

19 MAR 2021

Amy S Van Wey Lovatt
fyi-request-14516-618eb536@requests.fyi.org.nz

Our ref: OIA 86267

Dear Ms Van Wey Lovatt

Official Information Act request: Definition of 'intended recipient'

Thank you for your email of 19 February 2021 requesting, under the Official Information Act 1982 (the Act), concerning the dictionary definition of 'intended recipient'. Specifically, you have requested:

I am quite confused by your response. Are you saying that the Ministry of Justice does not have any documents, including reference to case law or references to legal statutes, which informs the MoJ of the meaning of "intended recipient". Does the MoJ not have any internal policies or protocols on use of email or for other communications?

If a person searches FYI.org.nz for the words "intended recipient", disclaimers from government agencies pop up.

Department of the Prime Minister and Cabinet disclaimer: "The information contained in this email message is for the attention of the intended recipient only and is not necessarily the official view or communication of the Department of the Prime Minister and Cabinet. If you are not the in..."

Ministry for Women disclaimer: "The information contained in this email message is intended only for the addressee and is not necessarily the official view or communication of Manatū Wāhine, Ministry for Women. If you are not the intended recipient..."

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Auckland City Council disclaimer: "CAUTION: This email message and any attachments contain information that may be confidential and may be LEGALLY PRIVILEGED. If you are not the intended recipient, any use, disclosure or copying of this message or attachments is strictly prohibited. If you have received this email message in error p..."

If all of these agencies include disclaimers about emails being confidential, privileged, and the inappropriate use of these emails are "strictly prohibited", then the Ministry of Justice must have some documents to inform the meaning of the words "intended recipient" in the context of email communications, or there could be no enforcement. Thus, I again, ask for the documents that inform this meaning, which would be used to enforce the strict prohibition of the use of these documents by someone who is not the intended recipient.

To clarify, the OIA states:

document means a document in any form; and includes—

(a) any writing on any material:

(b) any information recorded or stored by means of any tape-recorder, computer, or other device; and any material subsequently derived from information so recorded or stored:

(c) any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means:

(d) any book, map, plan, graph, or drawing:

(e) any photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced

Thus, if the meaning of "intended recipient" comes from case law, such as CK (Entrepreneur Residence Visa) [2018] NZIPT 204692 (28 September 2018), where at [38] the Judge describes the "intended recipient" as the person the communication was addressed to at Immigration NZ (rather than the agency), reference to this case would fulfill my OIA request.

If the meaning of "intended recipient" comes from the Oxford Learner's Dictionary (a book), reference to the dictionary would fulfill my OIA request. The Oxford Learner's Dictionary states:

recipient (noun) a person who receives something intended (adjective) (1) that you are trying to achieve or reach Putting these words together, the meaning of "intended recipient of a communication" would be "the person you are trying to reach and have receive the communication".

Given this email and my original OIA request satisfies the definition of documents held by the MoJ, then stating that my understanding is consistent with the understanding held by the MoJ, as outlined in my initial request or in this clarifying response, would likewise satisfy my OIA request.

The Ministry of Justice does not have any policies to inform the meaning of this and relies upon the dictionary definition of 'unintended recipient'. An 'unintended recipient' in terms of a privacy breach is precisely what the term means: a person who was not meant to receive the information.

The Ministry email disclaimer does not refer to unintended recipients, and says in plain English:

Confidentiality notice:

This email may contain information that is confidential or legally privileged. If you have received it by mistake, please:

- (1) reply promptly to that effect, and remove this email and the reply from your system;
- (2) do not act on this email in any other way.

Thank you.

Unfortunately, we do not hold the information you have sought and I must therefore refuse your request under section 18(g)(i) of the Official Information Act.

If you are not satisfied with my response to your request, you have the right to complain to the Ombudsman under section 28(3) of the Act. The Ombudsman may be contacted by email at info@ombudsman.parliament.nz.

Yours sincerely



Jenna Bottcher
Manager Ministerial Relations and Services