



Office of Hon Simon Power

MP for Rangitikei

Minister of Justice

Minister for State Owned Enterprises

Minister of Commerce

Minister Responsible for the Law Commission

Associate Minister of Finance

Deputy Leader of the House

21 JAN 2010

Penny Bright

waterpressure@gmail.com

Dear Ms Bright

OFFICIAL INFORMATION ACT REQUEST

I refer to your email of 4 December 2009 in which you seek the following information:

1. Ministry of Justice processes/procedures which ensure that judges at all levels are kept up to date with changes in legislation affecting their statutory duties.
2. Ministry of Justice 'organisational flow charts' identifying who is responsible for administering these processes.
3. The definition of "office" and "employment" for the purposes of s 4(2A) of the Judicature Act 1908.
4. A copy of the guidelines on which the Chief High Court Judge would be expected to rely for the purposes of s 4(2A).
5. Information confirming how any such guidelines have been compiled.
6. A copy of the Hansard record relating to the enactment of s 4(2A).
7. Information confirming how many, and which Judges have approached the Chief High Court Judge under s 4(2A).
8. A copy of the Ministry of Justice processes/procedures which ensure that Judges are familiar with the '*Guidelines for Judicial Conduct prepared for the assistance of New Zealand Judges*'.
9. Ministry of Justice 'organisational flow charts' identifying who is responsible for administering these processes.
10. Information confirming whether or not the Ministry has considered a requirement for a judicial 'register of interests' along similar lines to that applying to MPs.
11. Information confirming the steps that have been taken to safeguard the integrity of the process of referring "this matter" to the Judicial Conduct Commissioner, by ensuring that there are no real or perceived conflicts of interest arising from any previous working relationship between the Attorney-General and Justice Wilson.

Your requests at 1, 2, 4, 5, and 7 to 9 above assume that the Ministry of Justice is responsible for the conduct of the judiciary, in particular the administration of s 4(2A) of the Judicature Act. That is not the case. Imposing such a responsibility on the Ministry

would amount to an unwarranted interference by the executive in the judicial branch of government and could undermine public confidence in the independence of the judiciary. An independent judiciary is a key element of New Zealand's constitutional arrangements.

It follows that neither I nor the Ministry (nor any other agency of the executive) holds the information you have requested, and that your requests at 1, 2, 4, 5, and 7 to 9 above must be refused accordingly under s 18(g) of the Official Information Act 1982.

Your request at 3 above is, in substance, a request for a legal opinion. It is not appropriate for me as Minister of Justice to provide legal opinions to members of the public.

The information requested at 6 is publicly available on the Parliamentary website: see www.parliament.nz/en-NZ/PB/Debates/debates. Your request is refused accordingly under s 18(d) of the Official Information Act.

As to your request at 10 above, the Ministry of Justice has not given any consideration to the establishment of a register along the lines of that applying to members of Parliament.

The information requested under 11 above presumably relates to the complaint received by the Judicial Conduct Commissioner relating to Justice Wilson's failure to recuse himself from sitting in a Court of Appeal case. Neither I nor the Ministry holds the information you have requested. Nor are there grounds for believing that any other entity subject to the Official Information Act may hold this information. In this respect, I should point out that the Judicial Conduct Commissioner is under a duty to act independently in carrying out his functions. Further, since receipt of your email, the Attorney-General has released a statement stating that he stands apart from the current process that the Commissioner is proceeding with. Your request at 11 above must therefore be refused under s 18(g) of the Official Information Act.

You have the right, by way of complaint to an Ombudsman under s 28(3) of the Official Information Act, to seek an investigation and review of my refusal of any of your requests.

Yours sincerely



Hon Simon Power
Minister of Justice