

Request for comments generated during OIA decision making process

Legislation	Official Information Act 1982, s 9(2)(g)(i)
Agency	Child Youth and Family Service
Ombudsman	Beverley Wakem
Case number(s)	313287
Date	March 2012

Disclosure would inhibit advisors or officials from expressing or recording free and frank advice on OIA requests in the future—good reason to withhold under s 9(2)(g)(i)

The former Child, Youth and Family Service withheld five case note entries containing discussion of the decision to be taken on an OIA request, and the requester complained to the Ombudsman.

The Chief Ombudsman explained that a general principle had emerged from a line of cases that comments during the decision making process on OIA requests may be withheld under section 9(2)(g)(i). Disclosure would be likely to inhibit advisors or officials from expressing or recording free and frank advice on OIA requests in the future. It is in the interests of the effective conduct of public affairs for there to be no constraint in either the discussion or recording of the reasons or recommendations for making decisions on OIA requests.

Regarding the question of countervailing public interest considerations favouring disclosure of the material at issue, one might suggest that disclosure would serve a public interest in ensuring decision makers are accountable for the decisions they make on OIA requests. However, this interest is served because the mechanism exists for an Ombudsman's independent investigation and review of such decisions.

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.