

Case 407247 (Complaint ground: 409208, 423133, 423139)

Contact Anna Down

12 May 2017



Ombudsman
Fairness for all

Callum and Victoria Turnbull
By email:

Dear Mr and Mrs Turnbull

I write further to my letter of 12 April 2017, and your telephone conversation yesterday with Anna Down.

As I indicated previously, it is my intention to proceed with this investigation by returning to Invercargill. This is my thinking for your consideration and reply:

1. Under the Ombudsmen Act 1975, an Ombudsman may hear or obtain information from such persons as he thinks fit, make such enquiries as he thinks fit, and regulate his procedure in such manner as he thinks fit (sections 18(3) and 18(7)).
2. I prefer it if my investigation in this case is more oral than written so that those involved can hear and see the process rather than a succession of letters, opinions and documents being generated.
3. Of importance to me is to know what the facts most likely are. That need not require undue formality but any investigation I conduct should occur in a style which is consistent with the gravitas of my role.
4. At issue for me is that although I know much of what each side here says, I think that you need to have the opportunity to participate more, and to hear more directly.
5. My wish is to spend two days in Invercargill and to set up an opportunity which I shall call a formalised meeting. It is not a *'hearing'* but rather a stage or platform which gives me the ability to hear directly from people I want to and for others to have the opportunity to hear and participate. I will operate in an inquisitorial fashion and require responsible input and dignity.
6. I would encourage legal representation to anyone who wishes to be represented. I am not envisaging that any lawyer will participate orally in the process other than by addressing me in relation to best practice and procedure should that seem a good idea. But importantly, legal representation would enable those who are represented to seek advice at any time.
7. And so, I have in mind that the process would work like this. Those that I want to hear from will be requested by me to be present and I will indicate that I require them to attend if they do not wish to do so voluntarily. It would be open to the person to prepare a statement in advance which they might read from. I would then ask you if you wish to comment and you

will do that simply to me. Arising out of any such comment I may put some questions to that person. That person's participation is then concluded and they can either stay or leave. I would not seek to hear from you separately but may ask you at the end if there is something further you would like to say.

8. I will complete the investigation in the normal fashion. In other words, there will be no *'oral decision'* but rather I will write up a provisional opinion in the fashion I normally do and make that available to the relevant parties for comment before I form any final opinion. This further assists natural justice and ensures that any legal advisor is well involved in the process throughout.
9. I would need to ascertain a suitable venue in Invercargill but my Office would be responsible for that and also the organisation of the day, and that involves ensuring that everyone present feels welcome and safe. I have in mind setting aside two days and am looking at the weeks of the 12th or 19th of June, which I acknowledge are not far away.
10. You have my permission to pass this letter on to a legal advisor. I want this to be an open and transparent process and for any issue of concern to be raised with me before we embark on this.

Please let me know of any comments you have on this process, and confirm your willingness to engage. Given the dates I have proposed, I would be grateful for your response by **19 May 2017**.

Yours sincerely



Judge Peter Boshier
Chief Ombudsman