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Ross Francis

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Dear Mr Francis

Official Information Act 1982 (OIA) request 17/18-0055

Thank you for your request under the Official Information Act 1982 received by the Department of Internal Affairs (Department) on 12 August 2017. You have asked:

Since the introduction of the PRA [Public Records Act 2005]:

Has ANZ prosecuted – or sought to prosecute – any government agency or ministry regarding non-compliance?

Archives New Zealand has not prosecuted, nor has it sought to prosecute, any government agencies or ministries regarding non-compliance with the PRA.

The PRA also provides for the regulatory intervention of estray records.¹ There was one significant estray case in 2015/16, in which we sought to prosecute an individual who was attempting to sell estray records. A full summary of this case can be read in the 2015/16 Annual Report on the State of Government Recordkeeping, available through our website, www.archives.govt.nz.

Has ANZ named any government agency or ministry in its annual report in regards to potential or actual non-compliance? If so, which government agency or ministry has been named and or prosecuted, and for what alleged breach was any such action taken?

Archives New Zealand did not name any government agencies or ministries in its Annual Report on the State of Government Recordkeeping until 2015/16, which was published in July 2017. The public offices referred to in the report are Southern District Health Board and the Ministry of Health. The non-compliance issue discussed relates to control of public records sent to third parties. You can read the summary of the case in the 2015/16 report at the above link.

¹ Estray records are public records, public archives, or protected records that have not been disposed of in accordance with the PRA, and have left the control of the proper authority.

Prior to the 2015/16 report, statements about recordkeeping issues across government were made generally, with the classes of public agencies grouped together, e.g., departments, crown agents, crown entities, tertiary education institutions etc.

How many complaints has ANZ received about the record-keeping of specific government agencies or ministries?

Which ministries or government agencies have been complained about and how many complaints have been made about each of those ministries or government agencies?

Since the introduction of the PRA, Archives New Zealand has received 43 formal requests for intervention in regard to potential non-compliance with PRA.

Requests for intervention tend to be received from individuals (or their advocates) who have been unsuccessful in obtaining public records in their dealings with government. This may be due to a public office's alleged inability to locate a record through poor or inconsistent recordkeeping processes that result in loss or destruction. Alleged failure to create a full and accurate record has also been identified as an issue. The records in question mostly relate to employment, health or immigration matters. Complainants tend to be seeking to highlight a public office's alleged poor recordkeeping practices and in some cases may seek action from the Chief Archivist to improve recordkeeping in the public office.

Attached as Appendix A is a table that outlines the regulated parties about which requests for intervention have been received and the number of complaints received per agency.

It is important that expectations of Archives New Zealand's ability to intervene align with the PRA. As the regulator of public records, Archives New Zealand is likely to achieve the greatest benefits by taking lessons from individual requests for intervention and deriving system-wide benefits.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Richard Foy', with a stylized flourish at the end.

Richard Foy
Chief Archivist (acting)
Archives New Zealand

Appendix A: Regulated parties and number of requests for intervention received

Public Agency or Ministry	Number of requests for intervention
Accident Compensation Corporation (ACC)	1
Auckland Council	1
Auckland Council – Auckland Transport	1
Auckland District Health Board	1
Auckland Police	1
Auckland University of Technology	3
Christchurch City Council	1
Department of Corrections	1
Education Review Office	1
Employment Relations Authority	1
Health and Disability Commissioner	1
Kaipara District Council	1
Manukau District Court	1
Massey University	1
Ministry of Business, Innovation and Employment – Immigration NZ	8
Ministry of Justice	1
Ministry of Justice – Department for Courts	1
Ministry of Social Development	3
Ministry of Health – NASC (Needs Assessment and Service Co-ordination Agencies)	1
New Zealand Defence Force	1
New Zealand Police	4
Office of Hon Nick Smith	1
Prime Minister	1
Prime Minister's Office	1
Southern District Health Board and the audit and compliance unit of the National Health Board	1
Southern Response Earthquake Services Ltd	1
Tauranga City Council	1
Wellington City Council	1
Whangarei District Council	1
Total	43