



16 March 2023

Cooper Legal

Tēnā koe

On 19 January 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *Please provide data around the length of time it has taken MSD to provide a full response to Privacy Act requests (e.g. not just the CYRAS file, but all available files):*
 - *As an annual average, every year since year end 2015 to year end 2022*
 - *Also including, each year, the highest figure for any one response (that is, the case with the highest amount of that days it took MSD to provide records for)*
 - *With the above information points being provided for Cooper Legal clients, and a separate figure for requestors who were not represented by Cooper Legal at the time.*
 - *If possible, please provide the data in figures and also in bar or line chart format.*

On 20 January 2023, you agreed to limit the scope of your request to information about Historic Claims Personal Information Requests (PIRs) only.

On 14 February 2023, the Ministry emailed you to advise that more time was required to respond to your request, in accordance with section 15(1) and 15A of the Act. The reason for the extension is that the consultations necessary to make a proper decision on the request were such that a proper response could not reasonably be made within the original time limit.

The information you have requested is captured by two types of information searches completed by the Ministry during a PIR. The first is a standard search which is related to requests for information from a claimant's personal files. This information may include their personal or family's state care files and/or their individual Historic Claims file. The second type is an 'extended search' which is related to requests for information that is contained in institutional files such as residence admissions registers, residential diaries,

or secure care logs. An extended search may be required where a claimant's individual care files have been destroyed, but the person is interested in understanding what other information may exist that relates to their care experience.

All care and related records were formally transferred under section 23 of the Public Records Act 2005 to Oranga Tamariki in 2017, when the agency was formally established. As Oranga Tamariki is the responsible agency for the relevant records, the Historic Claims team must request access to collect necessary records required to assess claims and fulfil PIRs.

When a claimant or their representative makes a PIR, the Ministry provides the requestor with copies of the information that will be used in the Historic Claims assessment

On 27 November 2019, the Ministry began using the 'Historic Claims Application' (the Application), which is a database established to centrally record claims received. Prior to the Application, this information was collated manually.

When the Application was established, the Ministry migrated recent relevant operational data that was needed to support ongoing work. Some historical requests were not migrated into the database. As there was only a partial migration of data, I would like to acknowledge that the data provided for the years 2015 and 2016 is incomplete. Please note that the data provided to you for these two years is not an accurate representation of the PIRs completed, and instead a representation of the information that was migrated to the Application.

In 2019, around the time the Application was established, the Ministry began specifically recording PIRs that require an extended search. Extended searches may take a longer period of time to process than a standard PIR search, as a wider range of files must be located and reviewed by the Historic Claims Unit. There may also be further delays encountered while completing an extended search as the Ministry may require further information from the claimant to enable further searching.

To address the difference in processing timeframes between standard and extended search PIRs, I have provided the data that you have requested in separate tables.

Please refer to the below **Appendix** which contains the following tables:

- **Table One:** The number of completed Personal Information Requests (excluding extended searches) for the years 2015 to 2022, broken down by the average and maximum number of calendar days to complete the request, for all claimants.

- **Table Two:** The number of completed Personal Information Requests (excluding extended searches) for the years 2015 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants represented by Cooper Legal.
- **Table Three:** The number of completed Personal Information Requests (excluding extended searches) for the years 2015 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants not represented by Cooper Legal.
- **Table Four:** The number of completed Personal Information Requests (including only extended searches) for the years 2019 to 2022, broken down by the average and maximum number of calendar days to complete the request, for all claimants.
- **Table Five:** The number of completed Personal Information Requests (including only extended searches) for the years 2019 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants represented by Cooper Legal.
- **Table Six:** The number of completed Personal Information Requests (including only extended searches) for the years 2019 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants not represented by Cooper Legal.

Please note that information for the years 2015 and 2016 that was not migrated to the Application in 2019 is held in notes of individual case files. In order to provide you with this information, Ministry staff would have to manually review a substantial number of files. As such, I refuse your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

As discussed with you in our meeting on 18 August 2022 and subsequent correspondence, the Ministry acknowledges that there have been longer than anticipated delays in responding to Privacy Act 2020 requests in 2022. The Ministry is taking this issue seriously and has worked towards recruiting and training more staff members to assist with these requests. The Ministry is also considering other initiatives to reduce the time taken to respond to these requests.

Please note that the average and maximum number of days taken to complete a request does not provide an indication of whether the provisions

of Part 4, Subpart 1 of the Privacy Act 2020 have been complied with. Time limits may be extended in accordance with this part of the Privacy Act 2020.

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. The Ministry will do this by publishing this letter and attachments on the Ministry'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. While personal details will be deleted, the Ministry invites your feedback if you wish for Cooper Legal's firm name to be published or deleted prior to publishing.

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 timeframes of Historic Claims applications, 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.

Ngā mihi nui



Linda Hrstich-Meyer
General Manager
Historic Claims



Appendix

Table One: The number of completed Personal Information Requests (excluding extended searches) for the years 2015 to 2022, broken down by the average and maximum number of calendar days to complete the request, for all claimants.

<i>All claimants</i>	2015	2016	2017	2018	2019	2020	2021	2022
Total number of requests completed	4	189	605	534	559	544	633	383
Average number of calendar days to complete the request	300	111	86	60	99	100	131	236
Maximum number of calendar days to complete the request	334	276	307	413	268	431	779	598

Table Two: The number of completed Personal Information Requests (excluding extended searches) for the years 2015 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants represented by Cooper Legal.

<i>Claimants represented by Cooper Legal</i>	2015	2016	2017	2018	2019	2020	2021	2022
Total number of requests completed	3	119	303	285	243	169	188	146
Average number of calendar days to complete the request	289	88	67	59	111	123	139	248
Maximum number of calendar days to complete the request	334	132	170	379	256	365	365	582

Table Three: The number of completed Personal Information Requests (excluding extended searches) for the years 2015 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants not represented by Cooper Legal.

<i>Claimants not represented by Cooper Legal</i>	2015	2016	2017	2018	2019	2020	2021	2022
Total number of requests completed	1	70	302	249	316	375	445	237
Average number of calendar days to complete the request	334	150	105	61	89	90	127	228
Maximum number of calendar days to complete the request	0	276	307	413	268	431	779	598

Notes for Tables One, Two and Three:

- Please note that where the figures for the maximum number of calendar days taken to complete the request are far greater than the average number of calendar days, these figures are considered as outliers by the Ministry. Each case that is considered an outlier has unique circumstances. For example, the Ministry may have had difficulty locating files, there may have been an administrative error, or there may have been a large quantity of information to assess.
- The Ministry would like to acknowledge that we consider the data for the years 2015 to 2016 to be incomplete. The Ministry has provided the data that was migrated to the Historic Claims Application system in 2018.

Table Four: The number of completed Personal Information Requests (including only extended searches) for the years 2019 to 2022, broken down by the average and maximum number of calendar days to complete the request, for all claimants.

<i>All claimants</i>	2019	2020	2021	2022
Total number of requests completed	4	5	8	11
Average number of calendar days to complete the request	115	153	200	108
Maximum number of calendar days to complete the request	183	520	961	345

Table Five: The number of completed Personal Information Requests (including only extended searches) for the years 2019 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants represented by Cooper Legal.

<i>Claimants represented by Cooper Legal</i>	2019	2020	2021	2022
Total number of requests completed	3	5	5	6
Average number of calendar days to complete the request	92	153	215	145
Maximum number of calendar days to complete the request	162	520	961	345

Table Six: The number of completed Personal Information Requests (including only extended searches) for the years 2019 to 2022, broken down by the average and maximum number of calendar days to complete the request, for claimants not represented by Cooper Legal.

<i>Claimants not represented by Cooper Legal</i>	2019	2020	2021	2022
Total number of requests completed	1	0	3	5
Average number of calendar days to complete the request	183	0	175	64
Maximum number of calendar days to complete the request	183	0	217	185

Notes for Tables Four, Five and Six:

- Please note that where the figures for the maximum number of calendar days taken to complete the request are far greater than the average number of calendar days, these figures are considered as outliers by the Ministry. Each case that is considered an outlier has unique circumstances. For example, the Ministry may have had difficulty locating files, there may have been an administrative error, or there may have been a large quantity of information to assess.
- As outlined in the Ministry's response to you, recording of data specifically for extended searches began in 2019.