

11 December 2024

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Our ref: OIA 117501

Tēnā koe Henricus

**Official Information Act request: Designated agency and special advocates under the Security Information in Proceedings Act 2022**

Thank you for your email of 4 November 2024 to the Prime Minister, Rt Hon Christopher Luxon, seeking information under the Official Information Act 1982 (the Act) on the designated agency and special advocates under the Security Information in Proceedings Act 2022.

On 13 November 2024, your request was transferred to the Ministry of Justice (the Ministry) for response because the Ministry is responsible for administering the Security Information in Proceedings Act 2022.

Your requests for part A and part B and my responses to each one are set out below.

*Part A:*

- 1. What is the name of the public service agency you have designated as responsible for maintaining the special advocate panel under s 16 of the SIPA?*
- 2. What is the name of the public service agency you have designated as responsible for meeting the costs of special advocates and special advisers under ss 24 and 27 of the SIPA?*

Information requested in part A of your request is withheld in full under section 9(2)(f)(iv) of the Act to maintain the constitutional conventions that protect confidentiality of advice tendered by Ministers and officials. The information will soon be the subject of upcoming Ministerial decisions.

*Part B:*

The Ministry currently manages a panel of special advocates, which was initially set up for the purpose of the Immigration Act 2009. This panel is made up of experienced counsel with a broad range of skills and security clearances, meaning this panel can also be used for the purposes of the Security Information in Proceedings Act. The answers below relate to this panel.

1. *Please provide a panel of special advocates and date they were first appointed to the panel.*

The panel of special advocates is withheld in full under section 9(2)(a) of the Act to protect the privacy of natural persons.

Special advocates on the current panel have been added on various dates. The Ministry does not maintain a list of dates for when special advocates were first added to the panel. Therefore, this part of your request is refused under section 18(g) as the information requested is not held by the Ministry and there are no grounds for believing it is held by another agency subject to the Act.

2. *How many special advocates currently sit on the special advocate panel?*

Seven.

3. *How many special advocates are men?*

Five.

4. *How many special advocates are King's Counsel?*

Two.

5. *What is the median post-qualification experience of special advocates?*

The Ministry does not record this information, therefore this part of your request is refused under section 18(e) of the Act as the information does not exist. However, I can advise that all special advocates on the panel are senior counsel with experience in various areas of law.

6. *Please provide any policies, application forms (unfilled), questionnaires (unfilled), selection criteria, agreements, memoranda, details of how potential candidates for appointment are identified or discovered, or other documents used in the appointment process and administration of the special advocate panel.*

I can advise that there are no standard documents for this purpose, therefore, this part of your request is also refused under section 18(g) of the Act as the information requested is not held by the Ministry and there are no grounds for believing it is held by another agency subject to the Act.

The courts do have standard letters for when counsel is appointed to specific proceedings. The courts are a separate and independent arm of government and are specifically excluded from the Act under section 2(6)(a).

However, below is some information on how the panel has been set up, including how counsel are appointed to the panel.

The panel of special advocates is updated from time to time depending on whether new counsel are added or as counsel on the panel wish to, or need to, be removed (e.g., change in career).

Currently, there are two ways counsel are added to the panel:

- Counsel have worked on other relevant proceedings. When senior counsel have assisted the court in other proceedings which require a security clearance, the Ministry will sometimes ask them to join the panel.
- Counsel expresses an interest in joining the panel. In these circumstances, the Ministry looks at their qualifications and experience, and then works through the security clearance process.

7. *What is (are) the current remuneration rate(s), if any, agreed between the designated agency and special advocates?*

The current remuneration rate is \$260 an hour. This is the same rate as counsel assisting the court.

8. *How many proceedings have special advocates been appointed in since the commencement of the SIPA (Security Information in Proceedings Act)?*

The information requested in this part of your request is court information. The courts are a separate and independent arm of government and are specifically excluded from the Act under section 2(6)(a). Therefore, this part of your request is also refused under section 18(g) of the Act as the information requested is not held by the Ministry and there are no grounds for believing it is held by another agency subject to the Act.

9. *Do special advocates maintain a security clearance independently of their appointment to the special advocate panel (e.g. as a result of other government legal work), or is the designated agency the sponsoring/granting agency of special advocates' security clearances?*

Special advocates do not usually have a security clearance independent of their role on the panel. The Ministry supports the renewal of special advocates' security clearances as required.

In accordance with section 9(1) of the Act, the Ministry has considered the public interest in making available the information being withheld and determined that it does not outweigh the need to withhold the information at this time.

If you require any further information, please contact Media & Social Media Manager Joe Locke at [media@justice.govt.nz](mailto:media@justice.govt.nz)

Please note that our response, with your personal details removed, may be published on the Ministry website at: [Official Information Act responses | New Zealand Ministry of Justice](#)

If you are not satisfied with this response, you have the right to make a complaint to the Ombudsman under section 28(3) of the Act. The Office of the Ombudsman may be contacted by email to [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or by phone on 0800 802 602.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Andrea King', written in a cursive style.

Andrea King

**Group Manager, Senior, Employment, Environment, and Coroners Courts**