

Office of the Prime Minister

Prime Minister

Minister for National Security and Intelligence

Minister for Child Poverty Reduction

Minister Responsible for Ministerial Services

Associate Minister for Arts, Culture and Heritage



Matthew Hooton

Ref: PMO 2021-393

Tēnā koe Matthew Hooton

Official Information Act request relating to Public Commentary on COVID-19

Thank you for your Official Information Act 1982 (the Act) request, received on 5 January 2022.

You requested:

"1) Is there any formal or informal policy or generally understood position on whether you or your office staff should ever directly request an employee of an independent Crown entity such as a TEI (as opposed to a department) to provide public commentary in their roles as employees of that entity, rather than to make any such a request through the Chief Executive (in this case the Vice Chancellor)? If so, what is it?"

2) Do you or your office staff recall ever directly requesting that the applicants in the determination referred to above provide public commentary on Covid-19 in their role as employees of the respondent?"

3) Do you or your office staff recall ever directly requesting that the applicants in the determination referred to above provide public commentary on Covid-19 in any other role? If so, what was that role, if any?"

4) If the answer to 2 and 3 is "yes", I make a further request for:

- i) the criteria under which the applicants were chosen to be the experts approached to provide public commentary*
- ii) the dates (exactly or roughly) on which the requests were made*
- iii) any written documentation of the requests*
- iv) information on why the requests were made, and what sort of commentary was requested*

5) Do you or your office staff recall ever directly requesting that anyone other than the applicants in the determination referred to above provide public commentary on Covid-19 in their role as employees of a Crown entity?"

6) Do you or your office staff recall ever directly requesting that anyone other than the applicants in the determination referred to above provide public commentary on Covid-19 in any other role? If so, what was that role, if any?"

7) If the answer to 5 and 6 is "yes", I make a further request for:

- i) who was approached, and the criteria under which they were chosen to be asked to provide public commentary
- ii) the dates (exactly or roughly) on which the requests were made
- iii) any written documentation of the requests
- iv) information on why the requests were made, and what sort of commentary was requested"

The time frame for responding to your request was extended under section 15A of the Act by 20 working days because it necessitated consultations to be undertaken before a decision could be made on the request. Following this extension, I am now in a position to respond.

Guidance on interactions for all Ministers and their offices with Crown Entities is established through the Cabinet Manual and the Crown Entities Act. The Cabinet Manual is publicly available on the Department of the Prime Minister and Cabinet (DPMC) website, at: www.dPMC.govt.nz/sites/default/files/2017-06/cabinet-manual-2017.pdf.

Accordingly, this part of your request is refused under section 18(d) of the Act as the information is publicly available.

In your request you make specific mention of a line in a recent ERA determination:

In a determination issue on Christmas Eve, the Employment Relations Authority (ERA) refers to a Professor and an Associate Professor from the University of Auckland being "Asked by ... the Prime Minister's Office to provide [public] commentary [on COVID-19], in their roles as employees of the [University of Auckland]"

In consulting on the response to this official information request, DPMC spoke with Professor Hendy who confirmed the above reference in the ERA determination was based on statements from his affidavit and was in reference to his appearance alongside the Prime Minister and the Director-General of Health at the 1pm stand up in September 2021. However, you have excluded this in your request.

As such, the remainder of your request is refused under section 18(e) of the Act, as the document alleged to contain the requested information does not exist.

Further information about the Government's response to COVID-19 is proactively released on the Unite Against COVID-19, which is publicly available at: www.covid19.govt.nz/about-our-covid-19-response/proactive-releases/.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

Ngā mihi nui,



Raj Nahna
Chief of Staff