

## Ministry of Transport fails to clarify driver licence record and offers payment for expenses incurred

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| <b>Legislation</b>    | Ombudsmen Act 1975    |
| <b>Agency</b>         | Ministry of Transport |
| <b>Ombudsman</b>      | John Robertson        |
| <b>Case number(s)</b> | W26160                |
| <b>Date</b>           | 1992                  |

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### *Costs—unreasonable decision not to reimburse expenses*

A motorist who had been involved in a motor vehicle accident was subsequently charged by the Ministry of Transport with driving without a licence. He denied he was an unlicensed driver and set out to prove he was in fact licensed. He managed, some months later, to obtain a copy of a Court record relating to a previous conviction showing a drivers licence number on it.

The complainant asked the Ombudsman to investigate that the Ministry of Transport failed to establish that a valid licence was held and that the Minister of Transport refused to reimburse the telephone costs incurred by the complainant while establishing the validity of the licence.

The complainant claimed he had been originally issued a drivers licence by a local authority in 1980. In 1983/84 records held by local authorities were transferred to the Ministry of Transport's driver licence database on the Wanganui Computer Centre System. Subsequently the local authority records were destroyed.

During April 1988 to March 1989, every holder of a drivers licence was required to obtain a 'lifetime' licence. The complainant was issued a lifetime licence. On the basis of the information the complainant could provide about his licensing history, it was possible that he was interviewed to establish the validity of his licence.

Prior to the complainant obtaining a licence during the lifetime licence transaction, the only record of the complainant on the computer system related to two pseudo licences concerning different offences in the past. Pseudo licences are routinely created by the Ministry of

Transport when a traffic offender has no computer record of holding a licence. The most common reason for this occurring is when there are insufficient details to uniquely identify the offender on the driver licence database. There was no evidence on the database of the complainant ever holding a licence.

As a result of the complainant writing to the Minister of Transport, he was interviewed by a Chief Traffic Officer. That officer was left with no doubt in his mind that the complainant had obtained a licence in 1980.

The Ombudsman considered two critical factors were not given sufficient regard during the investigation of this complaint. Firstly, the Ministry did not establish that there was no possibility of the complainant having possessed a valid licence. An administrative error could have occurred during the transfer of local body records onto the Wanganui Computer Centre System in 1983-84. In addition to that transfer, during the last decade, the Ministry was presented with a number of opportunities to check the validity of the licence. Instead the Ministry chose to create pseudo licences following the committal of offences by the complainant, rather than clarify the recording of his licence details. Secondly, the Ministry discounted statements made by an officer who was specifically asked to interview the complainant to establish the validity of his claim to hold a licence.

The Ombudsman sustained both parts of the complaint and recommended that the Ministry provide payment for the expenses incurred whilst seeking to establish the validity of the drivers licence.

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