

Our ref 605471 (Complaint ground: 605474)
Contact [REDACTED]
2 April 2024



Dear [REDACTED]

Official Information Act investigation – Health New Zealand

I write on behalf of Chief Ombudsman Peter Boshier concerning your complaint about the decision of Health New Zealand (HNZ) on your request for the free text- box information on the Post Vaccine Symptom Check Survey.

The purpose of this letter is to advise you of the Ombudsman’s likely opinion that HNZ’s 25 January 2024 response to your request was not unreasonable.

I have set out the relevant details below.

Ombudsman’s role

An Ombudsman has authority under the Official Information Act 1982 (OIA) to investigate and review, on complaint, any decision by which an agency subject to the OIA refuses to make official information available when requested.

Analysis

On 25 January 2024, HNZ provided you with a revised response to your request. The Ombudsman would likely consider that response was sufficient to satisfy your request and therefore not unreasonable in terms of the OIA.

Section 16(1)(e) of the OIA allows for an agency to make information comprised in a document available by giving an excerpt or summary of the contents. Under section 16(2) of the OIA, an agency shall make the requested information available in the format preferred by the person requesting it unless one of the reasons listed in 16(2)(a)-(c) applies. Of relevance in this case is 16(2)(a) *‘impair efficient administration.’*

It is the Ombudsman’s view that an agency should first consider other options that are available within the OIA to help manage an administrative burden that may be associated with a request. This could involve imposing a charge, extending the timeframe, and/or consulting with a requester to be viable options to minimise the impact on the Agency.

HNZ has explained that there are 200,000 survey responses. It has further explained that providing this information in the way you have requested would *‘prove an unacceptable impediment to business as usual.’* This is because it would require a manual process for each of the 200,000 survey responses. HNZ has explained that each survey has the potential to contain

identifying information of individuals. This means that every individual survey would need to be reviewed and redacted accordingly.

While relying on section 16(2)(a) is a high threshold, as you can gather, a manual process for each of the 200,000 survey responses would require a substantial amount of time and staffing resources. Even at a rate of two surveys a minute, this would equate to almost a year of full time work for one person. It does not appear that imposing a charge or extending the timeframe would mitigate the administrative burden, given that the current charging guidelines indicate a charge in excess of \$120,000.

In order to provide a response that does not impair efficient administration HNZ has provided ‘*a sanitised and condensed copy of the information in the free text-box through the use of a script, which searches for key words within the free text response. This pulls the keywords into a Trigram or Quadgram response, reflecting 3 or 4 key words (such as Pain or Arm) in the free text response respectively.*’

The Ombudsman would likely accept that HNZ was entitled to provide you with the information in the manner it has. In reaching this view the Ombudsman needs to consider the transparency intended under the OIA, and the administrative burden imposed by the request. It appears that HNZ has reached a balance in this case, the information provided allows you to understand the content of the free text boxes without impairing efficient administration.

Your comments

We invite you to comment before Mr Boshier forms a final opinion on this matter. If you do wish to comment, please respond by **16 April 2024**.

Please note that Ombudsmen must conduct their investigations in private,¹ and are required to maintain secrecy in respect of all matters that come to their knowledge. This is subject only to specific exceptions, one of which relates to explaining to parties the outcome of an investigation.

This information is provided to you in confidence, in order to seek your comment before the Ombudsman forms an opinion on your complaint. Confidentiality should be maintained until the outcome of the investigation is finalised. This does not prevent you from seeking legal advice or support when preparing your response.

Premature disclosure or publication of information can prejudice the outcome of an investigation, or raise concerns as to whether a complaint is made in good faith. If this occurs, the Ombudsman will need to consider whether to continue the investigation.

Yours sincerely



[Redacted signature block]

¹ Section 18(2) Ombudsmen Act 1975. This also applies to OIA and LGOIMA investigations: see sections 29 and 28, respectively.