

Request for Crown Health Enterprise Business Plans

Legislation	Official Information Act 1982, ss 9(2)(i), 9(2)(j)
Agency	Crown Health Enterprise
Ombudsman	Sir Brian Elwood
Case number(s)	A3925
Date	July 1994

Request for Crown Health Enterprise Business Plans—request refused on commercial grounds—some information protected by ss 9(2)(i) and 9(2)(j)—public interest in disclosure substantially met by release of balance of plans

The manner in which health services are provided in New Zealand is an issue that continues to be subject to public debate. As with any such debate the relevant issues are best considered when there is sufficient information available to allow informed opinions to be reached.

In this, and a number of other cases, journalists and political party researchers had sought copies of various Crown Health Enterprise¹ (CHE) business plans. However, the requests were refused as the CHEs considered that disclosure would prejudice their business operations. Consequently it was necessary to consider the applicability of sections 9(2)(i) and 9(2)(j) of the OIA.

One of the objectives of CHEs under section 11 of the Health and Disability Act was to provide health services while operating as successful and efficient businesses. Consequently, after carefully examining the relevant business plans, the view was formed that disclosure of certain information would prejudice the interests protected by sections 9(2)(i) or 9(2)(j), namely:

- Financial information that was detailed enough to allow competitors of the CHEs to gain a competitive advantage by having knowledge of costing structures significant to future tender bids (section 9(2)(i));
- Detailed (as opposed to indicative) plans for expanding, reducing or changing services. Such information could be used by competitors to exploit the weaknesses of the CHEs

¹ Note Crown Health Enterprises were predecessors to the current District Health Boards.

and target relevant services in either the tendering arena or in direct competition (section 9(2)(i));

- Detailed analyses of strengths and weaknesses. Again disclosure of this strategic information would allow competitors to target vital areas of strengths and weaknesses (section 9(2)(i));
- Information relating to industrial, purchasing or sale negotiations that disclosed vital elements of negotiating strategy (section 9(2)(j)).

These extracts amounted to a relatively small proportion of the information contained within the business plans. As for the balance, it was concluded that the information was insufficiently detailed either to bestow a competitive advantage on competitors of the CHEs, or to disadvantage the latter in negotiations.

It was also necessary to consider, in terms of section 9(1) of the OIA, whether the interests in withholding the information listed above were outweighed by other considerations rendering it desirable, in the public interest, to make the information available. There were clearly strong public interest considerations favouring release of information such as that contained in CHE business plans. Disclosure would promote not only more effective public participation in the making and administration of health policies, but also the accountability of officials responsible for health planning.

Having weighed the competing public interest considerations, on balance, those favouring disclosure did not outweigh the interests in withholding the information identified above. The CHEs should release their business plans subject to deletion of information which the investigation and review found could properly be withheld on one of the withholding grounds identified above. It was considered that the public interest in disclosure would be met substantially by the disclosure of the remaining information in the business plans. The CHEs accepted this view.

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