



Prime Minister

Minister for Arts, Culture & Heritage

Minister for Child Poverty Reduction

Minister for National Security & Intelligence

19 DEC 2018

Elaine Smith
fyi-request-8848-60268f6b@requests.fyi.org.nz

Ref: PMO 337-52018

Dear Elaine Smith

Official Information Act request relating to emails sent or received by Hon Clare Curran's Gmail account

Thank you for your Official Information Act 1982 (the Act) request, received on 10 December 2018. You requested:

"...Under the OIA, I request all emails from or to Clare Curran's gmail account seen by you, the PMO or DPMC. For clarity, this is not limited to emails to or from you, the PMO or DPMC...."

You advised this Office on 10 December 2018 that you had sent your original request in 10 October 2018. We were unable to locate your original request despite searches of our correspondence records and, accordingly acknowledged your request on 11 December 2018, and advised that we would respond to your request as soon as possible.

The Act does not apply to former Ministers. However, Gmail emails of a former Minister that are held by a current Minister, department or organisation covered by the Act remain subject to the Act.

The relevant documents in relation to the position of the Chief Technology Officer (CTO), communications with Derek Handley, and the resignation of Hon Clare Curran as a Minister and Member of the Executive Council have been made publicly available. The released documents can be found on the Beehive website at: www.beehive.govt.nz/feature/proactive-release-documents-relating-chief-technology-officer-position.

As noted with the release, some parts of these released documents and some additional full documents are withheld under the following sections of the Act:

- Section 9(2)(a) as withholding the information is necessary "to protect the privacy of natural persons, including that of deceased natural persons".
- Section 9(2)(ba)(ii) as withholding the information is necessary to "protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information- ... would be likely otherwise to damage the public interest."
- Section 9(2)(f)(iv) as withholding the information is necessary to "maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials."
- Section 9(2)(g)(i) as withholding the information is necessary to "maintain the effective conduct of public affairs through the free and frank expression of opinions by or between

or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty."

- Section 9(2)(h) as withholding the information is necessary to "*maintain legal professional privilege.*"
- Where information was already publicly available, section 18(d) on the basis "*that the information requested is ... publicly available.*"

Where some parts of documents have been withheld, the relevant sections of the Act that would apply have been identified on the released documents. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

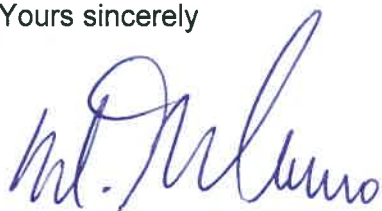
The information you have requested was included in this release and, accordingly, your request is declined under section 18(d) on the basis "*that the information requested is ... publicly available.*"

As far as we are aware, those emails are the only Gmail emails that are held by current Ministers or government agencies and are therefore subject to the Act.

Former Minister Curran, in accordance with her obligation, has provided her Gmail emails to the Chief Archivist, and the Chief Archivist is currently assessing those emails. The emails will undergo a process of assessment and appraisal to establish whether they are public records before they are accepted for transfer under the Public Records Act 2005. The conditions on which any deposit of Ministers' papers is made are established by agreement between the Minister and the Chief Archivist. The process for accessing former Minister's papers deposited at Archives New Zealand is set out in the Cabinet Manual at paragraph 8.114.

You are entitled to ask the Ombudsman to review this response under section 28(3) of the Act. You can contact the Ombudsman online via the Ombudsman website, by email (info@ombudsman.parliament.nz) or by post to The Ombudsman, PO Box 10152, Wellington 6143. Further details can be found on the Ombudsman website at: www.ombudsman.parliament.nz.

Yours sincerely



Mike Munro
Chief of Staff