

## Request for performance reviews of ACC third-tier managers

<b>Legislation</b>	Official Information Act 1982, 9(2)(a)
<b>Agency</b>	Accident Compensation Corporation
<b>Ombudsman</b>	Mel Smith
<b>Case number(s)</b>	C7284
<b>Date</b>	July 2004

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*Request for performance review information of two ACC employees holding third-tier management positions—s 9(2)(a) applied—requester believed ACC granted bonuses to employees who exited claimants from ACC scheme—public interest in release of generic information about ACC performance management process*

The requester wrote to the Accident Compensation Corporation (ACC), requesting performance plan and performance review information relating to two named staff members who had been responsible for the management of her claim. The request was partly motivated by ACC's advice to the requester (by way of previous releases of official information) that exiting appropriate cases from a caseload formed part of a case manager's performance assessment. This resulted in the requester forming the opinion that ACC paid staff members a bonus for exiting claimants from the ACC scheme.

The request was refused by ACC under section 9(2)(a) of the OIA, on the grounds that it was necessary to withhold this information in order to protect the privacy of the staff members, who had not consented to release of the information.

The Ombudsman considered the content of the information at issue. It comprised measurement of the performance of the two employees against certain indicators. It was clearly personal to the relevant employees. Both employees had advised that they were opposed to the release of this information about them to the requester.

The Ombudsman consulted with the Privacy Commissioner about the privacy interests at issue. The Commissioner agreed that performance information is treated confidentially within an

organisation and is usually only available to a limited number of people. She agreed with the Ombudsman that there was a significant privacy interest in the information.

The Ombudsman then went on to consider whether there were any considerations rendering it desirable in the public interest to make the information available.

He noted:

- the employees involved held third-tier management positions within ACC; and
- the requester had originally been 'exited' from the ACC scheme and the requester was of the opinion that the principal motivation of ACC at the time was to exit as many claimants as possible, especially long term claimants. This belief was reinforced by certain official information the requester had received from ACC previously, which advised that exiting appropriate cases from a caseload formed part of a case manager's performance assessment.

It was the Ombudsman's view that there was a public interest in release of information about ACC's performance management process, particularly whether or not managers were rewarded, for exiting ACC claimants.

Although ACC was entitled to rely upon section 9(2)(a) to withhold the precise information originally requested, there was a public interest in release of information about ACC's performance management processes. The Ombudsman therefore considered that ACC should release generic performance plans for case managers and branch managers for the years 1998 to 2002, including the weighting attached to the various performance indicators of the staff positions held by the two staff members.

ACC agreed to release the generic information and the complaint was resolved on this basis.

### **Comment**

In this case, the request was for information about two staff members who did not occupy first or second level management positions in the organisation. The seniority of the staff member concerned can be relevant when balancing the privacy interest against any public interest in release.

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