



16 NOV 2017

Mark Williams
Fyi-request-6541-a214308e@requests.fyi.org.nz

Our ref: OIA 64423

Dear Mr Williams

Official Information Act request – criminal conviction history checks

I refer to your request under the Official Information Act 1982, lodged through www.fyi.org.nz on 12 September 2017, for information about how the Ministry processes and charges for requests from third parties for criminal conviction history reports.

For the reasons noted in the letter from the General Manager, Communication Services, Suzanne Boslem, on 3 October, the Ministry extended the time for responding to your request to 8 November 2017 under section 15A of the Act. I apologise for the delay in responding.

I have responded to the individual parts of your request below, but it may be useful to begin by providing some general information about the service the Ministry provides in relation to criminal conviction history checks – often just referred to as “criminal record checks”.

The Ministry’s Criminal Records Unit was originally established to respond to requests from individuals for information on their own criminal conviction history. That service is provided free of charge under the Privacy Act 1993. Over time, however, requests from individuals have come to represent only a very small part of the Criminal Records Unit’s volumes. Around 85% of requests now come from third parties requesting the information directly from the Ministry with the permission of the person who is the subject of the request.

That service has become particularly important for prospective employers and recruitment agencies as a pre-employment check. While the Ministry has no statutory obligation to provide this service to third parties, we recognise its importance in the job market and we have sought to respond to requests from third parties within 20 working days on a ‘best endeavours’ basis.

To address the demand from third parties for a faster service, the Ministry introduced a ‘priority service’ in mid-2014. Priority customers paid an annual fee based on the volume of requests they had made in the previous year in return for their requests being processed within 5-8 working days. The minimum annual fee was set at \$1,000 (excluding GST).

From 2011 to 2016, however, the demand for criminal record checks almost doubled. Meeting that demand at all, let alone within the timeframes both our paying and non-paying customers expect, has

been very challenging. At one point it was taking over 60 working days to respond to requests from third parties who were not priority customers.

The need to modernise the underlying systems and processes has made it even more difficult to meet the increasing demand. While the information used to prepare criminal conviction history reports is held electronically, the processes for requesting, processing and responding to requests have always been very manual. That makes the processes slow and increases the risk of human error and privacy breaches.

In addition, nearly 25% of applications require some sort of manual intervention – either because the request is incomplete and needs to be returned and re-submitted or because there is a number of people with similar names and further work is required to establish the correct identity. That adds further to the workload and delay.

The Ministry has been investing in improving the underlying systems and processes over the last few years to reduce risk and improve service delivery. The Ministry has also received feedback that customers want a faster service, a simplified application process and a guaranteed turnaround time (rather than the 5-8 working days offered by the priority service). As part of an ongoing work programme:

- The Ministry started using The Information Management Group (NZ) Limited – better known as TIMG – in March 2017 to receive applications from paying and non-paying third party customers, do initial checks for completeness, pass digital copies to the Ministry for processing and send out some of the criminal conviction history reports once completed.
- In September 2017 the Ministry introduced a new three-tier service for the third-party customers who had previously signed up to the priority service. The three-tier service offers a greater level of choice and certainty:
 - gold: 3 working day turnaround at \$20.00 per request (excluding GST)
 - silver: 10 working day turnaround at \$14.00 per request (excluding GST)
 - bronze: 15 working day turnaround at \$8.50 per request (excluding GST).

The Ministry continues to provide a free service to individuals and to third parties who have not signed up to the three-tier service with a target turnaround time of 20 working days on a ‘best endeavours’ basis.

1. *Please provide all discussion papers and related documentation with respect to the Ministry’s decision to change the way it processes and charges for third-party criminal history requests.*

I have interpreted this part of your request as relating to:

- the Ministry’s use of TIMG since March 2017 to receive applications from paying and non-paying third party customers, do initial checks for completeness, pass digital copies to the Ministry for processing and send reports once completed, and

- the introduction in September 2017 of the three-tier service to replace the previous priority customer service for third party requesters.

The documents that come within the scope of your request are listed in the attached table, along with a description of any information that has been withheld and the grounds on which it has been withheld. Copies of the documents the Ministry is releasing are attached.

2. *I am interested in the following information, so if the material you send does not include this information already (but I expect it will), then please answer the following questions (only include figures for the last financial year, earlier ones are unnecessary):*

I have responded to your specific questions below.

3. *How much did the "old" third-party request system cost annually to administer (please included salaries, etc). Please be sure not to include the cost of providing individuals with their own criminal record, as that is a separate cost and according to Ministry information accounts for 15% of all requests for criminal histories.*

I have interpreted this part of your request as seeking information on the combined cost of both:

- the priority service introduced in mid-2014, which offered customers a turnaround time of 5-8 working days in return for an annual fee, and
- the service provided to other third parties free of charge with a target turnaround of 20 working days on a 'best endeavours' basis.

The Criminal Records Unit has three service channels for criminal record checks: individuals (for whom the service is free), paying third parties and non-paying third parties respectively. In 2016 the Ministry estimated the combined cost of providing the criminal records service across all three channels at approximately \$2.8 million, excluding GST. That included costs incurred directly by the Criminal Records Unit, such as personnel and postage costs. It also included an estimate of costs that are not incurred directly by the Criminal Records Unit, such as the underlying IT systems the Criminal Records Unit relies on to produce criminal record checks.

In addition, many of the resources used by the Criminal Records Unit are shared across more than one service channel. For example, while the Criminal Records Unit established a dedicated team to process requests from priority customers, requests from non-paying third parties and individuals were processed in the same way by a single team. Management resources were shared across all three channels and all three channels also used the same underlying IT systems.

Therefore, to the extent that you are requesting the cost in 2016/17 (1 July 2016 to 30 June 2017) of responding to requests from paying and non-paying third-parties, I am declining your request under section 18(g) of the Act on the grounds that the information requested is not held by the Ministry and the Ministry has no grounds for believing it is either held by another department or Minister or connected more closely with the functions of another department or Minister.

4. *How many third-party requests were received in the last financial year under the previously free service?*

The Ministry received 205,326 requests in 2016/17 from non-paying third parties. That does not include requests that were incomplete and had to be returned and re-submitted.

5. *How many third-party requests were received in the last financial year under the paying priority service?*

The Ministry received 153,701 requests in 2016/17 from third parties participating in the priority service. That does not include requests that were incomplete and had to be returned and re-submitted.

6. *How much did it cost the Ministry to provide the priority service?*

I refer to my response to part 3 of your request. To the extent that you are requesting the cost in 2016/17 of responding to requests from paying third-parties, I am declining your request under section 18(g) of the Act on the grounds that the information requested is not held by the Ministry and the Ministry has no grounds for believing it is either held by another department or Minister or connected more closely with the functions of another department or Minister.

7. *How much did it cost the Ministry to provide the free third-party service?*

I refer to my response to part 3 of your request. To the extent that you are requesting the cost in 2016/17 of responding to requests from non-paying third-parties, I am declining your request under section 18(g) of the Act on the grounds that the information requested is not held by the Ministry and the Ministry has no grounds for believing it is either held by another department or Minister or connected more closely with the functions of another department or Minister.

8. *How much income in the last financial years was earned under the "old" system from third-party users of the priority service?*

The Ministry recovered revenue of \$896,790.55 (excluding GST) in 2016/17 from the third-party priority service.

9. *How much did each criminal check actually cost the Ministry to carry out, under what was previously the old free 20 working day service?*

I refer to my responses to parts 3 and 7 of your request. To the extent that you are requesting the cost, per request, in 2016/17 of responding to requests from non-paying third-parties, I am declining your request under section 18(g) of the Act on the grounds that the information requested is not held by the Ministry and the Ministry has no grounds for believing it is either held by another department or Minister or connected more closely with the functions of another department or Minister.

10. *How much did each criminal check actually cost the Ministry under the old priority paying system?*

I refer to my responses to parts 3 and 6 of your request. To the extent that you are requesting the cost, per request, in 2016/17 of responding to requests from third-parties who paid to participate in the priority service, I am declining your request under section 18(g) of the Act on the grounds that the information requested is not held by the Ministry and the Ministry has no grounds for believing it is either held by another department or Minister or connected more closely with the functions of another department or Minister.

11. *How was the new pricing regime determined? Who did the Ministry approach for advice, who suggested a three-tier cost structure, and why?*

As noted above, while the Ministry introduced a priority service in mid-2014, customers were indicating that they wanted a faster and more reliable service. The Ministry developed the three-tier service internally, taking that feedback into account. Customers had indicated they wanted a faster, 'pay-as-you-go' service with more choice. Prior to the introduction of the new three-tier service model, there were only two options for third parties:

- pay an annual fee based on volumes for the priority service with a 5-8 working day turnaround – the minimum fee for that service was \$1,000 excluding GST, or
- use the free third party service with a target turnaround time of 20 working days on a best endeavours basis.

The three-tier model emerged as a good option for meeting customers' demands while also being manageable for the Ministry. It is a relatively simple and easy model for customers to understand, while also giving a good range of choice. Customers can pay for a faster, three-day service when they need it, but can reduce costs and have an incentive to opt for a slower service when their request is less urgent.

The Ministry followed Treasury's and the Office of the Auditor-General's guidance on setting fees for cost recovery. The Ministry also spoke to government departments with experience and expertise in implementing charging regimes, but did not, and did not need to, formally consult them.

12. *What is the rationale for offering three levels of service? How does the new gold service cost more than twice the cost of the new bronze service to administer? What exactly is the difference in cost in processing the three categories?*

I have outlined the rationale for the three-tier charging model in my response to part 11 of your request. The gold service costs more to deliver because the Ministry must maintain a big enough team to meet the demand for that service.

13. *Under the new three-tier system the Ministry has transferred responsibility for examining photo-ID to the third-party requester. This will reduce the cost to the Ministry of completing each criminal check. Please advise how much this reduces the Ministry's cost for undertaking each check.*

The new process is not expected to significantly reduce the Ministry's costs and cost reduction was not the primary reason for the change. The primary benefits of the new process, which is consistent with the process for Police vetting, are:

- **Improved assurance** – the third party submitting the request is more likely to be meeting the person who is the subject of the request face-to-face and can check their identify against any photo ID. The Ministry is unable to do that as the people who process the requests do not meet the subject of the request face-to-face.
- **Fewer invalid applications** – failing to provide a copy of a valid ID is one of the primary reasons for requests being returned to the requester to correct, adding time and cost for both the requester and the Ministry. Requiring the third-party requester to certify that they have verified the identify before submitting the request is expected to reduce the number of incomplete requests submitted to the Ministry.

The Ministry does not expect this to significantly increase costs for the third party:

- the requirement to collect a copy of the ID and submit it with the application is not new, and
- one would expect an agency or employer to be satisfying themselves that the ID is valid before submitting it to the Ministry already.

14. *Why has the Ministry outsourced the receipting of requests to TIMG New Zealand, instead of retaining it in-house?*

As noted above, the Ministry started using TIMG in March 2017 to provide Optical Character Recognition/Intelligent Character Recognition scanning services to capture data from paper applications from non-paying third party customers, do initial checks for completeness and pass the application information electronically to the Ministry for processing. TIMG also sends out criminal conviction history reports once completed.

The Ministry did not have the capability to do scanning in-house and outsourced it to TIMG, which had the necessary systems, equipment and expertise. This process change is expected to enable the Ministry to capture the information more quickly and more reliably, which will allow more sustainable service delivery.

Over time, the Ministry plans to introduce systems to allow requests to be submitted online. That will reduce risk from manual data entry, speed up the processing time and improve service delivery. However, we will still need to maintain systems to deal with hand-written and paper-based requests.

15. *Was this outsourcing put out for tender? If not, why not.*

When the Ministry was preparing its investment case for upgrading the Criminal Records Unit's underlying systems and processes, it tested the market by approaching three suppliers, including TIMG. Two of the suppliers responded and the Ministry ultimately decided to engage TIMG to do the work through an existing syndicated contract.

16. *How much is the Ministry paying TIMG to administer receipt of requests?*

Since March 2017 the Ministry has been using TIMG to receive applications from paying and non-paying third party customers, do initial checks for completeness and pass digital copies to the Ministry for processing. TIMG also sends out criminal conviction history reports once completed.

The Ministry has paid TIMG \$101,588.04 (excluding GST) for processing work for the period from late November 2016 through until the end of September 2017. That includes payments for live testing with a small number of clients in late 2016 and early 2017, prior to the new process being implemented in March 2017.

17. *How much in the next 12 months has the Ministry projected it will earn under its new pricing regime, for each of the three categories of service now being offered?*

The Ministry estimates it will receive revenue of approximately \$1.447,875 million (excluding GST) in the 12 months from October 2017 to September 2018 for the three-tier service model introduced in mid-September 2017.

18. *Please identify any third-parties that the Ministry will not be charging for its new three-tier service, and explain why these agencies and organisations are not being charged.*

The three-tier service model introduced in September 2017 replaced the former priority service and enables participating third-party requesters to pay for the processing of requests to be expedited, with a graduated fee depending on the turnaround time. As with the former priority service, other third parties can still submit requests with no charge, on the basis that the Ministry will use its best endeavours to process the request within 20 working days.

19. *Did the Ministry contact any existing commercial third-party users of the criminal checking service for their comments before implementing the new system? Which companies or organisations were contacted?*

As noted above, the three-tier service model introduced in September 2017 was developed in response to customer demand for a faster and more reliable service. The Ministry did not undertake any formal consultation with existing priority customers. Under the contract, the Ministry was entitled to increase the fees for the service.

20. *Why is the Ministry charging foreign-based third-parties the same fee as New Zealand-base third parties, given that the former contribute nothing to the NZ economy through the employment of New Zealanders, payment of GST, and company tax?*

The fees are based on cost recovery.

You have the right under section 28(3) of the Official Information Act to complain to the Ombudsman about this response. The Ombudsman may be contacted by emailing info@ombudsman.parliament.nz.

I trust this addresses your request.

Yours sincerely

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

Suzanne Stew
Deputy Secretary, Corporates

	Document	Comments
1	<p>Memo to the Ministry's internal Investment Committee attaching investment case 11 May 2016</p>	<p>Some information has been withheld under:</p> <ul style="list-style-type: none"> • section 9(2)(b)(ii) as releasing this information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is subject of the information, • section 9(2)(f)(iv) to maintain the constitutional conventions for the time being that protect the confidentiality of advice tendered by officials, and • section (9)(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinion by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty.
2	<p>Minutes of Investment Committee meeting 25 May 2016</p>	<p>Information that is outside the scope of this request has been withheld.</p>
3	<p>In-house legal opinion 20 June 2016</p>	<p>To the extent that this document is in scope, it is being withheld under section 9(2)(h) to maintain legal professional privilege.</p>
4	<p>Criminal conviction history checks – update Provided to the Minister of Justice 7 July 2016</p>	<p>Information that is outside the scope of this request has been withheld. Some information has also been withheld under:</p> <ul style="list-style-type: none"> • section 9(2)(f)(iv) to maintain the constitutional conventions for the time being that protect the confidentiality of advice tendered by officials, and • section 9(2)(h) to maintain legal professional privilege.
5	<p>Memo to the Ministry's Investment Committee attaching investment case 13 July 2016</p>	<p>Some information has been withheld under:</p> <ul style="list-style-type: none"> • section 9(2)(b)(ii) as releasing this information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is subject of the information, • section 9(2)(f)(iv) to maintain the constitutional conventions for the time being that protect the confidentiality of advice tendered by officials, and • section (9)(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinion by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty.

6	Minutes of Investment Committee meeting 21 July 2016	Information that is outside the scope of this request has been withheld. Some information has also been withheld under section 9(2)(f)(iv) to maintain the constitutional conventions for the time being that protect the confidentiality of advice tendered by officials.
7	Criminal Conviction History Checks – update Provided to the Minister of Justice 3 November 2016	Information that is outside the scope of this request has been withheld. Some information has also been withheld under: <ul style="list-style-type: none"> • section 9(2)(f)(iv) to maintain the constitutional conventions for the time being that protect the confidentiality of advice tendered by officials, and • section 9(2)(h) to maintain legal professional privilege.
8	Update on third party charging for criminal conviction history checks Provided to the Ministry's internal Planning and Resources Committee 12 April 2017	Some information has been withheld under: <ul style="list-style-type: none"> • section 9(2)(f)(iv) to maintain the constitutional conventions for the time being that protect the confidentiality of advice tendered by officials, and • section 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinion by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty, and • section 9(2)(j) to enable negotiations to be carried on without prejudice or disadvantage.
9	Minutes of Planning and Resources Committee meeting 18 April 2017	Information that is outside the scope of this request has been withheld. Some information has also been withheld under: <ul style="list-style-type: none"> • section 9(2)(f)(iv) to maintain the constitutional conventions for the time being that protect the confidentiality of advice tendered by officials, and • section 9(2)(j) to enable negotiations to be carried on without prejudice or disadvantage.