



**Te Tari Taiwhenua
Internal Affairs**

7 February 2018

Ross Francis
Via fyi.org.nz
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Dear Mr Francis

Official Information Act request reference: 2017/18 00235

Thank you for your request of 3 January 2018 to the Department of the Prime Minister and Cabinet, which was transferred to the Department of Internal Affairs (the Department) on 9 January 2018. In this email you requested the following information under the Official Information Act 1982:

Section 10 of the Inquiries Act 2013 states: "In exercising its powers and performing its duties under this Act, an inquiry and each of its members must act independently, impartially, and fairly." Prior to the introduction of the Inquiries Act, were ministerial inquiries and their members required to act independently, impartially and fairly? Prior to 2013, were such inquiries and their members required to declare potential conflicts of interest? What rules and regulations (if any) applied to ministerial inquiries that were established prior to 2013? In regards to any rules and regulations that may have applied to ministerial inquiries prior to 2013, please supply me with all records held by your department.

Prior to the Inquiries Act 2013, there was no statutory framework for the conduct of "ministerial inquiries". Therefore, prior to 2013 there were no "rules and regulations" specifically for that purpose. However, general legal provisions and remedies applied to the conduct of any such inquiries. For example, *Fay, Richwhite & Co Ltd v Davison* [1995] 1 NZLR 517 (CA) confirms that judicial review is available for breach of principles of natural justices as do other cases. Should there be allegations of procedural unfairness or bias then those allegations could be subject to judicial review under the Judicature Amendment Act 1972, and now under the Judicial Review Procedure Act 2016.

The Law Commission addressed this situation in their work leading up to the introduction of the Inquiries Act 2013. The best sources of information about "ministerial inquiries" are the reports published by the Law Commission, which are available on their website. For example, you can access the report "A New Inquiries Act" by visiting the Law Commission's website at lawcom.govt.nz/media-release/new-inquiries-act. This report contains a great deal of information relating to the period before the Inquires Act 2013.

Regarding your request for records, the Department does not hold any records about ministerial inquiries, and we note that the Law Commission itself was not able to identify any centrally held records. I am therefore refusing this part of your request in accordance with section 18(g)(i) of the Official Information Act 1982.

You have the right, under section 28(3) of the Official Information Act 1982, to seek an investigation and review of my response by an Ombudsman. The contact address is: Office of the Ombudsman, PO Box 10152, Wellington 6143, phone 0800 802 602, or via email to info@ombudsman.parliament.nz.

Yours sincerely

Karen Hope-Cross

Karen Hope-Cross
Director Operational Services