

Request for advice and ‘think piece’ on reprioritisation or savings in Vote Education

Legislation	Official Information Act 1982, ss 9(2)(f)(iv), 9(2)(g)(i)
Agency	The Treasury
Ombudsman	John Belgrave
Case number(s)	173774
Date	June 2006

Disclosure of internal discussion documents and advice to Ministers would prejudice ongoing decision making process—disclosure of internal ‘think piece’ would inhibit future expression of free and frank opinions by officials—ss 9(2)(f)(iv) and 9(2)(g)(i) provide good reason to withhold

A requester sought all documents regarding reprioritisation or savings in Vote Education, and complained to the Chief Ombudsman when Treasury refused that request under sections 9(2)(f)(iv) and 9(2)(g)(i).

The Chief Ombudsman formed the opinion that section 9(2)(f)(iv) applied to some internal discussion documents and advice tendered to Ministers. That information remained under active consideration, without final Cabinet decisions having been taken. The advice to Ministers was presented in semi-formal way in order to achieve their responses to specific focused policy issues and options, and release of the advice at that stage would have prejudiced the ongoing advisory and decision making process.

In addition, the Chief Ombudsman formed the opinion that section 9(2)(g)(i) applied to an internal ‘think piece’. Officials used this as a technique for creating a wide-ranging set of policy options of a free and frank nature that served as a springboard for further internal discussion. There was a valid concern that if the information was disclosed, officials would be likely to be brought under pressure for considering such options and be inhibited from raising similar ones in future. This could seriously undermine in future the benefits that the technique was intended to produce, and could reduce the potential range of advice the Government would receive and risk the quality of engagement with Ministers.

The Chief Ombudsman acknowledged the public interest in disclosure of policy advice on education. However, the overall public interest would not be served by release of information that would undermine the ongoing advisory and decision making process. Nor would the public interest be served by inhibiting the ability of officials to provide Ministers with free and frank advice. It is important that officials are not inhibited, by fear of disclosure, from voicing and scrutinising as many issues and options as are necessary for the formulation of sound and comprehensive advice. The Chief Ombudsman also noted that publication of some of the information after the policy process was completed would help to address the public interest.

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