

Hon Simeon Brown

Minister for Energy
Minister of Local Government
Minister of Transport
Minister for Auckland
Deputy Leader of the House



OIA 24-401

John Luke
fyi-request-28672-763fc398@requests.fyi.org.nz

Dear Mr Luke,

I refer to your request made via FYI dated 6 October 2024, requesting the following under the Official Information Act 1982 (the Act):

“I noted, you have recently call for nomination for your Transport Accident Investigation Commission Appointment. May I ask how you called for public nomination and on what platform you have call for public nominations e.g. govt.jobs website. Also, how many applications you have received from the public and how many you have received from other nominating agencies such as TPK or Ministry of women etc for your role. How many you have shortlisted and how many you have interviewed in this recruitment round. May I also seek a copy of the ad went out to public and the appointment letter sent to the appointee, feel free to redact any personal information.”

The Associate Minister of Transport has delegated responsibility for appointments to the Transport Accident Investigation Commission (TAIC). The Ministry of Transport (the Ministry) facilitates the appointments process on his behalf, and I sent Mr Clarke his letter of appointment as Minister Doocey was out of the country.

David Clarke was appointed as Chief Commissioner of TAIC for a term commencing on 1 October 2024 and expiring on 30 November 2025. Mr Clarke was already a serving as Commissioner on TAIC at the time of his appointment, and his elevation to Chief Commissioner was recommended by the Ministry.


To this end, the Ministry did not conduct a full round of appointments including advertising the position for public nominations, shortlisting and interviewing candidates. As no public advertisement process occurred, this aspect of your request is refused under section 18(e) of the Act as the document requested does not exist.

I have enclosed Mr Clarke’s appointment letter document, with certain information withheld from the document under section 9(2)(a) of the Act: *“to protect the privacy of natural persons.”* In making my decision to withhold information under section 9 of the Act, I am satisfied that the reasons for withholding the information at this time are not outweighed by public interest considerations that would make it desirable to make the information available.

You have the right to seek an investigation and review of this response by the Ombudsman, in accordance with section 28(3) of the Act. The relevant details can be found on the Ombudsman’s website www.ombudsman.parliament.nz

Thank you again for writing.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'S' followed by a horizontal line and a large 'B' with a long horizontal stroke extending to the right.

Hon Simeon Brown
Minister of Transport

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David Gordon Clarke
Chief Commissioner
Transport Accident Investigation Commission

s 9(2)(a)

Dear David

Appointment as the Chief Commissioner of the Transport Accident Investigation Commission

I am pleased to appoint you as the Chief Commissioner of the Transport Accident Investigation Commission (Commission) for a term commencing on 1 October 2024 and expiring on 30 November 2025.

Your appointment is made under clause 1 of the Schedule to the Transport Accident Investigation Commission Act 1990.

I would be grateful if you would confirm in writing your acceptance of this appointment at your earliest opportunity. A notice of your appointment will be published in the *New Zealand Gazette*.

Code of Conduct

As a member of a Crown Entity Board, you are expected to comply with the *Code of Conduct for Crown Entity Board Members*, issued by the Public Service Commissioner under section 17(3) of the Public Service Act 2020. The Code of Conduct outlines the principles and behaviours expected from individuals to ensure our entities retain the trust and confidence of New Zealanders. These principles include: acting in the spirit of service; acting with honesty and integrity; as well as acting impartially, lawfully and in a politically neutral manner.

I expect you to have read the Code of Conduct, and to comply with it in the course of your duties. A copy of the Code of Conduct is provided with this letter and can be found here: <https://www.publicservice.govt.nz/guidance/code-of-conduct-for-crown-entity-board-members/>.

Conflicts of Interest

I note you have certified that you are not disqualified from being appointed and have declared relevant interests in the Commission's interest register. I expect you to continue to follow the Commission's standard processes for declaring and managing any actual conflicts of interest should they arise.

Continuation

As per section 32(2) of the Crown Entities Act 2004, you may be reappointed to the Commission. Section 32(3) of the Crown Entities Act 2004 enables you to continue in office despite the expiry of your term until you are either reappointed, or a successor is

appointed to your position, or you are informed by written notice that you will not be reappointed, and no successor will be appointed.

Resignation

As per section 44 of the Crown Entities Act 2004, should you wish to resign from office prior to the end of your term, you will need to provide written notice to me, with a copy to the Commission. The resignation would be effective on my receipt of the notice, or at any later time specified in the notice.

Removal

As per section 39 of the Crown Entities Act 2004, the Governor-General may, at any time for just cause, on my advice as the responsible Minister given after consultation with the Attorney-General, remove a member of the Commission by written notice.

Collective and Individual Responsibility.

As per section 26 of the Crown Entities Act 2004, you must comply with the Commission's collective duties (described in sections 49 to 52 of the Act), your individual duties as a member (sections 53 to 57) and any directions applicable to the Commission under section 103. You are accountable to me for performing your duties as a member of the Commission.

Remuneration

The Remuneration Authority sets the fees for the Commission and will inform you of the current rate. You are also entitled to be reimbursed for any expenses incurred attending meetings or undertaking any other agreed work. The Commission's secretariat will be able to assist you with claims and any taxation matters.

I congratulate you on your appointment as the Chief Commissioner and wish you well on your term.

Yours sincerely



Hon Simeon Brown
Minister of Transport

Encl: Notice of Appointment
Code of Conduct

Copy to: Martin Sawyers, Chief Executive, Transport Accident Investigation Commission
Audrey Sonerson, Chief Executive, Ministry of Transport
Geoffrey Summers, Chair, Remuneration Authority