

Minutes for:	Meeting of Panel to reconsider section 241 applications 58, 78, 82, 93, 95, 99, 40
Date of meeting:	Monday, 20 June 2011
Panel Attendees:	David Bowden, [REDACTED], [REDACTED] (NZTA), [REDACTED] [REDACTED] (NZTA), [REDACTED]

Purpose of meeting

1. This meeting is to consider s241 applications in conjunction with comments from the advising agencies (Ombudsmen, Privacy Commissioner and the Police).
2. The following applications were considered at this meeting:
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - Application 93 – Thomson & Clark
 - [REDACTED]
 - [REDACTED]
3. This meeting will enable advice on these applications to be drafted.

Matters Arising

4. No matters arising.

Consideration of Applications

5. Where the Panel has agreed that access could be granted for the applications, the conditions as outlined by the Ombudsman generally apply.

[REDACTED]

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Application 93: Thompson & Clark Investigations Ltd (TCIL)

16. On 27 April 2011, the requested uses, as outlined by the applicant, were discussed by the Panel.
17. The Panel agreed to access on the same basis as Paragon New Zealand.Com Ltd, but limited to the points made the Ombudsman’s comments: *“It seems to me that in order for authorised access to be justified there must be (a) a credible risk of criminal offending, and (b) limited recourse to the Police as a means of managing that risk. However it may be difficult to enforce such conditions.”*
18. A draft response dated 13 May 2011 was sent to TCIL by the Ministry based on para 15 above. On 26 May 2011 TCIL wrote to the Ministry requesting broader access. The additional requested use, as outlined by the applicant, was discussed by the Panel.
19. Thompson and Clark requested two further purposes for access

- *(a) the ability for TCIL to identify persons that are involved in activity that is likely to be subject to civil proceedings (refer to Case 2 in our original application).*
 - *(b) the ability to assess vehicles and their occupants in certain circumstances and the likelihood that they would pose an immediate threat to TCIL clients.*
20. In regard to the first additional proposal (purpose A) the Panel applied Privacy Act Principle 11(e)(iv) as it did in the discussion about Avon Investigations (para 27). Although Principle 11(e)(iv) of the Privacy Act provides good grounds to access information in relation to conducting civil proceedings it did not believe that authorising access under section 241 would meet the required threshold of being necessary. Access should be considered on a case by case basis under section 236 which allows for this to be assessed.
21. The Panel considered purpose B and agreed after examining the cases provided that the reasons for access were diffuse.
22. The Panel further noted that they did not consider purpose B be granted based on TCIL's original application because there are distinct differences in the applications. For example, the original application was approved because the West Coast industrial site of the SOE was specified, geographically isolated, and paralleled the [REDACTED]. It was agreed to explain to TCIL why the access was granted for the original application and not for purpose B in this application
23. In relation to the information provided on Provisional Security Ltd (PSL), TCIL's sister company, the Panel agreed to advise TCIL that approval for PSL could not be granted without a separate application.
24. **Decision** Decline authorisation for other uses
ACTION: Advise TCIL why their application to widen their access has been declined.

Application [REDACTED]

25. On 27 April 2011, the requested uses, as outlined by the applicant, were discussed by the Panel. The Panel allowed access for law enforcement purposes but needed more detail such as (a) case studies showing how the information is used in context, and (b) what it is not intended for. The Ministry requested more information from [REDACTED].
26. The additional information on the requested uses, as outlined by the applicant in a letter of 21 May 2011 was discussed by the Panel at this meeting.
27. The Panel concluded that although Principle 11(e)(iv) of the Privacy Act provides good grounds to access information in relation to conducting civil proceedings it did not believe that authorising access under section 241 would meet the required threshold of being necessary, as there are a range of other ways of getting the information. Access should be considered on a case by case basis under section 236 which allows for this to be assessed.
28. After reviewing the case studies provided by [REDACTED] in relation to the receivership requested purposes, the Panel decided that access should be given for the same purpose [REDACTED] where [REDACTED] is contracted by a liquidation/receivership company.

29. It was noted by the Panel that point 9 of [REDACTED] 21 May 2011, letter was incorrect and that registered owner details are not updated at warrant or certificate of fitness.

30. **Decision** Allow access for the receivership purpose and decline authorisation for other uses which do not fall within the general private investigator purposes.

ACTION: [REDACTED] that access will be granted for the receivership purpose and also inform [REDACTED] why its application for civil court matters has been declined.

Application [REDACTED]

31. Further information in support of [REDACTED] application was discussed.

32. The Panel were not convinced that the additional letter explained well enough how the access would be of benefit to [REDACTED] or their clients. It was agreed to invite [REDACTED] to speak to the Panel.

ACTION: Invite [REDACTED] to attend or have a video conference call with the Panel.

Other Business: There was no other business.