

Independent Investigation Process

Final Terms of Reference

Introduction

A complaint of alleged inappropriate behaviour and physical contact has been received about the Hon Meka Whaitiri, Minister of Customs and Associate Minister of Agriculture, Crown/Māori Relations, Forestry and Local Government. It is alleged that at a function in Gisborne on Monday 27 August 2018, the Minister grabbed an employee of the Department of Internal Affairs, 9(2)(a) [REDACTED], by the arm, pulled/dragged 9(2)(a) [REDACTED] from a room and raised her voice at 9(2)(a) [REDACTED].

An independent investigation is to be carried out to make findings on the facts in relation to these allegations and reporting the factual findings to Morag Ingram, General Manager Ministerial & Secretariat Services, and the Department of Internal Affairs' Chief Executive. The Chief Executive will provide a copy of the final report to the Prime Minister, Rt Hon Jacinda Ardern. This investigation is to be completed by an independent external investigator, David Patten.

A copy of these Terms of Reference will be provided to the Prime Minister, to her Chief of Staff, the Cabinet Office, the State Services Commission, and to the Minister Responsible for Ministerial Services.

Objective

- To complete a thorough, independent investigation, following the process set out in the Department of Internal Affairs' Problem Resolution Procedure – Formal investigation procedure, as applicable.
- To ensure fairness and natural justice to the parties are observed throughout the investigation.
- To provide unbiased factual findings in a written report.

Scope

The allegation raised by the complaint is of inappropriate behaviour towards a Departmental employee, 9(2)(a) [REDACTED] in Gisborne on Monday 27 August 2018.

In particular, the investigator is required to make factual findings about the Minister's alleged behaviour.

The investigator is to investigate the actions complained of, the circumstances in which the alleged conduct occurred and any other relevant factors.

Process

The investigator is to be provided all relevant documentation related to the complaint.

The investigator is to provide and undertake a fair, independent and thorough investigation process, consistent with the Department's Problem Resolution Procedure – Formal investigation procedure, as applicable.

The investigator is to interview 9(2)(a) [REDACTED], the Minister and any material witnesses individually. All interviews are to be undertaken at the discretion of the investigator.

All people interviewed will have the right to attend the interview with a support person or representative, however:

- this person must not be a person who is otherwise involved in the investigation;
- they must agree to treat the information received as confidential;
- as credibility may be an issue it is important that the investigator hears primarily from the interviewee

directly, where at all possible.

All interviews will be digitally recorded, transcribed and copies will be provided to the Minister. Interviewees are entitled to a copy of their own interview notes, and will sign the transcript as an accurate record of their interview.

All information gathered in the investigation must be put to the Minister for response, unless there is a compelling health and safety reason for not doing so.

Any information disclosed during the interview process may be put to other interviewees for comment or response as part of this process. Copies of relevant information will not be provided to witnesses or individuals beyond the employee, the Minister and their legal advisors. This information may also be referred to in the investigation report.

Interviewees must be directed to keep the content of the interview (including the questions asked, answers given, and their interview transcripts) confidential, and may not discuss it with other people (beyond their legal advisors) without first seeking the agreement of the investigator.

Timing

The investigation is to be completed as soon as is practicable.

Reporting

A thorough report is to be provided to Morag Ingram and the Department's Chief Executive outlining the investigation process, and the findings of fact from the investigation. A draft of the report is to be provided to [REDACTED] or [REDACTED] representative and to the Minister or her representative for comment before the report is finalised.

The Chief Executive will provide a copy of the final report to the Prime Minister, Rt Hon Jacinda Ardern.

Proactively released by the Department of Internal Affairs