

28 May 2018

Emailed to: fyi-request-7742-3dc04c05@requests.fyi.org.nz

Dear Miss Forest

**Official Information request – Complaints “declined” outside Privacy Act s.71
(Our Ref: OPC/2861)**

I refer to your request under the Official Information Act 1982 (OIA) received on 2 May 2018.

You request information on the following:

Regarding this response:

<https://fyi.org.nz/request/7554-take-no-action-vs-actionable-complaints#incoming-24983>

Section 71 of Privacy Act 1993 (act) as you have highlighted provides the commissioner very limited vehicle to take "no action" on complaints.

Other than this,

The commissioner seems to have decided to "decline" to investigate the received complaints outside any explicit statutory provisions where a normal person could think this should have been covered by the "no action" statutes under the act s.71.

Please provide additional figures regarding:

From the comparable period 1 July 2016 and 30 June 2017 as provided earlier by the commissioner,

How many complaints have you "declined" to investigate on the basis that in your opinion the complaint did not:

- a) Disclose a possibility of an interference with complainers privacy
- b) Meet the criteria for acceptance as a complaint or
- c) the definition of a complaint, to the extent that sections 67 and 69 provide one.

Also how many complaints have you declined due:

- d) The complainant refused to expose their personal information to the agency believing the agency was violating the privacy laws of New Zealand ..
- e) that could have been checked by the commissioner as part of their function on educating the public on law

f) while the explanation was provided on your reason field why the complainant did not contact the agency first

g) Any other reason you have declined to investigate.

If you have the above numbers separately or some other grouping mechanism that would be appreciated.

If not do please feel free to combine appropriately how ever your system has information that can be extracted to establish how many of the complaints fall in as declined.

The Commissioner only has jurisdiction to investigate certain complaints. See from page 23 of our Procedures Manual: Dispute Resolution and Investigations - <https://privacy.org.nz/assets/Files/Brochures-and-pamphlets-and-pubs/2018-01-final-Procedures-Manual-Disputes-Resolution-section.pdf>

The Commissioner can only exercise his discretion under section 71 to take no further action on a complaint under the grounds set out in that section.

We are unable to provide you with an answer to your question about “how many matters we have “declined” to investigate on the basis of (a) to (g) above over the period 30 June 2016 to 1 July 2017” as we do not keep records on these particular statistics. We therefore refuse this part of your request under section 18(f) of the OIA as the information cannot be made available without substantial collation and research.

You have the right to ask the Ombudsman to investigate and review my decision on your request.

Yours sincerely



Jane Foster
General Counsel

