



Office of the Attorney General

5 September 2012

Joshua Grainger

Email: fyi-request-484-d14b7dc5@requests.fyi.org.nz

Dear Mr Grainger

I refer to your request under the Official Information Act for the titles and dates of all reports the Attorney-General has received as Minister responsible for the Crown Law Office since the beginning of 2012.

You have set out the background to your request: namely your concern that the Ombudsman has previously ruled that the Office of the Attorney-General is not subject to the Official Information Act given the Attorney's constitutional position as the senior law officer of the Crown.

You state your belief that the relevant Ombudsman case note (Case Note W41067) is wrongly decided.

Contrary to your suggestion, I do not believe that the case note is wrongly decided. The case note makes the point that information is held by the Attorney General in his capacity as Attorney-General. It is not official information and cannot be accessed under the Official Information Act. However, the case note makes it plain that if the Attorney General holds material in a ministerial capacity, for example as Minister of Justice, then that information would fall within the scope of the Official Information Act.

The distinction drawn in the case note is one that is followed in practice. In short, material held by the Attorney as Minister responsible for the Crown Law Office does fall within the scope of that Act.

In answer to your particular request I advise that this office has a record of reports received by Hon Christopher Finlayson since the beginning of 2012. However, the record does not disclose whether the reports were directed to him as Minister responsible for the Crown Law Office, as Attorney General, or both. Accordingly, I refuse your request under s 18(e) of the

Official Information Act as the document alleged to contain the information you seek does not exist.

You are able to complain to the Ombudsman about this response.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J.N. Christmas', with a long horizontal flourish extending to the right.

J.N. Christmas
Ministerial Advisor