



18 March 2013

Alex Harris  
[fyi-request-780-277e6e32@requests.fyi.org.nz](mailto:fyi-request-780-277e6e32@requests.fyi.org.nz)

Dear Alex

Thank you for your Official Information Act request received 6 March 2013. You requested to know whether the Minister of Building and Construction had received any advice from officials on heating and ventilation since becoming Minister. You also requested any copies of the advice.

Your request has been considered. I am refusing your request under Section 18(f) of the Act as the information you have requested cannot be made available without substantial collation or research.

The Ministry holds a large number of documents related to heating and ventilation. This includes documents related to insulation, energy efficient homes, efficient building design and other heating and ventilation matters.

In making my decision I have considered possible refinements of the request, and seeking an extension of the timeframe to complete the request. The request would still require substantial collation and research.

You have the right under Section 28(3) of the Act to ask the Ombudsmen to investigate and review this decision. The relevant contact details are as follows:

The Ombudsman  
Office of the Ombudsmen  
PO Box 10152  
WELLINGTON 6143

Ph 0800 802 602  
[www.ombudsmen.parliament.nz](http://www.ombudsmen.parliament.nz)

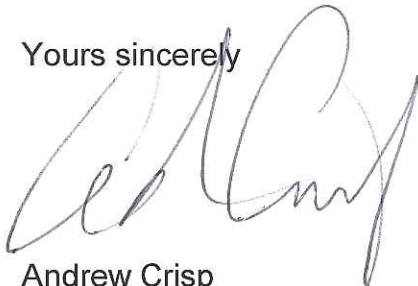
It should be noted, however, that officials in the former Department of Building and Housing (DBH) were well aware of Minister Williamson's declaration of a potential conflict of interest relating to his directorship of Holyoake Industries Limited.

Officials who were working for DBH at the time have confirmed to me that this issue was discussed with the then DBH Chief Executive soon after the 2008 General Election.

The issue was actively considered by DBH officials, and in 2009 the then DBH Chief Legal Advisor recorded the conclusion of those discussions in an internal memo.

I am providing you with a copy of that memo and the covering email. The staff of the then DBH, now the Ministry, followed the advice in the memo.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Crisp', written in a cursive style.

Andrew Crisp  
Deputy Chief Executive, Resources and Infrastructure Markets  
Ministry of Business, Innovation and Employment

-----Original Message-----

**From:** John Sneyd [mailto:John.Sneyd@dbh.govt.nz];

**Sent:** 17/07/2009 2:35:18 p.m.

**To:** John Gardiner [mailto:John.Gardiner@dbh.govt.nz]; Peter Thorby [mailto:Peter.Thorby@dbh.govt.nz]; David Kelly [mailto:David.Kelly@dbh.govt.nz];

**Subject:** Ministerial conflicts

Hi Dave, John and Peter

Last week I had a conversation with Katrina about the Minister's directorship of Holyoake Industries, a company that supplies air-conditioning equipment, and the potential conflicts this could give rise to.

While we don't see any immediate problems in this regard, Katrina asked me to formally let you know of our conflict assessment and her expectations around how any potential for conflict is managed in the future.

To this end I have drafted the attached memo for you, setting out the background to this matter and how it should be managed going forward. In essence, we just need to keep a weather eye out for any potential conflicts in the areas I have identified and then get KB in the loop asap if a potential conflict arises.

I will also send you a hard copy of the memo.

Do give me a call if there is anything in this that you would like to discuss. Also, please let me know if you think there are any other potential areas for conflict that I have missed.

Regards

John

**John Sneyd**  
Chief Advisor Legal

**Department of Building and Housing**

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Building and Housing  
*Te Tari Kaupapa Whare*

PO Box 10 729, Wellington  
[www.dbh.govt.nz](http://www.dbh.govt.nz)

## Memo

**To:** Dave Kelly, Deputy Chief Executive Building Quality  
Peter Thorby, Manager Building Standards  
John Gardiner, Manager Determinations  
**From:** John Sneyd, Chief Advisor Legal  
**Date:** 17 July 2009  
**Subject:** Management of potential Ministerial conflicts

*Confidential and legally privileged*

### Purpose

1. To provide you with information about the potential for the Minister having a conflict of interest in light of his directorship of Holyoake Industries (a distributor of air-conditioning equipment) and advise of Katrina's expectations regarding how this potential for conflict should be managed.

### Background

2. Minister Williamson is a director of Holyoake Industries, a company that specialises in the supply of a wide range of air-conditioning equipment. You can see more information about the company at [www.holyoake.co.nz](http://www.holyoake.co.nz).
3. Other directors of Holyoake Industries include Betty, Grant, Noel and Scott Holyoake. You should note that Ian Holyoake, who regularly makes information requests of the Department, is not one of the directors. I do not know, however, whether there is any connection between Ian Holyoake and the directors of the company.

### Potential for conflict

4. In light of the Minister's involvement in a company that distributes air-conditioning equipment, there is the potential for the appearance of a conflict of interest in certain situations.
5. I have discussed this matter with Katrina and we thought there were three areas where a conflict could potentially be perceived to arise:
  - if there were any changes to the Building Code relevant to air conditioning systems
  - if the Department released a compliance document or guidance relating to air-conditioning systems
  - if the Department were considering a determination involving Holyoake Industries or one of its products.
6. In relation to these potential areas of conflict we considered that:

- because the HVAC changes are in force and there is no further regulatory change planned in that area – and because the policy approvals were obtained under the previous government – there is no real potential for conflict in relation to the first issue
- because compliance documents and guidance are a chief executive function – rather than a Ministerial one – a Ministerial conflict is unlikely to arise. We need, however, to be careful to ensure that we do not create the appearance of a conflict through our actions
- because the Determinations function is statutorily independent, no potential for conflict arises. If Holyoake Industries or one of its products were involved in a determination, however, that would form part of the context of which we should be aware.

**Action required of you**

7. In light of these above matters, Katrina has asked that I advise you of the following:

- in relation to compliance documents or guidance (or indeed any regulatory change) involving air conditioning systems, we need to be attuned to the possibility that a conflict might be perceived to arise. If you consider that that potential exists Katrina must be advised immediately.
- in relation to a determination that we know involves Holyoake Industries or one of its products, Katrina must also be advised immediately.

8. Management of the issue can then be agreed with Katrina so as to keep the Department and the Minister safe.

**Discussions with Legal**

9. Please feel free to discuss with me any concerns you may have about potential conflicts in this regard.

John Sneyd  
Chief Advisor Legal