2002	Request for address information to assist enforcement of judgement orders <i>Section 9(2)(a) OIA applied—no consent to release—reasonable expectation that information supplied for one purpose would not be used or disclosed for another—public interest in enabling requesters to pursue their legal rights and remedies required release to the Department for Courts for enforcement purposes</i>