

Hon Dr David Clark

MP for Dunedin

Minister of Commerce and Consumer Affairs
Minister for the Digital Economy and Communications
Minister for State Owned Enterprises
Minister of Statistics
Minister Responsible for the Earthquake Commission



11 FEB 2021

Paul King
fyi-request-13908-c79af67b@requests.fyi.org.nz

Dear Paul

Thank you for your Official Information Act request, received on 21 December 2020.
You requested:

The Southern Response website states:

"Southern Response is the government-owned company responsible for settling claims by AMI policyholders for Canterbury earthquake damage which occurred before 5 April 2012 (the date AMI was sold to IAG).

The ongoing series of earthquakes since September 2010 had a profound impact on AMI and its Canterbury customers. As a result of the unprecedented cost of earthquake claims, in April 2011, AMI received capital support from the New Zealand Government to ensure the interests of all AMI policyholders were protected and all claims would continue to be met under the terms of their policies."

- 1. Is this a true statement?*
- 2. Are former AMI customers supposed to approach some other party like AMI to have their claims settled?*
- 3. If so why and why would the above statement not say that?*
- 4. If not then why do Southern Response seem to think that they do?*
- 5. If you return to Government what will you be doing for claimants who have still not had their AMI claim settled by Southern Response?*
- 6. Are Southern Response an insurance company?*
- 7. Southern Response has been proven in Court to have committed offences commonly known as "fraud" and breaches of the Fair Trading Act and Consumer Guarantees Act while in business, what will you as Minister be doing about these offences?*
- 8. Should you as Minister be referring these offenders to the Police?*
- 9. If not, why not?*

10. *What compensations will be paid for these frauds on homeowners?*
11. *Will the Minister be changing the law to ensure that no time limit is applied to claims which have been delayed by fraud and not yet settled?*
12. *Why should "fraudster" at Southern Response use up time while claimants wait for their settlements?*
13. *When will interest be paid?*
14. *Why can't it be paid interest on our claims and the undisputed amounts while we wait for our settlements?*
15. *If the Government is short of cash then why weren't the claimants told this?*
16. *And why if so, is \$250 million being given to the Americas Cup yacht race for billionaires when we are so short of cash?*
17. *The "AMI" in the statement above, is this AMI the current company or does it refer to Southern Response (SRES) or another entity entirely?*

The (then) Minister Responsible for the Earthquake Commission refused your request on 28 October 2020 under section 18(g) of the Official Information Act.

You have subsequently requested that the Ombudsman review the Minister's decision and having been notified of this, I have decided to reconsider your request.

On 18 January 2021 I transferred requests 1, 2, 3, 4 & 14 to Southern Response Earthquake Services Limited (Southern Response) as they are more closely connected to the functions of Southern Response.

I agree with the Minister's original decision to refuse requests 12, 15 & 16 under section 18(g) of the Official Information Act:

- the information requested is not held by the department or Minister and there is no reason to think that transferring the request would yield the information from another source.

This table below addresses the remaining nine requests:

Request Number	Response
<p><i>5. If you return to Government what will you be doing for claimants who have still not had their AMI claim settled by Southern Response?</i></p>	<p>As at the end of December 2020, Southern Response had 193 covered claims remaining to be settled. The Government monitors the Company's performance to ensure it continues to settle the outstanding claims in a fair, timely and enduring manner.</p> <p>During the term of the last Government, the Greater Christchurch Claims Resolution Service was established to assist claimants who still had not had their claims settled (regardless of the insurer). The last Government also set up the Canterbury Earthquakes Insurance Tribunal to provide Canterbury homeowners with a fair, speedy, flexible and cost-effective way to resolve their long-standing claims with insurers (including Southern Response).</p> <p>In addition, this Government has approved a package to be offered to eligible policyholders who settled with Southern Response prior to October 2014. As the package will affect some policyholders that are potentially part of a current court case known as the Ross Class Action, Southern Response has applied to</p>

	<p>the court for confirmation that it can communicate with those policyholders about the package.</p> <p>The latest announcement can be found at this link: https://www.beehive.govt.nz/release/proactive-package-southern-response-claimants</p>
6. Are Southern Response an insurance company?	Southern Response does not write new insurance and so is not considered an insurance company under the Insurance (Prudential Supervision) Act 2010.
7. Southern Response has been proven in Court to have committed offences commonly known as "fraud" and breaches of the Fair Trading Act and Consumer Guarantees Act while in business, what will you as Minister be doing about these offences?	<p>Southern Response has not committed any fraud offences. In <i>Dodds v Southern Response</i>, the Company was found to be liable under the Fair Trading Act 1986 and the Contract and Commercial Law Act 2017. In response to the <i>Dodds</i> case, the Government has announced a proactive package for eligible Southern Response customers.</p> <p>The latest announcement can be found at this link: https://www.beehive.govt.nz/release/proactive-package-southern-response-claimants.</p>
8. Should you as Minister be referring these offenders to the Police?	There is no criminal action that I am aware of for referral to the NZ Police. If you are aware of any criminal activity you should refer these this to the police yourself in the first instance.
9. If not, why not?	There is no criminal action that I am aware of for referral to the NZ Police.
10. What compensations will be paid for these frauds on homeowners?	<p>Southern Response has not committed any fraud offences. In <i>Dodds v Southern Response</i>, the Company was found to be liable under the Fair Trading Act 1986 and the Contract and Commercial Law Act 2017. In response to the <i>Dodds</i> case, the Government has announced a proactive package for eligible Southern Response customers. The latest announcement can be found at this link: https://www.beehive.govt.nz/release/proactive-package-southern-response-claimants.</p>
11. Will the Minister be changing the law to ensure that no time limit is applied to claims which have been delayed by fraud and not yet settled?	<p>Southern Response has not committed any fraud offences. In <i>Dodds v Southern Response</i>, the Company was found to be liable under the Fair Trading Act 1986 and the Contract and Commercial Law Act 2017. In response to the <i>Dodds</i> case, the Government has announced a proactive package for eligible Southern Response customers. The latest announcement can be found at this link: https://www.beehive.govt.nz/release/proactive-package-southern-response-claimants</p> <p>More broadly the legislation surrounding insurance products is currently being reviewed. This was announced in December 2019 and you can find this announcement at this link: https://www.beehive.govt.nz/release/insurance-contracts-become-easier-understand-and-fairer-consumers</p>
13. When will interest be paid?	<p>For AMI/Southern Response policyholders who are eligible for the proactive package announced by the Government, accumulated interest will be paid as part of, and at the same time as, any proactive package payment is made to those policyholders/customers.</p> <p>The latest announcement can be found at this link:</p>

	https://www.beehive.govt.nz/release/proactive-package-southern-response-claimants
<p>17. The "AMI" in the statement above, is this AMI the current company or does it refer to Southern Response (SRES) or another entity entirely?"</p>	<p>The reference to AMI in the first paragraph, is in respect of the AMI business sold to IAG. The ongoing AMI insurance policies were sold to IAG, but the claims relating to the Canterbury earthquakes remained with the company (Southern Response, previously AMI).</p> <p>The second paragraph refers to AMI, the Company, which was renamed in April 2012 to Southern Response.</p>

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

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely



Hon Dr David Clark
Minister Responsible for the Earthquake Commission