

Our ref CASE-024150 (GROUND-0028155)
Contact Bobbie Laird
15 May 2025



Jodie Bruning
Physicians and Scientists for Global Responsibility

By email: info@psgr.org.nz

Tēnā koe Jodie

Complaint against the Ministry of Business, Innovation and Employment (MBIE)

I refer to your complaint on behalf of Physicians and Scientists for Global Responsibility (PSGR), concerning MBIE's role in the gene technology regulatory reform process.

The Ombudsman is not likely to investigate your complaint, for reasons set out below. You are invited to comment before a final decision is made.

Your concerns

Your complaint relates to the MBIE's role in developing the Gene Technology Bill. Based on the information you provided, I understand you have the following concerns:

- MBIE is leading the development of the Gene Technology Bill while also being the agency responsible for funding biotechnology research.
- The policy development process was not neutral and did not allow consideration of retaining or amending the existing Hazardous Substances and New Organisms Act 1996 Act.
- Concerns that MBIE failed to consult widely with the public, and did not engage Māori appropriately during the early stages of policy development.
- MBIE selected stakeholders and technical experts who were biased, while excluding independent experts without conflict of interests.
- MBIE did not conduct a risk analysis.
- Certain provisions of the Bill were introduced without explanation in policy documents or prior to public consultation.

You believe that these issues suggest poor administrative process and that MBIE acted contrary to public law.

In support of your complaint, your white paper states:

MBIE has effectively secured oversight and control of the development of policy and legislation to regulate the very technologies that it funds.

Independent experts in the regulation of these technologies, without conflicts of interest, were not invited into consultations.

There has been no scientific or economic evaluation undertaken to confirm that the new legislation... will be 'risk proportionate.

You have requested that the Ombudsman complete a systemic inquiry into MBIE's conduct and recommend that the Bill be placed on hold. I also note that your concerns include the role of the Hon Judith Collins KC.

Jurisdiction limitations

As noted in our previous correspondence, the Ombudsman does not have jurisdiction to investigate the actions of Ministers, including the Attorney-General, as they are not listed in Schedule 1 of the Ombudsmen Act 1975 (OA). The Ombudsman also cannot review the development or content of legislation, or the conduct of parliamentary processes. Typically concerns about legislation are raised through the submission process.

Personal interest

Under section 13(1) of the OA, the Ombudsman may investigate complaints about administrative acts or decisions of public sector agencies where those acts or decisions affect the complainant in their personal capacity. However, the Ombudsman has discretion to refuse to investigate a complaint on the basis the complainant has insufficient personal interest in the subject matter.¹

If a complainant is not directly and personally affected by the decision complained of, the question arises as to whether the Ombudsman ought to dedicate his not unlimited resources to investigate that complaint. A complainant should have an interest that is distinct from the interest the public generally might have in the proper discharge of administrative functions. An intellectual or emotional concern, the satisfaction of righting a wrong, an interest in upholding a principle, or a general sense of grievance are not regarded as interests that are greater than that of the public generally.

From the information provided, it does not appear that PSGR has been directly affected by a specific administrative act or decision of MBIE. While I acknowledge that PSGR has a strong interest in the matters raised, the interest appears to be one that is shared by the general public. It would therefore seem appropriate for the Ombudsman to utilise the discretion to refuse to investigate your complaint under section 17(1)(e) of the OA.

You are invited to comment

If you wish to make any further comments about your personal interest in the subject matter of your complaint, please respond by **29 May 2025**.

If I have not heard from you by that date, your complaint will be closed.

Nāku noa, nā

¹ Section 17(1)(e) of the OA refers.

A handwritten signature in dark ink, consisting of the letters 'RW' in a stylized, cursive script.

Rosie Walsh
Senior Investigator