



CABINET OFFICE

Reference: OIA-2017/18-0594

24 May 2018

David Farrar
fyi-request-7787-37ead29f@requests.fyi.org.nz

Dear David

Official Information Act request: Acting Prime Minister

Thank you for your Official Information Act 1982 (the Act) request received on 9 May 2018. You requested:

1) Any advice on the powers of an Acting Prime Minister. Can they exercise all the powers of a Prime Minister including recommending the dismissal of Ministers to the Governor-General?

2) Any advice, reports, memos, correspondence or other documents relating to the current Deputy Prime Minister being the Acting Prime Minister in June and July of 2018

In response to your first question, I note that the Cabinet Manual contains the following guidance:

- 2.13 *The Deputy Prime Minister is appointed by warrant. If the Prime Minister is unavailable or unable to exercise the statutory or constitutional functions and powers of the office, the Deputy Prime Minister can, if necessary, exercise those powers and functions.*
- 2.14 *As Acting Prime Minister, the Deputy Prime Minister may exercise other prime ministerial functions and powers, in consultation (where appropriate and practicable) with the Prime Minister.*

Further guidance regarding the arrangements that operate with Ministers are overseas or unavailable more generally can also be found in paragraphs 2.41 – 2.45 of the Cabinet Manual. Paragraph 2.45 states:

- 2.45 *Absent Ministers (particularly those travelling overseas) should in general leave the day-to-day management of their portfolios to the Ministers acting for them in their absence. Public statements, in particular, are usually best made by the acting*

Minister in New Zealand so that due account can be taken of the domestic context. If a significant matter arises during the portfolio Minister's absence, however, the acting Minister should consult the portfolio Minister if possible before taking ministerial action or making any public comment.

As you know, the Prime Minister recently released a letter to Rt Hon Winston Peters confirming the arrangements that will be in place while she is on leave in the middle of this year. The letter restated the principles articulated in the Cabinet Manual and confirmed that the normal arrangements for a Prime Minister's absence (whether because of overseas travel or for another reason) will apply. I have **enclosed** a copy of that letter with this reply.

In response to the second part of your request, I confirm that the Department of the Prime Minister and Cabinet holds information that is relevant to your request, in addition to the letter publicly released by the Prime Minister. Some of that information comprises publicly available news reports and media comment regarding the Prime Minister's upcoming leave. We have not included this information in the scope of our response.

I am declining to provide you with the remaining information requested, under the following grounds in the Act:

- section 9(2)(f)(iv), to maintain the constitutional convention that for the time being protects the confidentiality of advice tendered by or to Ministers and officials;
- section 9(2)(g)(i), to maintain the effective conduct of public affairs through the free and frank expression of opinion by or between Ministers or officials in the course of their duty;
- section 9(2)(h), to maintain legal professional privilege.

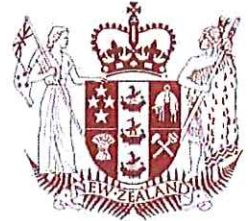
We do not intend to publish this response on the Department of the Prime Minister and Cabinet's website.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

Yours sincerely



Michael Webster
Secretary of the Cabinet



MP for Mt Albert

Minister for Arts, Culture & Heritage

Minister for National Security & Intelligence

Minister for Child Poverty Reduction

14 May 2018

Rt Hon Winston Peters
Deputy Prime Minister
Executive Wing
PARLIAMENT BUILDINGS

Dear Winston,

Working arrangements during absence of Prime Minister

As you know, I intend to take a leave of absence this year for a period of six weeks. Thank you for agreeing to be Acting Prime Minister during that time.

The arrangements during this time will be the same as they would during any other period in which I am away and you are Acting Prime Minister, but as there has been some public interest in this particular period, I am setting the arrangements out in a letter, to be published on the Beehive website.

As Acting Prime Minister, you will exercise the functions and powers of the Prime Minister, in consultation with me where appropriate, particularly where matters of significant political, strategic or public interest, or national security arise. I will continue to receive Cabinet and Cabinet committee papers. You will manage the day-to-day business of the government, including:

- chairing Cabinet and the Cabinet committees usually chaired by me (Appointments and Honours Committee, Cabinet Business Committee and Cabinet Priorities Committee). Agendas for the meetings will be managed between my office and the Cabinet Office in the usual way;
- engaging with and directing officials from the Department of the Prime Minister and Cabinet;
- overseeing the government's policy programme;
- answering questions directed at the Prime Minister in the House and responding to media inquiries, Official Information Act requests and other correspondence; and
- attending official engagements.

My Chief of Staff, Mike Munro, and staff in the Office of the Prime Minister will support you in your role as Acting Prime Minister, as will officials in the Department of the Prime Minister and Cabinet, including the Cabinet Office.

Thank you again for your support,

Yours sincerely,

A handwritten signature in black ink, appearing to be 'JA', written in a cursive style.

Rt Hon Jacinda Ardern
Prime Minister

cc: Mike Munro, Chief of Staff, Office of the Prime Minister
Andrew Kibblewhite, Chief Executive, DPMC
Michael Webster, Cabinet Secretary