

Case 42 (Complaint ground: 42 '2)
Contact C L
30 May 2017



Mr
By email: _____@yahoo.co

Dear Mr

Complaint against the Health and Disability Commissioner Request for phone logs

I refer to your complaint about the Health and Disability Commissioner's response to your request for phone logs. I understand that on 4 March 2012 you requested from HDC copies of all phone logs relating to your complaints. HDC responded to that request on 23 March 2012 but does not appear to have provided a copy of one particular phone log until 17 November 2015. This phone log was completed by Mr A. L. and is dated 9 August 2011.

As I understand it your concerns are twofold. First, that there was a delay in providing you with the 9 August 2011 phone log, and second, that the standard of HDC's record keeping was in your view inadequate.

As you are aware an Ombudsman has authority to consider complaints about the refusal of requests for official information made under the Official Information Act 1982 (OIA). However, where a complaint relates to a request for personal information it must be considered under the Privacy Act 1993 (PA).

An Ombudsman has no authority to consider complaints under the PA. These complaints may be considered by the Privacy Commissioner. Where a complaint relates to a matter that is more properly considered in terms of the PA, there is a legal duty to refer it to the Privacy Commissioner.

In the present case, the 9 August 2011 phone log appears to comprise personal information about yourself. Accordingly, any complaint about HDC's response to your request must be considered under the PA, as must any complaint about HDC's storage of the information at issue. Mr C. L. the Investigator assisting with your complaint, has discussed the matter with a member of the Privacy Commissioner's staff, who agrees with this assessment.

I have therefore formally referred your complaint to the Privacy Commissioner, Mr John Edwards. You should expect to hear from Mr Edwards in due course.

The Privacy Commissioner's contact details are:

Mr John Edwards
Privacy Commissioner
PO Box 10-094
The Terrace
Wellington 6143

Freephone: 0800 803 909
Email: enquiries@privacy.org.nz
www.privacy.org.nz

In respect of your complaint about HDC's storage of the information at issue, I note that you have referred to the Public Records Act 2005 (PRA). If you are concerned about HDC not complying with its obligations under the PRA you may raise this directly with the Chief Archivist. Under the PRA the Chief Archivist has the primary role of ensuring compliance with its provisions. The contact details for the Chief Archivist are:

Archives New Zealand
PO Box 12-050, Wellington, New Zealand
Phone: (64-4) 499 5595
Fax: (64-4) 495 6210
General email: general.enquiries@dia.govt.nz

Finally, I confirm that good progress is being made in relation to your complaints about HDC's response to your request under the OIA for correspondence dated 16 August 2010, 29 January 2015 and 4 June 2015, which relates to your complaint about Dr D H. You should expect to hear from this Office again shortly regarding those complaints.

Yours sincerely

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Manager: Investigations and Resolution, Auckland Office