

Request for financial information concerning Council's waste management proposals

Legislation	Local Government Official Information and Meetings Act 1987, s 7(2)(h)
Agency	Auckland Council
Ombudsman	Dame Beverley Wakem
Case number(s)	326125
Date	October 2012

Council waste management activities not commercial—s 7(2)(h) does not apply

Auckland Council withheld financial modelling options and feasibility studies for its waste management and minimisation proposals, to enable it to carry out commercial activities without prejudice or disadvantage (section 7(2)(h) LGOIMA). The requester complained to the Ombudsman.

The Council explained that the waste management industry is very competitive, and that it operates in competition with private providers. Release would disadvantage the Council by enabling competitors to cherry pick the profitable services identified in the modelling. This would have a detrimental effect on the Council's ability to provide a full suite of recycling services, including 'non-profitable' services where these are partly funded by surpluses on the 'profitable' services.

The Chief Ombudsman did not accept that the Council's waste collection activities were 'commercial', in the sense of being carried out for the purpose of making a profit. While some aspects of the services were intended to yield a surplus, this covered the cost of the non-profitable services the Council was required to provide.

The information at issue could be said to relate to Council's **financial** position, but this is not necessarily the same as a **commercial** position, since the provision of waste management services in its district is one of the Council's functions. The Chief Ombudsman formed the opinion that section 7(2)(h) did not apply. However, she did accept the application of the negotiations withholding ground (section 7(2)(i) LGOIMA).

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