

9 November 2022

Dr Anna Goodwin

By email: fyi-request-20309-559b20d8@requests.fyi.org.nz

Tēnā koe Dr Goodwin

Ombudsman Complaint: Delay in responding to request for information

I refer to your complaint to the Ombudsman about the Ministry's delay in responding to your email of 22 August 2022 requesting information about 'motions to strike' and other matters under the Official Information Act 1982 (the OIA).

First, the Ministry apologises for the delay in responding to your request. When the Ministry receives correspondence from the public, it is categorised depending on who should respond and the type of response required. Your request was mistakenly categorised as not requiring a response.

Your request was made to the Ministry, but asked the Minister of Justice to answer certain questions. Given the previous delay, we (the Ministry) have decided to respond to your request directly, rather than delay it further by transferring it to the Minister.

You have asked:

1. What is the average time for a court or Tribunal to rule upon a motion to strike?
2. How does this compare to the notion of "reasonableness" in the efficient use of the Court or Tribunal's resources? Does NZ get a "perfect score" as always?
3. Are there "other factors" that a court or Tribunal must weigh besides those recognized in District Court and High Court Rules?
4. If so, what are they?
5. Is a NZ Court or Tribunal obligated at all times to give deference to the Crown or its agent over a "disfavored adversary" (in the perception of the Crown)?
6. If so, what constitutional rights still exist in New Zealand? Are there any?
7. Is there any remaining "separation of powers" or has what we thought was an independent judiciary been captured by statute for all intents and purposes?
8. Who or what is "the Sovereign"? Is this the corporation known as "Her Majesty Queen in Right of New Zealand, Ltd" or is it someone or something else?
9. By what authority has NZ statute usurped Divine Law, Universal Law, Equity, Human Rights, Treaty of Waitangi, and did this happen in 1986 with the "Constitution Act"?

Our answers are as follows.

Questions 1 and 2

The OIA relates to information that is held, that is information that already exists. The Ministry produces statistics on a range of matters relating to the operation of the courts. However, we do not produce statistics on the average time that courts and tribunals take to determine applications to strike out claims. That would require significant work, if it could be done at all. We are therefore refusing this aspect of your request under s 18(g) of the OIA on the basis that the information is not held by the Ministry and we do not believe it would be held by anyone else subject to the OIA.

Questions 3 and 4

We cannot give you legal advice about what a court must or must not take into account.

Questions 5 and 6

We are not sure what you are referring to, but again we cannot give you legal advice.

Question 7

We refer you to the following webpage explaining the separation of powers:

[Branches of Government — Courts of New Zealand \(courtsofnz.govt.nz\)](https://www.courtsofnz.govt.nz/branches-of-government)

Question 8

We refer you to the following webpage explaining the Sovereign's role in New Zealand:

[The Sovereign's role in New Zealand - New Zealand Parliament \(www.parliament.nz\)](https://www.parliament.nz/the-sovereigns-role-in-new-zealand)

Question 9

We refer you to the following webpage explaining New Zealand's constitutional arrangements:

[The basis for all law | New Zealand Ministry of Justice](https://www.justice.govt.nz/the-basis-for-all-law)

You have the right to complain to the Ombudsman about this response.

Ngā mihi



Chris Hurd
Senior Solicitor