

## Request for cost of recruiting Vice-Chancellor

<b>Legislation</b>	Official Information Act 1982, ss 9(2)(b)(ii), 9(2)(j)
<b>Agency</b>	Lincoln University
<b>Ombudsman</b>	Leo Donnelly
<b>Case number(s)</b>	439321
<b>Date</b>	September 2017

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*Release of total cost would not unreasonably prejudice third party's commercial position—no specific negotiations—release of total costs would not deter businesses from treating with government—public interest in accountability for spending public money*

Lincoln University refused a request for the total cost of recruiting the Vice-Chancellor under sections 9(2)(b)(ii) (unreasonable commercial prejudice) and 9(2)(j) (negotiations), and the requester complained to the Ombudsman.

In relation to section 9(2)(b)(ii), the University argued that release of the recruitment consultant's pricing information would impact on its ability to tender successfully for future work, which would affect its profitability.

The Ombudsman was not persuaded that section 9(2)(b)(ii) applied. The information did not reveal the consultant's fee structure or pricing policies, or the amount of work done for the fees paid. It was therefore not clear how disclosure of the total cost would be likely unreasonably to prejudice the commercial position of the consultant. The total cost comprised the consultant's fee, plus additional costs for advertising, accommodation, travel, toll calls and other disbursements.

The University suggested that it would be possible to calculate the consultant's fee from the total costs because the additional fees were standard throughout the industry and as a result it would possible to estimate these. However, the Ombudsman was not convinced of this. The additional fees were dependent on a number of factors that would vary according to the

circumstances of the particular recruitment process, for example, the travel component of the fee was dependent on whether the applicants were locally or internationally based.

In relation to section 9(2)(j), the University argued that release would impact on its ability to negotiate favourable terms with recruitment consultants in future.

The Ombudsman noted that the University had not cited any specific negotiations that would be likely to be prejudiced if the information was released. He also noted that recruitment agencies would be aware that all government agencies in New Zealand are subject to the OIA and, as such, there is always the possibility that the information they provide to such agencies may be released. He did not consider this would dissuade them from putting forward their most competitive price in order to secure work in a competitive market.

The Ombudsman also considered that the public interest considerations in transparency and accountability for expenditure of public funds outweighed any interest in withholding. He noted the view of successive Ombudsmen that there is a strong public interest in the release of information about the employment of consultants in the public sector, including the fees paid for their services.

The University agreed to release the information after considering the Ombudsman's comments and the complaint was resolved.

*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.*