



8 July 2022

David Hay
Feed Families Not Pokies Aotearoa (via FYI.org.nz)
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Tēnā koe David

Official Information Act 1982 (OIA) request dated 2 May 2022 (ref 21/22 0743)

Thank you for your OIA request dated 2 May 2022 to the Department of Internal Affairs (Department). You asked for the following information –

"In order to satisfy our curiosity, we now request the following information under the Official Information Act:

All internal emails, memos, file notes, and other information relevant to the "Barrett Case" sent and received within DIA from January 2018 to 30 June 2021.

All correspondence (including but not limited to formal briefings, advice, explanations, etc), between DIA and the Minister of Internal Affairs, and/or members of the Minister's office staff, regarding the "Barrett Case" from January 2018 to 31 December 2021.

All correspondence between DIA and the Lion Foundation, and/or between DIA and the law firm known as Fee Langstone, regarding the "Barrett Case" and any aspect of it, during the period from January 2018 to 31 December 2021.

In regard to the last part of our request, we are well aware of the protections the Act provides for "professional legal privilege" in section 9(2)(h). We are also aware of the Ombudsman's advice about when and how that protection should be provided under the Act. It is our position that if the information we have requested does exist, then it would be "...desirable, in the public interest, to make that information available."

On 30 May 2022, we wrote to you to extend the statutory timeframe for responding to your request under sections 15A(1)(a) and (b) of the OIA. A new timeframe of 8 July 2022 was set.

Principle of availability

The guiding principle for considering your request for official information is the principle of availability (section 5 of the OIA). That is, information must be made available on request unless there is good reason for withholding it. "Good reason" for withholding information is provided for in the OIA, and it is against this framework that we considered whether to withhold official information in this case.

Response to your first request

We have identified **23 documents** within scope of your request. These documents are listed in the table below and are attached to this letter as **Appendix A**.

Two documents have been withheld in full under the OIA for reasons described in the table listed at Appendix A below. Therefore, we are releasing **21 documents** to you under your first request.

Where it is necessary, we are relying on grounds listed under section 9(2) of the OIA. The grounds under section 9 are subject to the public interest test in section 9(1). The particular grounds in question are as follows:

- Section 9(2)(a) – the withholding of the information is necessary to protect the privacy of natural persons; and
- Section 9(2)(h) – the withholding of the information is necessary to maintain legal professional privilege.

Under section 9(2)(a), we are withholding names of certain individuals (including the venue manager) along with other identifying details in order to protect their privacy.

Under section 9(2)(h), Documents 4 and 22 of Appendix A are withheld in full as they are legally privileged.

A more extensive search is required to determine if there is any other information in scope of your first request. In particular, we would need to search through the Department's document management systems and the electronic inboxes of current and former staff of the Department to locate and extract any relevant material. This work would take many months to complete to the detriment of our other operations. Therefore, we are refusing the remainder of your first request under section 18(f) of the OIA due to the substantial amount of work that would be required to research and collate the remaining material.

As required under section 18A of the OIA, we have considered whether charging or extending the timeframe further than the Department's extension would help. However, due to the open-ended nature of this first request, we did not consider that these options would assist.

As required by section 18B of the OIA, we wrote to you on 26 May and 3 June 2022 to discuss your first request. You phoned us on 23 June 2022, advising that you did not wish to refine your first request and you had intended to 'cast the net widely'.

We recognise there may be a public interest in the release of information about the "Barrett" case. However, we do not consider that this public interest outweighs the grounds for withholding outlined above. Therefore, the withholding of this information is not outweighed by other public interest considerations which render it desirable to make that information available. Therefore, sections 9(2)(a) and 9(2)(h) constitute good reasons for withholding the information in question.

In addition, we are relying on section 18(c)(i), which is not subject to the public interest test, to withhold the name of the venue manager and the venue name as there is a current suppression order in place. Please note, while the use of 18(c)(i) has not been referred to in the documents for Appendix A, this ground applies to any information that identifies the venue manager and venue as described in Appendix A below.

Response to your second request

For your second request, the Department is providing you with **four documents**. These documents are listed in the table below and are attached to this letter as **Appendix B**.

For Document 2 of Appendix B, we located nine Departmental Status Reports sent to the Minister of Internal Affairs which contain relevant material regarding the “Barrett” case. For this, we have extracted all relevant updates and Departmental OIA requests and inserted these into one PDF document. For transparency, we have listed the date each update and Departmental OIA was sent to the Minister of Internal Affairs.

For Document 3 of Appendix B, we have provided an email exchange between Departmental staff and staff from the Minister of Internal Affairs office. The remaining correspondence in this document are internal email exchanges between Departmental staff and falls in scope of your first request. We have also withheld some correspondence as this does not fall in scope of your requests.

For Document 4 of Appendix B, this is an attachment to Document 3. This is internal correspondence between DIA staff and therefore also falls in scope of your first request.

We are releasing the documents subject to the withholding of Departmental staff cellular phone numbers and named individuals under section 9(2)(a) of the OIA. The withholding of this information is not outweighed by other public interest considerations which render it desirable to make that information available. Therefore, section 9(2)(a) constitutes a good reason for withholding this information under the OIA.

Response to your third request

For correspondence between the Department and the gaming society, we have located **two documents** within scope of your request. These documents are located in **Appendix A** as Documents 6 and 18.

For correspondence between the Department and the law firm Fee Langstone, we have located 38 emails. All of this correspondence is legally privileged. Therefore, we are withholding all correspondence between the Department and Fee Langstone under section 9(2)(h) of the OIA. We attach a document table (see **Appendix C**) outlining the correspondence which is withheld and the applicable withholding grounds under the OIA.

The withholding of this information is not outweighed by other public interest considerations which render it desirable to make that information available. Therefore, section 9(2)(h) constitutes a good reason for withholding this information under the OIA.

Access to the Ombudsman

If you are dissatisfied with the Department's decision on your request for information, you have the right, under section 28 of the OIA, to make a complaint to the Office of the Ombudsman. The Office of the Ombudsman can be contacted by phone on 0800 802 602, via post at PO Box 10152 Wellington, or via email to info@ombudsman.parliament.nz.

Ngā mihi

A handwritten signature in blue ink, appearing to read 'Marty Greentree', written in a cursive style.

Marty Greentree
Manager Investigations

Appendix A

Document number	Title	Date	OIA Comments
Document 1	Document: DIA job enquiry sheet	12/02/2018	Released with some information withheld under section 9(2)(a) of the OIA
Document 2	Document: DIA job enquiry sheet	8/03/2018	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 3	Document: Outcomes & Advisory Board report regarding investigation	2/05/2018	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 4	Document: Document: Outcomes & Advisory Board action points and minutes	8/05/2018	Withheld in full under section 9(h) of the OIA and out of scope
Document 5	Transcript: Paul Barrett transcript	8/08/2018	Released with some information withheld under section 9(2)(a) of the OIA
Document 6	Email: Correspondence from gaming trust	21/08/2018	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 7	Transcript: Defendant transcript	23/08/2018	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 8	Email: Email correspondence from Morgan Barrett's wife (using Morgan Barrett email address) to Marty Greentree	25/08/2018	Released with some information withheld under section 9(2)(a) of the OIA
Document 9	Email: Further email correspondence from Morgan Barrett's wife (using Morgan Barrett email address) to Marty Greentree	27/08/2018	Released with some information withheld under section 9(2)(a) of the OIA
Document 10	Document: Formal statement and victim impact statement for [named person]	5/08/2020	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 11	Document: Memorandum to Gambling Operations Advisory Board advising of outcomes from prosecution	10/08/2020	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA

Document 12	Document: Formal statement for Charles Wang	10/08/2020	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 13	Document: Formal statement for Daniel Dominey	11/08/2020	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 14	Document: Statement of Witness for [named person]	19/08/2020	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 15	Document: Formal statement for Paul Barrett	31/08/2020	Released in full
Document 16	Email: Response to an OIA request made by Marty Greentree	12/05/2021	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 17	Document: Formal statement for Diana Kim	20/05/2021	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 18	Document: Formal statement for [named person]	20/05/2021	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 19	Document: Summary of Facts for DIA v [named person] prosecution case	28/05/2021	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 20	Document: Formal statement for Rochell Brown	2/06/2021	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 21	Document: Formal statement for Marty Greentree	11/06/2021	Released with some information withheld under section 9(2)(a) and 18(c)(i) of the OIA
Document 22	Email: Correspondence regarding investigation	12/07/2018 – 13/07/2018	Withheld in full under section 9(h) of the OIA
Document 23	Email: Internal email exchange between Departmental staff	27/07/2018 – 02/08/2018	Released with some information withheld under section 9(2)(a) of the OIA

Appendix B

Document number	Title	Date	OIA Comments
Document 1	Briefing: Internal Affairs briefing to the Minister of Internal Affairs regarding gambling report	22/11/2021	Released with some information withheld under section 9(2)(a) of the OIA
Document 2	Document: Extracts of updates and Departmental Official Information Act requests regarding the case sent to the Minister of Internal Affairs	02/04/2019 – 01/09/2021	Released with some information withheld under section 9(2)(a) of the OIA
Document 3	Email: Email exchange on ministerial request and brief on case (1 attachment)	17/11/2020 – 20/11/2020	Released with some information withheld under section 9(2)(a) of the OIA. Some information is also withheld as out of scope
Document 4	<i>Attachment:</i> Email to DIA staff advising on trial date	7/09/2020	Released with some information withheld under section 9(2)(a) of the OIA. Some information is also withheld as out of scope

Appendix C

Document number	Title	Date	OIA Comments
Document 1	Email from Fee Langstone to DIA requesting for further information (1 attachment)	17/04/2019	Withheld in full under section 9(h) of the OIA
Document 2	Email from Fee Langstone attaching documents (3 attachments)	8/05/2019	Withheld in full under section 9(h) of the OIA
Document 3	Email from Fee Langstone acknowledging receipt of emails and documents	9/05/2019	Withheld in full under section 9(h) of the OIA
Document 4	Cover email from Fee Langstone to DIA	25/06/2019	Withheld in full under section 9(h) of the OIA
Document 5	Email from Fee Langstone to DIA attaching letter and associated documents (5 attachments)	26/07/2019	Withheld in full under section 9(h) of the OIA
Document 6	Email response from DIA to Fee Langstone confirming counsel acting on matter	9/09/2019	Withheld in full under section 9(h) of the OIA
Document 7	Email response from DIA acknowledging receipt of email and letter from Fee Langstone	19/09/2019	Withheld in full under section 9(h) of the OIA
Document 8	Email from Fee Langstone to DIA attaching letter (1 attachment)	19/09/2019	Withheld in full under section 9(h) of the OIA
Document 9	Email response from Fee Langstone providing update on instructions	11/03/2020	Withheld in full under section 9(h) of the OIA

Document 10	Email exchange between DIA and Fee Langstone on further instructions on case review	06/03/2020 – 09/03/2020	Withheld in full under section 9(h) of the OIA
Document 11	Email from DIA to Fee Langstone attaching signed memorandum (1 attachment)	06/05/2019 – 07/05/2019	Withheld in full under section 9(h) of the OIA
Document 12	Email exchange between DIA and Fee Langstone on joint memorandum	07/05/2019 – 08/05/2019	Withheld in full under section 9(h) of the OIA
Document 13	Email exchange between Fee Langstone and DIA confirming availability of witnesses	14/05/2020 – 02/06/2020	Withheld in full under section 9(h) of the OIA
Document 14	Email from Fee Langstone attaching joint memorandums (2 attachments)	14/05/2020 – 02/06/2020	Withheld in full under section 9(h) of the OIA
Document 15	Email exchange between Fee Langstone and DIA confirming availability of witnesses	14/05/2020 – 29/05/2020	Withheld in full under section 9(h) of the OIA
Document 16	Email exchange between Fee Langstone and DIA addressing matters ahead of pretrial	14/05/2020 – 29/05/2020	Withheld in full under section 9(h) of the OIA
Document 17	Email response from Fee Langstone to DIA regarding preference for request of disclosure	17/04/2019 – 02/05/2019	Withheld in full under section 9(h) of the OIA
Document 18	Email from DIA forwarding disclosure pack and summons to another member of Fee Langstone (2 attachments)	17/04/2019 – 18/04/2019	Withheld in full under section 9(h) of the OIA
Document 19	Email from DIA to Fee Langstone attaching disclosure pack and summons (2 attachments)	17/04/2019 – 18/04/2019	Withheld in full under section 9(h) of the OIA
Document 20	Email response from DIA to Fee Langstone providing clarification on position	19/09/2019 – 20/09/2019	Withheld in full under section 9(h) of the OIA
Document 21	Email from Fee Langstone acknowledging response on DIA position	19/09/2019 – 20/09/2019	Withheld in full under section 9(h) of the OIA
Document 22	Email from Fee Langstone advising DIA on an amendment made to the memorandum (1 attachment)	20/12/2019 – 06/03/2020	Withheld in full under section 9(h) of the OIA
Document 23	Email from Fee Langstone to DIA attaching draft joint memorandum (1 attachment)	20/12/2019 – 06/03/2020	Withheld in full under section 9(h) of the OIA
Document 24	Email exchange between DIA and Fee Langstone regarding draft media statement (1 attachment)	20/12/2019 – 11/03/2020	Withheld in full under section 9(h) of the OIA
Document 25	Email exchange between Dia and Fee Langstone regarding position on revised media statement	20/12/2019 – 12/03/2020	Withheld in full under section 9(h) of the OIA
Document 26	Email exchange between Fee Langstone and DIA regarding resolution on matters	20/12/2019 – 15/01/2020	Withheld in full under section 9(h) of the OIA
Document 27	Email from Fee Langstone attaching joint memorandum (1 attachment)	20/12/2019 – 15/01/2020	Withheld in full under section 9(h) of the OIA
Document 28	Email exchange between Fee Langstone and DIA regarding proposal of DIA media statement	20/12/2019 – 18/02/2020	Withheld in full under section 9(h) of the OIA
Document 29	Email from Fee Langstone to DIA attaching joint memorandum (1 attachment)	25/06/2019 – 01/07/2019	Withheld in full under section 9(h) of the OIA
Document 30	Email exchange between DIA and Fee Langstone regarding joint memorandum	25/06/2019 – 02/07/2019	Withheld in full under section 9(h) of the OIA

Document 31	Email from Fee Langstone acknowledging response from DIA looking into queries	25/06/2019 – 26/06/2019	Withheld in full under section 9(h) of the OIA
Document 32	Email from DIA attachment documents in response to Fee Langstone letter (7 attachments)	25/06/2019 – 28/06/2019	Withheld in full under section 9(h) of the OIA
Document 33	Email response from DIA to Fee Langstone acknowledging receipt of letter and associated documents	26/07/2019 – 29/09/2019	Withheld in full under section 9(h) of the OIA
Document 34	Email response from DIA to Fee Langstone advising review of letter and documents to be undertaken	26/07/2019 – 30/07/2019	Withheld in full under section 9(h) of the OIA
Document 35	Email from DIA to Fee Langstone attaching joint memorandum (1 attachment)	26/07/2019 – 31/07/2019	Withheld in full under section 9(h) of the OIA
Document 36	Email response from DIA to Fee Langstone attaching signed memorandum (1 attachment)	28/08/2019 – 09/09/2019	Withheld in full under section 9(h) of the OIA
Document 37	Email exchange between DIA and Fee Langstone regarding finalising of documents	28/08/2019 – 09/09/2019	Withheld in full under section 9(h) of the OIA
Document 38	Email exchange between Fee Langstone and DIA on the filing of information and instructions	30/09/2019 – 08/10/2019	Withheld in full under section 9(h) of the OIA