



Te Kawa Mataaho

Public Service Commission

14 February 2025

9(2)(a) privacy

Dunedin 9012

9(2)(a) privacy

Official Information Request

Our Ref: PSCR 2025-0196

I refer to your official information request received on 13 December 2024 where you asked:

"thank you for the response to oia requests. ms dirks states, if i wish to discuss this decision , contact enquiries, which this e-mail does. my concern focus on part 3 of nickys response . nicky invokes section 9/ 2/a of oia about privacy of individuals involved.however my e-mail 14 nov 2024 9-46am stated --- i do not request information about any individuals employment . therefore the fact nicky invoked sec 9/ 2/a oia is moot and has no affect on my oi a request. however nicky invoked the withholding ground section 9 / 2/f/1v which also seems not to apply because ministers are barred from interfering in decsions made in respect of an employees employment, except for ministerial staff.

commissioner roache was the decision maker not a minister when he made a decision to follow up if departments were undertaking proper actions in checking if an individual engaged in mis conduct , re the royal commission report into state abuse. accordingly i request as information , the reasons why nicky dirks concluded section 9/2/f/1v as application in the circumstances of my oi a request. this is an sec 12 oia request.

in addition nicky dirks states-- in making my decsions i have considered the public interest considerations in section 9/1 oia.

however ms dirks has not conveyed her public interest considerations to me. accordingly under sec 12 oi a i request the full public interest considerations nicky considered, those considerations and weighing of them are of course information held by your agency. the ombudsman advice is for the factors to be documented before

making a public interest decision. i trust nicky made such a document . on receipt of the official information i will then consider if i will complain to the ombudsman”.

Background

In your request of 14 November 2024, you asked for *copies of documents which show how public service commissioner is working with crown agencies to provide assurance that claims of individual public servant misconduct made in the royal commission report about abuse are addressed. all relevant documents are requested.*

In our response, we advised that there were two documents within scope of your request that we have decided to withhold in full under one or more of the following sections of the Official Information Act 1982 (OIA), as applicable:

- section 9(2)(a) – to protect the privacy of natural persons, including deceased people.
- section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials

In making my decision, I have considered the public interest considerations in section 9(1) of the OIA.

The reason for this decision

The reason we have withheld the two documents under section 9(2)(f)(iv) of the OIA is because the matters relating to the scope of your request are contained within two reports that have been provided to the Minister for the Public Service.

Section 9(2)(f)(iv) applies to advice that has or will be tendered. ‘Advice’ means opinions or recommendations as to the course of action to be adopted. ‘Tendered’ means offered or presented formally to Ministers or Cabinet. This will often be in the form of briefings and papers to Ministers or Cabinet.

Section 9(2)(f)(iv) generally provides temporary protection for advice related to ministerial or Cabinet decision making. Once the relevant decisions have been taken and any necessary political consultations or negotiations concluded, there is usually no need for ongoing protection of the advice under this section.

Public Interest Considerations that were given

Sometimes it may be necessary to withhold official information because premature disclosure would harm an ongoing process. For example, premature disclosure may prejudice the ability of Ministers or Cabinet to consider and decide upon policy advice tendered.

Where there is good reason to withhold official information at the time a request is made, an agency can consider releasing the information later, after the harm in release has abated, and when the public interest balance lies more clearly in favour of disclosure. This is a matter of good practice, rather than a statutory requirement.

In recognition of the public interest in disclosure, the information will be released once the relevant process has concluded.

Updated Response

Since you lodged this OIA request, the matters have now been considered by the Minister for the Public Service. Listed in the table below are the two reports covered by your request, that will be publicly available on the Commission's website shortly at the link provided in the table below.

Item	Date	Document Description	Decision
1	15 August 2024	2024-0246 – REPORT – RCOI Abuse in Care - personal accountability for public and state servants	Publications - Te Kawa Mataaho Public Service Commission
2	4 February 2025	2025-0060 - REPORT - RCOI Abuse in Care – accountability for individual public and state servants	Publications - Te Kawa Mataaho Public Service Commission

If you wish to discuss this decision with us, please feel free to contact Enquiries@publicservice.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) and enclosed documents on the Te Kawa Mataaho Public Service Commission's website.

Yours sincerely



Nicky Dirks

Manager – Ministerial and Executive Services
Te Kawa Mataaho Public Service Commission