

11 August 2015

Dr W G Robert Harrison

By e-mail: C/o [fyi-request-4323-16635a5f@requests.fyi.org.nz](mailto:fyi-request-4323-16635a5f@requests.fyi.org.nz)

Ministry Reference: H201603092

Dear Dr Harrison

**Response to your request for Official Information regarding Wayne Baker**

I refer to your request that was received on 30 July 2016 under the Official Information Act 1982 (the Act).

You requested information about Mr Wayne Baker, pharmacist.

Your request has three main parts:

- a. "Tip off" related documentation and information;
- b. Documentation in relation to the Pharmacy Council and or Health Practitioners Disciplinary Tribunal; and
- c. Investigation information related to Mr Baker.

The information relating to your request is itemised below. Specific grounds are noted where information has been withheld

Request	Response
<p>All documentation relating to the initial tip off of Mr Baker's investigation, in particular:</p> <ul style="list-style-type: none"><li>• Who (a name is not required, but occupation)</li><li>• When (what month and year)</li><li>• How long after the tip off was it until Mr Baker was interviewed, and later charged</li></ul>	<p>The occupation of the person making the 'tip off' – the person was a pharmacist</p> <p>The month and year of the 'tip off' – February 2009.</p> <p>Charges were laid in May 2011.</p> <p>Documentation regarding the tip off will be withheld pursuant to section 6(c) of the Official Information Act, as making the information available will be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of</p>

	<p>offences.</p> <p>Section 9(2)(a) of the Act also provides good reason for withholding the information to protect the privacy of a natural person or persons (being the informant). There is no identified public interest in release of such information</p> <p>Mr Baker's interview date or dates will not be released. Section 9(2)(a) of the Act provides good reason for withholding the information to protect the privacy of a natural person or persons, as this is personal information about Mr Baker not currently in the public domain. There is no identified public interest in release of such information.</p>
<p>Any documentation and advice provided or sought by the Pharmacy Council and / or the Health Practitioners Disciplinary Tribunal regarding Wayne Bakers suspension, and readmission to the register of pharmacies in relation to the above incident.</p>	<p>Following the conviction of Mr Baker the Ministry understands that the matter was referred from the District Court to the Pharmacy Council of New Zealand. It did not make the referral and does not hold any of the documentation you request in relation to this matter. It is unaware if the Council or the Tribunal created any such documentation. The Ministry therefore declines this request pursuant to section 18(e) of the Act.</p> <p>The decision in this matter by the Health Practitioners Disciplinary Tribunal is however available on the Tribunal website. It can be found on the Tribunal Decision section (under 'Pharmacists' then subheading 'Conviction'). The Decision No is 472/Phar12/206P (listed as Phar12/206P in the File Number column). The following link will take you to the relevant webpage and the decision can be accessed from the table on that page:  <a href="http://www.hpdt.org.nz/Default.aspx?tabid=340">http://www.hpdt.org.nz/Default.aspx?tabid=340</a></p>
<p>Investigation information regarding Mr Baker:</p> <ul style="list-style-type: none"> <li>• All advice sought and received;</li> <li>• Documentation;</li> <li>• Evidence;</li> <li>• A breakdown of offences;</li> <li>• Correspondence between</li> </ul>	<p>The offences Mr Baker was convicted of in 2011 were 93 charges of using a document for pecuniary advantage under s228(b) of the Crimes Act 1961. The activities giving rise to the offences included:</p> <ul style="list-style-type: none"> <li>• Misrepresenting prescriptions for SimvaRex as prescriptions for Lipex to obtain larger subsidies;</li> </ul>

<p>officials;</p> <ul style="list-style-type: none"> <li>• Correspondence between officials and Mr Baker.</li> </ul>	<ul style="list-style-type: none"> <li>• Claims for dispensing prescriptions that had been falsely post-dated;</li> <li>• Claims for dispensing items not ultimately dispensed when a new script supersedes an older script (when the items were originally on cyclic foil pack dispensing);</li> <li>• Claims for dispensing prescriptions where the date of dispensing had been falsely represented to indicate the prescription had not expired;</li> <li>• Claims for dispensing prescriptions or repeats of prescriptions for patients who had not requested them (some of these patients were dead)</li> <li>• Claims for repeat “close control” dispensings of prescription items where that was not authorised by the prescriber.</li> </ul> <p>The Disciplinary Tribunal decision referenced above goes into more detail of the activities that gave rise to the charges of which Mr Baker was convicted (refer to paragraphs 13 to 39 of that decision).</p> <p>We have decided to withhold the balance of the information requested in paragraph 10 above on the basis that the identified sections listed below provide good grounds for withholding the information:</p> <ul style="list-style-type: none"> <li>• Section 6(c) of the Act. Making the information available will be likely to prejudice the maintenance of the law, including the prevention, investigation and detection of offences.</li> <li>• Section 9(2)(a) of the Act. Withholding the information is necessary to protect the privacy of a natural person or persons. In the first instance this information is about Mr Wayne Baker. Certain information is already in the public domain about the outcome of the investigation and the conviction of Mr Baker. The public interest in release of any additional investigative information is not such that it outweighs the need to withhold it.</li> <li>• Section 9(2)(a) of the Act. Withholding the information is necessary to protect the privacy of patients and other individuals</li> </ul>
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	<p>whose information is included in the documentation requested. There is no identified public interest in release of such information.</p> <ul style="list-style-type: none"><li>• Section 9(2)(h) of the Act. Legal professional privilege applies in respect of any legal advice sought by the Ministry. Legal professional privilege has not been waived. There is no identified public interest in release of such information and it will be withheld.</li><li>• Section 9(2)(ba)(i) and (ii) of the Act. Information provided in confidence. There is no identified public interest in release of such information and it will be withheld.</li></ul>
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I trust this information fulfils your request. You have the right, under section 28 of the Act, to ask the Ombudsman to review my decision to withhold information under this request. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or free phone 0800 802 602.

There is no charge associated with this request.

Yours sincerely



Phil Knipe  
Acting Director  
Protection Regulation and Assurance