



3 October 2017

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Reference: 17/18-0093

Dear Mr Francis

I refer to your email of 6 September 2017 in which you have asked for further information under the Official Information Act 1982 (the Act) following the Department's response of 29 August 2017.

What is the threshold for establishing a Commission of Inquiry?

I should first explain that the Inquiries Act 2013 is now the relevant legislation for establishing public or government inquiries into matters of public importance. That Act makes some provision for the continuation and completion of Commissions of Inquiry under the Commissions of Inquiry Act 1908 in specific circumstances. However in general the Inquiries Act requires that any new inquiries are conducted as "public or government inquiries" under its provisions, rather than as Commissions of Inquiry, which was the case under the Commissions of Inquiry Act 1908.

There are two types of inquiry that can be set up and run under the Inquiries Act:

- i. public inquiries (including Royal Commissions of Inquiry), which will typically be used to deal with complex matters of public importance; and
- ii. government inquiries, which would usually deal with more immediate issues.

Public inquiries are established by the Governor-General by Order in Council. An Order in Council is made on the recommendation of a Minister of the Crown, through Cabinet. Government inquiries are established by a Minister of the Crown by notice in the New Zealand Gazette, often also following a Cabinet decision. So, in either case, the Minister (or Ministers) whose portfolio relates to the issue in question has responsibility for determining whether it is necessary to establish an inquiry to look into the matter.

Every case is looked at on its merits and it is not possible to identify a "threshold" for determining whether a Minister (or Ministers) might conclude that a public or government inquiry is required to look into the matter at issue.

In 2009, DIA discussed with the Justice Ministry the possibility of establishing a Commission of Inquiry into the Peter Ellis case. Please send me all records held by DIA about these discussions. That includes internal communication within DIA, and includes but is not limited to emails, deleted emails, file notes, memos, faxes, etc. and covers the period 1 January 2009 to 30 June 2009.

All records held by the Department in relation to the discussions with the Ministry of Justice in 2009 have already been provided to you in our responses of 21 July and 29 August 2017.

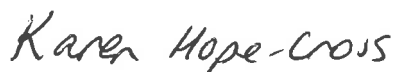
According to DIA, what benefits (if any) may result from establishing a Commission of Inquiry into the Peter Ellis case?

What concerns have been raised with DIA about the Peter Ellis case?

The Department has not had any further involvement in consideration of the Peter Ellis case since the discussions with the Ministry of Justice in 2009 about the possibility of establishing a Commission of Inquiry. As a consequence, we do not have any information relevant to this part of your request that has not already been provided to you in our earlier responses referred to above.

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

Yours sincerely



Karen Hope-Cross
Director, Policy Group