

# Office of the Prime Minister

Prime Minister

Minister for National Security and Intelligence

Minister for Child Poverty Reduction

Minister Responsible for Ministerial Services

Associate Minister for Arts, Culture and Heritage



Matthew Hooton

07 SEP 2022

Ref: PMO 2021-393

Tēnā koe Matthew Hooton

## **Ombudsman Preliminary Inquiry 579425 – Official Information Act request relating to Public Commentary on COVID-19**

On 5 January 2022, you made an Official Information Act (the Act) request for:

*"1) Is there any formal or informal policy or generally understood position on whether you or your office staff should ever directly request an employee of an independent Crown entity such as a TEI (as opposed to a department) to provide public commentary in their roles as employees of that entity, rather than to make any such a request through the Chief Executive (in this case the Vice Chancellor)? If so, what is it?*

*2) Do you or your office staff recall ever directly requesting that the applicants in the determination referred to above provide public commentary on Covid-19 in their role as employees of the respondent?*

*3) Do you or your office staff recall ever directly requesting that the applicants in the determination referred to above provide public commentary on Covid-19 in any other role? If so, what was that role, if any?*

*4) If the answer to 2 and 3 is "yes", I make a further request for:*

- i) the criteria under which the applicants were chosen to be the experts approached to provide public commentary*
- ii) the dates (exactly or roughly) on which the requests were made*
- iii) any written documentation of the requests*
- iv) information on why the requests were made, and what sort of commentary was requested*

*5) Do you or your office staff recall ever directly requesting that anyone other than the applicants in the determination referred to above provide public commentary on Covid-19 in their role as employees of a Crown entity?*

*6) Do you or your office staff recall ever directly requesting that anyone other than the applicants in the determination referred to above provide public commentary on Covid-19 in any other role? If so, what was that role, if any?*

7) If the answer to 5 and 6 is "yes", I make a further request for:

- i) who was approached, and the criteria under which they were chosen to be asked to provide public commentary
- ii) the dates (exactly or roughly) on which the requests were made
- iii) any written documentation of the requests
- iv) information on why the requests were made, and what sort of commentary was requested"

## **Background**

As you are aware, the time limit for deciding on your request was extended by 20 working days under section 15A of the Act on 15 February 2022.

On 30 March 2022, I advised you that guidance on interactions for all Ministers and their offices with Crown Entities is refused under section 18(d) of the Act as that information, which is established through the Cabinet Manual and the Crown Entities Act, is publicly available.

Further to that I also advised that the Prime Minister's office (PMO) has not directly requested an employee of a Crown Entity to provide public commentary on COVID-19 in their role as employees of that Crown Entity and refused that part of your request under section 18(e) of the Act, as the document alleged to contain the requested information does not exist.

As such, the remainder of your request is refused under section 18(e) of the Act, as the document alleged to contain the requested information does not exist.

## **Ombudsman Complaint**

The Office of the Ombudsman advised that you have made a complaint about the decision on the above request, specifically that your questions were not answered.

Your first question, which was about policies relating to the interactions of Ministers and their offices with Crown Entities is answered through providing you with information that is publicly available. As mentioned, guidance on these interactions is established through the Cabinet Manual and Crown Entities Act, which is publicly available at:

- [www.dpmc.govt.nz/sites/default/files-2017-6/cabinet-manual-2017.pdf](http://www.dpmc.govt.nz/sites/default/files-2017-6/cabinet-manual-2017.pdf)

As noted in my response to you on 30 March 2022, questions two to seven were refused under section 18(e) of the Act, on the basis that no information was held.

During the processing of your request, DPMC advised that it consulted with Professor Shaun Hendy about the reference to the ERA determination you cited in your request.

Professor Hendy confirmed that his comment was about the instance you explicitly excluded from your request of 5 January 2022 (refer: "*It also excludes the time that one of the academics appeared at one of your media conferences via video link.*"). For clarity, the comment made by Professor Hendy was in relation to his appearance alongside the Prime Minister and the Director-General of Health at the 1pm stand up in September 2021.

As you have excluded the above instance and since PMO had no further relevant official information, questions two to seven of your request were refused under section 18(e) of the Act.

My view is that this is an appropriate response to your official information request, and that this clarification should resolve this complaint.

Ngā mihi nui,

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

Raj Nahna  
**Chief of Staff**

cc:  
Chief Ombudsman, Peter Boshier  
Office of the Ombudsman