

## Request for names of MSD staff in emails about the drafting of a Bill

<b>Legislation</b>	Official Information Act 1982, s 9(2)(a)
<b>Agency</b>	Ministry of Social Development
<b>Ombudsman</b>	Peter Boshier
<b>Case number(s)</b>	446669
<b>Date</b>	26 April 2018

*Section 9(2)(a) OIA did not apply—not necessary to withhold staff names to protect their privacy—no information to suggest privacy or safety concerns, or risk of improper pressure or harassment*

The Combined Beneficiaries Union (CBU) sought information about the drafting and construction of ‘Open Employment’ in the Social Security Legislation Rewrite Bill. They were interested in this because it could have implications for the benefits received by disabled and intellectually challenged people.

The Ministry of Social Development released some information, but redacted staff names under section 9(2)(a) of the OIA, in order to protect their privacy. The CBU complained to the Ombudsman about this decision, stating:

*...communications between public servants in an official capacity (as against personal) are frequently disclosed under the OIA without anonymisation and the identity of the author of an official document is often germane to consideration of its relevance to public decision making. While there will always be circumstances in which personal privacy of public officials would be immediately compromised by their identification in official documents, there would seem to be nothing about the emails which would provide any privacy-related grounds for departing from the usually applicable principle of ‘open government’ in relation to the identity of senders and recipients.*

The Ombudsman formed the provisional opinion that there was no good reason to withhold staff names in order to protect their privacy. Referring to the [PHARMAC](#) and [vaccines](#) cases, he confirmed that, absent special circumstances (for example, regarding safety or harassment) the names of officials should generally be available when they are part of information requested under the OIA. The Ministry had not articulated any special circumstances or likely harm which would necessitate the withholding of the names at issue here.

The Ministry replied that it would release the names if the Ombudsman considered that to be in the public interest. However, it wanted to consult with the individuals and conduct health and safety assessments first. The Ombudsman explained that there had to be a reason for withholding before the public interest in release was considered. The Ministry had not established any reason for withholding. However, the Ombudsman gave the Ministry an opportunity to consult the officials. Following this consultation, the Ministry decided to release the names, and this aspect of 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.*