

28 July 2022

Scott Miller

Email: fyi-request-17423-c2aad5c2@requests.fyi.org.nz

Tēnā koe Scott,

Your Official Information Act request, reference: Request for official information relating to commissioner and FRAC meeting minutes on cyber security

We refer to our letters dated 24 January, 2 June and 12 July 2022 in response to your information requests received on 7 December 2021 and 17 May 2022 made under section 12 of the Official Information Act 1982 (OIA). We appreciate your patience while we considered your requests during this extraordinary time of change for the health sector and under extremely trying times during winter for the Waikato District Health Board whilst we transitioned to Te Whatu Ora Health New Zealand.

You will recall that on 24 January 2022 Waikato DHB provided its decision on your request dated 7 December 2021. On 2 June 2022 we advised that noting some time had passed since your request of 7 December, and acknowledging the public interest, we were giving further consideration to our earlier decision to withhold 9 items in full in response to your earlier request of 7 December 2021. We advised that would consider this in conjunction with your more recent request dated 17 May 2022. We now provide our decision on your requests as follows:

1. Decision on 9 items withheld on 24 January 2022

Te Whatu Ora Health New Zealand Waikato is committed to being open and transparent to the fullest extent possible. We acknowledge the public interest in disclosing information about the May 2021 cyber security incident to promote transparency and accountability of decision-making and we continue to update our website with information

<https://www.waikatodhb.health.nz/information-system-update-service-and-clinic-latest/>

With that said, we are committed to protecting its patients, staff and community from any further harm. In circumstances where cybercriminals continue to monitor for network vulnerabilities, withholding certain information is necessary to avoid any prejudice to measures protecting the community's health and safety and to prevent the use of official information for improper gain or improper advantage. Further, this information forms part of important criminal and regulatory investigations into the Incident which are not yet concluded.

With these considerations in mind, we have decided that withholding this information is necessary to avoid prejudice to measures protecting the health or safety of members of the public, avoid prejudice to the maintenance of the law, prevent the use of official information for improper gain or improper advantage, and maintain legal professional privilege.

For these reasons, this request is refused under the exception set out in section 18(a) of the OIA, on the basis that there is a good reason for withholding the reports with reference to sections 9(2)(a), 9(2)(ba)(i), 9(2)(c), 9(2)(e), 9(2)(g), 9(2)(h) and 9(2)(k) of the OIA. Withholding the reports is also necessary pursuant to section 6(c) of the OIA to avoid prejudicing the maintenance of the law, including the prevention, investigation and detection of privacy-related offences.

2. Decision on your request dated 17 May 2022 for

“..copies of the minutes of all Commissioners' and Finance Risk and Audit Committee meetings, dated since the beginning of December 2021. Specifically, the sections of these minutes that deal with the topics of:

- a. The Waikato DHB ransomware attack and its aftermath*
- b. Digital systems, digital investment and cybersecurity at Waikato DHB generally”*

This request is refused under the exception set out in section 18(a) of the OIA, on the basis that there is a good reason for withholding the reports with reference to sections 9(2)(a), 9(2)(ba), 9(2)(c), 9(2)(h), 9(2)(j) and 9(2)(k) to avoid prejudice to measures protecting the health or safety of members of the public, maintain legal professional privilege, and prevent the use of official information for improper gain or improper advantage. Withholding these documents is also necessary pursuant to section 6(c) of the OIA to avoid prejudicing the maintenance of the law, including the prevention, investigation and detection of offences.

We understand that you have made a statement regarding the Ministry of Health's public disclosure of documents on the response to the incident affecting Tū Ora Compass Health. However, critically, the scale and risk profile of the Tū Ora Incident and the Incident impacting Waikato DHB is not comparable.

Firstly, the Tū Ora Incident involved no positive evidence that unauthorised access to patient data occurred. Secondly, the type of patient enrolment data compromised in the Tū Ora Incident was not on the same scale. In the Tū Ora incident, doctors' health information records were not impacted. Impacted information was primarily limited to an individual's National Health Index number, name, date of birth, address, ethnicity, gender and GP practice.

However, the Waikato DHB Incident included more sensitive categories of personal information relating to staff and patients. Waikato DHB has been in ongoing consultation with the Office of the Privacy Commissioner on this issue. Further, the context of the Waikato DHB Incident attracts a higher risk profile, noting that information was actually exfiltrated in this Incident, the cybercriminal engaged with the New Zealand media and published stolen data on the dark web. Waikato DHB has taken steps to prevent any further use or access from occurring (including by obtaining a High Court injunction).

We have also engaged with the National Cyber Security Centre and the New Zealand Police to assist with their investigation into the Incident.

We appreciate your patience while we have considered your request. If you are not happy with this response, you have the right to make a complaint to the Ombudsman. Information about how to do this is available at www.ombudsman.parliament.nz or by phoning 0800 802 602.

Nāku iti noa, nā



Garry Johnston
Acting Executive Director: Digital Enablement
Waikato District