

Requests for names of food outlets which did not meet food hygiene standards

Legislation	Local Government Official Information and Meetings Act 1987, s 6(a)
Agency	City Council
Ombudsman	Sir Brian Elwood
Case number(s)	W43718, W43745
Date	March 2000

Requests for names of food outlets which did not meet food hygiene standards—requests refused—disclosure would be likely to prejudice the investigation and detection of food hygiene and health offences

A City Council issued a news release stating that a number of food premises in the city would be closed down in the following two weeks unless their owners and managers demonstrated that they were complying with food hygiene standards. Local newspapers requested a list of the names of the food premises concerned. The Council refused both requests citing sections 6(a)¹, 7(2)(b)(ii) and 7(2)(d) of LGOIMA.

Section 6(a) provides good reason to withhold official information if the making available of that information would be likely to prejudice the maintenance of the law, including the

¹ Section 6 LGOIMA was amended on the 26th July 2023 to add new conclusive reasons for withholding information based on national security risks and bring LGOIMA in line with the OIA.

- Section 6(a) (formerly maintenance of the law) is replaced with a new ground reflecting the need to protect the security and defence or international relations of New Zealand.
- Section 6(b) (formerly safety of a person) is replaced with a new ground protecting the entrusting of information on a basis of confidence to the government of New Zealand by the government of another country or by an international organisation.
- A new ground is created: section 6(c) (maintenance of the law).
- A new ground is created: section 6(d) (safety of a person).

prevention, investigation, and detection of offences, and the right to a fair trial. In deciding whether section 6(a) applied in these cases, two questions required consideration:

- What would be the effect of disclosure of the information at issue on the surveillance of the food premises concerned? and
- Was there a real and substantial risk that disclosure would prejudice an interest that section 6(a) seeks to protect?

The Council explained that it believed disclosure of the names of the food premises would prejudice the steps it intended to take to investigate and detect offences. The Council noted that the premises were under particular scrutiny in relation to food hygiene and health offences. The Council relied on a system of unannounced 'spot' inspections to get as true a picture as possible of the normal operating conditions and ongoing level of compliance by the food premises. None of the owners or occupiers of the food premises which were the subject of the Council's news release knew that their own food premises were one of those referred to in the news release or that they would definitely be receiving a 'spot' inspection. If the names were disclosed to the requesters, some owners or occupiers might take short term measures to prepare for the inspections. As a consequence, the Council would not get a true picture of the on-going normal level of compliance, thereby defeating the purpose of the Council's surveillance programme and prejudicing the investigation and detection of offences.

The view was formed that in light of the method adopted by the Council for investigating and detecting offences relating to food hygiene and health requirements, it had established that release of the information would be likely to prejudice its ability to maintain the relevant law. Accordingly, the Council was entitled to withhold the information in reliance on section 6(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.