

Request for membership lists submitted by political parties registered with the Electoral Commission

Legislation	Official Information Act 1982, s 9(2)(a)
Agency	Electoral Commission
Ombudsman	Sir Brian Elwood
Case number(s)	W33807
Date	October 1995

Request for membership lists submitted by political parties registered with the Electoral Commission—request refused under s 9(2)(a)—New Zealanders generally regard support for a particular political party as a matter of personal privacy—s 9(2)(a) applied—in the absence of any argument that the Commission was not discharging its statutory functions in a reasonable manner, there was no case for wider disclosure of membership lists in the public interest

A journalist sought a review of the decision of the Electoral Commission not to make available the membership lists of the political parties which had, at the time the request was made, registered with the Commission. The request was declined under sections 9(2)(a) and 9(2)(ba) of the OIA, but the investigation and review showed that the Commission's concerns related to considerations raised by section 9(2)(a).

The effect of disclosure of the information at issue would be to identify certain individuals as being current financial members of one of those parties which had registered with the Commission. In looking at whether that would infringe the privacy of those individuals, the following considerations were taken into account.

New Zealanders generally regard support for a particular political party as a matter of personal privacy. This is reflected in the secrecy accorded voting procedures in general elections. Although becoming a financial member of a political party is one way in which an individual can express support for that party, it does not follow that the individual wishes their party membership to be a matter of public record. The prevailing practice in New Zealand society has always been for such information to be held in confidence by political parties. Party

membership lists are not publicly available. Individuals may choose to make their membership of a particular party known publicly, but that is something they control, and the fact that some people may not regard party membership as a matter of privacy is not a basis for holding that party membership lists should be made public.

The individuals concerned would be reasonably entitled to expect that personal information held about them by the Electoral Commission would not be disclosed to other persons without their consent unless disclosure came within one of the exceptions to Information Privacy Principle 11 or was otherwise justified under the OIA. There was no evidence to suggest that the individuals concerned had consented to release of information about them to anyone who might request it under the OIA and given the number of people involved, consultation with them was clearly not practicable.

On the basis of these considerations, and after consulting the Privacy Commissioner, the view was formed that section 9(2)(a) applied to the membership information at issue. It was then necessary to consider the section 9(1) balancing test to determine whether there were any countervailing public interest considerations.

In this regard the requester had argued that the information should be made available so that the public could assess how well the Electoral Commission was achieving its function of ensuring that membership information supplied to it represented '*genuine members*'. The information would enable the public to identify individuals who might have taken out dual membership contrary to some party rules. It was also suggested that because members of political parties seek to influence and even control public policy and law, there was a strong public interest in the public being able to identify members of specific parties. Finally, the requester said that Parliament was considering amending the Electoral Act to require eligible political parties to have 500 current financial members who were also eligible to vote. As a consequence it was, in the requester's view, in the public interest that the public be able to gauge how many financial members of political parties were in fact ineligible to vote.

In the context of the Electoral Act the primary onus on ensuring the accuracy of membership information lies with the party itself. While there is clearly an interest in ensuring that the membership information is reliable, the Commission has the power to make the necessary checks and, in the absence of any argument that the Commission was not discharging its statutory functions in a reasonable manner, there was no case for wider disclosure of membership lists in the public interest.

It is for individual political parties themselves to police their own rules. If a party believes any of its financial members might have breached its rules to the extent that their continued membership is at risk, then it can draw this to the Commission's attention. The public interest in the Commission being advised of possible doubt about the validity of an individual's status as a current financial member does not require wider disclosure to the public at large.

Simple identification of current financial members would not seem to advance significantly the ability of the New Zealand public to assess the policy intentions of political parties. Identification of certain individuals as members of political parties would be unlikely to reveal otherwise undisclosed agendas, as the requester appeared to be suggesting.

The question of future possible amendments to legislation was not a relevant consideration in the context of the section 9(1) balancing test under the OIA. Voter eligibility was not a factor which the Electoral Commission was required to take into account. It was therefore concluded that there was good reason to withhold under section 9(2)(a).

This case note is published under the authority of the [Ombudsmen Rules 1989](#). It sets out an Ombudsman's view on the facts of a particular case. It should not be taken as establishing any legal precedent that would bind an Ombudsman in future.