

Our ref 430371
Contact Aimee Bryant
1 December 2016



Mr David Jenkins
Chief Executive
NZPPA

By email: david@nzppa.co.nz

Dear Mr Jenkins

**Official information Act investigation
Ministry of Business, Innovation and Employment
Request for information about Holidays Act, Parental Leave and Employment
Protection Act, Labour Inspectorate**

I refer to my letter of 25 August 2016, concerning your complaint about the decision of the Ministry of Business, Innovation and Employment to refuse your request for official information.

I advised you that I had written to the Ministry seeking some further comments. I have now received a response, and am able to advise you of my final opinion on your complaint.

Having considered all the issues raised, I have now formed the opinion that the Ministry should not have refused your request in full. The Ministry has accepted my opinion.

The Ministry will be disclosing the following additional information:

- information for which it relied on section 9(2)(g)(i) of the OIA to withhold;
- information for which it relied on section 6(c) of the OIA to withhold (but for that information outlined in my letter to you of 25 August 2016); and
- information which it relied on section 9(2)(h) of the OIA to withhold, where it is not identified within the documentation as deriving from legal advice, or where it forms a part of a statement regarding what the public should be advised.

I have accepted that section 9(2)(h) of the OIA applies to the remainder of the information withheld. This information is covered by solicitor-client privilege, and privilege has not been waived. It is identified in the documentation as legal advice, and Ministry staff members are under clear instruction that they may not provide any legal advice or advice beyond what is provided for in the relevant legislation.

I have not identified, in this case, any public interest factors in favour of disclosing the information, sufficient to outweigh the very strong interest in protecting legal professional privilege. The information withheld relates to fact-based examples, explanation of tangentially related legislation, and some untested views. It is provided by way of background knowledge. It is

not the case that the public, and in particular those who use the relevant legislation, are unable to obtain their own legal advice. The majority of the information will be disclosed.

The agency has agreed to disclose the information as outlined.

Given that the Ministry has accepted my opinion, I do not intend to make a recommendation in this case.

I have now completed my investigation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Boshier', with a stylized flourish at the end.

Judge Peter Boshier
Chief Ombudsman