

30 January 2018

Ross Francis

[fyi-request-6979-03dfad85@requests.fyi.org.nz](mailto:fyi-request-6979-03dfad85@requests.fyi.org.nz)

Dear Mr Francis

**Official Information Act 1982 request: Records of the Ministerial Inquiry into the Peter Ellis case**

I refer to your email of 11 December 2017 to the Ministry of Justice requesting the following information relating to the Ministerial Inquiry into the Peter Ellis case under the Official Information Act 1982 ("the Act"):

*"In 2015, did Tina Wakefield and or other Justice Ministry staff raise any concerns with Archives New Zealand about the Justice Ministry's record-keeping? If so, please supply me with all records pertaining to this question. I am requesting emails, file notes, faxes, letters, texts, memos and any other information - including [sic] information held in the minds of officials - relating to this question.*

*Graham Davies says that in respect of the Ministerial Inquiry into the Peter Ellis case, he was supplied with transcripts of the complainants' videotaped interviews, and transcripts of the "examination and cross examination of the evidence given by interviewers, parents and children at depositions and trial". Please supply me with a copy of the same material and of any other material with which he was supplied. Please note I do not require copies of the videotaped interviews, only the transcripts."*

I have divided your request into two parts, which I have addressed below.

- 1. In 2015, did Tina Wakefield and or other Justice Ministry staff raise any concerns with Archives New Zealand about the Justice Ministry's record-keeping? If so, please supply me with all records pertaining to this question. I am requesting emails, file notes, faxes, letters, texts, memos and any other information - including [sic] information held in the minds of officials - relating to this question?*

Schedule A sets out the document which falls within the scope of your request, together with my decision on release. Certain information has been withheld under section 9(2)(a) of the Act to protect the privacy of natural persons. I am satisfied that the reason for withholding the information is not

outweighed by other considerations which render it desirable, in the public interest, to make that information available.

The email exchange relates to the audit of the Ministry carried out by the Department of Internal Affairs in accordance with section 33 of the Public Records Act 2005. In respect of the audit, the Ministry raised concerns at that time regarding the auditor's treatment of the Ministry's self-assessment ratings on electronic record keeping.

I also refer to our previous response to you of 1 September 2017 (in response to your request of 6 August 2017) in which we provided a copy of the audit letter and audit report resulting from the audit of the Ministry conducted by the Department of Internal Affairs.

2. *Graham Davies says that in respect of the Ministerial Inquiry into the Peter Ellis case, he was supplied with transcripts of the complainants' videotaped interviews, and transcripts of the "examination and cross examination of the evidence given by interviewers, parents and children at depositions and trial". Please supply me with a copy of the same material and of any other material with which he was supplied. Please note I do not require copies of the videotaped interviews, only the transcripts.*

At the time of the Ministerial Inquiry into the Peter Ellis case, the Criminal Proceedings (Search of Court Records) Rules 1974 restricted public access to the court records of criminal proceedings (now governed under the Senior Courts (Access to Court Documents) Rules 2017). I refer you to paragraphs 4.3 and 4.5 of Sir Thomas Eichelbaum's report for a summary of the materials reviewed in the Ministerial Inquiry.

Sir Thomas obtained permission from the High Court to copy the depositions, and the relevant parts of the trial record, and release the copies to the experts for the purposes of the Inquiry. For administrative ease, the Christchurch High Court sent these materials to the Ministry, and the Ministry provided copies to Sir Thomas and the experts for the purposes of the Inquiry.

Following amendments to the Evidence (Videotaping of Child Complainants) Amendment Regulations 2000, Sir Thomas requested copies from the Christchurch High Court of the videotapes and transcripts of interviews with child complainants (including those not used at trial) for the purposes of the Inquiry.

To the extent the Ministry holds the information you have requested, the information is withheld under section 9(2)(ba) of the Act as the material is subject to an obligation of confidence. The material was provided to the Ministry from the Christchurch High Court for the purposes of the Inquiry only.

I am satisfied that there are no public interest considerations that render it desirable to make the information available.

You have the right to complain to the Ombudsman under s 28(3) of the Act and seek a review of this response.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jeff Orr', with a stylized flourish at the end.

Jeff Orr  
**Chief Legal Counsel**

## SCHEDULE A

#	Date	Document	Comment on release of document
1	17 April 2015 – 23 April 2015	Email exchange between Ministry of Justice and Department of Internal Affairs “PRA Audit MoJ”	Released with redactions under section 9(2)(a) of the Act