

Case 408161 (Complaint ground: 435672)

Contact Letitia Parry

11 April 2017

Ms Bev Butler

By email: beykiwi@hotmail.com



Dear Ms Butler

**Local Government Official Information and Meetings Act investigation  
Dunedin City Council  
Date files transferred to secure storage**

I refer to the earlier correspondence concerning your complaint about the decision of Dunedin City Council to refuse your request for the exact or approximate date that CST files were transferred to a secure storage facility.

Ombudsman Leo Donnelly has asked me to advance this matter acting under delegated authority. I apologise for the delay in updating you on this matter.

In essence, it appears that the Council was entitled to refuse your request, on the basis that the information does not exist, or despite reasonable efforts to locate it cannot be found.

I have set out the relevant details below.

**Background**

I understand that you sent an email to the Dunedin City Council on 1 July 2015. You referred to a newspaper article that stated that the DCC/CST documents were stored in a 'secure storage facility' and requested the location of the secure storage facility and the date the documents were taken to this facility.

Although the Council initially refused your request for the location of the storage unit this information was provided to you in an email sent by Sandy Graham of the Council on 12 July 2016. However, the Council continued to refuse your request for the date the records were transferred to the secure storage facility on the basis that despite reasonable efforts this information could not be found (section 17(e) LGOIMA). Ms Graham advised you that '*attempts to locate the information via the person now resident in Australia have been unsuccessful and the CST does not have a record of the date when the documents were shifted.*'

You requested an investigation and review of this decision. You stated:

*As has been previously established the CST are subject to LGOIMA under section 2(6).*

*I do not believe that no one knows the exact or approximate date when a substantial volume of local government documents were stored in a secure storage facility.*

*The secure storage facility would have a ledger record of the date that the documents were lodged by the CST. I do not believe the Chair of the CST, Mr Farry, does not know when these documents were transferred especially given he had been threatening to remove them. It would not be unreasonable to expect the DCC to make a formal approach to the owner of the secure storage facility for his ledger record of the date that the government documents were lodged by the CST, since the DCC owns the records. There is no way document storage at a commercial secure storage facility is not given a reference number and no way this wasn't needed for audit records and insurance purposes of the trading business concerned - even if a friend of the CST's at Roslyn Storage provided storage at no cost - which I doubt - it is most peculiar that a commercial secure storage facility would agree to store government documents indefinitely at no cost.*

*The safe storage of government information is paramount in a democracy and the casual nature of how this information has been stored and recorded is extraordinary and needs further investigation.*

### **Dunedin City Council comments**

The Council advised that there is no record of when the documents were transferred but from anecdotal evidence it appears most of the files were relocated early in 2012. The files were transferred in stages and therefore it is *'highly unlikely that a single date exists.'* Council advised that the best answer it can provide is a date range between November 2011-February 2012 and you have already been provided with this information.

Council stated that CST, DVML and Council have all attempted to locate a definitive record of when the files were transferred but no record exists.

The Council attempted to contact one staff member in Australia who may have been able to provide the information but the staff member was in hospital at the time receiving treatment for a serious medical problem and it was not possible to progress the matter. Subsequent attempts to contact the staff member were unsuccessful because the contact details on the record were no longer accurate.

The Council did consider hiring a researcher to try and find a more accurate date but the Council considered *'the request had been appropriately responded to and there was no requirement under the Act to create a record where one did not exist.'*

From the Council's point of view the date range is the only information it holds about when the files were relocated and it is unable *'to provide a specific date because the information requested either does not exist or cannot be found.'*

### **Analysis**

Section 17(e) of the LGOIMA provides that a request may be refused if *'the document alleged to contain the information does not exist or despite reasonable efforts cannot be found.'*

The Ombudsman's guidelines on official information state that when a requester seeks information contained in a specified 'document' and that document simply does not exist, or the

agency is unable to find the document after a reasonable effort has been made to locate it, a request for this document may be refused. When reviewing the decision to refuse a request on this ground the questions an Ombudsman asks are what steps were taken to try and locate the information and were these steps reasonable?

The Council has advised that it could not locate a document that contains the information you requested but it has provided you with a date range of when the documents were transferred. It also confirmed that there was no single date for the transfer as it was undertaken over a period of time rather than on one specific date.

The Council also explained that the owner does not charge CST for the use of the storage space and as such there are financial records that might serve as a basis on which to work out when the files were first located there.

The Council advised that CST, DVML and the Council have all attempted to locate the information you requested.

The Council also attempted to contact a former staff member who was now lives in Australia but was unsuccessful. The Council subsequently made a further attempt to contact this staff member but discovered that their contact details were no longer accurate.

In these circumstances it is considered that the Council has gone to considerable lengths to locate the information you requested. However, after making a number of enquiries and considering different ways of trying to satisfy your request it has determined that the information does not exist.

For the reasons set out above, and subject to your further comment, it appears that the Dunedin City Council was entitled to refuse your request.

### **Your comments**

We invite you to comment before Mr Donnelly forms a final opinion on this matter. If you do wish to comment, please respond by 8 May 2017.

Yours sincerely



Letitia Parry  
Manager