

Request for report of misappropriation of funds and fraud by employee

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	Fire Service Commission
Ombudsman	Sir Brian Elwood
Case number(s)	W43863
Date	February 2001

Request for internal investigation report into allegations of misappropriation of funds and fraud by senior employee of Fire Service Commission—information withheld to protect privacy—legitimate concern about the expenditure of public monies—summary released

A request was made to the New Zealand Fire Service Commission by a reporter for information relating to an internal investigation of the actions of a senior employee after an internal audit identified certain funds had not been accounted for. The information at issue consisted of:

- an internal audit report which originally identified the unaccounted funds;
- an internal memorandum discussing the issues which arose from that audit; and
- copies of certain correspondence exchanged between the Fire Service Commission, the staff member and his solicitors.

The information withheld contained a detailed discussion of the employee's actions and resulted in him being cleared of any allegation of fraud or misappropriation of funds. The Commission withheld the information under section 9(2)(a) of the OIA. Its main concern was that disclosure of the information would infringe the employee's privacy and adversely affect his reputation if released.

After considering the Commission's explanation, studying the information at issue, and consulting the employee and the Privacy Commissioner, the view was formed that release of the information would prejudice the interests identified in section 9(2)(a). It was then necessary to consider the application of section 9(1) of the OIA and assess whether there were any considerations favouring disclosure of the information in the public interest which outweighed the identified privacy interests in withholding.

The case involved two issues of public interest, namely:

- the existence of a 'shortfall' in Fire Service Commission funds; and
- the investigation that resulted from the internal audit into the 'shortfall' and its eventual outcome.

Matters involving discrepancies in the stewardship of public monies must be seen to be properly investigated with the outcome of any investigation made a matter of public record. At the time the original request was made, the Commission had not released any information about the matter. The internal audit raised a legitimate concern about the expenditure of public monies, and without the release of some information the public interest would likely outweigh the necessity for withholding under section 9(2)(a). It was suggested that if a brief summary were to be released setting out the causes for concern as described in the audit, the steps taken to address the internal auditor's concerns and the eventual outcome, the public interest in the remainder of the information would not outweigh the reason for withholding under section 9(2)(a).

During the investigation the Commission released a brief statement which was reported by the requester. The requester accepted that the summary effectively resolved his complaint.

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