

Our ref 42_2_ (Complaint ground: 42_6)
Contact C L
8 September 2017



Mr
By email: _____@yahoo.co

Dear Mr

**Official Information Act investigation
Health and Disability Commissioner
Request for letters dated 29 January 2015 and 4 June 2015**

I refer to your complaint about the decision of the Health and Disability Commissioner (HDC) to refuse your request for copies of correspondence with the Medical Council of New Zealand dated 29 January 2015 and 4 June 2015.

You have now been provided with redacted copies of both letters by the Medical Council of New Zealand (MCNZ) pursuant to the Privacy Act. My investigation and review under the OIA concerns the redacted sections of the letters that comprise official information, rather than personal information about you. I have received a response from HDC, providing a report on its concerns, together with unredacted copies of both letters at issue. I have also consulted with the Privacy Commissioner as I am required to do under section 29B of the Official Information Act 1982 (OIA).

Having carefully considered HDC's response and the Privacy Commissioner's views, I have formed the provisional opinion that HDC was entitled to rely on section 9(2)(a) of the OIA to refuse your request.

Details of my provisional opinion are set out below.

Background

On 13 March 2016 you requested from HDC copies of its correspondence with MCNZ regarding your complaints against Dr D. H.

In response HDC advised that:

- it had written to MCNZ on 29 January 2015, providing a copy of your complaint, Dr H's response, and Deputy Commissioner Ms Theo Baker's decision letter; and
- the Medical Council had responded by letter dated 4 June 2015, stating that the information provided by HDC had been considered by its Complaints Triage Team, and a decision made to take no further action on the concerns raised.

Pursuant to section 9(2)(a) of the OIA, HDC refused to provide you with copies of the letters of 29 January 2015 and 4 June 2015. As noted above, MCNZ subsequently provided you with redacted copies of the letters under the Privacy Act. Accordingly, you have now been provided with all the

personal information contained in the letters. My investigation therefore relates to the balance of the information that has been redacted. This is official information rather than personal information, the availability of which falls to be determined under the OIA.

My investigation

Your request was refused under section 9(2)(a) of the OIA, which applies if the withholding of information is necessary to '*...protect the privacy of natural persons*'.

I have reviewed unredacted copies of both letters. I have also consulted with the Privacy Commissioner. I accept that withholding of the official information in the letters is necessary to protect the privacy of natural persons and that section 9(2)(a) of the OIA therefore applies. I am not able to refer to the contents of the letters in any detail when providing you with reasons for my provisional opinion as that would infringe the very privacy interest I consider requires protection.

Having considered section 9(1) of the OIA, I do not consider that there is any countervailing public interest in release that outweighs the privacy interest supporting withholding under section 9(2)(a). You have been provided with the information in the letters that relates to you and an explanation by HDC of its referral to MCNZ. You will be aware from the redacted copy of the 4 June 2015 letters provided to you by MCNZ that it decided to take no further action in response to the concerns raised. Accordingly no issue of public safety arises.

My provisional opinion

In my provisional opinion, HDC was entitled to withhold the official information about other persons contained in the letters at issue under section 9(2)(a) of the OIA.

Your comments

I invite you to comment before I form my final opinion. If you do wish to comment, please respond by **21 September 2017**.

Yours sincerely



Leo Donnelly
Ombudsman