

## Request for communications strategy relating to legal aid reform

<b>Legislation</b>	Official Information Act 1982, s 9(2)(g)(i)
<b>Agency</b>	Ministry of Justice
<b>Ombudsman</b>	David McGee
<b>Case number(s)</b>	310983
<b>Date</b>	April 2012

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*Request for information about a communications strategy—s 9(2)(g)(i) provides good reason to withhold two sentences*

A requester sought information about the Ministry of Justice’s communications strategy for the announcement of legal aid reforms, and complained to the Ombudsman when that request was refused under section 9(2)(g)(i). The information at issue included a draft communications plan, a run sheet and an email relating to implementation of the run sheet.

The Ombudsman noted that while section 9(2)(g)(i) can provide good reason for withholding a communications strategy, it is still necessary to consider the information at issue in each case. He asked the Ministry to consider:

- which passages constituted free and frank opinions, and why disclosure would be likely to inhibit the free and frank expression of such opinions in future;
- whether any of the information at issue could be considered to be background and/or factual information that could be separated from the expressions of opinion and made available; and
- whether any of that background and/or factual information was already in the public arena.

After further consideration, the Ministry agreed to release everything barring two sentences. It said that disclosure of these sentences could cause communications staff to become unduly

cautious and conservative in their advice, which would be detrimental to the effectiveness of such advice.

The Ombudsman agreed that withholding of the two sentences was justified. It is appropriate for government to adopt the communications strategy that it considers most desirable in any particular context. If disclosure of the reason or reasons for that strategy is likely to undermine it, even if disclosure is made after the planned announcements have occurred, this would prejudice *‘the effective conduct of public affairs’* within the meaning of section 9(2)(g)(i). Such disclosure would inhibit officials and others in forming views related to communications strategies and, this in turn, would affect their ability to handle sensitive issues effectively, as any efforts could be negated at a later stage.

*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.*