



21 March 2018

9(2)(a) privacy

Dear 9(2)(a) privacy

Official Information Request
Our Ref: 2018/0035

I refer to your official information request received on 14 March 2018 for:

- *all documents or file notes of any communication the SSC (or any of its agents) has made to the DHB relating to Dr Murray including:*
- *advice regarding processes which may be adopted with respect to investigating the employment issues the DHB had concerning Dr Murray*
- *advice given to the DHB regarding potential or actual interest media interest regarding the issues concerning Dr Murray and what action may be taken to manage this*
- *advice given to any member of the Board of the DHB, in relation to the following matters:*
 - *protecting the reputation of the DHB*
 - *protecting their personal reputations*
- *all documents or file notes of any communication from the DHB to the SSC regarding Dr Murray including:*
 - *request from the DHB for advice or assistance from the SSC*
 - *reports from the DHB regarding the actions the DHB had taken in relation to Dr Murray.*

The State Services Commission works with Public service departments and State sector entities to provide advice and guidance on a wide range of matters, consistent with the State Services Commissioner's mandate.

On 8 June 2017, the then chair of the Waikato District Health Board, Mr Bob Simcock, visited the State Services Commission to discuss his concerns and seek advice over an issue he was managing as Chair of the Board, in relation to his Chief Executive expenses.

Mr Simcock received advice from SSC on the need to undertake a review, obtain experienced legal advice as the Chair of the District Health Board if necessary, and ensure under no surprises that the Ministry of Health and the Minister of Health were aware of the issues.

Over subsequent months, consistent with the role of an Assistant Commissioner, one of my senior staff liaised with Mr Simcock on several occasions, with regard to the issues Mr Simcock had raised with the State Services Commission. This included providing advice to the chair of the Waikato District Health Board about ensuring he understood the public service expectations with regard to processes and had considered the public management aspect of the issues he was managing.

Amongst the documents being released are a series of file notes that summarise the discussions that took place. They are not transcripts nor will they be a comprehensive account of the discussions, but serve as a record of the issues.

At all times, the Commission's advice was consistent with the State Services Commissioner's mandate of providing advice and guidance on matters, that affect the integrity and conduct of those within the State services.

Information being released

Please find enclosed the following documents:

Item	Date	Document Description	Decision
1	8 June 2017	FILE NOTE: Meeting with Bob Simcock	Withheld in part
2	11 August 2017	FILE NOTE: Phone conversation with Bob Simcock	Withheld in part
3	25 August 2017	FILE NOTE: Phone conversation with Bob Simcock	Released in full
4	6 September 2017	FILE NOTE: Phone conversation with Bob Simcock	Released in full
5	29 September 2017	FILE NOTE: Phone conversation with Bob Simcock	Withheld in part
6	15 August 2017	Email titled: RE: media advice	Withheld in part
7	14 August 2017	Letter: Official Information Request for information about SSC action in respect of Dr Nigel Murray late disclosure of his CE expenses	Withheld in part
8	28 August 2017	Email titled: Media response to Fairfax: Questions regarding Waikato District Health Board	Withheld in part
9	20 November 2017	Email titled: OIA for consultation Included as attachments: OIA response dated 1 December 2017 Letter dated 8 June 2014 from Bob Simcock to Iain Rennie Letter dated 16 June 2014 from Joan Foster to Bob Simcock	Withheld in part
10	11 November 2017	Email titled: Appointment of the Independent Investigator Included as attachment Media Statement dated 10 November 2017	Withheld in part
11	23 November 2017	Email titled: Re: OIA for consultation	Withheld in part

I have decided to release the relevant parts of the documents listed above, subject to information being withheld under section 9(2)(a) of the Official Information Act – to protect the privacy of natural persons, including deceased people.

In your request you have asked for any advice that was given to any member of the Board of the DHB, in relation to protecting their personal reputations. No such advice was given, therefore your request is refused under section 18(e) of the Official Information Act, on the basis that no such information exists.

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

If you wish to discuss this decision with us, please feel free to contact Ministerial.Services@ssc.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 State Services Commission's website.

Yours sincerely



Debbie Power
Deputy State Services Commissioner
State Services Commission

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

[IN CONFIDENCE]

File Note: Meeting with Bob Simcock

File Note: Meeting – 11.30pm Friday 8 June 2017

Who: Dallas Welch– Deputy State Services Commissioner, Geoff Short – Assistant Commissioner and Geraldine Needham-Girven, Senior Adviser.

Summary of Discussion

- Bob Simcock is the Chair of the Waikato District Health Board
- He sought to meet with SSC to discuss his concerns over his Chief Executive's expenses. It had recently come to his attention that there might be issues relating to the expenditure that had been made by Dr Murray. He was seeking advice on what he should do in light of concerns that had been expressed to him by senior staff about the issues and in light of reviewing some aspects of the expenditure and identifying what appeared to be unauthorised expenditure.
- Geoff Short advised Mr Simcock to initiate a review of the Chief Executive's expenses. He advised that Mr Simcock should look to identify an independent external reviewer and that he should seek independent legal advice. Mr Simcock was advised that SSC could suggest some appropriate candidates for providing him with independent legal advice, as the DHB staff worked for the Chief Executive and there could be a risk of a conflict of interest arising if staff were to advise directly.
- Mr Simcock was advised to let the Minister of Health's Office know, under "no surprises", and given his responsibility to the Minister as Chair of the Board. He was also advised to discuss with the Director-general of Health or one of his deputies – **9(2)(a) privacy**
- **9(2)(a) privacy** The Ministry of Health was the monitoring agency for the District health Board and should be the first port of call for advice on these matters. The Ministry could also advise on independent legal advice, potentially they could also pay the costs while a review was initiated, as this was something monitoring agencies often did to support Boards where issues with Chief Executives or senior staff emerged.
- When discussing what the issues might be with Dr Murray's expenditure, Mr Simcock pointed primarily to his relocation expenses and to travel and accommodation. He indicated that his team had advised that Dr Murray may have stayed in a hotel in Auckland for a month, when the Chair had authorised him to be there overnight. Similarly the Chair had authorised the use of a rental car for business use in a visit to Canada but it seemed that Dr Murray had not returned it until a month later.
- We discussed the importance of Chief Executives being transparent in their expenditure and that if there were issues of behaviour by the Chief Executive then they needed to be investigated.
- Mr Simcock indicated he would be away for a period of time overseas and would need to address these issues on his return. We encouraged him to contact the minister's Office and the Ministry of Health as quickly as possible.

[IN CONFIDENCE]

File Note: Phone Conversation with Bob Simcock

File Note: Meeting – 6.30pm Friday 11 August 2017

Who: Geoff Short – Assistant Commissioner and Bob Simcock – Chair, Waikato District Health Board.

Summary of Discussion

- Bob Simcock is the Chair of the Waikato District Health Board and has initiated a review of the chief executive's expenses, following issues having been brought to his attention by senior staff. The senior staff raised issues at a time when SSC was seeking explanation to the delay in the public release of the chief executive's expenses over a two year period.
- Mr Simcock and I had tried to call each other over the preceding two days but due to a range of busy periods I had not been able to connect with him to get an update on progress with the review. I had spoken to 9(2)(a) privacy at the Ministry of Health, who provided a brief update. I sought to confirm that progress report with Mr Simcock directly.
- Unfortunately when we did make phone contact I was out of the office, however it was possible to have a useful conversation nonetheless.
- Mr Simcock advised that he had indeed utilised the services of 9(2)(a) privacy and had 9(2)(a) privacy leading the review. She had in turn procured the services of a barrister, so that the investigation itself was independent of 9(2)(a) privacy which could focus on the provision of advice to Mr Simcock. I said to Bob Simcock that this sounded like a proper process and that I was pleased he was accessing legal advice.
- Mr Simcock also advised that he had Audit NZ undertaking its own review on his request of the processes and systems to support the management of the Chief Executive's expenses. He said that this meant the Board would learn lessons for the future in how it was handling Dr Murray's expenses and therefore wouldn't repeat any mistakes.
- We spent a short time covering where the investigation was at, given there were no findings yet and no material had been presented to Dr Murray or his lawyer. Mr Simcock was concerned to maintain an open mind, was looking to ensure a proper process was carried out, and keen not to reach conclusions early.
- I signalled to Mr Simcock that given the level of public interest that had come from a couple of stories in the NZ Herald and the Waikato Times that he should think through what support he might need for the communication of any final report. I said that given our experience in the release of these reports it was important to recognise that any findings would eventually become public, in some form or other, and that he should get independent communications advice. I said to him that the communications people working to the Board would be conflicted in part, due to being employed by the Chief Executive, so he needed to consider some independence. I said that I would provide him some suggestions and he should also discuss potential people with the Ministry of Health. Mr Simcock said he would be in touch once he had advised the Ministry and knew he had its support around contracting any separate communications support.

[IN CONFIDENCE]

File Note: Phone Conversation with Bob Simcock

File Note: Meeting – 5.30pm Friday 25 August 2017

Who: Geoff Short – Assistant Commissioner and Bob Simcock – Chair, Waikato District Health Board.

Summary of Discussion

- Bob Simcock is the Chair of the Waikato District Health Board and has initiated a review of the chief executive's expenses, following issues having been brought to his attention by senior staff. The senior staff raised issues at a time when SSC was seeking explanation to the delay in the public release of the chief executive's expenses over a two year period.
- Mr Simcock and I had a conversation about the investigation into Dr Murray's expenses. Mr Simcock had rung to advise that Dr Murray was changing his legal representation. It had been expected that Dr Murray would respond on Monday to the investigators findings but due to the change in representation he would no longer be able to respond in that timeframe and would require at least another two weeks.
- I questioned Mr Simcock further on the expected findings of the investigation than I had had the opportunity to in our previous discussion, following a brief conversation with the Ministry of Health I was keen to better understand what Mr Simcock's team was finding.
- Mr Simcock indicated that primarily the issue related to Dr Murray's relocation expenditure. He was supposed to have been able to spend up to \$25,000 according to his contract for relocation expenses but had incurred considerably more than that. He had stayed in Auckland ahead of moving to the Waikato to take up the role and had expended more than he was entitled to. Mr Simcock also indicated that some of Dr Murray's travel and accommodation overseas for his business trips was also unauthorised.
- I asked Mr Simcock if there was anything particularly concerning in the expenses, particularly in light of media speculation and some suggestions Dr Murray's behaviours had mixed private and public interests. Mr Simcock talked specifically about the trip to North America, where Dr Murray had not attended the health conference he had initially been interested in. he had instead been on other business while there. Mr Simcock was comfortable that all of that was accounted for.
- I asked Mr Simcock if there was anything emerging that he thought needed further investigation by appropriate authorities. He didn't think there was anything of this sort.

[IN CONFIDENCE]

File Note: Phone Conversation with Bob Simcock

File Note: Meeting – 1pm Wednesday 6 September 2017

Who: Geoff Short – Assistant Commissioner and Bob Simcock – Chair, Waikato District Health Board.

Summary of Discussion

- Bob Simcock is the Chair of the Waikato District Health Board and has initiated a review of the chief executive's expenses, following issues having been brought to his attention by senior staff. The senior staff raised issues at a time when SSC was seeking explanation to the delay in the public release of the chief executive's expenses over a two year period.
- I called to get a brief update from Mr Simcock ahead of updating the Commissioner on a number of matters, including the review of the CE expenses at the Waikato DHB.
- Mr Simcock advised that Dr Murray had new legal counsel – **s(2)(a)** – and that they were awaiting feedback following having sent through the material from the investigation.
- There was nothing significant or new to report.
- He indicated that the investigator's findings, following a response from Dr Murray, would be sent through to the remuneration Committee to consider, prior to any full Board consideration. He hoped that as a result of the narrower sub-group of the Board considering the findings that it would remain confidential until after the Board had considered the matter.

RELEASED UNDER OUR COMMITMENT

[IN CONFIDENCE]

File Note: Phone Conversation with Bob Simcock

File Note: Meeting – 11.24am Friday 29 September 2017 (11 minutes)

Who: Geoff Short – Assistant Commissioner and Bob Simcock – Chair, Waikato District Health Board.

Summary of Discussion

- Bob Simcock is the Chair of the Waikato District Health Board and has initiated a review of the chief executive's expenses, following issues having been brought to his attention by senior staff. The senior staff raised issues at a time when SSC was seeking explanation to the delay in the public release of the chief executive's expenses over a two year period.
- Mr Simcock called to discuss the possible scenarios with the future of Dr Murray. He was at an all-day Remuneration Committee meeting and following this meeting he would complete the process with the investigation into Dr Murray's expenses.
- Mr Simcock was calling a few people to take some soundings before discussing further with **(2)(a) Privacy** (Waikato DHB Dep Chair and Member of the Remuneration Committee) and one other member of the Committee. Mr Simcock had his legal and communications folks working with him that day as well.
- Mr Simcock indicated that he expected the Remuneration Committee to make a decision on Dr Murray's future that day, with the decision being taken to the Board meeting the following Thursday (5 October) and there was an expectation that it would be made public following that meeting.
- Mr Simcock indicated that the remuneration Committee was considering likely high risk of legal action from Dr Murray's legal representatives. Mr Simcock said they expected that the lawyers would look to prevent the release of the investigation findings. I advised that in my experience these issues always became public eventually and that our preference was for people to be as transparent as possible in the circumstances – recognising people's rights to privacy etc.
- I discussed with Mr Simcock some other examples that we had be involved in this year. I said to him that the key to considering these matters was to be proportionate. That in the absence of knowing the investigation findings it was not possible to provide a view from SSC, except to say that if there had been deliberate wrong-doing then the result should be termination.
- I also asked Mr Simcock if there had been any criminal offending or anything that might be perceived by the public to warrant further examination by the police or other authorities. He advised that there was nothing of that nature. He reiterated that primarily this matter has been about the CE overspending beyond the \$25K provided for in his contract – about \$20K over the limit and some other expenditure that was not authorised. He said Audit NZ was likely to provide advice to the Board that it needed to more closely monitor the expenditure of the CE and that he would accept their recommendations. He thought that would mean moving the CE expenses to coming before the Board on a monthly basis.
- I reiterated to Mr Simcock that if there was wrong-doing or poor behaviour by the CE then our preference would be for the termination option. He closed out the call following that.

Geoff Short [SSC]

From: Geoff Short [SSC]
Sent: Tuesday, 15 August 2017 2:07 p.m.
To: 'Bob Simcock'
Subject: RE: media advice

Hi Mr Simcock

Thanks for making contact further to our discussion.

There are a number of groups you might want to consider that could provide you with the support you might be after. I have previously worked with Anna Kominik at Axiom Communications, who is very good in this area. Her contact is <http://www.axiompr.co.nz/contact-1/>

You might also want to consider Senate SHJ, which has an office in Auckland. <http://senateshj.co.nz/>

You may want to chat to folks at the Ministry of Health or the Minister of Health's office to ascertain other groups that may be more sector specific.

Cheers

Geoff

Geoff Short

Assistant Commissioner

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We lead the public sector in the service of our nation.

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From: Bob Simcock [mailto:9(2)(a) privacy]

Sent: Monday, 14 August 2017 1:54 p.m.

To: Geoff Short [SSC] 9(2)(a) privacy

Subject: media advice

Hi Geoff,

Thank you again for your call and offer of assistance last week. I do appreciate it. I understand that you are going to suggest some names of people who may be able to help with media management. I think the sooner I arrange that the better so I look forward to receiving your suggestions.

Regards

Bob Simcock

Chair

Waikato DHB

Geoff Short [SSC]

From: Geoff Short [SSC]
Sent: Tuesday, 15 August 2017 2:10 p.m.
To: 'Bob Simcock'
Subject: OIA Consultation
Attachments: 2277345_1.docx

Hi Mr Simcock

Please find attached a draft response we intend to provide to an OIA request we had related to the release of the expenses for the Waikato DHB Chief Executive.

I'd be grateful for any comments you might have on our proposed response.

Many thanks

Geoff

Geoff Short

Assistant Commissioner

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We lead the public sector in the service of our nation.

We lead, we serve.

14 August 2017

Our ref: 2017/0108

9(2)(a) privacy

Dear 9(2)(a) privacy

Official information request for information about SSC action in respect of Dr Nigel Murray late disclosure of his CE expenses.

I refer to your official information request dated 30 July 2017 where you have asked:

"what action your office has taken, if any, in following up the apparent late disclosure by Dr Nigel Murray and what date he has given your office as to when he will be filing his disclosure".

The State Services Commissioner Peter Hughes has previously made public comment about the importance of chief executives of Government agencies being open with New Zealanders about their spending of public money and transparent about what gifts and hospitality they are accepting.

You may be aware from media articles over the last month that the expenses of the Chief Executive of the Waikato District Health Board (DHB) are being reviewed by the Board and is working through a process to complete that review. The Chair of the Board of the Waikato DHB has made public comment on the process and its timing. It is a matter of responsibility for the DHB rather than the State Services Commission (SSC).

On 1 August 2017 SSC emailed the Chair of the Waikato DHB advising that the expense disclosures for the year ending 30 June 2017 were due online by Monday, 31 July and that it was noted that Dr Nigel Murray's expense disclosure had not been posted. Information was requested as to when it might be expected that the disclosure would be posted. The DHB has indicated that it expects the review of the Chief Executive's expenses to be completed by the end of the month, with publication of the disclosure expected to be made following the completion of that process.

Given that this is an employment matter for the Board to undertake, SSC will not be taking any further action until the process is complete.

If you wish to discuss this decision with us, please feel free to contact Ministerial.Services@ssc.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.

Yours sincerely

Dallas Welch
Deputy Commissioner, System and Agency Performance

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OFFICIAL INFORMATION ACT
RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Geoff Short [SSC]

From: Geoff Short [SSC]
Sent: Monday, 28 August 2017 3:53 p.m.
To: 'Bob Simcock'
Subject: Media response to Fairfax: Questions regarding Waikato District Health Board

Fyi

Geoff Short

Assistant Commissioner

State Services Commission | Te Komihana O Ngā Tari Kāwanatanga

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From: Tim Ingleton [SSC]
Sent: Monday, 28 August 2017 3:46 p.m.
To: Geoff Short [SSC] 9(2)(a) privacy
Subject: FW: Questions regarding Waikato District Health Board

From: Tim Ingleton [SSC]
Sent: Monday, 28 August 2017 3:27 p.m.
To: 9(2)(a) privacy
Cc: @OSPG_COMMS_SSC-Media [SSC] <OSPGCOMMSSSC-Media@ssc.govt.nz>
Subject: FW: Questions regarding Waikato District Health Board

[UNCLASSIFIED]

Hi Florence

Please see a response below. Please attribute to an SSC spokesperson if you would like to quote.

Best regards
Tim.

Chief Executive expense disclosures

The Chief Executives of agencies in the State services are required to disclose their expenses as well as any gifts and hospitality received at least once a year.

This disclosure provides transparency and accountability for chief executive's discretionary expenditure as well as any gifts or hospitality chief executives are receiving.

Each chief executive is responsible for making their disclosure in full and on-time.

Not making a disclosure on time is a matter for the chief executive and their employer. In the case of DHBs the Board Chair is the employer of the Chief Executive.

SSC understands that there is currently an employment investigation being carried out by the Waikato DHB into the Chief executive's expenses. Any questions regarding this should be addressed to the DHB Chair as the employer.

DHB Chief Executive remuneration

District Health Boards are the employer of the DHB Chief Executive and make decisions on the terms and conditions of employment for the Chief Executive.

The DHB Chair is responsible for carrying out performance reviews and making decisions on any performance related payments or increases to base remuneration.

The Public Health and Disability Act 2000 requires DHBs to get the State Services Commissioner's consent to the terms and conditions of employment, including remuneration and any remuneration increases.

The Commissioner provides annual guidance to Board chairs to achieve remuneration movements that are in line with those in the broader State sector workforce. If a proposed increase to DHB Chief Executive remuneration falls within the SSC guidance, consent is considered to be granted and the DHB is asked to advise SSC of its decision.

From: [REDACTED] 9(2)(a) privacy
Sent: Monday, 28 August 2017 11:06 a.m.
To: @OSPG_COMMS_SSC-Media [SSC] <OSPGCOMMS\$SC-Media@ssc.govt.nz>
Subject: Questions regarding Waikato District Health Board

Hi Tim,

thank you for your guidance this morning, much appreciated.

My questions are around the investigation into the CE's expenses as well as his remuneration and pay rises.

We require the answers by end of play today, 4pm.

Thank you, Tim.

Kind regards,
[REDACTED] 9(2)(a) privacy

Questions

Expense investigation

Has SSC requested Nigel Murray's financial expenses for the 2016/2017 financial year?

Has SSC been given assurances by the Waikato DHB that it will receive the chief executive's expense reports?

Has SSC given Waikato DHB a deadline for this information, if so what is this date?

Has SSC had to extend this deadline? If so how many times has this deadline been extended?

When did SSC first become aware of issues with the chief executive's expenses?

Was SSC aware of the two previous years expense reports being late?

What did SSC advise to the board in relation to the chief executive's expense reports being late in 2015 and 2016?

Does the SSC know when the investigation into Nigel Murray's expenses will be finalized?

Remuneration:

Could you please explain to me what happens (From a SSC perspective) when the SSC receive a recommendation from the Waikato District Health Board to give their chief executive a pay rise?

What information does SSC require in a recommendation of this nature?

Who makes the decision to grant a pay rise? In this case, who signed off on Nigel Murray's last two pay rises?

Were SSC aware of the last two late filings of the chief executive's expenses when it signed off his pay rise?

If SSC were aware can you explain why he was given the pay rises?

If SSC were not aware, can you explain why it wasn't aware of this?

Could we please have copies of recommendations furnished by the Waikato District Health Board to SSC supporting pay rises for the chief executive since his appointment?

[If this can not be furnished, could you please accept this question as an OIA request. I request this information within 20 working days dated August 28, 2017. If all or part of the information requested cannot be provided I would like a written reason why.]

9(2)(a) privacy

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Geoff Short [SSC]

From: Geoff Short [SSC]
Sent: Monday, 20 November 2017 5:24 p.m.
To: 9(2)(a) privacy
Subject: OIA for consultation
Attachments: 2293390_Letter from SSC to Waikato DHB Chair in relation to CE appointment.PDF;
2293398_Letter from Waikato DHB Chair to SSC in relation to CE appointment.PDF; SSC
OIA WDHB.docx

Hi Mr Simcock

Please find attached a draft response to a request for information we received under the OIA. Attached are the redacted documents that fall within the request.

I'd be grateful if you could advise if you see any issues with the release of this material. We are separately consulting with Dr Murray via his representatives.

Many thanks

Geoff

Geoff Short

Assistant Commissioner

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1 December 2017

9(2)(a) privacy

Dear 9(2)(a) privacy

Official information request

Our ref: SSC2017/0134

I refer to your official information request dated 19 October 2017 for:

- *Copy of the recommendation made to the State Services Commission by Mr Bob Simcock, Chairman, Waikato District Health Board, or failing him any individual member or group of members of the Waikato District Health Board, naming Dr Nigel Murray as the preferred candidate for the Chief Executive role at the Waikato District Health Board.*
- *Copies of any consequential correspondence between the State Services Commission and the Waikato District Health Board and vice versa, and, all other forms of communication on the subject of the potential and actual employment of Mr Nigel Murray.*
- *Who exactly is responsible for ensuring that the Waikato District Health Board Chief Executive discloses his or her expenses by the due date each year, and, similarly who exactly is responsible for ensuring that this information is posted online (at the Waikato District Health Board website) by the due date of 31 July each year*
- *Please point me to what statute/s, regulation/s, policies, procedures, rules, if any, stipulate who exactly is legally responsible for employing the Waikato District Health Board Chief Executive, who exactly entered into the employment agreement with Mr Nigel Murray, and who exactly is responsible for ensuring that the Waikato District Health Board Chief Executive discloses his or her expenses by the due date each year?*

Information being released

We have reviewed our files and found two documents that fall within the scope of your request. Please find enclosed a copy of the letter sent by the Waikato District Health Board to the State Services Commission and a copy of the letter sent by the State Services Commission (SSC) in response.

Information has been withheld under section 9(2)(a) of the Official Information Act 1982 to protect the privacy of natural persons, including deceased people.

Item	Date	Document Description	Decision
1	8 June 2014	Letter from Bob Simcock	Released in part
2	16 June 2014	Appointment of the Chief Executive of the Waikato District Health Board	Released in part

In response to your question:

“What statute/s, regulation/s, policies, procedures, rules, if any, stipulate who exactly is legally responsible for employing the Waikato District Health Board Chief Executive”.

Section (44) of the New Zealand Public Health & Disability Act 2000 states: *“The terms and conditions of employment of a chief executive of a District Health Board appointed by its board are to be determined by agreement between the board and the chief executive, except that the board must not finalise those terms and conditions, or agree to any amendments to any or all of those terms and conditions once they have been finalised, without first obtaining the consent of the State Services Commissioner”.*

In response to your question:

“Who is legally responsible for employing the Waikato District Health Board Chief Executive and responsible for ensuring that he/her discloses his or her expenses by the due date each year”.

The responsibility of employing the Waikato District Health Board chief executive and ensuring that he/her discloses their expenses by the due date each year, is the Waikato District Health Board.

Chief Executives of Public Service departments and statutory Crown entities regularly disclose their expenses to provide transparency and accountability for their discretionary expenditure. The disclosures make transparent the standards of probity and financial prudence and provide public assurance about the propriety of the expenditure.

Each year the State Services Commission sends the procedural requirements to Chief Executives (CEs) before the due date, following that email SSC reminds Board Chairs if the CEs expenses are not disclosed publicly on time.

Given the nature of your request, you may be interested to know that the Minister of Health last week asked the Commissioner to investigate the allegations of wrongful expenditure of public money by former Waikato District Health Board Chief Executive Dr Nigel Murray, using the Commissioner's functions and powers under section 11 (4) of the State Sector Act 1988.

The State Services Commissioner has appointed Mr John Ombler QSO, former Deputy State Services Commissioner to investigate the allegations. Mr Ombler is a skilled public service manager with a deep knowledge of the New Zealand public system. The Commissioner expects to receive an interim report from Mr Ombler early in the New Year.

If you wish to discuss this decision with us, please feel free to contact Ministerial.Services@ssc.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 do not intend to publish our response to your request.

Yours sincerely

Dallas Welch
Deputy Commissioner – System and Agency Performance

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Waikato Hospital
Pembroke Street
P.O. Box 934
Hamilton 3240, New Zealand
www.waikatodhb.health.nz

9 June 2014

Mr John Reynolds,
State Services Commissioner
Wellington.
Email: john.reynolds@govt.nz

Dear Sir,

The Waikato District Health Board has entered negotiations with Dr Nigel Murray MBE with the intention of appointing him as its new Chief Executive. Dr Murray is currently the Chief Executive of Fraser Health Authority in British Columbia, Canada, a position he has held for over seven years. Fraser Health Authority is a very large organisation with revenues around C\$3 billion and employing 26,000 people.

Prior to his current role, Dr Murray was the Chief Executive of Southland District Health Board and prior to that the Deputy Chief Executive of Auckland District Health Board.

I understand the State Services Commissioner's policy for the remuneration of newly appointed Chief Executives indicates that we are not able to offer Dr Murray more than ^{B(2)(a) privacy} total package without your express agreement. Dr Murray's current package totals ^{B(2)(a) privacy} which at current exchange rates translates to about ^{B(2)(a) privacy}. I am seeking your agreement to offer Dr Murray a total package of ^{B(2)(a) privacy} which is the mid-point of the range assessed for this role.

Waikato District Health Board has gone through an extensive search process looking for suitable candidates in New Zealand, Australia, Canada, the United Kingdom, and the United States. We received 28 formal applications and among those Dr Murray was clearly the stand out candidate. After extensive evaluation and in depth discussions with people who have worked with and for Dr Murray in Auckland, Southland, and Canada we believe he has the experience and ability to take advantage of the significant capital investment that our Board has made over recent years, and to lift the performance of our District Health Board to one of leadership in the New Zealand Health System.

The feedback we have received from those who work with him is that he is both an outstanding individual and an outstanding leader. We believe that his skills, experience, and reputation justify a remuneration package at the mid-point of the band and ask that you view this request favourably.

Yours sincerely,



Bob Simcock
Chair

IN CONFIDENCE

STATE SERVICES COMMISSION
Te Kaitiaki Take Kōwhiri Take Kaitiaki



16 June 2014

Mr Bob Simcock
Board Chair
Waikato District Health Board
Private Bag 3200
Hamilton 3240

By email: (b)(2)(a) privacy

Dear Bob

Appointment of the Chief Executive of the Waikato District Health Board

Thank you for your letter of 8 June 2014 requesting the State Services Commissioner's consent to the appointment of Dr Nigel Murray MBE as the new Chief Executive of the Waikato District Health Board (DHB), at (b)(2)(a) privacy which is (b)(2)(a) privacy of the applicable remuneration range.

We acknowledge that the Board undertook an extensive search for a suitable Chief Executive and that you consider Dr Murray to be the best person for the role, with the skills and ability required to lead the Waikato DHB.

I am pleased to advise that Hannah Brownsey, Manager Executive and Practice Services, under delegation, has given consent to the Board's proposal to appoint Dr Murray as Chief Executive of Waikato DHB on a total potential remuneration of (b)(2)(a) privacy.

Please note however, that appointment at this level of the remuneration may limit Dr Murray's annual remuneration increases in the future.

I understand that the other terms and conditions of employment are consistent with the State Services Commission's model employment agreement. Before the employment agreement is signed by either of the parties, please arrange for it to be sent to me for a final review.

Yours sincerely

Joan Foster
On behalf of the State Services Commissioner

2 The Terrace
PO Box 329 Wellington 6140
New Zealand
Phone +64 4 495 6600
Fax +64 4 495 6686
www.ssc.govt.nz

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IN CONFIDENCE

Geoff Short [SSC]

From: Geoff Short [SSC]
Sent: Friday, 10 November 2017 1:51 p.m.
To: 'Bob Simcock'
Subject: Appointment of the Independent Investigator
Attachments: 10 Nov 17 - Investigator appointed Waikato DHB inquiry.docx

Hi Bob

Please find attached the communications material related to the appointment of the independent investigator by the State Services Commissioner. We expect to make the material public in the next hour.

Cheers

Geoff

Geoff Short

Assistant Commissioner

State Services Commission | *Te Komihana O Naā Tari Kāwanatanga*

9(2)(a) privacy

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MEDIA STATEMENT

10 November, 2017

Investigator appointed for Waikato DHB inquiry

State Services Commissioner Peter Hughes has today announced the appointment of Mr John Ombler QSO to investigate allegations of wrongful expenditure of public money by former Waikato District Health Board Chief Executive Dr Nigel Murray.

The Minister of Health last week asked the Commission to investigate the allegations, using the Commissioner's functions and powers under section 11 (4) of the State Sector Act 1988.

The DHB announced the resignation of Dr Murray on 5 October. This followed the resignation part-way through an independent inquiry into alleged financial breaches during his tenure, which was not completed.

Mr Ombler is a former Deputy State Services Commissioner and is a skilled public service manager with a deep knowledge of the New Zealand public system. Mr Ombler has a strong understanding of financial management in the public sector and most recently was Acting Chief Executive at the Canterbury Earthquake Recovery Authority.

"I am very pleased to appoint Mr Ombler," said Mr Hughes. "He is highly regarded, has a reputation for integrity and has a thorough understanding of public and financial management."

Mr Ombler's appointment is effective immediately.

"I have asked Mr Ombler to provide me with an interim report as soon as he is able. I expect to receive the report early in the New Year," Mr Hughes said.

The allegations of wrongful expenditure have raised serious questions about the conduct and integrity of a former State Services employee.

The State Sector Act grants extensive powers of inquiry to the State Services Commissioner or their delegate. This includes the legal power to require the production of any records, files or other information, require government employees to answer questions and enter government premises.

Mr Ombler will investigate and report on:

- the circumstances of any alleged unauthorised or unjustified expenditure by Dr Murray of DHB funds;
- any related or similar conduct by Dr Murray or any related person or third party identified during the course of your inquiry, and;
- any processes undertaken or decisions made by the DHB relating to any matters you identify under (a) and (b).

If appropriate, Mr Ombler can make any recommendations relevant to the investigation, including the conduct of other staff members within the Waikato DHB or the DHB's policies or processes.

Ends

Media queries: Grahame Armstrong 021 940 457

Geoff Short [SSC]

From: Geoff Short [SSC]
Sent: Thursday, 23 November 2017 9:41 p.m.
To: Bob Simcock
Subject: Re: OIA for consultation

Many thanks Bob.

Geoff

Sent from my iPhone

On 23/11/2017, at 9:31 PM, Bob Simcock **9(2)(a) privacy** wrote:

Hi Geoff. I am happy for these documents to be released.
Regards
Bob Simcock

Sent from my Samsung device

----- Original message -----

From: "Geoff Short [SSC]" **9(2)(a) privacy**
Date: 23/11/2017 4:12 pm (GMT+12:00)
To: **9(2)(a) privacy**
Subject: RE: OIA for consultation

Hi Mr Simcock,

I appreciate you may still be considering the release of the information we provided but thought you might wish to know we have been advised by Dr Murray's legal team that he sees no issue with the material proposed for release.

Cheers

Geoff

Geoff Short
Assistant Commissioner

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From: Geoff Short [SSC]

Sent: Monday, 20 November 2017 5:24 p.m.

To: 9(2)(a) privacy

Subject: OIA for consultation

Hi Mr Simcock

Please find attached a draft response to a request for information we received under the OIA.

Attached are the redacted documents that fall within the request.

I'd be grateful if you could advise if you see any issues with the release of this material.

We are separately consulting with Dr Murray via his representatives.

Many thanks

Geoff

Geoff Short
Assistant Commissioner

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