

Request for name of Auckland Transport employee who requested trade plate cancellation

Legislation	Local Government Official Information and Meetings Act 1987, s 7(2)(f)(ii)
Agency	Auckland Transport
Ombudsman	Dame Beverley A Wakem
Case number(s)	357495
Date	13 January 2014

Section 7(2)(f)(ii) LGOIMA applied—Auckland Transport provided examples of situations where its employees had been personally targeted and subjected to behaviour that was perceived to be threatening and intimidating by requester—reasonable likelihood that release would lead to improper pressure or harassment and this would have a detrimental impact on the employee’s ability to effectively perform their functions

In response to a LGOIMA request, Auckland Transport released its communications with the New Zealand Transport Agency, but redacted the name of an employee who reported alleged abuse of conditions of the use of a motor vehicle trade plate. The requester (who was the holder of that plate) complained to the Ombudsman.

Auckland Transport relied on section 7(2)(f)(ii) of the LGOIMA which applies if withholding is ‘necessary to ... maintain the effective conduct of public affairs through ... the protection of [members or officers or employees of any local authority] from improper pressure or harassment’.

Auckland Transport explained that in the past the requester had:

- confronted its employees in an aggressive and threatening manner and become abusive despite being aware of the formal dispute process;
- issued a summons to an employee in his personal capacity as a second respondent and personally served documents on the employee;

- issued invoices and letters of demand to its employees for unsubstantiated amounts (which had been dismissed by the Courts); and
- placed notices on vehicles operated by the requester which, in Auckland Transport's view, were designed to intimidate and discourage its employees from carrying out their duties.

The Chief Ombudsman noted that improper pressure or harassment is something more than ill-considered or irritating criticism or unwanted publicity. It is a course of conduct that has such an effect on the person against whom it is directed that he or she is unable to perform his or her duties effectively and hence the conduct of public affairs is at risk.

In this case, Auckland Transport provided examples of situations where its employees had been personally targeted and subjected to behaviour that was perceived to be threatening and intimidating.

On the basis of this past behaviour, the Chief Ombudsman was prepared to accept that there was a reasonable likelihood of future behaviour amounting to improper pressure or harassment if the requested name was released. That was certainly the genuinely-held and not unreasonable belief of Auckland Transport. The Chief Ombudsman considered that such a course of conduct would have a detrimental impact on the ability of Auckland Transport employees to effectively perform their functions.

The Chief Ombudsman concluded that section 7(2)(f)(ii) of the LGOIMA applied, and was not outweighed by the public interest in release.

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