



3 October 2025



Ref: OIA-2025/26-0199

Tēnā koe ,

Official Information Act request relating to Sections 228, 229A, and 240 of the Crimes Act 1961

Thank you for your Official Information Act 1982 (the Act) request, received on 22 September 2025. You requested:

1. *“Please provide copies of (or links to) any policy documents, memoranda, Parliamentary reports, guidance for ministers, etc that discuss the “statutory purpose(s)” of s 228, s 229A, and s 240 of the Crimes Act 1961 (Crimes Act). These sections of the Crimes Act were inserted into the Crimes Act 1961 by the Crimes Amendment Act 2003, and then further amended in 2015 by the Organised Crime and Anti-Corruption Legislation Act.*
2. *Please clarify:*
 - a. *whether the statutory purpose of s 228 and s 229A is to criminalise the use of dishonest means used to gain an advantage, even when an accused is contractually entitled to the advantage being gained, and*
 - b. *whether the statutory purpose of s 228 and s 229A extends to s 240 which involves deceptive means rather than dishonest means, noting that “deception” and “dishonestly” have distinct definition in the Crimes Act and that deception is not necessarily dishonest, and*
 - c. *whether s 240 was intended to apply to contract disputes involving written contracts where a limited company makes deceptive and/or misleading statements to a consumer(s), noting s 9 of the Fair Trading Act 1986 (FTA) covers misleading and deceptive conduct in trade.*
3. *Assuming s 240 **was not** intended to apply to contract disputes involving written contracts where a limited company makes deceptive and/or misleading statements to a consumer(s), what safeguards are in place (if any) to ensure that directors and/or shareholders of businesses aren't open to being criminally prosecuted under s 240 of the Crimes Act?”*

Part 1

We have interpreted Part 1 of your request as seeking formal advice provided by the Department of the Prime Minister and Cabinet (DPMC) to our responsible Minister – the Prime Minister – regarding the “statutory purpose(s)” of sections 228, 229A, and/or 240 of the Crimes Act 1961.

If you are seeking advice provided to other ministers – other than the Cabinet manual, which is publicly available on DPMC’s website here: www.dPMC.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual – we would suggest contacting those Ministers or their respective agencies directly.

Parts 2 and 3

Parts 2 and 3 of your request are seeking an opinion on or interpretation of legislation, neither of which are held by DPMC. Under the Act, requests must be for “official information” already held by an agency. Agencies are not required to create new information, provide legal advice, or form opinions in response to OIA requests.

Additionally, under section 18(g) of the Act, a request may be refused if the information requested is not held by the agency and the agency has no grounds for believing it to be held by another organisation subject to the Act. We note that you have made a separate request to the Ministry of Justice, the agency that administrates the Crimes Act 1961. If any information relevant to these parts of your request exists, it would be held by that agency and covered by their response. For these reasons, I am refusing Parts 2 and 3 of your request under section 18(g) of the Act.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the Act.

This response will be published on the Department of the Prime Minister and Cabinet’s website during our regular publication cycle. Typically, information is released monthly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

Nāku noa, nā,



Alan Cassidy
Deputy Chief Executive, Corporate and Chief People Officer