

Request for agency peer review of Family Violence Death Review Committee draft annual report

Legislation	Official Information Act 1982, s 9(2)(g)(i)
Agency	Superu
Ombudsman	Leo Donnelly
Case number(s)	434175
Date	December 2017

Release of free and frank comments made in the context of peer reviewing a draft annual report would inhibit the expression of similar comments in future—s 9(2)(g)(i) applied

A requester asked Superu for its peer review of a draft annual report by the Family Violence Death Review Committee. Superu provided the email that contained comments and suggestions made by a staff member on the draft annual report. However, it redacted two paragraphs under section 9(2)(g)(i) of the OIA. The requester complained to the Ombudsman.

Superu argued that releasing the redacted comments would hinder its peer review activities, which are a core part of its business. Staff would feel inhibited in terms of the kinds of comments they could provide in peer review situations in future. They would not communicate such free and frank opinion material in future, or only do so over the phone or face to face.

The Ombudsman agreed that section 9(2)(g)(i) provided good reason for the redactions. The redacted comments were free and frank expressions of opinion, and the sort made in an informal review that could be misconstrued if taken out of context.

Given the nature of the comments and the context of how the feedback was provided, the Ombudsman considered that if the comments were to be publicly disclosed, there was a real and substantial risk that this would make those involved reluctant in the future to be free and frank in expressing their opinions. As part of a peer review process, Superu staff should be able to freely express any criticisms or reservations about draft documents, and provide any suggestions for amendment, without feeling inhibited by any concern that their comments might be made public. Release of the comments would prejudice the effective conduct of

public affairs as it would adversely affect Superu staff's ability to provide feedback in this context in a free and frank manner.

The Ombudsman did not consider that the comments gave rise to a public interest in disclosure that would outweigh the need to withhold. In his view, the countervailing public interest had already been met with the release of the majority of the comments.

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