

14 July 2017

Ross Francis  
fyi-request-6013-7841d4de@requests.fyi.org.nz

Dear Mr Francis

**Official Information Act 1982 request: Peter Ellis Case**

I refer to your FYI request of 17 June 2017 requesting the following information under the Official Information Act 1982 ("the Act"):

*"In the Ministry's response of 14 June 2017 to my request for information, Jeff Orr stated that the Ministry's record keeping practices "were robust in 2001 and remain so today".*

*What role (if any) did Mr Orr have with the Justice Ministry in 2001, and did his role include auditing the record-keeping practices of senior officials such as Val Sim or Michael Petherick? Who (if anyone) did Mr Orr communicate with to enable him to state that the Ministry's record keeping practice were robust in 2001?*

*Please provide a copy of the policy from 2001 that allowed senior officials within the Ministry to hold high level discussions about a possible miscarriage of justice without having to create a record of those discussions.*

*The Ministry's policy on conflicts of interest says that they "need to be identified and managed carefully in order to maintain public trust and confidence in the justice system." In regards to the Ministerial Inquiry into the Peter Ellis case, the Ministry is aware that lawyer Wendy Ball had previously informed Dr Louise Sas, who provided her opinion to that inquiry, that Peter Ellis was widely regarded as a "disgusting pedophile". Sas learnt from Ball that the "effects of [media coverage of the case] on the children abused by Ellis is (sic) far reaching and devastating".*

*Please provide me with a copy of information about conflicts of interest that was provided to the parties involved with the Ministerial Inquiry.*

*According to records held by the Ministry, what are the benefits, or potential benefits, of establishing a Criminal Cases Review Commission?"*

I have divided your request into four parts, which I have addressed below.

1. *“What role (if any) did Mr Orr have with the Justice Ministry in 2001, and did his role include auditing the record-keeping practices of senior officials such as Val Sim or Michael Petherick? Who (if anyone) did Mr Orr communicate with to enable him to state that the Ministry’s record keeping practice were robust in 2001?”*

I can advise that I have been employed at the Ministry of Justice since 2005. My statement in my previous email to you was made on the basis of my experience working at the Ministry, my knowledge and understanding of Ministry practices during my time here, and my knowledge of the experience and abilities of Ministry officials working here at the time of the Ministerial Inquiry.

2. *“Please provide a copy of the policy from 2001 that allowed senior officials within the Ministry to hold high level discussions about a possible miscarriage of justice without having to create a record of those discussions.”*

The Ministry has already advised you in our letter to you dated 12 March 2012 that we are not able to locate the records management policy applicable at the time of the Ministerial Inquiry into the Peter Ellis case. However, we did provide you with a copy of the records management policy that applied subsequently.

I note that we have also answered questions regarding our record-keeping practices and obligations on a number of other occasions, including in our letters to you of 1 December 2006, 29 February 2008 and more recently in my email to you of 14 June 2017.

The Ministry has therefore provided you with all the information it has regarding our records management policies at the time of the Ministerial Inquiry. I am therefore refusing this part of your request under s 18(h) of the Act on the grounds that your request for this information is vexatious.

3. *“Please provide me with a copy of information about conflicts of interest that was provided to the parties involved with the Ministerial Inquiry.”*

As I have previously advised you in correspondence on 10 February 2011, 20 May 2011, 7 February 2012, and 12 December 2016 the Ministry has provided you with all records pertaining to the Ministerial Inquiry. Records relating to the information provided to the parties involved with the Inquiry are included within the meaning of ‘Ministerial Inquiry’, as any documentation provided to parties would have been provided within the 1 March 2000 to 1 March 2001 time period.

The Ministry has therefore already provided you with all relevant information it holds in relation to the Ministerial Inquiry into the Peter Ellis case. As such, I am refusing this part of your request under s 18(h) of the Act on the grounds that your request for this information is vexatious.

4. *"According to records held by the Ministry, what are the benefits, or potential benefits, of establishing a Criminal Cases Review Commission?"*

We have previously provided you with information regarding the "potential benefits" and disadvantages of establishing an independent tribunal to investigate potential miscarriages of justice in our letter to you of 28 May 2008 responding to your request dated 6 December 2007.

The Ministry has therefore provided you with all the information it holds in relation to the "potential benefits" and disadvantages of establishing an independent tribunal to investigate potential miscarriages of justice, a concept that includes the possibility of a Criminal Cases Review Commission. As such, I am refusing this part of your request under s 18(h) of the Act on the grounds that your request for this information is vexatious.

You have the right to complain to the Ombudsman under s 28(3) of the Act and seek a review of this response.

Yours sincerely



Jeff Orr

**Chief Legal Counsel**