



Ref: AFS 14/8002/1
Ombudsman's File: 396174

25 June 2015

Mr Cody Cooper
Fyi-request-2212-8b4078ca@requests.fyi.org.nz

Dear Cody Cooper

Re: Official Information Act Request – Complaint to Ombudsman

I refer to your complaint made to the Ombudsman seeking a review of the Police response, dated 23 December 2014, to your Official Information Act request of 27 November 2014. You sought the following information which was refused:

1. Any and all, information (such as manuals) held by Police in regards to Telecom (now Spark), Chorus, 2 degrees and Vodafone, including (but not limited to) any fees they may charge to Police
2. The full contents of "Schedule 8: Cost recoveries" in the document "Agreement between Vodafone New Zealand Limited and the New Zealand Police for information requests and investigative assistance.

The Ombudsman has asked police to review its earlier decision to refuse release of the information you seek. Police have undertaken that review and I can advise as follows.

Looking at the context of your request, I have interpreted part one of your request as referring to the police manuals and agreements with the named telecommunication providers, because to seek 'any and all information' could be interpreted as all police contact and dealings with those providers on any matter. That would be an impossible task considering the size of police and the breadth of police work.

The manuals you refer to are publicly available on fyi.org.nz. I note that your request has originated from that website, so I expect you are already familiar with those documents. The publicly available manuals contain a number of minor redactions. The explanations for those redactions are also publicly available on the fyi.org.nz page and for that reason I do not repeat them here. Therefore that part of your request is refused pursuant to s18(d) because the information is publicly available.

Police have no manuals or agreements with Chorus or 2 Degrees Mobile, therefore that part of that request is refused pursuant to s18(e) of the Official Information Act 1982 as the information does not exist.

In respect of any fees or cost recoveries, the police have entered into separate confidential commercial contracts with providers regarding the services they provide Police in support of criminal investigations. The respective manual chapters contain information about the services provided to police that directly contribute to the investigation, detection and prosecution of criminal offending.

Cost recoveries relating to interception activities are provided for in the Telecommunications (Interception Capability and Security) Act 2013 which is available at [Legislation.govt.nz](http://legislation.govt.nz), and is based on an actual and reasonable cost.

The actual amounts and any details of the cost breakdowns paid by police to any provider are commercially sensitive and public release would place respective providers at a commercial disadvantage. Therefore that part of your request is refused pursuant to s9(2)(b)(ii) of the Official Information Act 1982 because the making available of the information would be likely to unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information.

Further the ability of the Police to negotiate down any costs on behalf of the public good, would be seriously affected because one provider would know of the costing model of other providers and would then adjust their costs accordingly. This would result in higher costs for police. Therefore that part of your request is refused pursuant to s 9(2)(j) of the Official Information Act 1982 to enable any Department holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

You have the right to ask the Ombudsman to review my decision if you are not satisfied with the way I have responded to your request.

Yours sincerely



R T Drew
Detective Superintendent
National Manager
National Criminal Investigations Group