

2 September 2022

By email to: fyi-request-20166-e6ed4bc2@requests.fyi.org.nz

Attention: Darren Edward

CON0010532 Request for information about debt collection agencies

We refer to your email to the Serious Fraud Office (SFO) dated 7 August 2022 in which you requested the following information:

i would like information to see if

Have any Debt Collections Agencies ever been investigated by the serious fraud office for their practices in regards to the points below;

a. Fair Trading Act 1986 21A s1, Companies demanding payment of unsolicited goods or services complies that would contradict this act; and

b. Fair Trading Act 1986 21A s2, Companies are required to give all rights and obligations to the recipient of their instruments; and

3. Confirm that the demand or payment complies with Unsolicited Goods and Services Act 1975 s4, s5; and

4. If the Demand for Payment is unlawful and breaches the above Fair Trading act it would also breach the, Crimes Act 1961, 240 s2 a (i), b, c;

Would the serious fraud office investigate if a complaint was to be forthcoming by anyone receiving such presentments by these Debt Collection Companies for serious breaches of the Fair Trading Act and the Crimes Act;

We have considered your request under the Official Information Act 1982 (OIA).

SFO investigations into debt collection agencies

We have interpreted your request as asking us for any information we hold on SFO investigations into debt collection agencies. We have reviewed our records and note that the SFO does not hold this information. Accordingly, this request is refused on the grounds that the requested information does not exist, pursuant to s 18(e) of the OIA.

We note, the Commerce Commission, not the SFO, is responsible for enforcing the Fair Trading Act 1986 (FTA). If you think a business or person is not complying with the FTA, you can make a complaint to the Commerce Commission at contact@comcom.govt.nz.

Opinion on SFO's remit to investigate breaches of the Fair Trading Act and Crimes Act

We consider your request appears to be seeking an opinion from the SFO, rather than referring to information that we hold; accordingly, we refuse this request on the basis that it does not exist (s 18(e)). However, we have decided to provide you with information that may assist you with your enquires.

The SFO is a highly specialised public sector agency that is mandated under the Serious Fraud Office Act 1990 to detect, investigate and prosecute serious or complex financial crime. The offences that the SFO investigates are primarily found in the Crimes Act 1961.

Each complaint received by the SFO is evaluated to determine whether any suspected offence involves serious or complex fraud. Factors considered in this evaluation include:

- a) the suspected nature and consequences of the alleged fraud;
- b) the suspected scale of the alleged fraud, such as whether it is likely to undermine public confidence in the integrity of New Zealand's commercial or financial markets;
- c) the factual, legal and financial complexity of the alleged fraud; and
- d) any relevant public interest considerations.

You can report a fraud via the SFO Website here <https://sfo.govt.nz/contact/report-a-fraud/>.

You are entitled to make a complaint about our decision to the Office of the Ombudsman. They can be contacted at P O Box 10152, Wellington 6143 or at office@ombudsman.parliament.nz.

Yours sincerely



Kylie Cooper
Deputy General Counsel