

Request for information about an employment investigation

Legislation	Official Information Act 1982, ss 9(2)(a), 9(2)(ba), 9(1)
Agency	Housing New Zealand
Ombudsman	David McGee
Case number(s)	321631
Date	June 2012

Privacy and confidentiality grounds apply but need for accountability when things go wrong—seniority of the individuals involved—extent of information in the public domain—other means of scrutiny and regulation—third party review satisfied the public interest in this case

A requester sought a copy of an independent review into the raising of a personal grievance against Housing New Zealand's chief executive. The request was refused on privacy and confidentiality grounds (sections 9(2)(a) and 9(2)(ba) of the OIA), and the requester complained to the Ombudsman.

The Ombudsman found that the relevant withholding grounds applied, and the question was whether the public interest in disclosure outweighed the need to withhold the information to protect the privacy and confidentiality interests.

The Ombudsman noted that the information related to allegations about how a chief executive of a public service department conducted themselves in office. He also noted that the matter had attracted public attention.

Expectations of conduct, behaviour, and professionalism on the part of chief executives are justifiably high. A report on a personal grievance involving a chief executive must be considered in a different light from such reports generally. There is a greater public interest in the transparency of how a personal grievance was dealt with in these circumstances than in the generality of cases.

The Ombudsman had regard to the information that was already in the public domain. He noted that the State Services Commissioner had initiated his own investigation, the results of which were released. He found that this process of third party review satisfied the public interest in knowing more about a personal grievance than would otherwise be the case. The existence and subsequent operation of that process could be seen as obviating any residual public interest in release of a report which, in ordinary circumstances, would remain confidential to the participants.

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