



20 APR 2018



Dear 

On 9 October 2017, you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *All briefings, reports, aide memoirs, memos, correspondence (including emails) and other relevant documents related to MSD's investigation into the release of Winston Peters' superannuation payments into the public arena.*

Firstly, we apologise for the delay in providing you with this information and for any inconvenience this has caused.

On 29 January 2018, a MaES Advisor contacted you to advise you that the Ministry intended to provide you with three documents, which the Ministry believed best meets the public interest in summarising the findings of the investigation; as a majority of the remaining documentation is either administrative, repetitive of the findings in the enclosed reports, or will be withheld due to privacy reasons. You were also advised that upon reviewing the three documents, if you would still like the remaining documentation; the Ministry would consider releasing these to you. You confirmed you were fine with this approach.

Please find enclosed three documents in scope of your request which provide an outline of the investigation that was undertaken by the Ministry and a summary of the findings of the investigation. You will note the names of some individuals are withheld under section 9(2)(a) of the Official Information Act. The need to protect the privacy of these individuals outweighs any public interest in this information.

Date	Title
8 September 2017	Investigation Terms of Reference - Handling of Private Superannuation Information
15 September 2017	Findings of the investigation into the alleged leak of personal information about Rt Hon Winston Peters
15 September 2017	Final Draft to be attributed to a Department of Internal Affairs' spokesperson

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter and attachments on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding the Ministry's investigation into the release of Winston Peters' superannuation payments into the public arena, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely




Nadine Kilmister
Director of the Office of the Chief Executive



Memo

To: Debbie Raines, Manager Workplace Integrity

From: Merv Dacre, Deputy Chief Executive, Corporate Solutions 

Date: 8 September 2017

Security level: IN CONFIDENCE

Investigation Terms of Reference - Handling of Private Superannuation Information

Background

- 1 The Ministry of Social Development is responsible for the administration of New Zealand Superannuation and is the custodian of information collected while discharging that responsibility.
- 2 On or around 26 August 2017 it was reported in the New Zealand news media that, member of parliament and New Zealand First party leader, the Rt Hon Winston Peters ("Mr Peters") had received superannuation at a higher rate than he was entitled to and, as a result, had been required to repay a sum of money overpaid.
- 3 It has been reported that the media received this information from an anonymous source.
- 4 The Ministry had identified on 26 May 2017 that there may have been an overpayment of superannuation to Mr Peters. The overpayment issue has since been resolved to the satisfaction of Mr Peters and the Ministry.
- 5 The Chief Executive has requested that I commission an investigation to consider the handling of Mr Peters' information.

Scope

- 6 You are charged with conducting an investigation to:
 - a Identify which employees accessed, or were given, information, on or after 26 May 2017, relating to the payment of superannuation payments made to Mr Peters,
 - b Confirm that all staff who accessed the information had a reasonable business purpose for accessing that information,
 - c Identify whether any employee gave any of that information to a third party; and
 - d Prepare a report outlining the findings of your investigation.

Investigation

- 7 Your investigation should proceed according to the following principles:
 - a You are to make such inquiries (including accessing Ministry records and interviews with relevant persons) that you consider necessary for your investigation.
 - b You may consider, and report on, any background information that the staff, or any person who you speak to in the course of the investigation, provides to you, subject to such information being relevant to the investigation.
 - c You are to provide a written investigation report to me setting out your views and conclusions, with reference to the facts and evidence upon which such views and conclusions are based. You will provide this in draft for my review, prior to finalizing your report.
- 8 Should you believe it is necessary to enlarge upon the terms of reference due to matters arising in your investigation you are to approach me to discuss potentially enlarging this terms of reference.
- 9 Your investigation is not an employment investigation and you are not to make any finding, or comment, about the conduct of any staff member as it relates to their employment obligations to the Ministry.
- 10 The information in the report will be confidential to me and I will determine who the report will be disclosed to and when I do that.

Timing

- 11 If possible, you will conclude the investigation by 15 September 2017. You will provide me with updates as to progress, either by email or telephone call.

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Report

Date: 15 September 2017 **Security Level:** SENSITIVE

To: Merv Dacre, DCE Corporate Solutions

Findings of the investigation into the alleged leak of personal information about Rt Hon Winston Peters

Purpose of the report

- 1) This report provides you with the detailed findings of the investigation completed into the alleged leak of the Rt Hon Winston Peters' (Mr Peters) personal information.

Executive summary

- 2) Following media coverage on 26 August 2017 which identified a possible leak of Mr Peters' superannuation information an investigation was commissioned to identify whether MSD may be the source of the information.
- 3) A full range of system related activities have been employed to undertake this investigation including:
 - i) Foot printing across all MSD systems to identify staff who had accessed Mr Peters' records
 - ii) Email sweeps across all MSD staff emails addresses looking for correspondence to and from specified media organisations
 - iii) Phone number sweeps across all MSD staff phone numbers (both landline based and mobile) looking for incoming and outgoing phone calls to specified media outlets
 - iv) Document tracking to assess whether specified documents / reports developed through this process had been emailed to any external email address.
- 4) There were 41 staff identified as having being involved in some way in this case. All of these staff have been approached to account for their actions.
- 5) Foot-printing across MSD systems identified one staff member who inappropriately accessed Mr Peters' superannuation record. However this staff member accessed the record for the first time on 28 August as a result of seeing the media coverage. She is therefore excluded from the investigation into the leak of information.
- 6) Email and telephone sweeps of contact made with media during the period of the investigation did not reveal anything of concern. All activities were either for a valid business purpose or were of a personal nature and did not contain any business information.

- 7) Document tracking was completed. Nothing was found that would raise concern.
- 8) Face to face interviews have been completed with 12 staff who had full access and knowledge of all information about Mr Peters' case. Having reviewed the 12 recordings of these interviews I am satisfied that:
 - a) All staff interviewed had valid business reason for their involvement in this case and acted with professionalism at all times
 - b) Security of information and maintaining confidentiality was at the front of mind in all activities related to Mr Peters' case
 - c) Everyone involved understood the sensitivity and importance of confidentiality in this matter and the consequences for both MSD and Mr Peters' should his privacy be breached.
- 9) Written declarations were sought from 29 staff who had limited access to information throughout the process (these people provided advice and support at varying points throughout the process):
 - a) 24 staff have signed and returned their declarations
 - b) 2 staff members are seriously ill and have not been contacted
 - c) 1 staff member is sick and is expected to return on Monday 18 September. She has agreed to sign the declaration on her return
 - d) 1 staff member is on leave until 1 October and I have been unable to make contact with her
 - e) 1 staff member when contacted admitted to accessing the record as a result of seeing the media coverage on 28 August 2017 declaration (see paragraphs 5 and 49 – 51).
- 10) While there remains four staff that are yet to complete declarations, the reason they were not interviewed was because it was understood that the amount of information that they had access to was limited and therefore it was highly unlikely that they could have leaked the information that went to the media.
- 11) For this reason I am satisfied to complete this report with the proviso that declarations are followed up for the remaining staff when they are available.
- 12) In summary I found no evidence to indicate that any staff member in MSD is the source of the leak of information to the media.

Recommended actions

It is recommended that you:

- 1 **NOTE** the contents of this report and that I have been unable to locate any evidence that a staff member employed by MSD is the source of the leak of information to the media
- 2 **AGREE** that for completeness of the investigation that the four staff yet to complete declarations be followed up and that these be obtained when these staff are available.

- 3 **AGREE** that the staff member who accessed Mr Peters' record on 28 August 2017 following the media coverage be referred to HR for an appropriate Code of Conduct investigation to be carried out.

Debbie Raines
Manager Workplace Integrity
Corporate Solutions

Date

Merv Dacre
DCE Corporate Solutions

Date

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Background

- 13) The Ministry of Social Development is responsible for the administration of New Zealand Superannuation and is the custodian of information collected while discharging that responsibility.
- 14) On or around the 26 August 2017 it was reported in the New Zealand media that, member of parliament and New Zealand First party leader, the Rt Hon Winston Peters ("Mr Peters") had received superannuation at a higher rate than he was entitled to and, as a result, had been required to repay a sum of money overpaid.
- 15) It was reported that the media received this information from an anonymous source.
- 16) The Ministry had identified on 26 May 2017 that there may be an issue with the rate superannuation paid to Mr Peters. As a result he was contacted and interviewed. At this meeting it was agreed that the rate of payment he had been receiving since 2010 had been incorrect and an overpayment had been made.
- 17) The overpayment was established on Mr Peters' MSD systems record on 26 July 2017 and this was immediately repaid by Mr Peters.

Scope of the Investigation

- 18) Following the release of this information in the media the Ministry commissioned an investigation into the handling of Mr Peters' information. The scope of the investigation was to:
 - i) Identify employees who accessed, or were given information, on or after 26 May 2017 and before 26 August 2017, relating to the payment of superannuation payments made to Mr Peters;
 - ii) Confirm that all staff who accessed information had a reasonable business purpose for accessing that information;
 - iii) Identify whether any employee gave any of that information to a third party; and
 - iv) Prepare a report outlining the findings of my investigation.

Investigation Approach

- 19) A full range of system related activities have been employed to undertake this investigation including:
 - i) Foot printing across all MSD systems to identify staff who had accessed Mr Peters' records
 - ii) Email sweeps across all MSD staff emails addresses looking for correspondence to and from specified media organisations
 - iii) Phone number sweeps across all MSD staff phone numbers (both landline based and mobile) looking for incoming and outgoing phone calls to specified media outlets
 - iv) Document tracking to assess whether specified documents / reports developed through this process had been emailed to any external email address
- 20) There were 41 staff identified as having being involved in some way in this case. All of these staff have been approached to account for their actions.

Investigation Findings

Foot-printing MSD System Accessing – SWIFTT / UVII / CMS

- 21) Foot-printing records were obtained on 29 August 2017 from the SWIFTT / UCVII and CMS payment and benefit record systems. In the case of SWIFTT and UCVII these records dated back to April 2010 when Mr Peters first made application for Superannuation. For CMS the system foot-printing started on 26 May 2017.
- 22) The foot printing record was assessed by the DCE Service Delivery's office and matched with a list of names that had been developed during the course of the review of Mr Peters' case. It was determined by them that all staff identified in the footprints had a valid business reason for being in the systems records for Mr Peters.
- 23) Regular foot-printing of Mr Peters' records has continued since 29 August and there has been no inappropriate accessing of the record.

Email and Telephone Sweeps

- 24) The National Office Communications team provided information that Lloyd Burr from Mediaworks was the journalist who broke the story and that other early chasers of the story were Tim Murphy and Melanie Reid from newsroom.co.nz.
- 25) Based on this information the full contact details for these journalists were obtained and sweeps completed across MSD email and phone systems.
- 26) There were no phone calls (incoming or outgoing) from and to MSD phones (both landline and mobile) that could be identified.
- 27) Neither were there any emails to the journalists identified – however between the 26 May 2017 and 29 August 2017 there were 1,925 emails identified that were travelling between MSD staff and either @newsroom or @media works email addresses. (Note: early identification of emails only provides the *headline information* of "to", "from" "time and date stamp" and "subject line".)
- 28) All 1925 emails were initially evaluated based on the *headline information* and assessed for possible release of information. Two assessments of the list were completed. The first review of emails completed by the Internal Fraud Unit (IFU) removed all correspondence between MVCOT/CYF and the media (note systems are still shared so sweeps that IFU complete still obtain results for both organisations). In addition there was a lot of competition email traffic – these emails were also removed.
- 29) This left almost 600 emails on the list (many of these were multiple emails on the same topic to a number of people due to the email groups that we have set up in our email system). The National Communications team then took responsibility for reviewing the list and they were able to remove obvious and known business contacts with the two media organisations. At the end of this process 117 emails were left.
- 30) IFU worked with IT and efforts were made to recover the full content of all 117 of these emails. The outcome of that was:
 - i) 25 were of a personal nature and did not contain business information
 - ii) 3 included advertising and/or competition information
 - iii) 85 were for a valid business purpose
 - iv) 4 could not be restored / recovered
- 31) It is my assessment that the four emails that could not be recovered are highly unlikely to be the source of the leak of information. I make this assessment on the basis that two of these emails were sent on 6 July 2017 prior to the overpayment being established on Mr Peters' record - that meant that there was insufficient information in existence in MSD at the time for these emails to be the source of the leak (which it appears did provide journalists with an amount for the overpayment).

- 32) There were also two emails sent in August that could not be recovered – one was sent from the Collections Unit email group address to s 9(2)(a) OIA [redacted] on 22 August 2017 – the subject line in this email was Attention Payroll – MSD information Request. My assessment of this is that this is an email with a valid business purpose as it is the Collections Unit's practice to confirm employment details of debtors prior to placing deduction notices on their salary or wages.
- 33) The remaining email was sent to s 9(2)(a) OIA [redacted] on 9 August 2017 – the subject line was s 9(2)(a) OIA [redacted]. As I have been unable to talk with the staff member who sent this email (they are currently on leave) I have assumed from the subject line that this email was of a personal nature and it appears to relate to an activity outside of work.

Document Tracking

- 34) The Chief Executive's Office provided me with a list of documents that were produced following the identification of an issue with Mr Peters' entitlement;
- "20170622 Key Facts- for CE" (A9847972)
 - "20170627 Note for Brendan - Peters Case" (A9847974)
 - "20170703 Note for Brendan_Peters case_Staff list" (A9847590)
 - s 9(2)(a) OIA [redacted] Copy of initial letter sent to Mr Peters" (A9847973)
 - [redacted] Copy of final letter sent to Mr Peters" (A9847978)
 - [redacted] Overpayment letter" (A9847979)
 - "20170802 Note for Brendan - Finalised Peters Case" (A9847977)
 - s 9(2)(a) OIA [redacted] Copy of payment received letter to Mr Peters" (A9847975)
 - "20170803 Draft letter payment received" (A9847981)
 - "20170803 Note for Min Tolley - No surprises" (A9847980)
 - "20170815 Note to Min Tolley signed by the CE" (A9852303)
 - "20170829 Timeline of events_for CE" (A9920933)
 - "20170829 Timeline of events_TRUNCATED" (A9921340)
 - "20170815135000932.pdf"
- 35) Working with the team in IT Security we attempted to track these documents in MSD systems to assess whether they had been emailed to any external email addresses. No instance of this occurring could be found.
- 36) A more general search was also completed where all files beginning with "20170" and containing one of the following; "Brendan", "Peters", "Tolley", "letter", "facts", "timeline" (case insensitive) were identified. The results that were returned bore no resemblance to any of the documents outlined above.
- 37) There are significant limitations in taking this approach because a person with intent to use these documents (or remove them from the Ministry) could use any number of options to remove these documents without leaving any footprint eg they could simply print it and walk out with it.
- 38) At this stage given the small group of people that have been involved in the production of these memos I believe (based on interviews that I have had with staff involved) that it is unlikely that any of these actual documents formed part of the leak that was provided to the media. In fact, I understand the source of the leak to the media was an anonymous phone call.

Staff Interviews and Declarations

- 39) In the early stages of the investigation process I identified 41 staff that had had varying levels of involvement in this case between 26 May 2017 and 28 August 2017.
- 40) In my memo to you dated 4 September 2017 you agreed that we would take a dual approach to contacting staff about this matter as follows:
- a) For the 11 staff that had full knowledge and access to all information about Mr Peters' case, formal face to face interviews by myself (or my representative should I be unavailable) would be completed;
 - b) For the 29 staff with limited access /involvement in the case, a written declaration would be obtained that confirmed:
 - i) All involvement with Mr Peters' superannuation case was appropriate and work related
 - ii) Staff only discussed the information and the work they were doing with people that had an authorised business purpose and a right to know
 - iii) Mr Peters' information was kept secure and confidential at all times.
 - c) The Chief Executive would be interviewed by a person nominated by the State Services Commission.

Face to Face Interviews

- 41) All interviews have now been completed, including that of the Chief Executive. Having reviewed the 12 recordings of these interviews I am satisfied that:
- a) All staff interviewed had valid business reason for their involvement in this case and acted with professionalism at all times
 - b) Security of information and maintaining confidentiality was at the front of mind in all activities related to Mr Peters' case
 - c) Everyone involved understood the sensitivity and importance of confidentiality in this matter and the consequences for both MSD and Mr Peters should his privacy be breached
- 42) Only two additional people were identified through the process as having involvement in this case. These people were approached as subject matter experts to obtain clarification of a policy or process and had no knowledge that the advice they were providing was for Mr Peters' case.
- 43) Only two people interviewed admitted to having relationships with media people outside of their Ministry employment. Both provided assurances that there had never been any discussions about this case. Neither of the media people identified have in any way be involved in the reporting relating to Mr Peters' case.

Staff Declarations

- 44) There was 29 staff identified as having limited involvement/touch points in the case at varying point throughout the process.
- 45) All of these staff were first contacted by phone and advised of the process that I was following. They were then asked to complete a declaration which confirmed their involvement in the process and this was emailed to them.
- 46) Following is a summary of the response rate:
- a) 24 staff have signed and returned their declarations
 - b) 2 staff members are seriously ill and have not been contacted
 - c) 1 staff member is sick and is expected to return on Monday 18 September. She has agreed to sign the declaration on her return
 - d) 1 staff member is on leave until 1 October and I have been unable to make contact with her.

- e) 1 staff member when contacted admitted to accessing the record as a result of seeing the media coverage on 28 August 2017 declaration.
- 47) While there are four staff that are yet to complete declarations, the reason they were not interviewed was because it was understood that the amount of information that they had access to was limited. From this it was concluded that it was unlikely that any of them were the source of the information leak – specifically only those staff interviewed knew the amount of the debt.
- 48) For this reason I am satisfied to complete this report with the proviso that declarations are followed up for the remaining staff when they are available.
- 49) The staff member that has admitted to accessing the record did so on Monday 28 August 2017 – she was incorrectly included in the initial list of staff as the period of interest for the leak of information only covered those staff with interactions between 26 May 2017 and 26 August 2017.
- 50) The fact that she was inappropriately on the list outside the interest period was not identified until she was contacted by phone and admitted that she had looked at the record as a result of seeing the media coverage.
- 51) It is my recommendation that this case be referred to HR and an appropriate Code of Conduct investigation is undertaken.

Summary

- 52) In summary I found no evidence to indicate that any staff member in MSD is the source of the leak of information to the media.
- 53) For completeness of the investigation I will follow up obtaining the declarations from the 4 staff that have been unavailable through this process.
- 54) With your agreement I will refer the staff member referred to in paragraphs 49 – 51 to s 9(2)(a) OIA for an appropriate Code of Conduct investigation is undertaken.

Author: Debbie Raines, Manager Workplace Integrity, Corporate Solutions

FINAL DRAFT

September 15, 2017

To be attributed to a Department of Internal Affairs' spokesperson:

We investigated whether any Ministerial Services staff received or passed on information regarding the Rt Hon. Winston Peters' superannuation matter.

The investigation process included a search of digital records and a series of interviews with Ministerial Services staff. It found that five Ministerial Services employees had received the information before it was reported by media. There was no evidence that the information was provided to media or third parties by these staff members.

The Department takes privacy seriously, and upholding the confidentiality of information forms part of the Code of Conduct all employees sign.

If further information comes to light, the Department will undertake further inquiries as necessary.

ends

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