

Request for list of names of electors whose eligibility to vote had been challenged

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	New Zealand Post Limited
Ombudsman	Sir John Robertson
Case number(s)	W30968
Date	December 1993

Request for list of names of electors whose eligibility to vote had been challenged—information withheld under s 9(2)(a)—privacy interest not outweighed by public interest

Following the 1993 General Election, one of the political parties involved sought an urgent review of the decision of the Electoral Enrolment Centre, administered by New Zealand Post Ltd, to refuse to provide a list of the names and addresses of those electors whose eligibility to vote in an electorate had been challenged. Although requesters are not required to give a reason for seeking official information, the party had explained that there was concern that many of those named were of Polynesian descent who would have difficulty understanding and responding to the letter sent to them requiring them to prove their eligibility to vote. The information would enable assistance to be offered to those affected.

In the course of the investigation a number of issues emerged. The list itself had been compiled solely for the purpose of assisting the Registrar of Electors to discharge her statutory functions in respect of the objections received about 602 electors. Although two of the electors had publicly identified themselves, the identities of the other 600 had not been published. The ground for objection in each case was that the person concerned was not a permanent resident of New Zealand. It was implicit in the objection that, in registering for enrolment, the persons objected to may have knowingly and wilfully made a false statement or declaration to the Registrar of Electors. This is an offence liable on summary conviction to a fine or imprisonment. Disclosure of the list of names, while the objections were being investigated pursuant to the provisions of the Electoral Act, would identify those persons as possible offenders before the validity of the objections had been determined. The persons

concerned had not provided New Zealand Post Ltd with any express consent to disclosure of their names to third parties and the task of trying to seek their informed consent was impracticable.

While the requester wished to provide advice and guidance to those whose eligibility to vote had been challenged, and some of those affected might welcome such assistance, it was equally likely that some might not welcome the offer of assistance either from the requester or from any other person.

In the absence of the express consent of the individuals concerned, and after consultation with the Privacy Commissioner, it was concluded that the withholding of the information requested was necessary to protect their privacy. In looking at other public interest considerations in terms of section 9(1) of the OIA which might outweigh this ground for withholding, it was acknowledged that there was a general public interest in helping electors who might not otherwise act in their own best interests and where the consequence of not taking action might lead to their disenfranchisement. However, there were a number of alternative steps that could be taken to advise the electors concerned of the availability of assistance should they require it, for example, public meetings; multi-lingual newspaper advertisements; leaflet drops. On balance, the public interest considerations favouring disclosure did not outweigh the identified public interest in withholding the information.

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