



Te Kawa Mataaho

Public Service Commission

2 August 2021

9(2)(a) privacy

Dear 9(2)(a) privacy

Official Information Request

Our Ref: OIA 2021-0087

I refer to your official information request received on 5 July 2021 where you asked the following:

- “1. Did the the SSC approve MBIE signing off, under section 149 ERA 2000, on contracts to suppress information and evidence of wrongdoing and offences by public officials*
- 2. When did it so approve and who took the decision to approve*
- 3. Has it rescinded that approval*
- 4. If it did not approve it, who decided to do it*
- 5. Was this information (that MBIE approved contracts to suppress information and evidence of wrongdoing and offences by public officials) reported to the FATF for their survey of New Zealand's compliance with international requirements as to transparency and if not who took the decision to withhold it and when was that decision taken*
- 6. Were insurers informed of this so they were aware of insuring in respect of an illegal contract (for these see subpart 5 of the Contract and Commercial Law Act 2017, previously the Illegal Contracts Act 1970) and if so when and if not then who took the decision not to and when was it taken*
- 7. If any of the above policies have changed, please say when.*
- 8. In relation to the insurance money received from the Peter Whittall case, has the insurer been informed that the arrangement under which it was paid has been declared illegal by the Supreme Court and if so when was that and please send a copy*
- 9. Did the insurers of Peter Whittall ask for the return of the money paid over once the arrangement under which it was paid was declared to have been illegal*
- 10. Have insurers of New Zealand public officials' actions been told, either in general or specifically, that they may be illegal actions of which evidence may legally be concealed behind a contract signed off by MBIE”*

Our Response

Employers, including the Ministry of Business, Innovation and Employment (MBIE) are enabled by s149 of the [Employment Relations Act 2000](#) (the Act) to agree to settle employment disputes. Approval is not required from Te Kawa Mataaho Public Service Commission to do this.

These settlements sometimes include confidentiality agreements. Employers are responsible for acting within the Act as part of performing their agencies operational functions and decisions.

The Public Service Commissioner has issued [Workforce Assurance Model Standards](#), which set out expectations in regard to investigations into serious misconduct and settlement agreements. These Workforce Assurance model standards outline the Public Service Commissioner's additional expectations on organisations when recruiting employees and contractors.

The standards help ensure the suitability of the people organisations engage and that the workforce continues to meet high standards for integrity and honesty.

In response to questions eight, nine and ten of your request, the Commission does not have a role in insurance matters related to Peter Whittall proceedings. We are therefore refusing those parts of your request under section 18(e) of the Official Information Act request on the grounds that the information requested is not held by the Commission.

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