

## Department of Internal Affairs' interpretation of Rates Rebate Act correct in partnership income issue

<b>Legislation</b>	Ombudsmen Act 1975, Rates Rebate Act 1973, Property (Relationships) Act 1976
<b>Agency</b>	Department of Internal Affairs
<b>Ombudsman</b>	Peter Boshier
<b>Case number(s)</b>	440781 (previously unpublished)
<b>Date</b>	2016

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### *Decision not to investigate a complaint about the Department of Internal Affairs' interpretation of the Rates Rebate Act 1973*

The complainant applied for a rates rebate and requested that his partner's income be excluded when assessing his entitlement to a rates rebate. He submitted that he and his partner had a section 21 'Contracting Out Agreement' under the Property (Relationships) Act and therefore her income did not have to be legally declared as she had no interest in the property. He advised the local Council of his complaint and the Council responded, explaining that it had received comment from the Department of Internal Affairs (DIA) about the concerns raised.

After making preliminary inquiries, the Ombudsman was advised by the Council that DIA had concluded that the complainant's partner met the definition of 'partner' in the Rates Rebate Act and therefore, her income (as a partner of the ratepayer) did fall within the definition of 'income'.

The DIA noted that section 21 of the Property (Relationships) Act states that an agreement is for the purpose of the '*status, ownership, and division of their property*'. It did not make any mention of the costs associated with the property. It therefore appeared that how couples arrange their property affairs under the Property (Relationships) Act was a different matter to determining eligibility for a rates rebate in line with the Rates Rebate Act. DIA appeared to be acting in accordance with the Act when it required the complainant's income to be declared and made a determination that the 'Contracting Out Agreement' did not have any bearing on

the definition of income in the Rates Rebate Act. It was therefore difficult to see how the determination made was one that could be open to criticism on administrative grounds.

The complainant claimed that the current regulations requiring the inclusion of a partner's income in the application for a rates rebate should be reviewed because the legal agreement they had meant she had no interest in the property. The complainant claimed that there should be a review of the method of assessing total household income and that the Ombudsman should examine the interpretation of the regulations applying to the assessing of the income applicable for a rates rebate.

However, the Ombudsman advised that despite the complainant's concerns, DIA was acting in accordance with the legislation, and the Ombudsman could not reinterpret this. Investigation was therefore unnecessary.

*This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.*