

# Hon Dr Deborah Russell MP

MP for New Lynn

Minister of Statistics

Minister Responsible for the Earthquake Commission

Associate Minister of Justice

Associate Minister of Revenue



Canterbury Victim  
fyi-request-21235-2a8dd0c7@requests.fyi.org.nz

Dear Canterbury Victim

Thank you for your Official Information Act (OIA) request, received on 24 January 2023.  
You requested:

## **\*\* Request 4**

*With regards to request 4, the Minister appears to have refused the request based on 18(e) and 18(g). However, in a letter dated 16 June 2021 and signed by Hon Dr David Clark, in response to the question "When did the Minister first become aware that Southern Response was found guilty of a Significant Breach of the Fair Insurance Code?" the response was "Minister Robertson became aware of the circumstances you raise on 12 August 2019. I have been informed as a result of this OIA." In a letter dated 13 July 2021 and signed by Hon Dr David Clark it is stated "As indicated in my previous response, I was informed as a result of your OIA request dated 17 April 2021."*

*As it appears there are documents and information held by Hon Dr David Clark that appear to contradict the response made to request 4 of this set of OIA requests, please provide a Section 23 response to the decision to refuse providing official information in response to this request. Please also provide a Section 23 response to the decision to provide the official information on the two occasions stated above. I would like to understand how the Minister was unable to come to the same decision each time.*

*In case there is seen to be a difference in the requests then as per the document "Information not held A guide to sections 18(e) and (g) of the OIA and sections 17(e) and (g) of the LGOIMA" it is stated that "Agencies must consider consulting the requester before refusing a request under section 18(e)." Please provide a Section 23 response regarding the decision to not consult me before refusing the requests under Section 18(e).*

## **\*\* Request 9**

*With regards to request 9, the Minister appears to have refused the request based on 18(e) and 18(g). However, in a letter dated 11 October 2022 and signed by Hon Dr David Clark it is stated that the Minister has not been directly involved in matters related to a claim including requests for official information. That request was refused under 18(e).*

*In an email dated 12 October 2022 a snippet of a statement by Southern Response showed that they stated the involvement of Hon Dr David Clark in matters related to the claim.*

*In a letter dated 21 November 2022 and signed by Hon Dr David Clark it is stated that "Email notification would satisfy the definition of 'Official Information' under the OIA. However, we also consider that good reason exists for withholding these emails under section 9(2)(ba) of the OIA on the basis that we communicate about requests for information under the OIA in confidence and it is in the public interest that communication of this type continue to occur on a full and frank basis."*

*The above details would appear to fulfil the criteria for request 9. As such, please provide a section 23 response providing the details on how the decision was made that there were no documents or information that related to this request for official information.*

**\*\* Request 10**

*With regards to request 10, the Minister appears to have refused the request based on 18(e) and 18(g). However, in a letter dated 16 June 2021 and signed by Hon Dr David Clark, in response to an OIA request dated 17 April 2021 which requests "When did the minister first become aware that Southern Response altered documents and asked suppliers to alter documents in order to create a false history of events; this being a potential violation of the Crimes Act?" the response by the Minister is "We have not been made aware of these alleged statements and there is no obligation to create information in order to respond to a request." Further it is stated "In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act."*

*Please provide a Section 23 response on the decision to refuse providing official information based on 18(e) when there exists documents that contain this official information.*

**\*\* Remaining requests**

*The Minister has not responded to each request for official information separately. At the beginning of the document I stated "Each of the points below is an individual request for official information," and for each request I presented options for responses to limit the scope of the requests in a way that I felt would fulfil my requests. Please provide a Section 23 response for the decision to respond in such a way that did not allow for an understanding of the results of each decision made against the 10 requests for official information.*

*The Minister's response refuses to provide official information. In the document I stated "Any information that is denied should be accompanied with a Section 23 response providing the reasons for the decision to deny the information." Please provide a section 23 response for the decision to not include a section 23 response for each of the refusals of official information. Please also provide the Section 23 responses for the refusals themselves, as previously requested. Please see the Office of the Ombudsman document "Requests for reasons for a decision or recommendation A guide to section 23 of the OIA and section 22 of the LGOIMA" for information on how to properly respond to a section 23 request.*

*In the document "Information not held A guide to sections 18(e) and (g) of the OIA and sections 17(e) and (g) of the LGOIMA" it is stated that "Agencies must consider consulting the requester before refusing a request under section 18(e)." Please provide a Section 23 response regarding the decision to not consult me before refusing the requests under Section 18(e).*

Section 23 applies where a Minister has made a decision in respect of a person in their personal capacity.

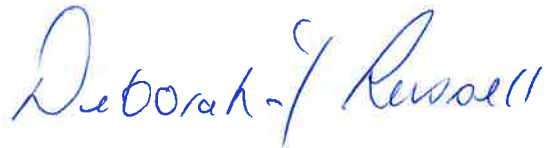
Section 23 states that where a Minister or organisation has made a decision in respect of a person in their personal capacity, that person has the right to be given a written statement of:

- a. Findings on material issues of fact.
- b. Reference to information on which findings were based.
- c. Reasons for the decision or recommendation.

For section 23 to apply there needs to be a decision or recommendation made *in respect of a person* that affects them personally. Your request does not meet the criteria of section 23.

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 Deborah Russell  
**Minister Responsible for the Earthquake Commission**