

Thomas Coughlan: Stuart Nash scandal boils down to cock-up vs 'conspiracy'

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By [Thomas Coughlan](#)

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Police Superintendent Jeanette Park, Napier MP Stuart Nash and Napier Mayor Kirsten Wise at a public meeting to talk about crime concerns after Cyclone Gabrielle.

OPINION

The Stuart Nash scandal took a disturbing turn on Thursday when further revelations about the email that got Nash sacked were published by the Prime Minister's Office.

Now reduced to its atomic level, the scandal can be distilled to that most fundamental of political questions: Cock up or, as the National Party alleges, "conspiracy"?

Labour argues for the former, National the latter - using the cloak of parliamentary privilege to allege "conspiracy" in Question Time (to the umbrage of Labour).

Unless further evidence emerges - and that isn't likely - it will be difficult to prove one way or the other. But at first blush it's very hard to believe that not one of the multiple staff who saw and handled the damning email on multiple occasions ever once understood that it needed to be released, and that it contained a breach of the Cabinet Manual so flagrant it would get Nash sacked.

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That adviser is assisted by a more senior staffer, in this case deputy chief of staff Holly Donald. As the most senior staffer involved, she has the responsibility to pull emails like this up, but - again because she is the most senior staffer involved - she probably spent the least time with the source material.

The National version of events alleges the email was picked up, its contents understood, and a decision made not to release it, or even to speak of it, to ensure plausible deniability if anyone ever came asking.

That's a staggering allegation, but the only other explanation is an equally staggering chain of incompetence from Nash's office to Ardern's (a side note to that is that this scandal has now tarred the reputation of Ardern's office just days out from what is meant to be a triumphal valedictory speech to Parliament).

Either explanation leaves the Government facing unsettling questions about probity: How many information requests have seen information withheld that should have been released? And worse still: Whether this was by accident or whether the Government has a broader culture problem around the release of official information.

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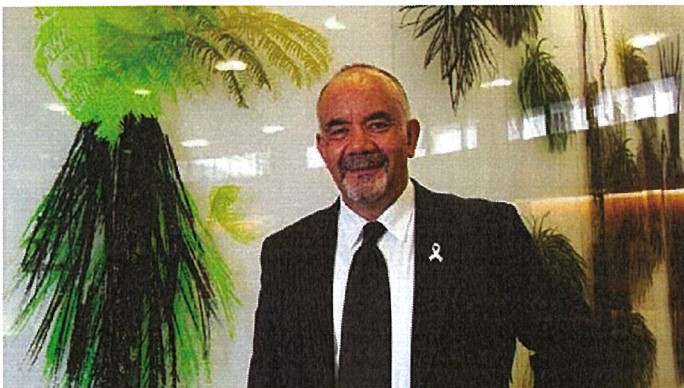
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On Thursday, it emerged that on June 8, 2021, *Newsroom* used the Official Information Act (OIA) to request “all written correspondence and details of the nature and substance of any other communication since the start of 2020” between Nash and 19 of his political donors,

The email between Nash and donors Troy Bowker and Greg Loveridge was pulled up by request, as it should have been, but considered out of scope. However, that was not before the request was kicked up to the office of former Prime Minister Jacinda Ardern, as some OIA requests are.

In all, Nash’s office discussed the OIA with the Prime Minister’s Office three times.

The email was not released as part of that OIA request, on the grounds it fell out of scope of the request. Nash’s reason for not releasing the information, which was later given to the Ombudsman, was that the email was written in Nash’s capacity as a Labour MP, rather than as a minister - and the OIA only applies to ministerial material.

Everyone, including Labour, now agrees that is incorrect and the emails should have been released.

The reason why is the very same reason Nash was sacked: The email discusses matters that happened in Cabinet, things Nash could only know because he was a minister.

All of that is agreed upon by both Labour and National.

Where there’s disagreement is the question of cock up or conspiracy; National deputy leader Nicola Willis accused Labour in the House of indulging in a “conspiracy between a minister’s office and the Prime Minister’s Office to decide to hide information from the New Zealand public”.

Was this an innocent mistake made by staffers exhausted by a year of pandemic politics?

Or did offices, including the Prime Minister’s Office, try to prevent the release of an email so damning it got a minister sacked just an hour after it was published.

It is possible, given the sheer volume of requests ministers’ offices receive, that staff in the offices of Nash and the Prime Minister made a mistake and overlooked both the fact that the email should have been released - and the fact that were it to be released it would certainly lead to an enormous scandal for the Government.

But to argue that point, the Government has to say that not once during the time the emails were being collated by Nash’s office, in not one of the three conversations with the Prime Minister’s Office about the OIA request, and at no point after the Prime Minister’s Office was sent an email saying the letter would not be released, did anyone realise they were looking at an email that first, should have been released, and second, would certainly lead to Nash’s sacking.

There were still further opportunities for Beehive staff to read the email again and realise its explosive content.

In March 2022, Nash’s office looked at the emails again after a complaint was made to the Ombudsman, but no one appears to have been aware of what they were looking at.

Nash’s office had another reason to double-check the email when a complaint was made to the Ombudsman in 2022.

The way OIA requests are generally handled is that staff in ministers’ offices collate the relevant material. They may consult over this material with an adviser in the Prime Minister’s Office, as was the case during the three conversations that were had over this request.