

Request for names and contact details in Department of Corrections' emails

Legislation	Official Information Act 1982, ss 9(2)(a) and 9(2)(g)(ii)
Agency	Department of Corrections
Ombudsman	Peter Boshier
Case number(s)	486208
Date	24 July 2019

Section 9(2)(a) OIA did not apply to names—many of the names were publicly available—seniority—section 9(2)(g)(ii) did not apply to names—no evidence to suggest release would lead to improper pressure or harassment—section 9(2)(a) did not apply to email addresses—could be inferred from names—section 9(2)(a) applied to direct phone numbers—names and email addresses released—DDIs withheld

Background

A prisoner asked the Department of Corrections for information about its policy to restrict prisoners to two home 0800 numbers. The Department redacted staff names and contact details from the information released under section 9(2)(a) of the OIA, in order to protect their privacy. The requester complained to the Ombudsman.

Investigation

During the Chief Ombudsman's investigation, the Department decided to release the names of Prison Directors, but continued to withhold the names of 'junior officials'. It alluded to the special environment within which Corrections works, including its interaction with people who have demonstrated a willingness to act with disregard for the law.

In support of its decision to withhold, the Department referred to a Facebook post on behalf of the prisoner, accusing a named Corrections officer of bullying behaviour. The prisoner's Facebook page was blocked after a complaint by the Department. When this received some publicity, a blogger said they would reach out to the prisoner and publish the name of the officer accused of bullying.

The Chief Ombudsman considered the privacy and harassment withholding grounds.

Privacy

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

Names

The Chief Ombudsman acknowledged that Corrections staff work in a challenging environment. However, the OIA does not provide for a blanket approach to categories of information, and every request for official information must be considered on its merits. Staff working for other government agencies (such as Police, Customs, ACC and local government) also work in challenging environments where there are dangers of corruption or intimidation, and their names are not routinely withheld.

The Chief Ombudsman consulted the Privacy Commissioner, who *‘recognise[d] the unique context of a prison environment’*, but said there appeared to be no special circumstances requiring anonymity in this case. He noted that many of the staff were senior, not junior, including Deputy Prison Directors and others with managerial / senior roles. He concluded there was a low privacy interest in the staff names that should be given a low weight.

The Chief Ombudsman also noted that the context did not suggest that staff were particularly sensitive about the nature of their employment. For example, the Department regularly published information on its website which identified staff. A number of staff named in the information appeared after searching their names on the Department’s website. A number of staff also had publicly available LinkedIn profiles in which they identified themselves as Corrections’ staff.

Overall, the Chief Ombudsman saw no reason to depart from the well-established approach of successive Ombudsmen that the names of staff should, in principle, be made available when requested. He commented that *‘New Zealand does not have a tradition of an anonymous public service to maintain’*. Rather, identifying staff is consistent with the principles of transparency and accountability which underpin the OIA.

Contact details

The contact details at issue included email addresses and work-related phone numbers (DDIs, mobiles and extensions).

After consulting the Privacy Commissioner, the Chief Ombudsman formed the opinion that there was no good reason to withhold the email addresses. They followed a standard format and it would be simple to work out the email addresses if the identity of the staff was known. Given the Chief Ombudsman’s view that the staff names should not be withheld, the privacy interest was effectively negligible, and he saw no basis for withholding the email addresses.

There was a higher privacy interest in staff’s direct phone numbers. These contact details were not based on a standard pattern (as with the emails) or readily available from other sources, such as the Department’s website. The Chief Ombudsman accepted that if a staff member could be directly contacted more easily on their direct line, rather than through the more

diffuse email method or ‘filter’ of a general line, that the consequent interruptions would likely interfere with their ability to prioritise and/or carry out their daily work.

The Chief Ombudsman accepted that there was a privacy interest in the direct phone numbers, and withholding was necessary to protect that interest. Although there was a public interest in government staff being accessible, this was largely addressed by the provision of email addresses and general office numbers. The Chief Ombudsman emphasised that the protection of direct phone numbers in this case was reliant on the staff members being contactable by members of the public through alternative means. This rendered the residual public interest largely negligible.

The Chief Ombudsman concluded that section 9(2)(a) provided good reason to withhold direct phone numbers, but not names and email addresses.

Harassment

Section 9(2)(g)(ii) of the OIA applies if withholding is ‘*necessary to ... maintain the effective conduct of public affairs through ... the protection of [Ministers, members, officers or employees of agencies] from improper pressure or harassment*’.

The Chief Ombudsman considered the Facebook post advanced as evidence of the requester’s willingness to harass Corrections’ staff. He said it appeared to be a relatively innocuous comment regarding a personal dispute with a particular Corrections officer. Some of the subsequent comments by other users were of a personal nature, but there was no evidence to demonstrate that these comments impacted on the effective conduct of public affairs.

The staff whose identities were at issue in this case were not involved in a personal dispute with the requester. They appeared in information related to Corrections’ consideration of a change to its 0800 number policy. There appeared to be little risk that staff would be subject to targeted harassment, given that the requester’s interest in this issue appeared to be at the broader policy level.

In the Chief Ombudsman’s view, there was insufficient supporting material to suggest a reasonable expectation of improper pressure or harassment prejudicing the effective conduct of public affairs.

Outcome

After considering the Chief Ombudsman’s opinion the Department decided to release all staff names and email addresses. It said that going forward staff names would be considered on a case by case basis, and would not be redacted unless there were justifiable reasons for withholding the name of the particular staff member.

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