

Request for job application file of National MP

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	University of Auckland
Ombudsman	Leo Donnelly
Case number(s)	463915
Date	18 December 2007

Section 9(2)(a) OIA provided good reason to withhold some information—low privacy interest in other 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

Background

In 2017, *Newsroom* published an investigation relating to a National MP’s work and study history in China and potential links to Chinese intelligence agencies. Journalists then asked Auckland University for the job application file in relation to his appointment as senior lecturer in 1999. They complained to the Ombudsman when that request was refused under section 9(2)(a) of the Official Information Act (OIA), in order to protect his privacy.

Investigation

The Ombudsman requested a copy of the information at issue and an explanation of the reasons for withholding. He also consulted the MP and the Privacy Commissioner before forming his opinion.

Privacy

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

The Ombudsman considered that the relevant privacy interests could be protected by redacting information about the MP's referees and information that was not about his work or study in China.

In relation to information about the MP's work or study in China, the Ombudsman noted that, as a list MP for the National Party, he was a high profile public figure. The Ombudsman also noted that there was significant information already in the public domain. The MP himself had commented publicly on his work and study history, and the National Party had released his CV. While release would reveal personal information about the MP, the interference with his privacy would be minimal given the extent of information in the public domain.

The Ombudsman also considered the extent to which disclosure of the information would impact on the MP's privacy interest in being left alone. Release was likely to result in further media coverage. However, any interference with the MP's privacy as a result would be low *'given that the media ha[d] already scrutinised this issue, that [the MP] would reasonably expect that his position ... would bring additional public scrutiny, and that the information [was] also largely publicly known'*.

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 the need to withhold the information in which there was a low privacy interest was outweighed by the public interest in its release. Release would *'promote transparency for high profile public figures in enabling the public to question and make more informed decisions when determining who should represent them in government'*. The public interest in disclosure was heightened by the degree of public concern and controversy.

Outcome

After considering the Ombudsman's comments, the University agreed to release information about the MP's work and study in China, while continuing to withhold other information of a more personal nature, including details of the MP's referees. This action resolved the matter to the complainant's satisfaction, and the Ombudsman discontinued his investigation.

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