

Request for advice on electoral finance

Legislation	Official Information Act 1982, s 9(f)(iv)
Agency	Minister of Justice
Ombudsman	John Belgrave
Case number(s)	175799
Date	June 2007

Request for advice generated on Government's proposals for electoral finance—advice formed part of ongoing process and no decisions had been made—s 9(2)(f)(iv) provides good reason to withhold

A requester sought information about the Government's proposals for electoral finance and complained to the Ombudsman when that request was refused under section 9(2)(f)(iv).

The information at issue comprised a relatively large amount of advice tendered by Ministers to Cabinet or Cabinet committee, along with advice from officials to Ministers or to staff in the Minister's Office. Other information comprised officials' internal discussion papers/communications that were clearly connected with the overall process of the tendering of advice to Cabinet or Cabinet committee.

The Chief Ombudsman formed the opinion that it was necessary to withhold the advice at that time to maintain the constitutional convention protecting the confidentiality of advice tendered.

The advice formed part of an ongoing process, and no decisions had been made as to whether the proposals would become government policy. Disclosure of the information at that stage would have been likely to cause public confusion and would have placed Ministers, who had yet to consider the completed advice in Cabinet, in a difficult and unfair public position given the inherent sensitivity and complexity of the overall topic. It would thus be likely to have prejudiced what would otherwise be an orderly process for the development of sound policy development and decision making. The Chief Ombudsman was unable to find any discrete

background or options papers that could have been released without prejudicing section 9(2)(f)(iv) interests.

The Chief Ombudsman agreed that there was a high public interest in the disclosure of information related to such an important topic. However, he did not consider that the overall public interest would be served in this case by disclosing information that would be likely to prejudice the ability of the Government to consider in an orderly fashion some quite complex issues. The policy development process would benefit more by waiting for its completion before any disclosure. In the Chief Ombudsman's view, any public debate that focused on the information that was available at that stage of the process would be counter-productive, and such debate would have been better conducted once the Bill had been introduced.

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