

Request for information about the outcome of a complaint about a rest home

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	Department of Social Welfare
Ombudsman	Sir Brian Elwood
Case number(s)	W4517
Date	June 1993

Request for information about the outcome of a complaint about a rest home—request refused under s 9(2)(a)—public interest in complainants receiving adequate information about investigations and findings—release of summary of information

The requester, a private individual, had asked the Income Support Service of the Department of Social Welfare to investigate the affairs of a rest home, and in particular the problems he and his mother, a former resident of the home, had encountered. After being advised by the Department that his complaints had been investigated and appropriate action taken, he requested access to the investigation file and for a copy of an agreement between the Department and the rest home. The requests were refused in terms of section 9(2)(a) of the OIA.

An examination of the agreement showed that it was between the Income Support Service and a company. Section 9(2)(a) applies only to the protection of the privacy of natural persons or deceased natural persons. As neither party to the agreement was a natural person, the information could not be withheld under section 9(2)(a), and there did not appear to be any other reason in terms of the Act for withholding the agreement.

The information relating to the investigation of the requester's complaints comprised letters to the directors of the rest home and interview notes. It was accepted that the letters were personal communications and to that extent they related to a matter of personal privacy. The letters had not been prepared for the purpose of general release and the recipients would not

have expected them to be released. Accordingly, it was concluded that the letters themselves could be withheld.

Similarly, the information in the notes of the interview with the rest home directors raised legitimate privacy interests and it was concluded that the actual notes could be withheld in terms of section 9(2)(a).

However, in looking at countervailing public interest considerations in terms of section 9(1) of the OIA, there is a legitimate public interest in persons who make complaints receiving information about the investigation and the findings. Public input into the making and administration of laws and policies is important and is recognised as one of the purposes of the OIA. Such input can arise in number of different ways, one of which is by members of the public drawing attention to what appear to be errors or shortcomings in the delivery of publicly funded services. The investigation of such matters often results in the review of departmental procedures to avoid the recurrence of similar problems. In order to ensure that members of the public see it as worthwhile to draw to the attention of the relevant authorities shortcomings perceived in the delivery of services, public sector agencies must be seen to be accountable for steps taken to investigate bona fide complaints and complainants are reasonably entitled to expect to be given details of the investigation and the outcome.

The Department released to the requester a copy of the agreement with the rest home and a detailed summary of the steps taken in the investigation of the complaint as well as the findings made.

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