

6 November 2017

Ross Francis

By email: fyi-request-6691-ac147bf1@requests.fyi.org.nz

Dear Mr Francis

Official Information Act request dated 11 October 2017
Our Ref: OIA353/1

1. You requested official information by email dated 11 October 2017. You asked two questions:
 - 1.1 How did Crown Law obtain Dr Dalenberg's name? Had Crown Law used her services previously? If so, when? Please provide me with all information that Crown Law holds about Dr Dalenberg for the period up to and including 2001.
 - 1.2 Please supply me with a copy of Crown Law's submission to the Ministerial Inquiry into the Ellis case. Please supply me with a record of all internal and external communication in regards to the preparation of Crown Law's submission and its choice of nominated experts.

Question one

2. In regards to question one, I note that you have previously made the following requests for information relating to Dr Dalenberg:
 - 2.1 On 1 March 2007, you asked why Crown Law approached Ms Dalenberg, and whether Crown Law will be citing her work "when the Privy Council hears the Peter Ellis case later this year"?
 - 2.2 On 18 July 2007, you requested that Crown Law forward to you any documents "showing what Crown Law's brief was to Constance Dalenberg when it hired her for Ellis's (1999) Court of Appeal hearing";
 - 2.3 On 13 June 2017, you asked:
 - 2.3.1 Prior to hiring Dalenberg, did Crown Law consider hiring a better qualified expert? If so, who was considered?
 - 2.3.2 Please send me a copy of all communication between Crown Law and Dalenberg between 1 March 1999 and 8 June 1999.

2.3.3 How much did Crown Law pay Constance Dalenberg?

3. As stated in our previous responses to your requests regarding Dr Dalenberg, Crown Counsel represented the Crown in the appeals concerning Mr Ellis. As such, their reasons for taking or following any particular course of action with regard to expert witnesses are subject to legal professional privilege and withheld in accordance with s 9(2)(h) of the Official Information Act. Further, in terms of engaging Dr Dalenberg as an expert witness, we have been unable to identify any information relevant to this request.
4. The same position applies to your current request, I am therefore refusing your request for this information under section 9(2)(h) of the Official Information Act. In my view there is good reason for withholding this information in order to maintain legal professional privilege, and there are no circumstances in this particular case whereby the withholding of that information is outweighed by other considerations rendering it desirable, in the public interest, to make that information available.

Question 2

5. In terms of the second part of your request, we have undertaken a file search but some of the information you seek is likely to be held in archives. Your request will thus necessitate a search through a large quantity of information and meeting the original time limit would unreasonably interfere with the operations of Crown Law. In addition once the relevant material is located consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.
6. Under s 15A of the Official Information Act a Department may extend the time limit set out in s 14 or s 15(1) of the Act in these circumstances if a proper response to the request cannot reasonably be made within the original time limit.
7. Pursuant to that section we are extending the time to reply by a further 20 working days. Accordingly you may expect a reply to your request no later than 4 December 2017.
8. You have the right, under s 28(3) of this Act, to make a complaint to an Ombudsman about the extension.

Yours faithfully
Crown Law



James Herring
Assistant Crown Counsel