



8 November 2024

Nick Farlow

By email: [fyi-request-28744-c0c6e5ec@requests.fyi.org.nz](mailto:fyi-request-28744-c0c6e5ec@requests.fyi.org.nz)

Tēnā koe Mr Farlow

**Official information request: Solicitor-General's Prosecution Guidelines  
Our Ref: OIA353/1**

This is in response to your official information request submitted on Sunday 13 October 2024 seeking information about the revised Solicitor-General's Prosecution Guidelines ("the guidelines").

The Solicitor-General issues the guidelines as part of her role as Law Officer under s 185 of the Criminal Procedure Act 2011. The Ombudsman has previously stated that information related to Solicitor-General's role as Law Officer is not "official information" within the meaning of the Official Information Act 1982 (OIA).<sup>1</sup> For this reason, your request is formally refused on the basis that the OIA does not apply to the information sought.

However, and without prejudice to the above, we have decided it is in the public interest to provide you with the information below.

The Solicitor-General is currently reviewing the guidelines and introduction for clarity and consistency. The press release announcing this is available on the front page of our website at [www.crownlaw.govt.nz](http://www.crownlaw.govt.nz).

**The purpose of the guidelines**

At present, over forty agencies conduct public prosecutions in New Zealand. These include the Police, Crown Solicitors, and other government agencies who have a prosecution function as part of their role, such as Corrections and the Ministry for Primary Industries.

The guidelines are used to help prosecutors make fair and consistent decisions in the prosecution process.

**The guidelines do not promote different treatment based on ethnicity**

The guidelines do not promote different treatment based on ethnicity. The Solicitor-General said in her press release that she recognised the wording, particularly in the Introduction to the guidelines, could be clearer. She has taken down the guidelines while she reviews them for clarity and consistency and will republish them in time for them to come into effect from 1 January 2025.

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<sup>1</sup> See, for example, Case Note W44280 of the Office of the Ombudsman.

## **The roles of the Attorney-General and Solicitor-General**

The Guidelines are issued by the Solicitor-General in their role as Law Officer. New Zealand has two Law Officers: the Attorney-General and the Solicitor-General. You can read more about these roles on the Crown Law website at [www.crownlaw.govt.nz/about-us/law-officers](http://www.crownlaw.govt.nz/about-us/law-officers).

The present Attorney-General and her predecessor were briefed on the review, but the guidelines are issued by the Solicitor-General on their own authority pursuant to s 185 of the Criminal Procedure Act 2011.

## **The role of Ināia Tonu Nei**

We invited Ināia Tonu Nei to work with us on this review because they have provided valuable contributions to similar projects in the justice sector. At the time the review of the guidelines was commenced, they held a mana ōrite relationship with the Justice Sector Leadership Board (JSLB). [You can view the mana ōrite agreement on the Ministry of Justice website](#).

We also sought the views of a large and diverse range of other stakeholders, including the New Zealand Police, other justice sector agencies, prosecutors, the legal profession, academics and various community groups.

Consultation with any individual person or group does not mean the Solicitor-General agrees with all of their views or vice versa. The Solicitor-General routinely receives a range of viewpoints to help inform their decision but makes their decision independently.

Crown Law did not pay Ināia Tonu Nei for their involvement in the guidelines. We booked flights and accommodation for one of their staff to attend two wānanga in Wellington, but no one was paid by Crown Law for their time.

## **Proactive release**

Please note that we may publish this response (with your personal details redacted), and any related documents, on Crown Law's website if we decide proactive release of this information is or may be in the public interest. If you have any concerns about this, please let us know within 10 working days of the date of this letter.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Naku noa, nā  
**Crown Law**