



**Te Tari Taiwhenua
Internal Affairs**

9 July 2018

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Mr Ross Francis
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Dear Mr Francis

Request under the Official Information Act 1982: OIA17/18-487

Thank you for your email, sent through the 'FYI' website and received by the Department of Internal Affairs (the Department) on 11 June 2018. You have requested the following information under the Official Information Act 1982 (the Act):

- 1. In its response to me dated 31 May 2018, DIA stated that Geoffrey Palmer and Terence Arnold have both declared "various interests" while accepting the role of chair of the inquiry into Operation Burnham. Were either or both asked if they had any actual or potential conflicts to declare, or did either or both volunteer such information? Please provide me with all communication with Messrs Palmer and Arnold regarding this question.*
- 2. What action has been taken by DIA to manage the various interests declared by Messrs Palmer and Arnold?*
- 3. In its response of 31 May, DIA says that Messrs Palmer and Arnold were not appointed "by way of a contract for services". How were they appointed if not for a contract for services?*
- 4. In regards to the Royal Commission of Inquiry into Building Failure Caused by the Canterbury Earthquakes, what practical steps were taken to ensure the inquiry was independent, impartial and fair? Please provide me with all documents which indicate or show that the inquiry was independent, impartial and fair.*

In response to point one, prior to their appointment to the Government Inquiry into Operation Burnham, Sir Terence Arnold and Sir Geoffrey Palmer completed Appointment Disclosure forms. These forms sought:

- disclosure of the nature and extent of any actual or potential conflict of interest in matters relating to the Inquiry;
- disclosure of any other matter that would make appointment to the statutory body undesirable or unsuitable; and
- authorisations for the Department to check the accuracy of the information provided.

The information provided by Sir Terence and Sir Geoffrey was provided to the Department in confidence. Communication with those parties relating to that information is therefore withheld in full under section 9(2)(ba)(i) of the Act. Releasing the information requested would likely disincentivise persons being considered for appointment to inquiries providing frank and honest disclosures. The greater public interest is in ensuring that potential appointees make full disclosures on matters that may be material to the position they are being considered for.

In response to point two, no action has been taken by the Department in relation to the information provided by Sir Terence and Sir Geoffrey.

In response to point three, I refer you to my email of 6 June 2018, which explained the nature of an appointment to a Government Inquiry.

In response to point 4, there is no particular document that shows that the Canterbury Earthquakes Royal Commission (the Commission) was independent, impartial and fair. This aspect of your request is refused under section 18(e) of the Act as the information requested does not exist.

I note that the Commission was established under the Commissions of Inquiry Act 1908 (COI Act), which predates the Inquiries Act 2013. A Royal Commission established under the COI Act operated, like other public or administrative bodies, under a duty to act fairly. You may be interested in reading the report of the Law Commission *A New Inquiries Act*, from page 64 in particular, for a summary of those duties. That report can be accessed online here: www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R102.pdf.

If you are dissatisfied with this response you have the right to seek an investigation and review of this decision under section 28(3) of the Act. You can contact the Office of the Ombudsman by phoning 0800 802 602 or online at www.ombudsman.parliament.nz.

Yours sincerely



Karen Hope-Cross
Director Operational Services