



NEW ZEALAND COUNCIL OF TRADE UNIONS
Te Kauae Kaimahi

**Submission of the
New Zealand Council of Trade Unions
Te Kauae Kaimahi**

to the

Ombudsman

on

**Experiences of seeking information from 12
government agencies**

P O Box 6645

Wellington

24 June 2016

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1. Introduction

1.1. This submission is made on behalf of the 31 unions affiliated to the New Zealand Council of Trade Unions Te Kauae Kaimahi (CTU). With 320,000 members, the CTU is one of the largest democratic organisations in New Zealand.

1.2. The CTU acknowledges Te Tiriti o Waitangi as the founding document of Aotearoa New Zealand and formally acknowledges this through Te Rūnanga o Ngā Kaimahi Māori o Aotearoa (Te Rūnanga) the Māori arm of Te Kauae Kaimahi (CTU) which represents approximately 60,000 Māori workers.

1.3. Thank you for the invitation to provide our experience on obtaining information from the twelve government agencies you are reviewing. The agencies are

- Accident Compensation Corporation
- Department of Corrections
- Ministry of Education
- Ministry of Foreign Affairs and Trade
- Ministry of Health
- Ministry of Justice
- New Zealand Customs Service
- New Zealand Defence Force
- New Zealand Transport Agency
- Ministry of Social Development
- Ministry of Transport
- State Services Commission

1.4. However our experience does not cover all of them, and many of our requests are to other agencies.

1.5. A number of our affiliates made submissions to the earlier stage of your office's inquiry and may not make a further submission on this stage, though of course their previous submissions still stand.

2. Accident Compensation Corporation

2.1. We have requested significant statistical information from ACC on claim numbers in the past year. We found them very cooperative and helpful in helping us to understand the data and what would meet our needs. While they have some claims statistics available online they should work towards making much more of the data available online either through their own web site or through Statistics New Zealand (SNZ). It is a valuable resource with considerable depth.

2.2. A number of other more specific requests have been made over the last two years, and apart from one request which apparently got lost in their system and was not replied to until a reminder was sent, they have generally been cooperative and responsive.

3. Ministry of Foreign Affairs and Trade

3.1. The growing public concerns regarding the secrecy surrounding the negotiation of international treaties with increasingly intrusive and contentious domestic impacts is a major one which your office will be familiar with. It is entirely inappropriate that such important legal instruments, which are increasingly determining and constraining domestic law, regulation and public administration and policy, should be withheld. In our view there should be a move towards treating international legislation of this kind similarly to domestic legislation with public consultation at several stages in its development and amendment. This is made even more important by the fact that international treaties are much more difficult to change than most legislation because change requires either complete abrogation or difficult negotiations with multiple governments who will be reluctant to unwind 'packages' of gains and concessions, and who are naturally defensive of their own interests. Political considerations as well as considerations directly related to the agreements are at stake, and international power imbalances also come into play.

3.2. In addition to draft negotiating texts there should also be more flexibility in public release of any background papers used in developing positions, advice, and discussion of positions between officials. Increasingly (such as in the Transpacific Partnership and the Trade in Services Agreement negotiations) the New Zealand

government is entering into agreements to withhold such background papers for periods of several years. This is against the public interest in openness and accountability.

- 3.3. We would encourage your office to take a critical view of withholding of negotiating text and of agreements to withhold background papers in terms of their inconsistency with the Official Information Act. This would be more consistent with the approach taken by the European Ombudsman who has recognised that some arrangement must be made to allow the public to see the negotiating texts before their finalising is a *fait accompli*.¹ We appreciate this is a complex issue but would be happy to discuss this further with you.
- 3.4. While these matters are not unique to MFAT (other Ministries are involved in or take the lead in international negotiations) our experience is that MFAT is particularly zealous in withholding this kind of information.
- 3.5. Where secrecy is required, it is possible to give briefings to interested parties under various degrees of confidentiality. While this is far from being as useful as full release of the text, officials can at least give some indication of progress of negotiations, the points of difficulty, and whether (and perhaps in general terms how) concerns have been addressed. Our experience is that officials are very variable as to their willingness to do this. Officials outside MFAT have in general been more willing and more informative, but there are also a minority of officials within MFAT who have taken a similar approach. On the whole, we have gained considerably more information about the progress and detail of negotiations from international source than from our own officials.
- 3.6. MFAT say that they provide information on negotiations on their web site, but this is frequently threadbare and often woefully out of date. Four current examples are attached. They take a formulaic approach with little information about the outcomes of latest rounds of negotiations, and where it has been provided has been a carbon copy of parts of official communiques with little additional information for New Zealand readers. Background information is predictable advocacy and offers to consult are focused on business interests. The extracts from their web site in Appendix 1 are at least more or less up to date, but in previous months and years they have been months out of date even when it was publicly known that intensive activity was taking place. A “TPPTalk” blog instituted by MFAT during the TPPA

¹ See <http://www.ombudsman.europa.eu/en/cases/decision.faces/en/58668/html.bookmark>

negotiations went a little further but still reserved itself during the negotiations almost entirely to brief restatements and justifications of official positions, plus occasional speeches and statements by TPPA supporters². By comparison, while scarcely a model of disclosure and somewhat variable, the web site of MFAT's Australian counterpart at least gives information as to progress, provides full communiques and previous progress reports. It frequently has more information of interest to New Zealanders than the MFAT site: e.g.

<http://dfat.gov.au/trade/agreements/pacer/Pages/pacific-agreement-on-closer-economic-relations-pacer-plus.aspx>

<http://dfat.gov.au/trade/agreements/rcep/Pages/regional-comprehensive-economic-partnership.aspx>

<http://dfat.gov.au/trade/agreements/trade-in-services-agreement/Pages/trade-in-services-agreement.aspx>

<http://dfat.gov.au/trade/agreements/aifta/Pages/australia-india-comprehensive-economic-cooperation-agreement.aspx>

4. Ministry of Health

- 4.1. The CTU and health unions have a Health Sector Relationship Agreement of several years standing with the Ministry of Health (MOH) and District Health Boards. This gives some commitment as to provision of information. This has not always worked smoothly with substantial delays at times (some of which appear to have come from the Minister's office though it is hard to be sure) but we would in general rely on this initially and only resort to a formal OIA request if it failed. At one stage we made a series of OIA requests to DHBs which became the subject of review and intervention by your office, but we recognise that DHBs are not the subject of this review so do not go into further detail here.
- 4.2. An example of our frustration with this process is that we publish an annual analysis of the Health Vote before and after the Budget (see <http://union.org.nz/health-working-papers>). The analyses estimate how much funding is required for Health before the Budget, and then looks at whether that was attained following the Budget. One of the important parameters is an estimate that the MOH make annually of "demographic" increases. To simplify, this is an estimate of the increase in

² See <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-concluded-but-not-in-force/tpp/tpp-talk/>

population, weighted by the costs to the health system of various demographic factors, the most important single one being by age. It therefore estimates the increase in funding necessary to keep up with a rising and ageing population. The MOH also estimates it for each DHB. The population increases are estimates made by SNZ on special request by the MOH, and the cost weights are calculated by the MOH itself.

4.3. Until two years ago these numbers were provided to us by the MOH without major problem. Last year however they were not forthcoming until after the Budget and we had to make do for our pre-Budget analysis with a figure from a government paper made public via a leak to the Labour Party. We thought at that stage that this was simply a glitch. However this year we were explicitly refused this demographic data until after the Budget. We understand from officials that this was the result of intervention from the Minister of Health's office. There are at least three issues here:

4.3.1. The information cannot be described as Budget secret or even sensitive. The calculations are completed by November each year, well before the following year's Budget. They are no more sensitive at that stage than the estimates of the increase in the Consumer Price Index that Treasury publishes with its Half Year Economic and Fiscal Update (HYEFU) in December each year and which are also used for estimating funding needs, including for Health. While such indexes help estimate needs, the Government in its Budget process can and does override them. It is that political decision which can properly be regarded as Budget secret.

4.3.2. Secondly it is quite improper for the Minister's office to intervene in the release of information in this way. Given that the underfunding of Health has become a hot political issue³ (in part because of our annual analyses which are referred to by news media, the health sector and politicians) we are concerned that this is done to gag informed discussion of this important issue.

4.3.3. Thirdly, this demographic information is of potential use to many working on Health issues. It should be published online each year after it has been calculated, and made available in spreadsheet form so that it can be used by researchers. The published information should include the cost weights and the

³ E.g. <http://www.scoop.co.nz/stories/PO1605/S00094/on-the-nation-lisa-owen-interviews-jonathan-coleman.htm>; <http://www.newshub.co.nz/tvshows/thenation/interview-jonathan-coleman-2016050712#axzz4C7ejQKUM>; <http://i.stuff.co.nz/national/politics/80994872/explainer-the-battle-over-health-funding--the-numbers-and-the-politics>; <https://assets.stuff.co.nz/video/production/1465878077805-Stuff.mp4>

population estimates provided by SNZ, as well as the calculated demographic increases. We understand that there are some moves in that direction and that the information has made available to researchers if requested, but routine publication should be MOH policy and implemented without delay.

5. Ministry of Social Development

- 5.1. We currently have an OIA appeal with your office concerning a request for data (Case ID: 419098). It has been transferred back to the Ministry asking us to clarify our purpose in seeking the data. While we appreciate the assistance of your office (which took six months from 15 December 2015 when we lodged the appeal to 4 May when your office first took action on it) this is a frustrating process. It means more of our time in documenting and negotiating our needs, and doubtless further delays on MSD's side. When working on complex issues, the disruption of a train of thought over long periods is a real barrier to progress.
- 5.2. However our experience with MSD has been mixed. In March 2015 we wrote to MSD with a series of questions about policy and requesting data. This was supplied with considerable care and detail (albeit not until 30 June).
- 5.3. The request made in July that led to the appeal in 5.1 however took many months of emails to and from the Ministry, sometimes with long periods to get a reply, to reach a stalemate. Your office has the details.
- 5.4. An affiliate, FIRST Union also experienced what the FIRST employee who initiated a request to the MSD described as "the worst response I have ever had from an OIA". MSD failed to respond to the principle request and instead addressed only some examples given. Further
- MSD made no attempt to clarify the request in a timely manner, and he felt they personalised their response to him when they misinterpreted the request.
 - The grounds for an extension of time (for internal consultations within MSD) was questionable.
 - The intention of the Act is that information will be provided within 21 working days, not that the ministry will make a decision in that time.
 - The response was late, despite the FIRST employee suggesting they provide some information by the deadline and more difficult to source information later. The full response was received over two months after the

request was made, so it appears they may have given themselves an extension despite no explanation and no legal grounds to do so.

- Fundamentally, the response made no real effort to address the request. Their use of s18(f) to avoid the request in this case is highly questionable given it had a very limited scope.
- As a result of the response to the request, FIRST did find out the subsidies they were asking about were not as common as some thought, which was useful, however given the quality of the response was so poor they wonder if more subsidies may have been uncovered if their request had been treated more seriously.

5.5. Further details are in Appendix 2.

5.6. Given that MSD has a policy, the “Investment Approach”, that is heavily data based, utilising actuarial calculations on detailed administrative data going back to the 1990s⁴, it seems extraordinary that MSD cannot readily respond to data requests from the public. It should be publishing long data series, updated on a regular basis. It does make regular quarterly releases of information on benefit numbers.⁵ Until 2012 these were provided monthly and in that sense quarterly provision is a backward step. However the quarterly releases now provide more information (for example on benefit grant and cancellation numbers and reasons for them – instituted in July 2015, not long after our request for information on these matters) and have a published schedule which are improvements. The reports are somewhat politicised by their publication being accompanied by a Ministerial release on the “good news” (from the Minister’s viewpoint) in the statistics. They only go back five years in each release. While there are problems due to the change in benefit categories in 2013 the Ministry could do its best to transform the data appropriately for backward comparison, as is presumably done for the actuarial calculations for the “Investment Approach”.

5.7. More generally, agencies like MSD with considerable data resources that could be made publicly available should be encouraged to have them published by SNZ so that they are to a common standard in both form (e.g. spreadsheets with latest data, long series available through their InfoShare or NZ.Stat databases) and publication

⁴ See for example <http://www.msd.govt.nz/about-msd-and-our-work/newsroom/media-releases/2012/valuation-report.html> and the evaluation reports at <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/evaluation/investment-approach/index.html>

⁵ <http://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/index.html>

(e.g. regular schedule of releases to which people can subscribe, neutral media announcements and commentary).

6. Other

- 6.1. There are other matters worth mentioning that are not unique to one agency.
- 6.2. The behaviour of Ministers in interfering in or delaying releases is one that is well known to you. It is a major concern to us and others, and merits a review by you.
- 6.3. The protection of free and frank advice is frequently given as a reason for withholding information. While we recognise the importance of protecting free and frank advice, this reason can also be used for political purposes.
- 6.4. The timeliness of releases is of material importance in many cases, and delays can reduce the usefulness of information. This is about agencies meeting reasonable expectations but also having confidence that there will be a rapid response from your office if the agency is not cooperative. Otherwise there is no way to 'enforce' compliance by agencies. There are many games that can be played to improperly avoid timely release.
- 6.5. One affiliate reports that OIA requests by its organisers are frequently ignored by agencies, and not only by the 12 subject to this review. While of course each such breach of the OIA could be appealed, it becomes impracticable given other pressures of work.
- 6.6. On more than one occasion affiliates have experienced frustrating delays where requests have been passed from one agency (or Minister) to another. Each time the clock restarts on the time to reply. We were unable to get documentation of an example in the time available but could if you were interested. This very much an agency-focused approach to the provision of information: from a citizen view, a request should be treated as a single request with deadlines measured from the time it is received by the agency or Minister to whom it was addressed.
- 6.7. You suggested in your submission invitation that we could comment on any gaps in proactive release of information published by any of the agencies. We strongly

support proactive release. We note that Transparency International in their *Integrity Plus 2013 New Zealand National Integrity System Assessment*⁶ observed at p.147:

Public Service

The OIA governs disclosure of publicly held information on request, but proactive disclosure is variable.

A step towards making more public service data and information available is the New Zealand Declaration on Open and Transparent Government that departments adopted in 2011 to monitor departments' promotion of the private sector's re-use of "high-value" public data "to grow the economy, strengthen our social and cultural fabric, and sustain our environment". Twenty-seven departments have so far released new kinds of information.

Similar energy needs to be applied to making public service information more proactively available in the interests of good governance. Some departments are already proactive in releasing material, but commentators such as the Ombudsmen have recommended that the public sector now be more systematic in moving towards more proactive disclosure. The Scott review recommends that "the government should be more proactive about the release of Cabinet papers, minutes and decisions. The decision to release a Cabinet paper and other material such as briefings, under the OIA, or what should be withheld, should be made at the time of writing, should be routine and, once the decision has been taken, the paper should be made publicly available, not just to the requestor".

- 6.8. Treasury has taken an initiative in publishing all responses to OIA requests after supplying them to the requestor. That should be adopted by other agencies. Treasury also as a matter of routine publishes numerous Budget background documents from multiple agencies a month or so after the Budget. Although there are problems of timeliness and excessive redaction, in principle this is also a very useful model. Some other agencies publish cabinet papers and advice by officials but it is not universal or routine. At a minimum, we suggest all agencies should proactively publish Cabinet papers and other written advice to Ministers. When consultations are carried out, submissions should also be published and any analyses, including advice, recommendations and summaries of submissions. In such cases it would also be useful to either publish other relevant documents or

⁶ Available at <http://www.transparency.org.nz/2013/Integrity-Plus-2013-New-Zealand-National-Integrity-System-Assessment>

publish a list of them with titles and brief descriptions to assist requests for information.

- 6.9. As noted above, many agencies also have useful numerical data that should be regularly released and long term series made available or allowed to grow. Agencies and SNZ should be encouraged to work together to standardise releases and ideally use SNZ as a common portal for publication of the data with a role to maintain standards and independence.
- 6.10. As a practical matter, many agencies appear to routinely scan documents and watermark them in large letters across the whole page “Released under the Official Information Act” rather than making them available in original form or a PDF thereof which would enable them to be searched and enable passages to be copied digitally in order to quote them. They are usually (but not always) of good enough quality to have computerised text recognition run over them to make them searchable, but the watermark obstructs that, leaving large areas of each page unsearchable. We see no purpose for the watermark and providing scanned versions is obstructive. If some annotation to show it has been officially released is necessary it could be much more discreet, such as 10 point print in the header or footer. Use of spreadsheets for data release should also be encouraged.
- 6.11. Thank you for the opportunity to make this submission. We are happy to discuss any of the matters we have raised and look forward to hearing the results of your review.

7. Appendix 1: Examples of MFAT updates on treaty negotiations



Regional Comprehensive Economic Partnership (RCEP)

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RCEP builds on New Zealand's already strong relationships in Asia, and will open up more opportunities for New Zealand businesses in these fast growing economies.

RCEP Stakeholder session Round 13

Watch the public session with Minister of Trade Todd McClay and negotiators during the Auckland round.

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There are 16 countries involved in RCEP: the 10 members of ASEAN—Brunei-Darussalam, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam plus the six countries with which ASEAN has free trade agreements—Australia, China, India, Japan, Korea, and New Zealand. These six countries are known as the ASEAN Free Trade Partners (AFPs).

Why it's a priority for NZ

RCEP countries have a total population of more than 3 billion, a total GDP of around \$US23 trillion (2015 IMF figures), and they account for about 27% of global trade (2014 UNCTAD figures), and 55% of our goods exports (2015 figures).

New Zealand offers what's in demand in these countries – a trusted food supply, quality education services in English, a safe tourism destination, and expertise in agriculture, engineering, renewable energy and commercial services. New Zealand relies on these markets for manufactured goods such as vehicles, electronics, clothing and affordable tourism.

What are the potential benefits?

RCEP has the potential to increase business across the board in New Zealand. It's a comprehensive agreement, covering trade in goods, trade in services, investment, economic and technical cooperation, intellectual property, competition, e-commerce (digital trade), dispute settlement/legal and institutional issues. The potential benefits of this type of agreement are:

- better market access for New Zealand businesses throughout Asia
- elimination of tariffs for exporters
- more consistent ways for dealing with sanitary and phytosanitary measures, technical barriers to trade, customs procedures, and rules of origin
- more opportunities for New Zealand's service sector
- improved protection for investors to help more investment between the countries
- deepening economic integration between countries to enable businesses to operate more effectively and efficiently throughout the region
- working to make the region's "noodle bowl" of rules operate better together (e.g. rules of origin).

New Zealand already has FTAs with some of the countries involved in RCEP, and has concluded TPP

negotiations with several others. Existing FTAs will remain in place, and RCEP will help create new FTA relationships where they do not already exist. It may also be an opportunity to improve at the margin on some of our existing agreements.

Latest round

Formal negotiations started in May 2013. Twelve rounds have been held so far, with the most recent held in Perth in April 2016. Parallel meetings were held by the Working Groups on Trade in Goods and Trade in Services including their respective Sub-Working Groups, as well as the Working Groups on Investment, Intellectual Property, Economic and Technical Cooperation, e-Commerce, and Legal and Institutional Issues.

All RCEP countries have now submitted initial offers for trade in goods and trade in services as well as initial reservation lists for investment. Initial requests have been submitted in goods and services by most countries, and some have also submitted requests in relation to initial reservation lists in investment. Trade in services market access negotiations continue on a bilateral and plurilateral basis. Consultations and engagement on investment liberalisation have also commenced on the basis of a negative list structure.

Timing for the negotiations

The next round is scheduled for June 2016 and will be held in Auckland.

During the round there will be an opportunity for stakeholders to register their views with negotiators from a range of RCEP countries at a session on Tuesday 14 June at 3pm in the Sky City Convention Centre. This session will provide a general overview of the RCEP negotiations followed by a focus on services trade in the region.

There will also be a separate opportunity for discussion with New Zealand negotiators, as part of on-going engagement on New Zealand's trade negotiations and strategy. This session will cover a general overview of the RCEP negotiations followed by Q&A. It will be held on Tuesday 14 June from 5.30pm in the Sky City Convention Centre and live-streamed to allow people in any part of New Zealand to participate.

Registration for these events has now closed.

- [Read the Minister of Trade's statement about the Auckland round \(external link\)](#)
-

How to get involved

MFAT negotiators are keen to hear from businesses or individuals who are facing barriers to this market. This includes companies that are not exporting now, but plan to enter the market.

Examples of common barriers New Zealand businesses face offshore are:

- high tariffs, eg duties imposed on items at the border that add significantly to the price point in the market
- surcharges and duties required at the border

sanitary and phytosanitary measures, e.g. restrictions for animal or plant material to be allowed across the border

- technical barriers to trade (regulations or officially endorsed standards, industry standards, conformity assessment requirements e.g. testing), import licensing, customs or difficulty in finding out about relevant local laws and regulations
- restrictions on individuals, eg difficulties with recognising qualifications or obtaining business visas, requirements to obtain local licences
- restrictions on investors, eg requirements to operate in joint ventures with local partners, requirements to employ locals or restrictions on the ability of New Zealanders to be transferred to work in subsidiaries or affiliates, local representation requirements for boards of directors, restrictions on the ability to invest in a new enterprise or invest equity
- financial or business restrictions, eg restrictions on supplying services from New Zealand (including via the internet), difficulties competing with local firms that benefit from government preferences, complex and discriminatory local regulations.

We also want to hear from New Zealand companies that are concerned about the effect of an increase in imports as a result of New Zealand agreeing to eliminate our tariffs.

To give feedback or for more information about the RCEP negotiations, contact us by:

Email rcep@mfat.govt.nz

Mail

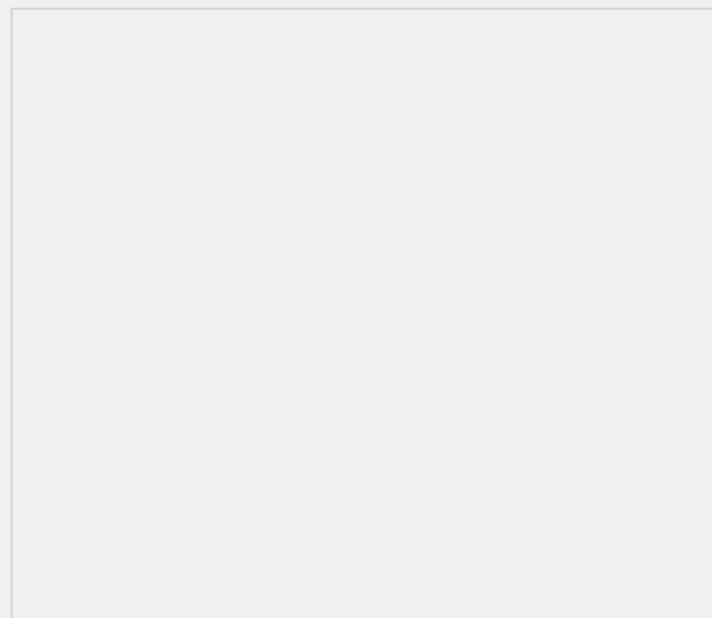
Coordinator, RCEP FTA

Ministry of Foreign Affairs and Trade

Private Bag 18901

Wellington

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Language

| English



Trade in Services Agreement (TiSA)

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Services are an important part of New Zealand's economy, accounting for two-thirds of economic activity and 70% of employment. Our service sector exports were worth over NZ\$20 billion in 2015.

World Trade Organization members are bound by the rules of the General Agreement on Trade in Services (GATS), though new challenges to services trade have emerged since the GATS was signed in 1995. TiSA aims to update the rules to reflect this new trading landscape. It can be viewed as a major Free Trade Agreement for services only. It does not include trade in goods or other areas like intellectual property.

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Who is involved?

There are 23 participants in the TiSA negotiations, all members of the WTO: Australia, Canada, Chile, Colombia, Costa Rica, the European Union (representing the 28 EU countries), Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, Mauritius, Mexico, New Zealand, Norway, Pakistan, Panama, Peru, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), Switzerland, Turkey, and the United States.

TiSA participants collectively account for 70% of global services trade.

Why it's a priority for New Zealand

Services are an important part of New Zealand's economy, accounting for two-thirds of economic activity and 70% of employment. New Zealand's service sector exports were worth over NZ\$20 billion in 2015; about 29% of our total exports of goods and services. Services exports are any services we sell to overseas customers. They include New Zealand companies doing work for overseas clients, as well as services sold in New Zealand to foreigners.

TiSA markets account for around 80% of New Zealand's commercial services, and include four of our top five services markets: Australia, United States, United Kingdom and Japan.

There is growing demand overseas for New Zealand expertise and innovation in environmental services, tertiary education, air services, IT, and a wide range of professional services such as engineering, architecture and services associated with agriculture. TiSA negotiators are discussing ways to make the supply of these services into TiSA markets easier and more efficient, while preserving the fundamental right for the New Zealand government to regulate for legitimate public policy purposes.

What are the potential benefits?

TiSA could help our services exporters by broadening the scope of business activities they can do in TiSA markets. A range of different service sectors are currently being discussed, including financial services, ICT services (including telecommunications and e-commerce), professional services, transport services, and temporary entry of business people.

Negotiations also aims to help service providers by seeking to:

- remove barriers to supplying services from New Zealand to international markets through the Internet
- remove requirements to work in joint venture with local firms
- remove restrictions on the number of branches or locations
- ease restrictions on the ability of business people to travel to deliver their services
- facilitate professional services by addressing burdensome registration procedures and working to ensure qualification and professional registration processes are clear and transparent
- remove quotas on numbers of foreign staff

Timing for the negotiations

Formal negotiations started in April 2013. There have been 18 rounds so far, with the next round scheduled for 11 – 15 July 2016. Further meetings are scheduled for 2016.

Participants are aiming to conclude negotiations swiftly; if possible by the end of 2016.

At the 18th round of negotiations, held in Geneva from 26 May to 3 June 2016, negotiators held discussions on market access and made progress on rules being developed in the telecommunications, e-commerce, financial services, localisation and transport annexes. Discussions were also held on temporary entry of business persons.

A Ministerial Meeting on TiSA hosted by the European Union was held in Paris on 1 June.

How to get involved

MFAT negotiators are keen to hear from interested parties on how TiSA can be most useful to New Zealand. We are especially interested in hearing from service sector businesses and investors about how we can make it easier for you to do business in TISA markets. Please let us know if you experience any of the following restrictions in these markets, or have any other issues you would like us to consider:

- restrictions affecting services delivered through the internet (eg online education, consultancy for professional services), including laws that require your business to have a physical presence in the overseas market
- requirements to obtain local licences; difficulty getting your professional experience or qualifications recognised
- requirements to operate joint ventures with local partners
- limitations on the ability to open new businesses or invest in companies operating in TISA markets
- requirements to employ locals; restrictions on the ability to transfer New Zealand staff to the overseas market; residency or nationality requirements for company directors
- difficulties in obtaining visas
- having to compete with local firms that benefit from government preferential treatment
- complex or discriminatory local regulations.

To get more information about the TiSA negotiations, or send us feedback:

Email serviceexports@mfat.govt.nz

Sensitive information

Please identify any commercial-in-confidence or sensitive information included in your feedback, so we can make sure it is not used in any future MFAT publications or website summaries.

Public events

We will be holding public discussion sessions on the Trade in Services Agreement (TiSA) in Auckland and Wellington in June, 2016.

The meetings are open to Māori, business, NGOs and all other interested members of the public to learn more about this important agreement.

Wellington meeting

Date: 22 June

Time: 5pm

Venue: The Royal Society of New Zealand, Aronui Lecture Theatre, 11 Turnbull Street, Thorndon, Wellington

Auckland meeting

Date: 28 June

Time: 5pm

Venue: Ministry of Foreign Affairs and Trade, Level 6, 139 Quay Street, Auckland

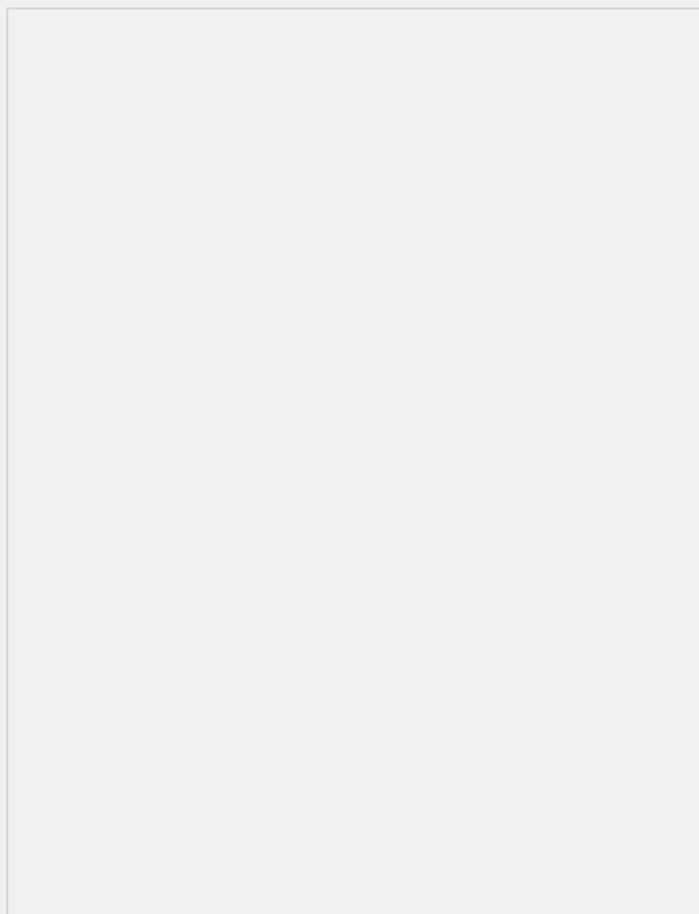
Register

To register to attend a meeting, email the Ministry of Foreign Affairs and Trade at serviceexports@mfat.govt.nz by 20 June.

Questions on the negotiations are also welcomed by email from those who are unable to attend.

The New Zealand negotiating team will answer a selection of these in Wellington and Auckland, and publish them, with presentations and other additional background, on this website.

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PACER Plus

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The Pacific Agreement on Closer Economic Relations (PACER Plus) is a trade and economic integration agreement that aims to create jobs, raise standards of living and encourage sustainable economic development in the Pacific region.

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PACER Plus builds on existing trade agreements - the South Pacific Regional Trade and Economic Cooperation Agreement (SPARTECA) (1980) and the original PACER Agreement (2001). New Zealand and Australia provide funding to the Office of the Chief Trade Adviser to assist and support Pacific Island countries in the PACER Plus negotiations.

[Read about the Office of the Chief Trade Adviser \(external link\)](#)

The negotiations include all members of the Pacific Islands Forum: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.

Why it's a priority for NZ

Pacific Island countries are our nearest neighbours and with more than 250,000 Pacific Islanders living in New Zealand, we share strong personal ties. New Zealand has a clear interest in a prosperous and sustainable region and our main objective for PACER Plus is to encourage economic development in Pacific countries.

What are the potential benefits?

Opportunities for economic development in Pacific Island countries are limited because of their small size and the difficulty achieving the economies of scale needed to compete in international markets. A regional trade and economic integration agreement should help create jobs and wealth in the Pacific by making it easier for these countries to trade.

The PACER Plus negotiations cover sanitary and phytosanitary measures, technical barriers to trade, customs procedures, rules of origin, trade in goods, trade in services, investment, economic and development cooperation, and labour mobility.

The potential benefits of this type of agreement are:

- a more predictable trading environment
 - more consistent and transparent rules throughout the region on sanitary and phytosanitary measures, technical barriers to trade, and customs procedures
 - more liberal and product-specific rules of origin
 - increased investment in the region, in particular by New Zealand and Australian investors into Pacific Island countries
 - greater certainty around tariffs for exporters
 - more opportunities for trade-related development assistance for Pacific Island countries
 - a more mobile labour force in the region
-

Timing for the negotiations

Negotiations started: August 2009

Status: 15th round will be held in Nadi, Fiji, 13-17 June 2016. This will be preceded by a Non-State Actors Dialogue Workshop, open to stakeholders, on 10-11 June also in Nadi.

The NSA Dialogue Workshop is being organised by the Pacific Islands Forum Secretariat in conjunction with the Office of the Chief Trade Adviser. NSAs interested in attending should contact Veniana Qalo, Trade Policy Adviser at venianaq@forumsec.org.

PACER Plus is a unique FTA which we are approaching from a development perspective. Negotiations are nearing conclusion. Parties are working on market access commitments and to finalise the last remaining text issues with a view to concluding negotiations within the next few months.

How to get involved

We're keen to hear from businesses or individuals with an interest in Pacific trade and economic integration.

To give feedback or for more information about the PACER Plus negotiations, contact Mike Webb:

Email <mailto:Mike.Webb@mfat.govt.nz>

Phone 04-439-8113

Mail

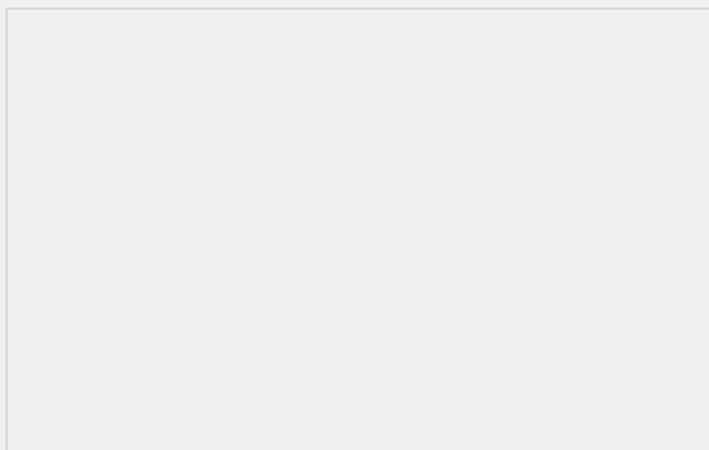
Coordinator, PACER Plus

Ministry of Foreign Affairs and Trade

Private Bag 18901

Wellington

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New Zealand-India FTA

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India is one of the largest and fastest growing economies in the world. It represents huge opportunities for trade, and is a priority relationship for the New Zealand Government.

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In 2011 Prime Minister John Key launched the NZ Inc India Strategy, a plan for India to become a core trade, economic and political partner for New Zealand. The NZ-India FTA is a crucial step toward achieving that goal.

New Zealand and India already enjoy a strong relationship. We traded more than NZ\$1 billion in goods with each other in 2014. More than 11,000 Indian students came to study in New Zealand in 2012, and another 29,000 Indian tourists visited that year. There are well over 100,000 Indian nationals resident in New Zealand.

What are the potential benefits?

- better access for New Zealand businesses to India's vast market for consumer products and services, particularly the growing middle class

- more opportunities to export raw materials and intermediate products needed by Indian manufacturers
- lower tariffs for our exporters. India's average most-favoured-nation tariff is 12.9%, and their average tariff on agricultural goods is 34.4%. Negotiators will target these high tariffs, so New Zealand exports can be competitive in Indian markets
- reduced tariffs on Indian imports – particularly in textiles, clothing, footwear, and industrial manufactured goods – which would benefit both New Zealand consumers and Indian businesses
- better ways for dealing with sanitary and phytosanitary measures, technical barriers to trade, customs procedures, and rules of origin. This will lead to a wider range of goods being exported to India
- more opportunities for New Zealand's service sector, including tourism, education, consultancy and professional services, environmental, engineering, construction, agriculture and forestry services.
- more certainty for investors, and potential for more investment between the countries.

Timing for the negotiations

Negotiations started: April 2010

Status: 10th round finished, February 2015.

Other agreements with India

New Zealand and India are both also members of the [Regional Comprehensive Economic Partnership \(RCEP\) negotiations](#).

NZ Inc India Strategy

NZ Inc is the Government's plan to strengthen New Zealand's economic, political and security relationships with key international partners—specifically countries and regions we already have a relationship with, and there is potential for significant growth.

The India Strategy sets out ambitious economic goals that the NZ-India FTA will help achieve:

- grow our goods exports to at least NZ\$2 billion per year by 2015
- grow services trade by an average of 20% a year
- improve the investment framework to encourage more investment between the two countries

- attract and keep skilled migrants from India who can contribute to New Zealand's economy.

Read more about [NZ Inc India strategy](#).

How to get involved

MFAT negotiators are keen to hear from businesses or individuals who are facing barriers to the Indian market. This includes companies that are not exporting to India now, but plan to enter this market. Examples of the common sorts of barriers New Zealand businesses face offshore are:

- high tariffs, eg duties imposed on items at the border that add significantly to the price point in the market
- surcharges and duties required at the border
- sanitary and phytosanitary measures, eg restrictions on the type of animal or plant material allowed across the border
- technical barriers to trade (regulations or officially endorsed standards), import licensing, customs or transparency problems
- restrictions on individuals, eg difficulties with recognising qualifications or obtaining business visas, requirements to obtain local licences
- restrictions on investors, eg requirements to operate in joint ventures with local partners, requirements to employ locals or restrictions on the ability of New Zealanders to be transferred to work in subsidiaries or affiliates in India, local representation requirements for boards of directors, restrictions on the ability to invest in a new enterprise or invest equity in an Indian company
- financial or business restrictions, eg restrictions on supplying services from New Zealand (including via the internet), difficulties competing with local firms who benefit from government preferences, complex and discriminatory local regulations

We also want to hear from New Zealand companies that are interested in the negotiations.

For more information about the NZ-India FTA negotiations, or to give feedback, please contact us by:

Email TND@mfat.govt.nz

Mail

Coordinator, India FTA
Ministry of Foreign Affairs and Trade
Private Bag 18901
Wellington

8. Appendix 2: Details of request by FIRST Union to MSD

Timeline

- 24 Mar: I made the request.
- 29 Mar: Via email I received a simple acknowledgement from MSD. There was no attempt to clarify the request within 7 days meaning that the provision of s15(1)AA cannot be used by the ministry to grant themselves an extension.
- 27th April I received via email a letter where MSD gave themselves an extension on the grounds the ministry needs further time to consult with other parties on the release of the information you have requested. It said the ministry decision would be with me no later than 10 May 2016. This letter from MSD describing my request included the line asking for “any information”
- 3 May: I received a phone call from [...] a ministerial advisor at MSD. I made notes at the time.
 - o He attempted to restrict the request to just the ‘bullet points’ ignoring the fact I had asked for and underlined the word any information held relating to Go bus and Howick and Eastern. I felt he was a little underhand at this assuming his summation of the request was correct rather than asking me. I pointed out to him that the original request asked for all information relating to Go Bus/Ritches and that should include any correspondence between these companies and MSD.
 - o I denied that the request was too general because I was only asking about correspondence with two specific companies. [...] then suggested that might be rejected on the basis of collation as its all spread around the place. I then asked ‘can’t do you a word search on the email’? He confirmed that the ministry had a single email server. I said if he could get us the figures by the date we might be willing to wait for the rest, but yes we wanted the correspondence and that was in the original request.
 - o I found his overall manner quite arrogant.
 - o I also explained to [...] the reasons for the request and the public interest in the information given that Auckland bus drivers faced losing their jobs after NZ Bus had lost a significant contract and we were concerned that drivers could be recruited from WINZ to replace those jobs on lower pay.
 - o Interestingly [...] confirmed that ‘consultations’ only related to consultations within MSD and no external parties such as bus companies. So do MSD really need an extension for ‘internal consultations’? That seems to be a stretch and perhaps not what the provision in the law is for.
- 10 May: Via email I received the ministry’s notification of decision which stated that some information would be withheld under s18f (substantial manual collection). I would have thought I should have had the information I requested by this time, not just their decision, particularly after they granted themselves an extension.
- 31 May: I received the response to my OIA.

Looking at the timelines perhaps they did try and use s15(1AA) give themselves another extension even though they never stated this and the law is very clear that they can’t do this if they don’t clarify the request within 7 days.

The response to the OIA gave no indication of the regions in which the job subsidies were being used, even though this was a key part of the request.

The fact that the response said there were only 6 client contracts relevant to the question does call into question the ministry claiming it would take too much manual collection to respond to the OIA request properly.

If the Ministry holds such little information (and their record keeping is so inefficient) on subsidies handed out to private companies then this does beg the question as to whether there is adequate monitoring of such subsidies.

I honestly thought this would be a reasonably straightforward request – the overall impression I had was that MSD simply did not want to do it.

Joe Hendren
Researcher

From: OIA_Requests (MSD) [mailto:OIA_Requests@msd.govt.nz]
Sent: Tuesday, 31 May 2016 3:37 p.m.
To: Joe Hendren
Subject: 20160531_Hendren, Joe_Response

Tēnā koe Joe Hendren,

Please find attached the Ministry of Social Development's response to your Official Information Act request.

Nā mātou noa, nā

Official and Parliamentary Information team | [Ministerial and Executive Services](#)

Ministry of Social Development

Our Purpose:

We help New Zealanders to help themselves to be safe, strong and independent
Ko ta mātou he whakamana tangata kia tū haumarū, kia tū kaha, kia tū motuhake

From: OIA_Requests (MSD)
Sent: Tuesday, 29 March 2016 9:02 a.m.
To: Joe Hendren
Subject: 20160324_Hendren, Joe_OIA Request

Tēnā koe Joe Hendren,

Thank you for your email received 24 March 2016, under the Official Information Act 1982. Your request has been forwarded to the appropriate officials at National office to respond. You may expect a response to be sent to you as soon as possible.

Nā mātou noa, nā

Official and Parliamentary Information team | [Ministerial and Executive Services](#)

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Ko ta mātou he whakamana tangata kia tū haumarū, kia tū kaha, kia tū motuhake

From: Joe Hendren [<mailto:Joe.Hendren@firstunion.org.nz>]
Sent: Thursday, 24 March 2016 3:48 p.m.
To: OIA_Requests (MSD)
Subject: Official Information Act request regarding Go Bus and Ritchies Transport

To the Ministry of Social Development

Under the Official Information Act we seek any information you hold relating to passenger transport companies Go Bus and Ritchies Transport. We are largely interested in material over the past five years, but would appreciate older documents if they are relevant to the request.

This includes,

- Information about any employment subsidies involving either of these two companies and the total number of placements broken down by company, region and year.
- The total amount of subsidies provided to Go Bus and Ritchies broken down by company, region and year.
- Information about any subsidy, financial assistance in obtaining the appropriate licence classes or any other form of funded training for bus drivers, if possible broken down by company, region and year.
- Any information that gives an indication to how many drivers remained employed by Go Bus or Ritchies after the subsidy ended (eg didn't end up back on a benefit)

Here is an example of where the MSD had funded training for bus drivers in the Bay of Plenty. Just provided for an example to clarify the request, as we are asking about different companies.

<https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/corporate/regional-plans/2006-07/bay-of-plenty.doc>

We are also happy to receive information in an electronic form, or to the address below.

120 Church Street
Private Bag 92904
Onehunga 1061
Auckland

Joe Hendren
Researcher

DDI 09 622 8431
0800 TO FIRST (0800 863 477)
www.firstunion.org.nz

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Attachment received on 10 May 2016:

Joe Hendren
Researcher
First Union
Joe.Hendren@firstunion.org.nz

Dear Mr Hendren,

On 24 March 2016 you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *Any information you hold relating to passenger transport companies Go Bus and Ritchies Transport. We are largely interested in material over the past five years, but would appreciate older documents if they are relevant to the request. This includes:*
 - *Information about any employment subsidies involving either of these two companies and the total number of placements broken down by company, region and year.*
 - *The total amount of subsidies provided to Go Bus and Ritchies broken down by company, region and year.*
 - *Information about any subsidy, financial assistance in obtaining the appropriate licence classes or any other form of funded training for bus drivers, if possible broken down by company, region and year.*
 - *Any information that gives an indication to how many drivers remained employed by Go Bus or Ritchies after the subsidy ended (eg didn't end up back on a benefit)*

This letter confirms that the Ministry has identified information in scope of your request and will respond accordingly. This information will be processed under the Official Information Act and the appropriate redactions will be made before it is released to you.

Please note that information will be withheld under the following sections of the Official Information Act:

- Section 18(f) due to the substantial manual collation required to provide this information.

A full response will be provided to you as soon as practicably possible. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsman
PO Box 10-152
WELLINGTON 6143

Yours sincerely

Official and Parliamentary Information team | **Ministerial and Executive Services**
Ministry of Social Development

Our Purpose:

We help New Zealanders to help themselves to be safe, strong and independent
Ko ta mātou he whakamana tangata kia tū haumarū, kia tū kaha, kia tū motuhake

Attachment of 31 May referred to above:



**MINISTRY OF SOCIAL
DEVELOPMENT**

TE MANATŪ WHAKAHIATO ORA

31 MAY 2016

Joe Hendren
Researcher
First Union
Joe.Hendren@firstunion.org.nz

Dear Mr Hendren,

On 24 March 2016 you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *Any information you hold relating to passenger transport companies Go Bus and Ritchies Transport. We are largely interested in material over the past five years, but would appreciate older documents if they are relevant to the request. This includes:*
 - *Information about any employment subsidies involving either of these two companies and the total number of placements broken down by company, region and year.*
 - *The total amount of subsidies provided to Go Bus and Ritchies broken down by company, region and year.*
 - *Information about any subsidy, financial assistance in obtaining the appropriate licence classes or any other form of funded training for bus drivers, if possible broken down by company, region and year.*
 - *Any information that gives an indication to how many drivers remained employed by Go Bus or Ritchies after the subsidy ended (eg didn't end up back on a benefit)*

As you will be aware, on 1 July 2012, Work and Income introduced Job Streams, a flexible package that is tailored to meet the needs of both employers and clients through wage subsidies, training and in-work support. Job Streams replaced six previous employment and training programmes, including Skills for Growth, Straight to Work and Job Ops.

Job Streams supports those job seekers most at risk of long term benefit dependence into work, such as young job seekers and sole parent job seekers with work obligations. Flexi-Wage is a programme within the Job Streams package that provides a time limited wage subsidy to offset the costs of training and supervising a new employee moving from benefit into employment. Where appropriate, Flexi-Wage can also be used to purchase short term work-related training relevant to the new job (for example a fork lift license, or a barista course).

More information regarding wage subsidies is available at www.workandincome.govt.nz/map/employment-and-training/employment-and-work-readiness-assistance/wage-subsidy-01.html

Flexi-Wage contracts are managed regionally, and as such the Ministry does not centrally collate documentation related to the provision of Flexi-Wage contracts. This information is held on individual files, and substantial collation would be required to collate this information. As such, your request for information the Ministry holds relating to passenger transport companies Go Bus and Ritchies Transport is refused under section 18(f) of the Official Information 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 Job Streams was introduced on 1 July 2012, the Ministry reports the number of employment subsidies since this date.

I can advise that as at 31 December 2015, the Ministry had approved six client contracts for Flexi-Wage with Go Bus, for the 2012/13 to 2014/15 financial years and 2015/16 financial year to date. The Ministry paid \$14,850 to Go Bus for these contracts. This amount was paid as at 31 December 2015, and therefore for active contracts, the dollars paid will increase over time until the end of the contract. There were no client contracts approved with Ritchies.

As at 31 December 2015, all six clients had remained in employment, or were currently still active in their contract with Go Bus. Please note that clients who are reported as remaining in employment are those not granted a main benefit within eight weeks of end of contract. There is no obligation for clients to remain in contact with the Ministry when they are not in receipt of income support, and as such the Ministry cannot be sure that a client 'remains in employment' after the subsidy period only that they have not returned to benefit.

Flexi-Wage contract outcomes are reported eight weeks after a client completes their employment programme. As such, the number of outcomes available to be reported will increase over time, until all clients have finished their participation and a further eight weeks has passed.

The Ministry is unable to provide information about financial assistance provided to obtain the appropriate licence classes or any other form of funded training for bus drivers as this information is held on individual files. In order to provide you with this information Ministry staff would have to manually review thousands of files. As such I refuse your request under section 18(f) of the Official Information 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.

I hope you find this regarding employment subsidies information helpful. You have the right to seek an investigation and review of my response by the Ombudsman, whose address for contact purposes is:

The Ombudsman
Office of the Ombudsman
PO Box 10-152
WELLINGTON 6143

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ruth Bound', written in a cursive style.

Ruth Bound
Deputy Chief Executive, Service Delivery