

21 April 2023

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By email only to: fyi-request-22393-18cb5a90@requests.fyi.org.nz

Tēnā koe

Official Information Act Request (Our Ref: OIA/0275)

We refer to your Official Information Act request of 5 April 2023.

Your request:

In correspondence between myself and your office, your staff have used phrases such as "We generally take the agency's word in these situations unless there is clear evidence suggesting otherwise" and "I acknowledge you disagree with this, however our Office usually takes the agency's word unless there is evidence suggesting otherwise."

Please show me where in your policy does it say you should take this stance. Show me where in the legislation are you expected to automatically believe everything an agency being complained about says.

I note that you have previously provided your policy on handling complaints to fyi.org.nz at:
<https://fyi.org.nz/request/20878/response/81152/attach/html/7/2022%20Decision%20Guide%20DRAFT%20ONLY%20A816422.pdf.html>

This policy makes no mention of your "automatically agree with the agency" stance. So show me the policy and/or legislation it actually comes from.

Our response to your request

Your request is refused under section 18(e) of the Official Information Act as the information requested does not exist.

The legislation does not include the expectation that the Office of the Privacy Commissioner automatically believes an agency being complained about.

The policy you refer to you is the Office's decision guide and does not codify all of the Office's investigation procedures.

Please note that the Office can only investigate a complaint where there appears to have been an interference with privacy (see sections 69 and 70). The Office has limited resources to be

able to interrogate the veracity or completeness of the information provided by a party unless there is evidence indicating that this warrants our taking further steps to do so. We are not advocates, and we must remain independent (section 20). Accordingly, it is up to the party seeking to lodge a complaint to provide the Office with sufficient and actionable evidence of a potential breach. We then assess and weigh that evidence to determine our next steps, whether or not that be preliminary enquiries, conciliation, or investigation.

Conclusion

While we are not able to fulfill your official information request for the reasons above, I hope that our response helps to explain our Office's process.

If you are dissatisfied with this response, you have the right to seek review by the Office of the Ombudsman.

Nāku iti noa, nā

Joanna Hayward

Joanna Hayward
General Counsel