

20 February 2023

Section (9)(2)(a)

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Our ref: OIA 102193

Tēnā koe Section (9)(2)(a)

Official Information Act request

Thank you for your emails of 19 and 23 January 2023 to the Ministry of Business, Innovation and Employment requesting, under the Official Information Act 1982 (the Act), information relating to the mode of hearings in the Disputes and Tenancy Tribunals, and Tenancy Adjudicator New Zealand Law Society (the Law Society) memberships.

On 20 January 2023, you were advised that your request was transferred under section 14(b)(ii) of the Act to the Ministry of Justice (the Ministry) for response. Your further email request of 23 January 2023 was also transferred to the Ministry for response.

Your requests and my responses are set out below.

“I would like an explanation under Official Information Act as to why adjudicator tenancy and disputes tribunal hearings are not held in person since Covid restrictions have been lifted. The Tribunals as a lower justice court are being held by phone...”

Tenancy Adjudicators and Disputes Tribunal Referees are independent Judicial officers and are solely responsible for how hearings are conducted. Information on the mode by which hearings may be conducted in the Disputes and Tenancy Tribunals is publicly available. I am therefore refusing this part of your request under section 18(d) of the Act. You can find this information available at:

- www.legislation.govt.nz/act/public/1986/0120/latest/whole.html#DLM95927 and
- www.legislation.govt.nz/act/public/1988/0110/latest/LMS136308.html

*“...and why adjudicator, namely **Section (9)(2)(a)** is not a member of the Law Society.”*

Tribunals are independent of the executive branch of government and are excluded from the scope of the Act under section 2(6)(b). Therefore, I am refusing your request under section 18(g)(i) of the Act on the grounds that the information sought is not held by the Ministry and there are no grounds to believe it is held by any other agency subject to the Act.

It may be helpful for me to advise that, as confirmed by section 64(a) of the Lawyers and Conveyancers Act 2006, being a member of the Law Society is voluntary. Furthermore, section 67(5) of the RTA provides information about the eligibility requirements for Tenancy Adjudicators and does not include any requirement for Tenancy Adjudicators to be members of the Law Society.

“For when the Government agencies employ adjudicators who are not members of the law society, please provide training information and manuals and accountability processes to ensure they are complying with their contracted responsibilities.”

While the Ministry provides administrative support to the Tenancy Tribunal, the Ministry does not hold any information regarding training information, manuals, or accountability processes relating to Tenancy Adjudicators. The information may be held by the Tenancy Tribunal; however, tribunals are excluded from the operation of the Act under section 2(6)(b). I am therefore refusing your request under section 18(g)(i) of the Act as the information is not held by the Ministry of Justice, or any other agency subject to the Act.

Please note that this response, with your personal details removed, may be published on the Ministry website at: justice.govt.nz/about/official-information-act-requests/oia-responses/

If you are not satisfied with my response, you have the right to complain to the Ombudsman under section 28(3) of the Act. The Ombudsman may be contacted by email at info@ombudsman.parliament.nz or by phone at 0800 802 602.

Nāku noa, nā



Antony Paltridge
Team Leader, Ministerial Relations and Services