



Question of privilege concerning the time taken by the Minister of Education to correct a misleading statement to the House

Report of the Privileges Committee

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(Hon David Parker, Chairperson)
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Presented to the House of Representatives

Hon David Parker
Chairperson

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Question of privilege concerning the time taken by the Minister of Education to correct a misleading statement to the House

Recommendation

The Privileges Committee has considered the question of privilege and recommends that Hon Jan Tinetti be required to apologise for failing to correct at the earliest opportunity a misleading statement that she made to the House.

1 Introduction

Referral of the question of privilege

On 30 May 2023, the Speaker ruled that the time taken by the Honourable Jan Tinetti, Minister of Education (referred to in this report as **the Minister**), to correct a misleading statement to the House gave rise to a question of privilege requiring consideration by this committee.

The issue identified by the Speaker for determination by the Privileges Committee was whether the delay in correcting an inaccurate statement, in this instance, amounts to a contempt of the House.

The Speaker's ruling is appended to this report.

Structure of this report

We begin this report with an overview of the timeline of relevant events and facts.

We then consider the nature of the question of privilege before the committee, and the standards by which the Minister's actions should be judged.

We then discuss our assessment of the Minister's actions and our findings.

2 Timeline and summary of facts

Overview

The question of privilege concerns a misleading statement made by the Minister in response to a supplementary question during oral questions on Wednesday, 22 February 2023, and the time she took to correct this statement. The subject of the oral question was whether or not the Minister had influenced the timing of the release of data by the Ministry of Education (the **Ministry**) concerning student attendance during term 3 of the 2022 school year. The Minister said she played no part in the delay of the data's release. This was incorrect, as the Minister herself came to accept—correspondence from her office to the Ministry and the Prime Minister's Office (**PMO**) indicates that her office was involved in the timing of the data's release.

The Minister corrected the inaccurate statement in the House on Tuesday, 2 May.¹ The Minister made the correction after receiving a letter from the Speaker on Monday, 1 May, in which the Speaker said “it does appear that you made an incorrect statement in the course of your reply to the supplementary question”. The Speaker's letter was prompted by a complaint made by Erica Stanford MP, which was sent to the Speaker on Thursday, 20 April. Prior to the Speaker's letter of 1 May, the Minister had written to the Speaker on Saturday, 29 April saying she stood by the answers she gave on 22 February.

On Thursday, 11 May, Erica Stanford MP lodged a further complaint with the Speaker concerning the time taken by the Minister to correct the inaccurate statement made on 22 February. In her letter of complaint, Ms Stanford noted that on Thursday, 11 May, the Minister said in response to an oral question in the House that she first became aware on 22 February, after oral questions, that her office had been involved in discussions about the timing of the data's release.

Ms Stanford argued in her letter to the Speaker that the Minister's response on 11 May during oral questions indicated that the Minister was aware or ought to have been aware on 22 February that she had misled the House that same day during oral questions. Ms Stanford said that the Minister's statement that she found out on 22 February about emails from her office to the Ministry was inconsistent with her previous statement in the House on Thursday, 4 May during oral questions, in which the Minister said that she first became aware on 1 May (from the Speaker's letter) that her answer on 22 February was incorrect.

The Speaker ruled on Tuesday, 30 May that the time taken by the Minister to correct her misleading statement did give rise to a question of privilege. In his ruling, the Speaker said it was for the Privileges Committee “to determine whether the delay in correcting an inaccurate statement, in this instance, amounts to contempt”.

¹ All further dates refer to the year 2023, unless otherwise specified.

Timeline of events

23 December 2022

In an email to media (later released under the Official Information Act 1982 (**OIA**)) the Ministry says the term 3 data release is delayed due to the Minister requesting “additional information”.

30 January

The Minister’s office advises PMO of “an intention that the release of the term 3 data from 2022 be aligned with the announcement of the School Attendance Turnaround Package” (the Prime Minister’s description, given in response to written parliamentary question 13832 (2023)).²

9 February

The Minister’s office emails the Ministry saying “the Minister’s office are [*sic*] looking to potentially release the Term 3 attendance data early next week”.

14 February

The Ministry asks the Minister’s office “Do we have a sense of when the data will be released i.e. “this month”, “next week” etc [?]”, and the Minister’s office replies that “The plan is to release it after the announcement – and that announcement is scheduled for Thursday. So Friday would be the day”.

21 February (Tuesday)

The School Attendance Turnaround Package is announced. In a media interview, the Minister says the term 3 attendance data will be released that same day. During our hearing of evidence with the Minister, she told us she did not in fact know whether the data would be released that day when she gave that answer.

22 February (Wednesday)

The term 3 attendance data is released.

Erica Stanford asks the Minister in a supplementary oral question: “Can the Minister categorically state here in the House today that she played no part in the delay of the release of the information when it was made available to her on 20 December?” and the Minister responds “I already have. It is a decision for the Ministry of Education”.³

The Minister is informed after question time by her staff about the emails described earlier in this timeline.⁴ During our hearing of evidence with the Minister, she told us she received a range of views during a discussion that lasted “5 minutes maximum”, and that the advice given to her about whether the answer should be corrected was “not definitive”. The Minister

² Response to written question 13832 (2023), available on the Parliament website at <https://www.parliament.nz/en/pb/order-paper-questions/written-questions/>.

³ (22 February 2023) 767 NZPD 14886 ([Oral question number 10](#)).

⁴ Response to written question 13256 (2023), available on the Parliament website at <https://www.parliament.nz/en/pb/order-paper-questions/written-questions/>.

decides that her answer does not need to be corrected. We discuss the Minister's initial decision not to correct her response in more detail below.

5 April

The Minister signs out the release of information under the OIA that includes the email from her office to PMO on 30 January (described above). The Minister told us during our hearing of evidence that this was the first time since 22 February she considered whether her answer on 22 February required correction.

6 April

The House adjourns for three weeks, and is next scheduled to sit on 2 May.

20 April

Erica Stanford writes to the Speaker (and copies in the Minister) with her first letter of complaint. In it, she argues that the emails described earlier in this timeline (which had recently been released to Ms Stanford under the OIA) show that "the Minister deliberately misled the House on a matter that the Minister knew or ought to have known was inaccurate".

29 April

The Minister writes to the Speaker responding to Ms Stanford's complaint. The Minister says she stands by her answers in the House on 22 February. The Minister's reasoning for initially standing by her answers is discussed in more detail below.

1 May

The Speaker writes to the Minister saying "it does appear that you made an incorrect statement in the course of your reply to the supplementary question". The Speaker does not instruct the Minister to correct her answer, but sets out that "when subsequently being made aware of information that has led to the House being misled (even inadvertently), it is incumbent upon the Minister concerned to return to the House and correct the answer by way of a personal explanation at the earliest opportunity".

2 May

The Minister makes the following personal explanation in the House: "On 22 February, in answer to a supplementary question to question No. 10, I stated that: "I already have. It is a decision for the Ministry of Education." I subsequently became aware that my office did have input into the timing of the release of the data through email correspondence with officials at the Ministry of Education. This correspondence has been released under the Official Information Act".⁵

3 May

The Speaker writes to Ms Stanford informing her of his decision regarding her complaint of 20 April. The Speaker says that having considered the matter raised by the member, the

⁵ (2 May 2023) 767 NZPD ([Personal explanation made by Minister of Education](#)).

Minister's response, and the fact that the Minister has corrected her answer, he finds that there is no question of privilege involved.

4 May

In a response to an oral question in the House, the Minister says she first knew that the answer she gave on 22 February was incorrect on 1 May, when the Speaker wrote to her.⁶

11 May

In response to an oral question in the House, the Minister says she first knew about the emails described earlier in this timeline on 22 February.⁷

Ms Stanford writes to the Speaker with the complaint that gives rise to the present question of privilege. The complaint states that "the Minister ought to have known she had misled the House [based on the Minister becoming aware of the emails on 22 February] and she should have corrected her statement at the earliest opportunity".

19 May

The Minister responds to Ms Stanford's letter to the Speaker, explaining that she believes she did correct her answer at the earliest opportunity (that is, as soon as she was informed by the Speaker that her answer appeared to be incorrect). She references her letter of 29 April as containing her reasoning for initially standing by her answer. The Minister's reasoning is discussed in more detail below.

30 May

The Speaker refers a question of privilege to the Privileges Committee, concerning the time taken by the Minister to correct a misleading statement.

1 June

The Minister writes to the Privileges Committee saying she "understand[s] that I should have informed the House as soon as I learned, following Question Time on 22 February, that staff in my office did in fact discuss the timing of the release of attendance data with the Ministry of Education. That was an error of judgement on my part that I regret".

The committee writes to the Minister inviting her to a hearing of evidence, and sets out that the two primary questions being investigated by the committee are "When did you know that the information in your answer to a supplementary oral question in the House on 22 February 2023 was inaccurate?" and "Did you intend to mislead the House in omitting to correct the inaccurate statement until 2 May 2023?".

8 June

The committee hears evidence from the Minister. This evidence is discussed in more detail below.

⁶ (4 May 2023) 767 NZPD [Oral question number 9](#).

⁷ (11 May 2023) 767 NZPD [Oral question number 6](#).

21 to 26 June

The committee asks, and the Minister answers, a number of further questions to confirm certain factual matters by exchange of letters.

3 Questions to be assessed and criteria

House relies on truthfulness of ministerial replies to parliamentary questions

At its heart, this question of privilege is about the House's trust in the truthfulness of Ministers' replies to parliamentary questions.

New Zealand is administered under the model of responsible government. This model operates on the basis that a Government retains office only for as long as it can assure the Governor-General that it has the support of the majority of members of the House. To justify the House's ongoing confidence in the Government, Ministers are obliged to account constantly to the House for their policies and actions. Being politically accountable decision makers is the essence of their ministerial role. Accountability requires the provision of truthful information in the course of the House's procedures. At all times, Ministers should be conscious that their interactions with the House and its committees are at the core of our constitutional system.

What is contempt?

The Standing Orders set out that the House may treat as a contempt any act or omission that obstructs or impedes the House in the performance of its functions, or which obstructs or impedes any of its members or officers in the discharge of their duties, or which has a tendency, directly or indirectly, to produce such a result.⁸ The Standing Orders also set out a list of non-exhaustive examples of acts and omissions that may be treated as contempts.⁹

The Standing Orders do not require that all acts or omissions that meet the criteria above be treated as contempts. Following the referral of a question of privilege concerning a possible contempt, it is for the Privileges Committee, in the first instance, and the House, ultimately, to judge whether a particular act or omission should be considered a contempt.

The Privileges Committee must consider each case on its own merits, taking into account the seriousness, impact, and level of culpability involved. In doing so, it is guided by the precedents established by previous Privileges Committee findings on questions of privilege, Speakers' rulings on matters of privilege, and, where appropriate, examples from relevant overseas jurisdictions.

Questions before the committee in this case

The question referred to us by the Speaker was "whether the delay in correcting an inaccurate statement, in this instance, amounts to contempt". This case represents the first time the Privileges Committee has considered a question of privilege concerning a delay in correcting an inaccurate response, as far as we know. The closest established ground of

⁸ Standing Order 417(1).

⁹ Standing Order 418.

contempt is deliberately attempting to mislead the House or a committee (by way of statement, evidence, or petition),¹⁰ which we discuss further below.

The primary question before the committee in this case is: did the Minister, in not correcting her inaccurate answer to an oral question until 2 May 2023, obstruct or impede the House in the performance of its functions?

The *prima facie* answer to that question is yes. A Minister who gives the House inaccurate information in response to an oral question and then does not correct it for some time is inherently likely to impede the House's ability to carry out its essential task of scrutiny of the executive. The House remains impeded while the information available to it is inaccurate. This impediment arises from the fact (and to the extent) that the inaccurate information misleads the House as to the facts of the matter to which the answer relates.

The criteria of "obstructing or impeding the House in the performance of its functions" can be thought of as necessary but not sufficient for a finding of contempt. It is also necessary to determine the level of blameworthiness that should be applied in each case. To that end, we have considered as secondary questions: why did the Minister not correct her inaccurate answer sooner, and how culpable is she for not doing so? We explore these questions below by assessing the circumstances of, and reasons for, the Minister's delay in correcting her inaccurate statement.

Deliberately misleading the House as a ground of contempt

Deliberately misleading the House or a committee (by way of statement, evidence, or petition) is an established example of contempt in the Standing Orders, and in previous questions of privilege. *Deliberately* misleading the House requires a level of intent to be considered a contempt.

The contempt of deliberately misleading the House has in the past been applied to the words spoken by a member in the debating chamber. We are not aware of it having been previously applied specifically to a delay in correcting an inaccurate answer. Making an inaccurate statement in the House is likely to involve a single temporal moment in the charged atmosphere of the debating chamber, and it is appropriate that inadvertent misleading without intent should not be judged too harshly. Failing to correct an answer may be quite different—it may involve a sustained course of action and judgement, rather than a single moment. We consider intent relevant in the latter situation too, but have not limited our assessment of this question of privilege to whether the Minister deliberately misled the House by failing to correct her answer until 2 May 2023.

Standard of proof

We have adopted the civil standard of proof (on the balance of probabilities) to determine matters of fact in this case. We follow previous Privileges Committees in doing so,¹¹ and

¹⁰ Standing Order 418(b).

¹¹ Privileges Committee, *Report on a matter of privilege (4 November 1980)* [1980] AJHR I.6 at 7; Privileges Committee *Question of privilege relating to compliance with a member's obligations under the Standing Orders dealing with pecuniary interests* (22 September 2008) [2005–2008] AJHR I.17D at 12.

acknowledge that the more serious the allegation, the stronger the evidence required to satisfy the balance of probabilities standard.¹²

¹² *Z v Dental Complaints Assessment Committee* [2009] 1 NZLR 1 (SC) at [102].

4 Assessment of Minister's actions and committee's findings

Summary of findings

We find that in failing to correct her inaccurate statement to the House until 2 May 2023, the Minister made and sustained an erroneous judgement that caused the House to be misled. During this time, the House was impeded in the performance of its functions. We recommend that the Minister be required to apologise to the House for her conduct.

However, we accept that the Minister's actions arose from a high degree of negligence on her part, not an intention that the House be misled. On this basis, we do not find the Minister guilty of a contempt of the House.

Minister's answer was misleading

In referring this matter to us, the Speaker referred to the Minister's answer as inaccurate in one instance, and misleading in another. We agree that the statement was misleading. Inaccuracy means that the statement was not correct in all details. A misleading statement is one that causes a wrong idea or impression about someone or something. While these concepts are similar, we consider it worth making this distinction. Not all inaccurate answers will be misleading. An answer that is incorrect only in some minor details may not cause the House to be genuinely misled. In this case, the Minister's answer gave the House a wrong impression about whether she had played a part in the timing of the release of data by the Ministry of Education. Her answer suggested that she had not influenced the timing, when the evidence shows that she had.¹³

Minister's initial judgement that answer was not misleading was erroneous

The Minister was informed on 22 February after oral questions of the existence of emails that she now accepts demonstrate that her answer during oral questions on 22 February was inaccurate. In her oral evidence to this committee, the Minister told us that she did not see the contents of the emails on 22 February. However, we find it more likely than not that in the course of the conversation she had with her staff that day, the view was put to her by at least one person that her answer was not correct in all details due to the nature of the emails. The Minister's response to our further questions on 26 June makes clear that the question of whether she needed to correct her response was discussed with her at that stage.

In her letter to the Speaker dated 29 April, the Minister said she stood by her answers on 22 February because her statement was intended to reflect that the Ministry was responsible for, and had in practice made, the decision about when to release the data. She also acknowledged that the emails showed that her office "had influence over when the final data

¹³ Refer to 30 January, 9 February, 14 February in timeline above.

was released”.¹⁴ It is clear to us from the Minister’s letter of 29 April that the Minister did not understand at this point that the fact that her office had influence over when the final data would be released rendered her statement on 22 February misleading.

In her oral evidence to this committee on 8 June, the Minister explained further her initial judgement that her answer was not misleading: “I intended [my answers] to mean that the data does belong to the Ministry and, while there are discussions that are had at that time, that it is the Ministry’s ultimate decision about when they will release the data...I did think that, no, ultimately, it was the decision of the Ministry, and so that the Ministry were making the final decision, so I did not have a say over that data”.

In her response to the committee’s further questions dated 26 June, the Minister stated that she “did not think I needed to correct my answer because I did not know about the correspondence between staff in my office and the Ministry when I gave my answer.” The Minister also noted that the correspondence was not sent under her direction.

The supplementary question that led to the misleading statement asked “Can the Minister categorically state here in the House today that she *played no part in the delay of the release of the information* [emphasis added] when it was made available to her on 20 December?”. The Minister responded “I already have. It is a decision for the Ministry of Education”.¹⁵ A plain reading of this answer gives the impression that the Minister played no part in the delay of the release of the information. The plain meaning of “playing no part” precludes seeking to influence the relevant outcome on multiple occasions, even if the ultimate decision rests with another person. The emails from the Minister’s office to the Ministry show that the Minister did influence the timing of the release of the data, and this means her answer was inaccurate—a conclusion that the Minister now accepts.

We consider that the Minister was in possession on 22 February of all the information she needed to reach this conclusion—or to make the sort of reasonable inquiries that would have led her to that conclusion. The fact that she did not do so caused the House to be misled for close to 10 weeks, or 13 sitting days. During this time, the House was impeded in its ability to hold her to account over her policies and actions.

Minister culpable for acts and omissions that impeded the House in the performance of its functions

Based on the evidence before us, we do not believe that the Minister deliberately misled the House by failing to correct her misleading statement. The Minister has strenuously denied such intent in evidence to us. Although some of us find parts of her evidence unconvincing, all members of the committee accept that there is an appropriately high bar for making a finding of intent to mislead, which is not met in this case.

While we accept that the Minister has not deliberately misled the House, her actions did lead to the House being misled and impeded in the performance of its functions. This could be considered a contempt. We consider that the circumstances of this case are serious and there are good arguments both for and against making a finding of contempt. The committee

¹⁴ Evidence titled “2023 04 29 Letter from Tinetti to Speaker”.

¹⁵ (22 February 2023) 767 NZPD 14886 (Oral question number 10).

has grappled with these arguments. Had the Minister given the matter the attention that it deserved at the time, she could have taken appropriate steps to avoid the House being misled by her actions. The Minister has admitted taking no actions to inquire into the information she was given on 22 February, or to review the accuracy of her statements or further consider whether they required correction, until the Speaker's letter of 1 May. She stood by the answer she gave on 22 February in her letter to the Speaker on 29 April in a manner that we find erroneous in light of the evidence.

The House cannot be in the position of being deprived of truthful information from Ministers over significant periods of time due to serious errors of judgement by Ministers. To find no fault in this case would risk undermining the responsibility that Ministers have to the House, and the trust that members may have in the House's procedures for scrutinising the executive. It is reasonable to expect Ministers to make sound judgements and appropriate inquiries when they are informed of facts that may render their statements inaccurate or misleading. That did not occur in this case.

However, we accept that the Minister's actions reflected a high degree of negligence on her part, rather than any ill intention. It is our view that a finding of contempt should be reserved for the most serious of cases. For these reasons, we do not find she committed a contempt of the House. We wish to stress, however, that we consider that the Minister's actions reflect a significant error of judgement. We consider that the Minister is deserving of criticism for having failed to correct her misleading statement when she had been informed of the information that later led her to accept her answer was inaccurate. Her actions and the impact of them on the House's operations are serious and it is for that reason we consider that the Minister should be required to formally apologise to the House.

Minister accepts error of judgement

The Minister told us in her oral evidence that she understands that she should have informed the House as soon as she learnt of the emails on 22 February, and that not doing so was an "error of judgement" that she "regret[s] deeply". She also told us that she regretted her decision not to look at the contents of the emails on 22 February, as well as not giving the matter enough consideration on 22 February, including not reviewing the video or *Hansard* of oral questions. We note that the Minister told us that she has now changed her practices, and she does review video and *Hansard* of oral questions.

Proposed sanction

Causing the House to be misled in a manner that impedes the House in the performance of its functions is a serious matter. We acknowledge that the Minister corrected her misleading statement on 2 May 2023,¹⁶ and has demonstrated significant remorse for her errors. However, we note this has not included an apology to the House. We therefore recommend that the Minister be required to apologise to the House.

¹⁶ (2 May 2023) 767 NZPD ([Personal explanation made by Minister of Education](#)).

Guidance for Ministers

It is a well established principle that a member who makes an inaccurate statement in the House, or in the course of any parliamentary proceeding, has a duty to correct their statement at the earliest opportunity. This duty applies to all members equally. However, Ministers must take into account the constitutional nature of their responsibility to answer parliamentary questions truthfully, and the potential hindrance of the House's scrutiny of the executive function that may arise if the House is misled by their answers.

We wish to reiterate that Ministers are required to correct inaccurate statements made in the House when they become aware that a statement was not correct in all details. This is so even if they only become aware of this after making the statement. A lack of knowledge at the time the statement is made does not justify the House being deprived of truthful information when a Minister comes into possession of that information. Moreover, Ministers are responsible for the actions of their offices regardless of whether they have specifically authorised those actions.

We encourage Ministers to treat the accuracy of their statements with appropriate care and diligence. Reviewing official coverage and *Hansard* of oral questions, and seeking advice about the accuracy of statements, are likely to assist Ministers in doing so. Any member may seek advice from the Clerk of the House about correcting an inaccurate statement made in any parliamentary proceeding.

Appendix A

Committee procedure

We met between 1 June and 29 June 2023 to consider this question of privilege. We received and heard evidence from Hon Jan Tinetti, Minister of Education, and advice from the Office of the Clerk.

We provided the Minister an opportunity to respond to our findings under Standing Order 250 (Adverse findings).

Committee members

Hon David Parker (Chairperson)

Chris Bishop

Golriz Ghahraman

Hon Grant Robertson

David Seymour

Tangi Utikere

Hon Poto Williams

Hon Michael Woodhouse

Hon Grant Robertson was replaced by Hon Dr Duncan Webb for consideration of this question of privilege.

Chris Bishop was replaced by Hon Gerry Brownlee for part of the consideration of this question of privilege.

Appendix B

Speaker's ruling

30 May 2023

Members, a matter of privilege has been raised with me alleging that the Hon Jan Tinetti deliberately misled the House by failing to correct a misleading statement at the earliest opportunity. In a supplementary question on 22 February 2023, the Minister was asked to categorically state that she played no part in the delay of release of school attendance information. The Minister replied that she already had, and that it was a decision for the Ministry of Education. The Minister corrected this answer on 2 May, stating, "I subsequently became aware that my office did have input into the timing of the release of the data through email correspondence with officials at the Ministry of Education."

The Minister has stated that she was informed by her staff after question time on 22 February of her staff's correspondence with the ministry on the release of data. She has also stated that she did not know that her answer needed to be corrected until she received a letter from me on 1 May, after which she corrected it. It is an important principle that the House can trust the accuracy of ministerial replies to parliamentary questions. While mistakes are sometimes made which can result in the House receiving an answer containing a misleading statement, it is vitally important that as soon as this is discovered, the Minister returns to the House to correct their answer at the earliest opportunity.

I have considered the matter raised and considered its degree of importance. It is for the Privileges Committee to determine whether the delay in correcting an inaccurate statement, in this instance, amounts to contempt. I rule that a question of privilege does arise from the time taken to correct a misleading statement to the House. The question, therefore, stands referred to the Privileges Committee.

Appendix C

Hansard transcript of hearing of evidence held on 8 June 2023

Question of privilege concerning the time taken by the Minister of Education to correct a misleading statement to the House

Privileges Committee

8 June 2023

Members

Hon David Parker (Chairperson)
Hon Gerry Brownlee
Golriz Ghahraman
David Seymour
Tangi Utikere
Hon Dr Duncan Webb
Hon Poto Williams
Hon Michael Woodhouse

Witness

Hon Jan Tinetti, Minister of Education

Parker Well, welcome to members of the committee. Welcome to the Hon Jan Tinetti, and to visitors in the gallery. We have before us a matter of privilege that was referred to us by the Speaker, and we sent you a letter setting out the proceedings of the committee. The proceedings of the committee are being recorded; we can take a decision later as to whether we transcribe them. And we now embark upon a series of questions from members as to the issue that is before us. Michael Woodhouse.

Tinetti Excuse me, Mr Chair, I did ask if I could make a statement to start with.

Parker That's fine—no problem with that, members?

Tinetti Thank you. Thank you, Mr Chair and members. I wish to make a brief statement at the start of the session regarding the matters we are discussing today. In your letter to me on 1 June, the committee asked me two primary questions. The first question asked, “When did you know that the information in your answer to a

supplementary oral question in the House on 22 February 2023 was inaccurate?” My staff verbally informed me following question time on 22 February that some staff in my office did in fact discuss the timing of the release of attendance data with the Ministry of Education. I understand now that I should have informed the House as soon as I learnt this.

Parker Sorry, we're just having a wee bit of difficulty hearing. Are the mikes—or perhaps could you—

Tinetti I'm having difficulty hearing you, too, so—

Parker Right, OK. Well, I will speak up—

Tinetti We might speak up?

Parker Yes, I think we might.

Tinetti Do you want me to start again, or are you all right from that point?

Woodhouse No, we're fine. Just a bit louder would be good.

Tinetti OK, I'll use my teacher voice.

Woodhouse Good girl.

Ghahraman Slower as well, Jan.

Tinetti And slower.

Woodhouse Thank you, Ms Tinetti.

Tinetti I understand now that I should have informed the House as soon as I learnt this. That was an error of judgement on my part that I regret deeply. The judgement I made at the time was that I did not need to correct my answer because I felt that my answers reflected what I intended them to mean at the time of delivery. I fully accept that this was an incorrect judgement to make and I corrected my statement at the earliest opportunity after Mr. Speaker's letter to me on 1 May confirming this.

The second question the committee asked was, “Did you intend to mislead the House in omitting to correct the inaccurate statement until 2 May 2023?” My answer to this question is an emphatic no. Upholding the integrity of Parliament is of utmost importance and something that I take very seriously. Again, I made an incorrect judgement on this occasion about whether I needed to correct a statement or not. I regret that decision.

While not an excuse, it may assist the committee to provide an element of context. 22 February was the first day of question time for 2023 and was also my first question time as Minister of Education. I received no other oral questions on the matter of the timing of the release of the data between that date and the date I corrected my answer on 2 May. I didn't give enough consideration to the matter on that day. I came straight from question time and straight into meetings. I made a judgement not to correct my statement and then got on with my role as Minister. I was not being regularly prompted on this issue as I was not being asked further oral questions on the matter.

The committee has asked a further clarifying question regarding the context of a statement in my letter on 1 June 2023, that, I quote, “felt that my answers reflected what I intended them to mean at the time of delivery, that the release of attendance data is conducted by the Ministry of Education”. My answer reflected my understanding at the time that I personally played no role in the delay of the release of attendance data. As I had mentioned, I subsequently learnt that this was not the case and that my office had discussed timing with the Ministry of Education.

Can I finish end by reiterating that I accept that I should have corrected my answer in the House earlier, as Mr. Speaker pointed out in his letter on 1 May. I regret this error of judgement, but wish to underline to the committee that there was absolutely no intention to mislead the House. Thank you, Mr. Chair.

- Parker Thank you. I'll go to Woodhouse first.
- Woodhouse Thank you, Mr. Chair. Thank you for attending, Minister. Take us back to that period after question time on 22 February, and just talk us through what happened when you got back to your office. Staff came to see you. What did they say to you?
- Tinetti I was verbally told about the emails at that point in time. It was a very quick—and I have to emphasise this—it was a very short period of time, probably 5 minutes maximum, that I had in my discussions. I talked through with them about those emails. We had this discussion around the fact that it didn't alter the intent of what I meant of what I said in the House. I then went into meetings. I didn't think about it again, at that point in time.
- Woodhouse OK. So did your staff advise you that it was their view that the answer that you gave was inconsistent with what actually had taken place between 20 December and 21 February?
- Tinetti There were a range of views that were canvassed on the matter. The advice to me was not definitive. Ultimately, now, I believe it does not matter, as it was my decision, and I stand by the fact that I was the one that took that ultimate responsibility to not correct the statement at that point in time, because I felt at that time that I was still meaning—it still meant what I meant it to mean in the House. And that, I now see, is an error of judgement. I did not give enough consideration to the matter on the day.
- Woodhouse So it was a pretty binary question, with a very direct answer. Can you explain to the committee why you still maintain, albeit that you are now saying that you understand that you should have informed the House—but in your reply to the letter from the chair of this committee, and you've said it again today, that you felt that your answers reflected “what I intended them to mean”. What did you intend them to mean, and given that the reality was so different from your answer?
- Tinetti I intended them to mean that the data does belong to the ministry and, while there are discussions that are had at that time, that it is the ministry's ultimate decision about when they will release the data. I now understand, when I have seen—and that took some time for me to see the contents of that email. I did not see it that day, another decision that I regret at that point in time—that I did not look at it right at that point in time, that I carried on with my meetings on that afternoon.

So, you know, there's a lot of decisions that I made then that I do ultimately regret at this point. But I did think that, no, ultimately, it was the decision of the ministry, and so that the ministry were making the final decision, so I did not have a say over that data. This is not statutory data; it is released due to the ministry's time frames. That's what I believe.

I will also say that I was disappointed in the emails, when I did finally see them, that were written and sent. That overstepped my expectations for my staff. But, again, ultimately, it doesn't matter about that, because I was the one that made that decision and I take full responsibility for it.

Woodhouse So, if I may, I'll come to those emails in a minute. But I just want to clarify: after question time on 22 February, did your staff advise you that it was their view that you should correct your answer?

Tinetti The advice to me was not definitive.

Woodhouse But it was clear to them that the answer you had given was inconsistent with what had actually been going on between your office and the ministry?

Tinetti A range of views were canvassed on the matter, and the advice that they gave me was not definitive. Ultimately, it was my decision, based on the range of views that were given to me at that point of time, that I still stood by, at that point in time, my answer.

Woodhouse Right. But did that range of views include advice to you—because you're telling the committee this was the first time you'd heard of it—that they had in fact been corresponding with the ministry in a manner that would indicate that they were having some influence over the timing of the release?

Tinetti Michael, could I—sorry, excuse me. Can you just repeat that again?

Woodhouse So you said that there were a range of views. I'm trying to understand what advice you were given. You said there was a range of views. Did that range of views include advice that your answer was inconsistent with what had actually been happening in your office? And how then can you say that your answer still reflected what you meant them to mean?

Tinetti When you sit down—and, Michael—excuse me, Mr Woodhouse—you know how an office works and you know how a Minister's office works, that you will sit down and have that conversation. Again, the time frame here was a very, very short time frame that we're talking about. We had that conversation. A range of views were given at that time, but I came to the decision, based on the range of views that were given to me, that my answers still stood at that point in time. Again, a decision that I ultimately have come to regret

Woodhouse At any time after 22—you said you were in a hurry, you went to a meeting; that's fine. At any time after 22 February, did officials or staff approach you on this subject? And when was the next time the question of whether the answer to an oral question time on 22 February was correct—when was that next discussed in your office?

Tinetti I didn't think about it again until I saw the OIA that came through. That came through on, I think it was about 11 April that I signed the OIA out. At that point,

it was the recess, the three week recess. I was on a trip or going to a trip, ministerial trip, to Ottawa and Washington, and then didn't have any opportunity to talk about it with my staff. When I got back, the day before I came down or the day that I came down to Wellington, the letter from Mr Speaker was already with me.

Woodhouse OK, I can help you out. The OIA was signed out by you on 5 April 2011—

Tinetti 5 April.

Woodhouse —but was sent on 11—

Tinetti Yeah.

Woodhouse —and it contained email correspondence between the ministry and your office, where the ministry stated, “We are keen to work with you to agree a release date”, and your private secretary replied, “FYI, the Minister's office are looking to potentially release the term 3 attendance data early next week, something we can chat about at our meeting later today.” Are those the sorts of email exchanges you're saying you read and realised then that your answer was—

Tinetti I read those at the OIA at the time. And you asked—you originally asked about when I had thought about it again—

Woodhouse Yeah, that's right. And that was that day?

Tinetti It was when—at that point when I signed out the OIA.

Woodhouse OK, so what about that exchange did not cause you to pause and think, “Actually, my answer didn't reflect reality.”? Because you, basically, said you didn't think even then that it was necessary to correct your answer.

Tinetti Well, I couldn't have corrected my answer at that point in time.

Woodhouse For what reason?

Tinetti Recess.

Woodhouse OK. We'll come to the timing of that. The email—the OIA also included email correspondence on Tuesday 14—all right. Actually, I'll come to the 14th in a minute. Are you telling the committee that you realised that day that the answer needed correction, but, because it was recess, you couldn't do it at that time?

Tinetti No, I'm not saying that. I'm saying that it gave me pause to think at that point in time, but I would have had a conversation with my staff when we got back to the full office again, which was going to be 1 May.

Woodhouse OK. Can you talk us through the conversation that took place then on 1 May?

Tinetti Well, that's what I'm saying to you, Mr Woodhouse, that that conversation didn't quite go the way we expected, because I got a letter on 1 May from Mr. Speaker.

Woodhouse All right. On 4 May, you told the House that you only became aware your answer was incorrect when the Speaker wrote to you. But then, twice the following week, you told the House that you knew straight after question time on 22 February. So which of that—

Tinetti I knew about—

- Woodhouse Which of that is correct?
- Tinetti I knew about the emails on 22 February, because I'd had a verbal discussion, but that's where I made the decision, at that point in time, that I still stood by my answer. When Mr. Speaker wrote to me on 1 May, that was where I realised that I had made a mistake and that I had to correct that answer straight away—when he pointed out Standing Orders to me.
- Woodhouse So wasn't it equally, given the conviction you had up until that point, a plausible reply to the Speaker that, in your view, your answers did reflect, “what I meant them to mean at the time of delivery”? And that even having considered whether or not that was inconsistent with what had been going on in your office—so you're, basically, saying to the committee you only changed your mind on that once a letter came from the Speaker. And bear in mind, that wasn't the letter that triggered this referral.
- Tinetti Sorry, I don't get that first part of your question. I didn't, couldn't make the connection between the first part and the last part.
- Woodhouse So you've effectively said, “I confess to making a mistake, because the Speaker told me I'd made a mistake.” But the Speaker made no such determination at that point. He'd just pointed out to you that there had been a complaint about this.
- Tinetti But he also pointed out Standing Orders at that point in time as well, in that letter.
- Woodhouse So you're saying neither your staff nor you knew about Standing Orders and the obligation to correct the misleading statements?
- Tinetti I think just—I want to reiterate, the time frame of when I got back into my office was very, very short. Again, I regret that I didn't give enough consideration at that point in time to the answers that I'd given.
- Woodhouse Right.
- Tinetti I made a snap decision. I now take that that was the wrong decision to make. I regret that I didn't take more time. I went straight into—after the first question time, I had a full afternoon of meetings. I did not think about it again.
- Woodhouse OK, but—so, I just want to work through the logic here. You are aware of Standing Orders. You've been around a bit. You know that questions that are misleading or found to be misleading need to be corrected. You had that conversation, you made a determination that you stuck to, effectively—even after signing out that OIA—that you did not believe your answer was misleading. Why, and what happened? Because the minute the Speaker didn't give you any more information—in fact, you would have had much more information about what happened than he did. Why did you move so quickly to say, “Clearly, I did mislead the House.”? Because you could equally have replied by saying, “No, I stand by my answers.”
- Tinetti My interpretation of the Speaker's letter might be quite different to your interpretation, I feel. I feel that the Speaker's letter did give me quite a clear direction around the fact that I needed to correct that answer. I take on board what that letter said. I take on board that I feel that, perhaps, at that point in time, that I understand now that my answer was inaccurate. As I said in my opening statement

and a few times since, I absolutely regret the fact that I didn't give more consideration to that answer at the time.

Woodhouse But you could see the difficulty we've got now, because there were two complaints to the Speaker. The first one was not upheld, because you then went and corrected your answer. It's now clear that you knew, or should have known, much, much earlier than that, that your answer was misleading and that your staff were donkey-deep in the question of when the data would be released. Would not a Minister, looking at the obvious information, if not on 22 February but certainly on 5 April—would have known, or should have known, that the answer was well wide of the mark?

Tinetti Which is one of the reasons why, when I signed out the OIA, that I started to think about that, but wanted to have a good conversation with my staff before 2 May, when the House would have been sitting again.

Woodhouse OK, so that same OIA had email correspondence dated Tuesday, 14 February, where the ministry emailed your office, asking, “Do we have a sense of when the data will be released, i.e. this month, next week, etc.?” And a reply to that email from your office, stating, quote, “The plan is to release it. The plan is to release it after the announcement. And that announcement is scheduled for Thursday. So Friday would be the day.” That’s your office telling the ministry what was going on. Is there any other conclusion that could have been reached, reading that email correspondence, that your staff were (a) definitely influencing the timing of the release, but acting outside your knowledge and authority?

Tinetti Look, as I've said, I do set clear expectations around what is acceptable by my staff, and this clearly, clearly overstepped the mark. I have had discussions with my staff around what I do expect, and I am really disappointed this has happened. But, ultimately, as Minister, I accept responsibility and I deeply regret that I didn't give more consideration to this at the time. I do want to reiterate that the time frame that I was dealing in was around 5 minutes maximum to make that decision. I deeply regret that decision.

Woodhouse OK. So I want to turn to another OIA, and I'm trying to kind of draw threads and weave a rope here. OIA 2023-052, responding to a request for correspondence between the Minister of Education's office and any staff in the Prime Minister's office relating to the release of term 3 attendance data, contains an email which looks to be from your office to PMO, although the redactions make it difficult. Its subject is “Re: attendance at pre-Budget request”. Under the subject “When is the term 4 data out?”—I think that might be a typo, but the answer is: “Term 3 data was due out last year, but didn't go for a variety of reasons. We'd ideally like to time the release of the data carefully with an announcement.” So I have three questions about that. Did you read that when it came out?

Tinetti No.

Woodhouse It's the only line in the OIA. It wouldn't have been difficult to read it before you signed the letter.

- Tinetti Do you mean for the OIA? Yes, I signed the OIA out, but I didn't know about it at the time.
- Woodhouse Oh, OK. Thank you. Thank you. That sounds good. Was PMO—sorry. In the subject line “Attendance re pre-Budget request”, were you asking for the Prime Minister to attend the attendance data announcement on 21 February?
- Tinetti Not to my knowledge, no.
- Woodhouse OK. What was the request for attendance for pre-Budget announcement?
- Tinetti Attendance data? Pre-Budget announcement?
- Woodhouse OK. So it relates to not—it’s not related to the announcement.
- Tinetti It’s about attendance data. It's not about attendance, no.
- Woodhouse OK, very good. What, if any, discussions did you have with either the Prime Minister's office or the office of the Minister of Education when you were the Associate Minister about the timing of attendance data release?
- Tinetti I didn't have any conversations with the Prime Minister's office around attendance data. When I was Associate Minister, I can remember one meeting that the then education Minister was at where ministry gave us a—Ministry of Education gave us a “no surprises” around when they thought that they would be releasing the data for term 3 data. That would have happened—I'm going to say early December, from recollection, but I cannot remember the exact date. But that would have been the only time that I can recall that the previous Minister of Education would have been in on that conversation as well.
- Woodhouse OK. Your reply to—sorry, I'll retrace. The Prime Minister's reply to written parliamentary question 13832 around communications is probably referring to the same 30 January email, but his answer is, “On 30th January 2023, my office was advised by the office of the Minister of Education of an intention that the release of the term 3 attendance data from 2022 be aligned with the announcement of the school attendance turnaround package.” So I just want to put it to you that it's inconceivable to me, at least, as a former Minister, that the correspondence on 9 February, on 4 February, on 30 January, between 14 and 23 December, all referring to the Minister's office's involvement in and influence over the timing of the release without your knowledge is simply not plausible.
- Tinetti Well, that's exactly how it happened. As I've said to you, I set my expectations around my staff. I'm very disappointed in how this has overstepped the mark. I have since had a conversation with my staff around making clear what my expectations are. Having said that, as the Minister, I do take responsibility around this. But you must also know that, as a former Minister, and how these things operate, is that there are a lot of conversations that happen between a Minister's office and PMO every week that the Minister will not be privy to. And, in this particular case, I wasn't privy to this.
- Brownlee But they are all informed by the items that appear on the weekly agenda that the Minister sits down with the department to discuss. So are you saying that this matter did not appear on any of those agendas between late November and 22 February?

- Tinetti Mr Brownlee, I haven't seen that.
- Brownlee Are you telling us that all of this was going on and you didn't know about it?
- Tinetti I did not know of those emails. I did not know about that correspondence.
- Brownlee Not the emails, the issue. The emails are a consequence of the issue. What's at stake here—
- Tinetti Oh, do you mean the attendance data?
- Brownlee What's at stake here is what you knew and what you didn't tell the House. It's the difference between informing the House and the difference between misleading the House, and that's what this committee is trying to sort out.
- Tinetti Sorry, Mr. Brownlee—
- Brownlee The question is, are you saying that you did not know there were any discussions going on that might link the term 3 data release to an announcement about the new \$74 million package?
- Tinetti I genuinely did not know when that announcement was going to be made.
- Brownlee No, that's not the question.
- Tinetti Not the announcement, sorry. When the data was going to be released. I genuinely—
- Brownlee That's not the question either.
- Tinetti I'm sorry, then can you clarify your question?
- Brownlee Are you telling the committee that you were not aware that there was discussion about the linking of the release of both the data and the announcement?
- Tinetti Yes.
- Brownlee You didn't know about either of those things?
- Tinetti No.
- Brownlee How can you be functioning as a Minister, with all due respect, if you don't know about this?
- Webb Well, that's why—that's not for this committee.
- Brownlee Well, no, it is for this committee.
- Seymour It's a perfectly fair question.
- Brownlee It goes right to the heart of it, because the question here is: when did the Minister know there had been a potentially misleading statement made to the House. That's what's at the heart of it. So what I'm getting at is my somewhat incredulous view that a Minister, when something like this is going on—it's clearly important. It's a \$74 million announcement. It's a big deal, right? And so you're looking at when's the optimum time for release, you're talking to other Ministers, presumably. It's all being set up. The PMO will be involved—the whole deal. So the idea that there wasn't an awareness that there was also this other data that we're going to drop the day before just doesn't gel.

- Tinetti Can I just say then, Mr Brownlee, that my focus was on the data itself. That was the most important part in the whole lot of this conversation. The data itself is what informed—even when we'd seen the early data, what's informed all of the data going forward has informed interventions that we've put in place. So the focus has been on the data itself, and that was what my focus was on: around what can we do to make certain that we are getting our young people back and engaged in school—
- Brownlee All that's fine.
- Webb Can I, Mr Chair?
- Tinetti —not the release dates or the mechanics of the House. That was not my focus. My focus was on the data itself.
- Brownlee That wasn't what my question was about.
- Tinetti No, but I answered your first question.
- Brownlee It's slightly concerning that you're not aware of, or not picking up, the importance of what was being suggested.
- Parker Well, that's a value statement. Do you want to ask a question?
- Brownlee Well, a question would be: when the policy for the \$74 million truancy programme was being put together, was there at that time any discussion about the term 3 attendance data?
- Tinetti As in the release of the—there's always been discussion around the term 3 release; the attendance data, not the release of it. But when the package was being put together, some of the—and here's a point in case. When you look at the part of that package, which was about \$7 million to make sure that the data is robust, we know that data from the term 3 and prior to that data wasn't as robust as what it could be to ensure that it informed us of the best practices going forward. So of course the term 3 data and prior to that had been discussed in helping inform that package, but not linking the two with the release.
- Brownlee OK, but the clear point is that the data you received on 14 December and then sent back to the ministry, and then received it again on 20 December—this is according to the OIA—are largely unchanged, but the position that the ministry understood was that it could not be released until they had authority from your office. And isn't that backed up by that also being the belief of the Prime Minister at the time?
- Tinetti The data on 14 and 20 of December was not in a good shape at all, and, in fact, it was very hard to interpret that data. And to ensure that we had the best data that could make the biggest difference for our young people, which is what I'm saying—my focus was on the data itself, not on the release of the data. I asked some clarifying questions about that data, particularly around the fact that the data was blown out because of illnesses due to COVID and flu illnesses at the time. But that wasn't reflected in the way that that data had been brought together. Those were the clarifying questions that I was asking so that we could make the most of that data, have it in the most robust form possible.

Webb I mean, we're getting down in the weeds of the data, and so on, I just want to get back and clarify some of the information given. And obviously what was said in the House is the starting place, and its accuracy and your view of its accuracy. It strikes me that there's two statements that you made in the House: one is the Ministry of Education are responsible for the release of the data, and the second is that you have no say over the release of the data. You know, I think, for the record, so to speak, I think we all accept that you believed those two statements to be absolutely true when you said them.

Tinetti Yes.

Webb And the question that I think we've been inquiring into here is when you reached the conclusion that, in fact, that wasn't accurate. And there seems to be a number of junctures that could have happened but may or may not have happened. The first was when you returned to your office and had what you call a brief discussion with staff. Is it fair to say that when you had that discussion, you still considered those to be accurate statements?

Tinetti Yes.

Webb There was then a series of interactions around documents being released that you signed off under the Official Information Act, which had exchanges between your staff and Ministry of Education, which I think you've said you saw those documents when you signed them off. And when you signed those off, that didn't change your mind—that the statements you made in the House remained accurate?

Tinetti No, but I started to think a little bit more. But, no, I didn't change my mind.

Webb And then you had an exchange with the Speaker, which is captured, probably, in your letter of 29 April, where you recount the various exchanges. And at that stage, it appears to me that you still were of the view that those statements remained accurate. Was that your view when you wrote on 29 April?

Tinetti Yes. Yes, it was at that point in time.

Webb And the next document is the letter of 1 May from Mr Speaker. And, I mean, in a sense that looks to me like the Speaker's telling you you're wrong. Is that how you saw it?

Tinetti That's how I saw it at that point in time.

Webb And so, would it be fair to say that when you received that letter, you essentially accepted the Speaker's ruling that your previous views about accuracy were incorrect, and that's the first point that you realised you needed to correct something in the House?

Tinetti Yes.

Woodhouse OK, but—may I?

Parker Yeah, have you got anything, David?

Seymour Yeah, I'd like to ask a few questions. Ms Tinetti, what I take from the basic story you're telling is that you gave this answer on 22 February, you returned to your office, you had a brief discussion where you learned, for the first time, you tell us,

that your staff had indeed been involved in interfering in the timing of the release. However, the relationship between that information and your answer given was ambiguous, and as a result, you decided to move on and didn't think about the matter until you heard from the Speaker. Is that basically the—

Tinetti I didn't think about it again until the OIA, until I signed out the OIA.

Seymour Until the OIA. OK. So that time delay explains why you didn't correct your answer in a timely manner, which is the issue here. But I just wonder: when you had that discussion with your staff, did you review the video or the draft *Hansard* of exactly what had been said?

Tinetti No, I didn't, and that's the part that I deeply regret at this point in time. I went straight into meetings. I didn't think about it again. I deeply regret that I didn't go back through the *Hansard* and I didn't go back to review the video. Can I say that I've changed that practice now—that I do go back and look at those videos and the *Hansard*.

Seymour Because you were asked: can you categorically state here in the House that you played no part in the delay of the release of the information? And you replied: "I already have. It's a decision for the Ministry of Education." So you were saying—you'd already categorically stated you played no part, and yet a few minutes later you found out that your office had played a part. Surely that contradiction would have been glaring.

Tinetti Again, this is where I deeply regret that I hadn't gone back and given more consideration to this time, because my meaning was around the fact that I hadn't—that, two parts: that I hadn't personally; I hadn't been involved in that. But also that it was still—because I didn't look at that email and give consideration to it—that the ministry still were making that determination themselves. I now accept, having seen that my staff overstepped the mark in that, and I deeply regret that I didn't give that due consideration at the time.

Seymour So it was worth having a discussion but not looking at what was actually said, because when you read it now it's crystal clear: you categorically state you played no part. You said you had, but you'd also played a part.

Tinetti It was partially because of that time frame that I had—which, again, I might even be framing five minutes as too long; it was a very, very short time to get there and into to the next meeting.

Seymour Because, I mean, I guess this committee's interested in how seriously you take the House, and it sounds like not that seriously.

Tinetti Very seriously, which is why I've changed practices around that.

Seymour Could I just ask one more question. I mean, you frequently say that you're a—I think it would be fair to say—passionate educator, a former principal. And yet you were meeting as Minister at least weekly with the Ministry of Education for months, and the topic of when this data would be released never came up? I mean, surely you would have an intense interest in when this school attendance data would be known to the public.

- Tinetti No, that's not what I've said either. I said—back, even, I think, early December the year before—that the ministry had set in a meeting and talked a bit about release of data. They did talk early 2023 about the fact that the data was delayed, the final copy coming to my office because of the cyclone and the weather events that they weren't able to get that final copy coming through to my office. And at that point, I accepted that and I didn't hear any more about that from that point.
- Seymour So the only time in several months of meeting weekly with the ministry as the Minister for education, as a passionate educator, that you discussed the timing of the release of attendance data for the whole education system—
- Tinetti The release of data—
- Seymour —was when there was a question of the storms interrupting the data?
- Tinetti The release of the data wasn't the focus. The focus was on the data itself. It's the data itself that's going to give us the richness about how we can make a change for our young people in this country, not the release of the data. The release of the data is something that the year before had been not released until May. So it wasn't something—releasing it even in February was something that wasn't unusual to be sort of really pushing in and saying, “Where is that data, where is that data?”, because it was actually ahead of time, by that logic, because of the year before. This is data that is quite new for the Ministry of Education. It's only since about 2018 that we've been collecting data across all four terms. Prior to 2018, it was only collected across one term, and even then it was a back-filled data. So it was only on a one-week time frame that that data was collected from schools, and it was a paper trail that schools had to fill that data in. This is something quite new, and that's why refining that is important.
- Seymour With the greatest of respect, most of us know the basic history—
- Tinetti No, I don't think most people do know, but, yeah, that's beside—
- Seymour Well, I do, and I'm sure my colleagues do. Can I just get back to one final question. You've said that, you know, in answer to a question, you categorically haven't been involved in the delay of the release of the data. You also say that you've been intensely involved in how the data is presented and whether it's accurate and whether it includes children who were absent due to COVID-19 isolation. How can you say that you're not involved in the timing of the release, but also deeply interested in what the data said before it was released?
- Tinetti Well, you've really answered your own question there, because my focus was on the data and what the data says, not the release of the data. That was inconsequential. That's not going to make the difference for our young people.
- Woodhouse Sorry, can you clarify that. You're saying that the release of the data is inconsequential to the sector?
- Tinetti For me, it is. For me to make a difference—
- Woodhouse So you wouldn't worry if it wasn't released?

- Tinetti Well, this is an interesting point, that you're saying that it would make a difference to the sector. Yes, it does, but the sector already knows that data because it's their data.
- Seymour Well, your purpose is to assemble it in one place, and you're saying—
- Tinetti That's exactly right—that's exactly right—to give us a system overview.
- Seymour — you took an intense interest in the format and quality of the data before it was released, but you didn't influence the timing of the release. That just doesn't quite add up.
- Tinetti Well, no, hang on. Clearly, I've said here that my office did. That data came to us on—that final data and final analysis came to us on 10 February. The data was released on 22 February—that's six working days between 10 February and 22 February. Clearly, the emails show that my office did influence that timing around that, but my personal focus was on the data itself. That data that came in on 10 February was in a much better state than the data that I saw in December.
- Seymour But, hang on, you indicated categorically that you weren't involved in the delivery, but you were also intensely involved in the preparation of the data and presumably signing off of it was of a quality that you thought was acceptable to release. So I don't see how those two things can be consistent. I can understand what you're trying to say: that having signed it off, you didn't then require a further delay, which we now know was also not true. But it seems that given what you knew, that you'd been intensely involved in this data for weeks, if not months, prior to answering the question, that you must have known that the answer couldn't possibly be true, at least enough to go back and check the tape or ask a staff member to check the *Hansard* and just be sure about that—if, as you say, you take Parliament very seriously.
- Tinetti Firstly, Mr Seymour, I don't sign the data off; I did not sign any data off. I asked questions in December of the data, but at no point did I sign the data off. I didn't ask you further questions after 10 February, so the ministry then went through and worked on that release of the data. Having said that, I stand by the fact that I deeply regret that I did not give more consideration in that time to looking at the *Hansard* or at the video, or, indeed, at the emails themselves. It is a decision that I deeply regret.
- Seymour Thank you for answering my questions.
- Brownlee Are you saying that when the announcement about the \$74 million package was made on the 22nd—
- Tinetti 21st.
- Brownlee —21st; OK—that you had no knowledge that the delayed data for term 3 would be released the same day or the next day?
- Tinetti I had no absolute knowledge that it would be released at that time. I was hoping that the data would be released at some stage very soon.

- Brownlee OK, then why is it that in all of the evidence that you have released, that so many education officials and the Prime Minister's office were of a view that they were waiting for you to approve the release?
- Tinetti I did not approve the release of the data.
- Brownlee Well, that's not the question I'm asking you to—
- Tinetti I don't know the answer to that; I did not approve the release of the data. I don't know why people would think that I would.
- Brownlee No one in your office—no one in your office—discussed the fact that they were talking with the PMO about this release?
- Tinetti The Minister does not approve the release of that data.
- Woodhouse We get that; we understand that. That's not the question. Can I ask a follow-up from that? Because Mr Brownlee has quite rightly pointed out your significant interest in the term 3 data from 10 December to about 26 January, and that's laid out in the correspondence. Putting aside my confusion about the difference between knowledge and absolute knowledge of the timing of the release, which was the answer you've just given the committee, you've said you didn't influence, but given all of this interest by you in the data and its context, is it your submission to the committee—and all of the activity that's going on behind your back without your knowledge—is it your submission to the committee that you did not even ask, "Hey, the dep sec said it would be on 7 December"—to the education committee—"it's coming out really soon." You asked for some context all the way up to the Christmas break. You got back from Christmas. Did it not cross your mind to simply say, "Why hasn't the term 3 data been released, and when might it be released?"
- Tinetti Mr Woodhouse, I think I've already said that—that I did ask that earlier in the year, but I was told that it was delayed because of the weather event. I did not ask after that because I thought that the delay was due to the weather events at that point in time.
- Woodhouse OK. So now we're saying for all of the stuff that's going on, the cyclone delayed the data and it was just a coincidence that it went out around the time of the pre-Budget announcement.
- Tinetti Sorry?
- Woodhouse Well, you've just told the committee the cyclone delayed the data release and it was just a coincidence that it happened to coincide with the pre-Budget announcement.
- Tinetti Well, clearly now, that's not the case. Clearly, now, you can see from the emails, and I saw that from the emails—
- Woodhouse No, no, I'm talking about your involvement.
- Tinetti My involvement back then—
- Woodhouse You must have thought that was a somewhat interesting coincidence.

- Tinetti Well, I was hoping that the data was going to come out soon, at that point in time, because, you know, when the data does come out, it engages people in the conversation about getting our young people back into school and engaged in schooling. And, ultimately, that's what I'm concerned about—is how do we focus on the data and how do we get people to take the data seriously to make certain we'll be acting on those initiatives?
- Woodhouse So when were you informed of the timing of the release of the data and how did that information get to you?
- Tinetti Ah, I think that I was told—and I'm going back in my recollection here—so from what I can remember, I think I was told on the morning of the 22nd that the data was going to be released that day, that the Ministry of Education were going to release—
- Woodhouse So you told the *AM* show on the morning of the announcement on the 21st that the data would be released that day.
- Tinetti Yep.
- Woodhouse When were you informed of that, and how?
- Tinetti I genuinely didn't know—when I was interviewed on the *AM* show, I genuinely didn't know when the data was going to be released.
- Woodhouse Well, you seemed pretty confident in your answer.
- Tinetti Yeah, it was—again, that was pretty instant, that I thought, well, it must be coming soon. So I sort of connected the two in my head.
- Woodhouse With respect, Minister, there's a big difference between soon and “that day”.
- Tinetti Yeah, well it wasn't that day, was it?
- Woodhouse Well, it was the day after.
- Tinetti So, yeah.
- Woodhouse OK. Look, I want to come back to a couple of answers you—
- Parker I'll just go to Poto Williams first.
- Woodhouse Oh, sorry.
- Williams Thank you. Thank you, Minister. The question we are examining is about intention to mislead. One of the comments that you made was about the ability to have the prompt to then correct the answer. And there is a period of time from the question in the House to the first opportunity, I guess, to prompt, which you have indicated is the OIA. Help me to understand what your thinking was when that—it's obviously the first indication to you that there may be something to answer here. Help me to understand your thinking or the advice or what happened at that time which meant that you didn't continue along that line of thinking to then perhaps make a different decision at that time. Because I think we are talking about a significant period of time from the time you answered the question in the House to when the OIA was signed out by you. I'm quite keen to know—
- Tinetti Between that time?

- Williams Yeah, between that time and then at that prompt, what your thinking was.
- Tinetti So from that time, I genuinely did not think about it. So I came back that day. I got on with the work of being a Minister. Did not think about that again at that point, which is the point that I now deeply regret—that I did not take more consideration. Coming to the OIA, I signed out the OIA. I wasn't happy with what I saw in the OIA—that was the first time that I had seen that information coming through. I wanted to have a conversation with my team around it. At that point, I was preparing for a ministerial visit to Ottawa and Washington, didn't have the team together, wasn't able to have that, was going to have that conversation when we got back on 1 May. Actually, I arrived back the day before 1 May, came to Wellington that evening. 1 May was the Monday, I believe, and that's when the Speaker's letter arrived. So that was what prompted, and that was the conversation that I then had with my staff that said that "Clearly, I accept that I have got this wrong." Took responsibility for it and prepared to correct my answer at the beginning of question time when the House sat again the next day.
- Parker Michael Woodhouse.
- Woodhouse I want to go—oh, sorry, Gerry, you ask yours and then I'll—
- Seymour Green Party members.
- Parker Would you like a question?
- Ghahraman Yes, I do have a question. I think I'm interested in knowing—you've said that you've changed processes a few times, and to my mind, you've said that you regret not informing the House more promptly, not looking at the emails when you learnt about them, and also obviously not knowing about the emails at all. So I think I'd like to hear what you've changed in terms of the processes in your office, because I think that goes to what you've identified as being things that have gone wrong, in your view, in good faith, but shouldn't have happened.
- Tinetti So I take a lot more care now. I make certain that I read the *Hansard*. I make certain that I do watch the video because sometimes in those situations, you will hear a word wrong, and there was a recent time that I did hear a word wrong in a question, and I came back and corrected it that evening because of my answer—my answer, in that particular case, matched the wrong word that I'd heard, but didn't match the way that it had been asked. So I did read the *Hansard* and I did look at the video around that.
- I do make certain that my staff engage in question time a lot more carefully as well. And then I've also, as I said, I have reminded my staff about the fact that that particular email chain did overstep the mark, and that that is not my expectation around what they should be doing and the difference between the department's operational side and how a Minister shouldn't have any influence over that. So those are discussions that we have as ongoing as a team as well, to make certain that everybody's upholding those standards. But question time—really spending a lot of time on it now. It's really changed my processes around it.
- Parker Michael.

- Woodhouse Yeah, Gerry, you've got a question.
- Brownlee You have a document here that you've released under the OIA—a bundle of documents. You'll see it's very heavily redacted. It's got two blocks in it that are noted as out of scope, but the bit that sneaked in says, "When is the term 4 data out?"—
- Parker Do we really think cameramen should be photographing across the shoulder?
- Brownlee Well, that's your choice, not mine.
- Parker We shouldn't be doing that, and Michael made that point at the start, so please don't do that. Carry on, Gerry.
- Brownlee Yeah. The bit that's unredacted says, "When is the term 4 data out?", and the answer appears to be "Term 3 data was due out ... last year, but it didn't go, for a variety of reasons"—and remember the date of it's 30 January—and then it says, "We'd [really] like to time the release of the data carefully with an announcement". Now, who's that—who's that from?
- Tinetti Mr Woodhouse has already asked this question.
- Brownlee Yes, I know, but I'm asking it again.
- Tinetti And it's from—look, for the benefit of the committee, I think it's useful to have the full quote, which Mr Woodhouse said before. It is from the adviser that said in that email, "Term 3 data was due out late last year, but it didn't go, for a variety of reasons. We'd ideally like to time the release of the data carefully with an announcement that heavily reflects the COVID and winter illness infection rates at the time."
- Brownlee Yeah, that's fine. The question is, though, and you just told us this was your adviser—
- Tinetti I just said that.
- Brownlee —talking, presumably, then, to the ministry—
- Tinetti No, to PMO.
- Brownlee To the Prime Minister's office.
- Tinetti Not the ministry.
- Brownlee Why would your adviser be able to say that "We'd ideally like to ... release ... the data carefully with an announcement" when you're saying that there'd been no discussion about the relationship between the announcement and the data?
- Tinetti Because saying in an email to PMO that it would be ideal for the data to be released at the same time as an announcement is quite different to directing the ministry to delay the data.
- Brownlee The words are "We'd ideally like to time"—now, that means, in my head, the adviser, at least, thought that there was some arrangement coming together around these things.
- Webb But is this relevant to this question for us?

- Brownlee Yes, it is, because if, in fact, on 30 January, it was known by the Minister, or at least the Minister's staff, that there was some arrangement being put in place to announce the data at the time of an announcement, then it would make the question that was answered on 22 January totally wrong.
- Tinetti Say that bit again, sorry. I'm—that last bit that you said then about 22 January, totally wrong, can you just explain—
- Brownlee No, I'm explaining to your colleague over there why I was asking this set of questions; it wasn't relevant to the question. The question still remains: why was your adviser under the impression that your office had influence in the release of the data?
- Tinetti I don't believe that that quote does say that there's influence over the data. It is saying that “ideally, [we'd] like to time the release of the data carefully with an announcement”—that would be ideal in many situations; it's not saying that there's a direction to the Ministry of Education for that.
- Brownlee Yes, but you're telling us that there'd been no discussion about that. So what—was your people sitting up there sort of anxiously hoping that just by some coincidence the data that the OIAs make very clear the ministry wanted to release prior to Christmas would just be held on to by them until there was an announcement?
- Tinetti No.
- Brownlee Is that suggesting that the ministry's involved in political activity? That's not good.
- Tinetti No, that's not what that suggests at all; that's your interpretation of that.
- Brownlee How can you conclude anything else out of that?
- Tinetti Well, I think it's quite clear, really, that they're saying that we want to make certain that people engage with the data—it would be ideal if we could get people engaging with the data in [*Inaudible*], but I was unaware of any of these emails at the time. But this is to PMO; this is not to the ministry.
- Brownlee That's correct.
- Tinetti Yeah, so this is not a direction to the ministry.
- Brownlee But the PMO's impression in the answer that they gave to the written question that Mr Woodhouse spoke of before was that they understood from the Minister's office that the release would be timed with the announcement. So it's inconceivable that we should be constricted to some sort of discussion about what the words here might mean, when, clearly, the overall impression has to be that there has been a discussion.
- Tinetti What I can tell you, Mr Brownlee, is that I was not part of any discussions around that at that particular point in time, and what I can also tell you and reiterate is that I deeply regret that I didn't take more consideration of the question of my answer after question time on 22 February.
- Brownlee So in all that timespan, are you saying that you never ever said to any of your staff, or any of the ministry staff, words to the effect: wouldn't it be great if these two announcements lined up?

- Tinetti No, because my focus was on the data itself, not the release of the data.
- Seymour Could I just quickly ask: as you probably know, this committee has to determine what actually happened on the balance of probabilities. Now, on the balance of probabilities, if you've got an adviser writing to the PM saying that it'd be ideal to time this release in a certain way—
- Tinetti That's not to the PM, by the way.
- Seymour —to the PMO—then, you know, I think, what sort of conclusion would you like this committee to draw, other than your adviser, someone in your office you're responsible for, was trying to manipulate the timing of the release for political reasons?
- Tinetti I don't believe that that's what that quote says, Mr Seymour. It absolutely does not say that. It really is pointing to the fact that, really—
- Seymour Well, can I just ask—
- Tinetti Can I just finish? Thank you. It really is highlighting that the data is something that we need people to engage in. Any way that we can get that data highlighted—and I don't mind discussions around attendance data because if it can get people engaged in that data, then that has to be a good thing.
- Seymour So what would you define as an announcement in that sentence and how would an announcement help people get engaged with the data?
- Tinetti Well, clearly, announcements are about what we can be doing as a Government, but I was not privy to those conversations, Mr Seymour. I am focusing on the data—
- Parker OK, now we've been going for an hour, which is what we're set down to. You've had more than 50 minutes of questions on the Opposition side; I think you've gone into all of the issues that relate to what the Minister knew when, and what she believed, and what she thinks her mistake was, and I suggest it's now fair to close the evidence.
- Woodhouse With that corollary that there are a couple of important questions that perhaps we could put to the Minister in writing? I could ask them now; they're pretty quick.
- Parker Well, that's a discussion for the committee. The evidence—
- Brownlee No, you went to close off the hearing of evidence from the Minister—
- Parker Yes, I am, because it was set down for an hour. You know, you can try and pretend that this is an unfair process that has been—
- Woodhouse Oh, no, no, we're not.
- Brownlee No, we're not.
- Woodhouse We're just saying there's a process.
- Brownlee You wouldn't be sitting there if it was a fair process. But anyway, we'll leave that aside. Why do you want to close it off? Why can't—
- Parker I object to that, Mr Brownlee. Could you please reflect on that imputation that you just made on the chair?

I.17B QUESTION OF PRIVILEGE CONCERNING TIME TAKEN TO CORRECT MISLEADING STATEMENT

- Brownlee How do you—what would you like me to reflect—
- Parker You said I wouldn't be sitting here if a fair process was being run. Well, that is— are you suggesting that the way I have chaired this meeting's unfair?
- Brownlee No, I'm not.
- Parker Thank you. Mr Seymour.
- Seymour No, I was just going to say the chair is right; the agreement was one hour. We've done one hour, and that's fair.
- Parker OK. Thank you. Thank you, everyone.
- Tinetti Thank you, Mr Chair; thank you, members.

conclusion of evidence