

24 February 2021

S Rowe
fyi-request-13967-1d7ddc17@requests.fyi.org.nz

Tēnā koe

Official Information Act 1982 (OIA) Request

Thank you for your request for information received on 13 December 2020. You requested that the Earthquake Commission (EQC) provide you with information relating to your previous information request of 13 October 2020. For ease of reference, we have set out your request of 13 December in full below including where you have simply acknowledged any answer provided in our response of 20 November 2020.

1. Acknowledged.

2(a) I can not find the answer to this question in EQC's response.

We consider that our letter of 20 November 2020 adequately answers question 2(a) of your request.

2(b) EQC stated in its response "Information about complaints arising from claims managed by EQC is provided monthly by EQC staff to Southern Response by entering it into a spreadsheet saved on a Southern Response database (the Aggressive/Unacceptable Behaviour or Accident/Incident report)."

Can you please explain why this spreadsheet was not used all the time, and instead the communication of this information took place over email?

Prior to mid-June 2020, information was shared by email (which explains the material you have referred to). Following a recommendation arising from an audit undertaken at that time, it was decided that the shared spreadsheet would be used instead.

2(c) EQC stated in its response "The information shared relates only to claim management and complaints about EQC staff are not included in this spreadsheet."

This does not relate to the question asked, but seems to imply that EQC did not share complaints about EQC staff with Southern Response. EQC has shared complaints about EQC staff with Southern Response on more than one occasion.

Can you please acknowledge the last paragraph as being true?

It is not part of EQC's policies to share complaints about EQC staff with Southern Response.

EQC and Southern Response staff have access to the Southern Response claim management system. All claim relevant information is saved there. If claim relevant information, such as an email, was saved on this claim management system that contained information relating to a complaint made

Earthquake Commission
Level 11, Majestic Centre

Corporate Mail: PO Box 790, Wellington 6140
Claims Mail: PO Box 311, Wellington 6140

about EQC staff, both parties would be able to access it. Due to this, it is possible that Southern Response staff may have become aware of complaints made about EQC staff.

3. I can not find the answer to this question in EQC's response. The "answer above" does not make reference to the "Aggressive/Unacceptable Behaviour" list, nor to the "Accident/Incident reports" list.

The answer to your question can be found under the heading "Complaints against EQC and information shared about those" in our letter of 20 November 2020. As indicated in that response the spreadsheet we are referring to is known as the *Aggressive/Unacceptable Behaviour and Accident/Incident Report*. There are two spreadsheet tabs respectively titled *Aggressive/Unacceptable Behaviour* and *Accident/Incident Report*.

4(a) Do the 10 requests include this request?

Unfortunately, there was an error in our previous response where we stated that EQC has transferred 10 OIA requests through to Southern Response. The correct position is that Southern Response transferred 10 OIA requests to EQC. We apologise for any confusion this might have caused.

Your OIA request of 13 October 2020 was not transferred to Southern Response.

4(b) Did EQC communicate to Southern Response about this request?

No.

5. It appears the implied answer to this question is "0". Can you explicitly confirm this was the intended answer?

The transfer process of OIA requests involves the transfer of a request for official information from one agency to another under section 14(b)(i) or (ii) of the OIA. That process does not involve the transfer of any further information.

Requesters make a wide variety of requests for official information. Some requests may contain further information that is provided by the requester in order to support an agency to better identify the information they seek. If a request is transferred, then the further information provided by the requester is also transferred as it forms part of the request.

EQC does not keep a record of whether transferred requests contain further information provided by the requester. As such, we are unable to provide you with information to confirm the number of times this may have occurred, as this information does not exist. This decision is made under section 18(e) of the OIA.

6(a) Can you please provide the list of people Southern Response has made available to EQC, and what their subject matter expertise is? Please indicate which staff had been made use of prior to this OIA request being made, and which after it was initially filed.

We are unable to provide you with "the list of people Southern Response has made available to EQC" as that information does not exist. This decision is made under section 18(e) of the OIA.

6(b) The Agency Agreement says that EQC can be charged for use of additional Southern Response staff. Who is bearing the cost of the use of unprescribed staff?

The *Agreement relating to Management of Outstanding Canterbury Claims* (the Agency Agreement) does not state that EQC can be charged for the use of additional Southern Response staff. Furthermore, it does not outline who bears the cost for the use of "unprescribed staff".

We are unable to provide you with that information as it does not exist. This decision is made under section 18(e) of the OIA.

7(a) Can you please provide an example of when the sharing of claimant personal details would be required to facilitate advice about property damage?

Each claim file in the Southern Response claim management system contains claimant personal details alongside further claim relevant information such as property damage. As noted above, both EQC and Southern Response staff have access to this claim management system. Because of this, there is no need to share claimant personal details between parties.

We are unable to provide you with the example requested above, as that information does not exist. This decision is made under section 18(e) of the OIA.

7(b) I requested a total instead of requesting the individual documents, which would be covered by the Official Information Act. If EQC does not want to answer the question as asked, then please provide me with redacted copies of every communication and I will sum the documents myself. If EQC chooses to redact documents then please redact and provide in such a way that facilitates the counting of the communications.

As noted above, there is no need for EQC to share claimant personal details with Southern Response as both parties have access to the claim management system. We are therefore unable to provide you with “every communication” where this has occurred, as no such communication exists. This decision is made under section 18(e) of the OIA.

8. Please confirm that the implied response of “0” is accurate.

As we have noted EQC generally does not require privacy waivers. However, there may be instances where this has occurred. We do not keep a record of, or tally these occurrences. As such, we are unable to provide you with information to confirm “that the implied response of ‘0’ is accurate” as this information does not exist. This decision is made under section 18(e) of the OIA.

9-12. The answers to questions 9-12 appear to be addressed by reference to Clause 5.2 of the agency agreement.

However that clause explicitly states that the Privacy Act still applies.

Additionally, EQC has shared personal details of individuals with Southern Response outside of the prescribed Information Systems.

As such Clause 5.2 does not apply to all circumstances, so please provide the answers to questions 9-12.

We consider that our letter of 20 November 2020 answers these questions. As noted above, EQC and Southern Response both have access to the Southern Response claim management system and a shared spreadsheet. Because of this, there is no need to share claimant information between the two parties. This means that claimants were not notified of occurrences of their information being shared, as there were no such individual, countable occurrences. As such, we are unable to provide you with the information requested in questions 9 to 11, as this information does not exist. This decision is made under section 18(e) of the OIA.

13. Acknowledged.

However EQC has stated “Where EQC is acting as Southern Response’s agent on a claim, EQC is able to seek legal advice from Southern Response”.

However there are instances of EQC engaging the Southern Response legal team in relation to events that are not EQC acting as agents for Southern Response, such as complaints about EQC staff.

Please readdress the questions 14-16 based on this apparent interaction outside of what EQC has deemed appropriate use of the Southern Response legal team.

14. Please see 7(b) above for alternatives to providing this information.

We consider that our letter of 20 November 2020 adequately answers question 14 of your request. We are unable to provide you with “every communication” in relation to number of times EQC has sought legal advice from Southern Response as this would constitute substantial collation and research. This decision is made under section 18(f) of the OIA.

15-16. I can not find the answer to this question.

We consider that our letter of 20 November 2020 adequately answers questions 15 to 16 of your request.

17-20. Can you please explain how a count of individuals could possibly expose personal information?

You have indicated that you have knowledge of certain claimant information. In the event that this is either not your own personal information or information about a claimant for whom you have authority to act, disclosing specific counts could interfere with the privacy of any claimant to whom such information relates.

21. The response from EQC seems to imply that the Agency Agreement allows for close collaboration between EQC and Southern Response. However, the prior points made by EQC in its response were that EQC and Southern Response could share information contained in existing information systems and that a single subject matter expert be made available to EQC.

Please explain EQC’s response to this saying that close collaboration is permitted.

We consider that our letter of 20 November 2020 adequately answers question 21 of your request.

22. Acknowledged.

23. Please see 7(b) above for alternatives to providing this information.

We consider that our letter of 20 November 2020 adequately answers question 23 of your request. We are unable to provide you with “every communication” in relation to all independent damage assessments as this would constitute substantial collation and research. This decision is made under section 18(f) of the OIA.

24. Please see 7(b) above for alternatives to providing this information.

We consider that our letter of 20 November 2020 adequately answers question 24 of your request. We are unable to provide you with “every communication” in relation to every independent damage assessment requested and not provided as this would constitute substantial collation and research. This decision is made under section 18(f) of the OIA.

25. Why has EQC not held Southern Response to its agency agreement requirement to provide a list of vulnerable persons?

As noted above, EQC and Southern Response staff both have access to the Southern Response claim management system where a claimant’s vulnerability status is clearly displayed in their electronic file. Because of this it is not necessary for a list of vulnerable persons to be provided.

26. I can not find the answer to this question.

We consider that our letter of 20 November 2020 adequately answers questions 26 of your request.

27-38. The questions are not directed at identifying a particular claim.

Despite having crafted the questions so that no personal information would be exposed, if EQC believes that any personal information would be exposed then please let me know what the questions are, and what category of personal information would be exposed, and I will adjust the questions as to not be a privacy risk.

As mentioned earlier, you have indicated that you have knowledge of certain claimant information (for example questions 36 and 37 of your request of 13 October 2020). In the event that this is either not your own personal information or information about a claimant for whom you have authority to act, disclosing information about such a claim could interfere with the privacy of those concerned.

A further difficulty with this aspect of your request is that it is likely to relate to only a very small number of claims. Because of this, specifying the number of instances where the events you have referred to could also interfere with the privacy of those concerned. With that in mind we would be open to receiving a further request that would avoid those issues. We do however reiterate our decision to withhold the information sought at questions 28 to 38 under section 9(2)(a) of the OIA.

39-40. I can not find the answer to this question. EQC stated "We note that this aspect of your request also appears to be directed at particular claims or claimants."

I must assume that this is in relation to questions 39-40.

Can you please explain how communicating which EQC staff and minister have knowledge of EQC requests to Southern Response would expose personal information?

As we have indicated, your request is directed at a particular claims or claimants. We believe the issues we have noted in relation to questions 28 to 38 of your request are also relevant to questions 39 and 40.

Please note that we do not intend to publish our response to your official information request.

You have the right under section 28(3) of the OIA to ask the Ombudsman to investigate and review our decision. The Ombudsman can be contacted at PO Box 10 152, Wellington 6143, by telephone on 0800 802 602, or through their website at www.ombudsman.parliament.nz.

Ngā mihi



Sophie Carroll
Principal Advisor