



30 August 2023

Shaun Brown

fyi-request-23203-a81c2b10@requests.fyi.org.nz

Ref: DOIA 2223-2978

Tēnā koe Shaun,

Thank you for your email of 20 June 2023 to the Ministry of Business, Innovation and Employment (MBIE) requesting, under the Official Information Act 1982 (the Act), the following:

I understand that for some bizarre reason, MBIE allowed a 'Colin David Rath', who had already made himself notorious in his home warren of New York by making a spurious challenge to the evidence brought by one of the many banks chasing him for unpaid money in the 'Nat'l City Bank v. Rath' case, to not only receive an 'Entrepreneur Resident Visa' but actually to become a paper citizen of New Zealand. More recently, he has been caught engaging in further American practices and given a prison sentence of more than three years in duration.

1) Please provide all records held by MBIE in regards the admission of Colin David Rath to this nation and the granting of visas, residency, and citizenship status to him.

2) Given that Rath has engaged in American-style crimes in this country and been convicted for them, what steps are MBIE taking to strip him and his spawn of any right to remain in New Zealand and deport him?

As the information to which Mr Rath's citizenship matter relates is believed to be more closely aligned with the Department of Internal Affairs (DIA) functions, on 26 June 2023, we transferred this part of the request to DIA under section 14 of the Act.

On 3 July 2023, we advised that your request may be refused under section 9(2)(a) of the Act to protect the privacy of a natural person and asked if there were any public interest considerations to take into account when making a decision on this request. On 5 July 2023, you responded, noting that:

The role of MBIE in bringing in foreign criminals makes this highly relevant to the public interest

Our Response

Question 1

Please refer to the attached Appendix for the information in scope of your request.

We interpret Question 1 as a request for "Immigration New Zealand (INZ) records demonstrating the basis on which Mr Rath was granted visas to be in New Zealand".

When deciding whether to release information related to the grounds on which Mr Rath was granted visas, we balanced the public interest in disclosing information against the need to withhold it and have considered a number of factors, including the following:

- procedural fairness for granting visas to Mr Rath
- INZ's accountability and transparency
- the extent of information in the public domain
- the need to provide the 'full picture' or to correct inaccurate, incomplete or misleading information
- your comments
- Mr Rath's comments

The attached Appendix is a reduced version of the records held by Immigration New Zealand (INZ). In particular, we have identified 26 files consisting of 2,436 pages. Out of these, we have enclosed 19 files or 628 pages. To reduce the size of the attached document, we have removed fully redacted pages marked as being out of scope or withheld under sections 9(2)(a) or 6(c) of the Act.

To protect the privacy of natural persons, the following information has been withheld under section 9(2)(a) of the Act:

- Personal identity information
- Health records
- Character records
- Detailed evidence of the business proposal, investment funds, maintenance and settlement funds, business experience and bank statements and other financial information
- Third parties' information and documentation.

We have considered whether withholding that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available, in accordance with section 9(1) of the Act, however, it is our opinion that such grounds do not exist.

The information concerning compliance and verification activities has been withheld under section 6(c) of the Act as making the information available would likely prejudice the maintenance of the law, including the prevention, investigation, and detection of offences and the right to a fair trial.

Please refer to the cover page of the Appendix for a more detailed overview of the withholding grounds for each file and use bookmarks for navigating the document.

Please note that all applications are assessed under relevant immigration instructions, including character (A5 - <https://www.immigration.govt.nz/opsmanual/#35052.htm>).

Based on INZ records, Mr Rath held temporary class visas from November 2016 to 7 July 2023, and there have been no character records or declarations that would fall under the character immigration instructions, preventing INZ from granting these visas to Mr Rath. Mr Rath applied for residence on 15 January 2021, but withdrew his application on 8 December 2021. At present, Mr Rath does not hold a valid visa.

Question 2

In relation to your question about what steps MBIE is taking to deport Mr Rath and his family, this personal information is being withheld under section 9(2)(a) of the Act.

The Immigration Act 2009 outlines when people may become liable for deportation, the meaning and consequences of liability, any rights of appeal against deportation and how deportation will be executed. This is also mirrored in immigration instructions. These processes maintain the integrity of New Zealand's immigration laws and ensure that breaches are detected and dealt with appropriately.

Although each case is considered on its own merits, it is usual practice for INZ to take steps to deport a foreign national when they are nearing the completion of any prison sentence, provided they meet one of the grounds for deportation found within part 6 of the Immigration Act 2009. Those engaged in

criminality are the highest priority for deportation and those who are unlawfully in New Zealand are liable for deportation under section 154 of the Immigration Act 2009.

In general, a person who is liable for deportation may appeal against deportation on humanitarian grounds to the independent Immigration and Protection Tribunal within 28 or 42 days (as the case may be) against liability for deportation arising.

Please refer to INZ's website for more information:

<https://www.immigration.govt.nz/new-zealand-visas/already-have-a-visa/managing-your-visa-and-passport/deportation-liability>

You have the right to seek an investigation and review by the Ombudsman of the Ministry's response to your request, in accordance with section 28(3) of the Act. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss any aspect of your request or this response, please contact inzoias@mbie.govt.nz.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Jock Gilray', is positioned above the printed name and title.

Jock Gilray
Director Visa
Deputy Chief Operating Officer
Immigration New Zealand