

Privacy Act requests

The Privacy Act promotes and protects the privacy of individuals and sets out principles for how agencies collect, use, disclose, store and give access to personal information.

Principle 6 of the Privacy Act gives individuals the right to access information about themselves that is held by any agency in New Zealand. This means any person can contact any agency and ask to see what information is held about them.

Principle 7 of the Act gives individuals the right to request that their information be corrected.

'Agency' covers private and public sector and even groups like clubs. This means you have the right to see what information is held about you by most organisations (although the media and courts are exempt).

Inland Revenue is subject to the Privacy Act. However, there is also a requirement under section 18 of the Tax Administration Act that all officers must keep confidential all sensitive revenue information unless the disclosure is a permitted disclosure that meets the requirements of sections 18D to 18J. In responding to a Privacy Act request, officers will also need to consider this section. Generally, information about a customer, that has been provided to Inland Revenue by that customer, can be released to them.

See below for the [difference between the Privacy Act and Official Information requests and how section 18 applies](#).

Automated extraction tool

The Automation Team have developed an automated tool to assist staff who process Privacy Act requests. The **Note Extractor** efficiently summarises all (or some) correspondence notes from a customer's account, with the choice of exporting as a Word document. This eliminates the need for staff to manually go through a customer's account and copy and paste screens.

The tool allows a complete overview of all notes/actions taken on a customer's account and is estimated to reduce the standard time of manual system extraction by up to 70%.

Click [HERE](#) to access the LearnIR training material for this tool.

General points

- 'Personal information' is defined as information about an identifiable individual - so it must tell the reader or hearer something about a specific person. If someone is not identified by the information then they won't be entitled to it under the Privacy Act;
- All agencies have 20 working days to respond to an information request. The law says during that time you should decide whether to grant the request and let the requester know of that decision. The information requested doesn't have to be provided within 20 working days but it's best practice to release information as soon as possible - if you can release it within 20 working days, do;
- A request doesn't have to be in writing (it can be made verbally);
- People are only entitled to information that is readily retrievable;

- Requesters are not entitled to original documents;
- The agency receiving the request should make information available in the way preferred by the individual requesting it (for instance hard copy, or electronic or if they want to view the information, you should make arrangements to make this happen);
- A public sector agency cannot charge for making information available under the Privacy Act. A private sector agency can charge a reasonable cost.

A request for personal information can be refused in limited circumstances. [Find out what they are here.](#)

[Click here](#) to find out IRs process for responding to Privacy Act requests.

What's the difference between a Privacy Act and Official Information Act request?

The Official Information Act gives people the right to ask for access to any information held by a public sector agency.

The Privacy Act gives people the right to ask for access to their own information held by any agency.

So if you want information about yourself it's a Privacy Act request, if you want any other information including information about other people (and it's held by a public sector agency) it's an Official Information Act request.

Example 1: if a child support customer (let's say the father of a child) wants a copy of information IR holds about them this would be a request under the Privacy Act. However, if the father also wanted information about the mother of the child, this would be an Official Information Act request as that information is not about them.

Example 2: IR receives a request from Jo Bloggs for a copy of our Corporate Security policy. This is an Official Information Act request as the information is not about Jo Bloggs (so it's not his personal information) but it is information held by IR.

What about section 18 of the Tax Administration Act?

Section 18 of the Tax Administration Act imposes a duty on revenue officers to maintain the confidentiality of sensitive revenue information and not disclose it unless the disclosure is a permitted disclosure that meets the requirements of sections 18D to 18J or Schedule 7.

Sensitive revenue information means:

- information obtained or received by the Commissioner for the purposes of a revenue law
- which identifies, or is reasonably capable of being used to identify, the person or entity, whether directly or indirectly; or
- might reasonably be regarded as private, commercially sensitive or otherwise confidential' or
- the release of which could result in loss, harm, or prejudice to a person to whom or to which it relates.

When the confidentiality requirement in section 18 of the Tax Administration Act is applicable (ie the information requested is to do with sensitive revenue information), it is necessary to consider whether the information should be made available under the permitted disclosures to section 18.

For instance, occasionally we receive requests from customers who want to know who has accessed or read their information and why. The view of LTS is that generally this information may be withheld from a customer under section 18 of the Tax Administration Act (section 18 overrides the reasons in the Privacy Act for withholding information).

However, we should provide the customer with the names of staff who have made decisions about them, or who have already had contact with the customer for example by writing to them.

If customers are asking for this information as they are concerned an IR employee may have accessed their information without proper authority, we will investigate the concern if the customer provides the name of the employee they suspect is involved and why they believe their file may have been accessed.

Care should be taken to determine whether your response is affected by the confidentiality obligation in section 18. You can direct any queries to LTS or Corporate Legal.

Last updated by s 9(2)(a) on 21 March 2019, 4:05pm

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Process when responding to a request

If you receive a request, your business unit should have a process on how this is managed. If they don't have a process [contact me](#) for advice.

Here you will find general guidelines about how to respond to a Privacy Act request.

- [How will I know it's a Privacy Act request?](#)
- [What if I'm not sure?](#)
- [Who should respond?](#)
- [How much time do I have to respond?](#)
- [What if I need more time?](#)
- [What do I have to do? Step 1: Collate; Step 2: Analyse; Step 3: Draft](#)
- [Requests to correct information](#)

How will I know it's a Privacy Act request?

The requester will be asking for a copy of their own information such as their own student loan statements, child support letters or maybe it's a complaint they sent in. The information will identify them personally in some way.

The requester could also be a lawyer or tax agent acting for someone else. If it's a parent or nominated person check that they are correctly authorised to act on the other person's behalf.

Requests could come in by letter, email, fax or over the phone (they do not have to be in writing).

What if I'm not sure?

Contact the requester to clarify what they're asking for. You might even be able to give them the information over the phone.

Who should respond?

Responsibility for a request should be allocated to the actual person who is going to collate and draft the response. Ideally this will be someone who understands the part of the business the customer has been involved in. For instance, if it's a child support customer, then someone within child support who understands the information held, should be assigned responsibility.

How much time do I have to respond?

You have to respond as soon as reasonably practicable but no later than **20 working days** (after the day on which the request is received). During this time you must make a decision on the request and let the requester know. Usually the information to be disclosed will be provided at the time the decision is conveyed to the requester. Inland Revenue can be prosecuted if it doesn't respond within 20 working days.

The definition of 'working day' does not include most Public Holidays. The Privacy Commissioner has a 20 working day calculator on the front page of its [website](#) to help you figure out when you need to respond.

It's good practice to establish a timeline for responding. Work backwards from the 20 working day due date, leaving a buffer of at least 2 days in case there are delays. But remember, while the time limit is 20 working days, *your obligation is to respond as soon as reasonably practicable*.

What if I need more time?

If you won't be able to make a decision within 20 working days you can extend the time to respond but only if:

- The request is for a large quantity of information; or meeting the request will necessitate a search through a large quantity of information; or
- Consultations necessary to make a decision on the request are such that a proper response to the request cannot be made within the original time limit.

You cannot extend the time for any other reason.

You extend the time limit by writing to the requester, letting them know why you can't meet the 20 working day limit and letting them know what the new timeframe will be. There's a [template letter](#) you can use.

What do I need to do?

Step one

Collate the documents or information being asked for.

The Automation Team have developed an automated tool to assist staff who process Privacy Act requests. The Note Extractor efficiently summarises all (or some) correspondence notes from a customer's account, with the choice of exporting as a Word document. This eliminates the need for staff to manually go through a customer's account and copy and paste screens. Click [HERE](#) to access the LearnIR training material for this tool.

Have a good look at the request and read it carefully - is it for specific documents or more general? If it's for specific documents, locate those documents. If the request is general, check what databases or information you are able to access and see if you can locate information about the requester and that falls within the scope of the request. You must make a reasonable search for information that falls within the scope of a request.

Canvass relevant physical and electronic locations. Don't hesitate to get specialist help from records or IT staff.

If a requester has a MyIR account you could also advise them they can access some information through that and we don't have to provide copies. You could also phone the requester and ask them what they want, this can save time and effort in the long run.

Identify and consult with key staff who are likely to know what information exists and where it might be held.

If the request is from an IR employee or contractor this should be referred to People & Culture.

Step two

Analyse the documents and see if there is any information that should be withheld from the requester. For instance, is the information about someone else? Is there a current investigation that might be affected if the information was released now? Reasons you can refuse to provide information [can be found here](#).

Consult with others as necessary. The privacy officer is happy to provide advice on when the Privacy Act withholding grounds can apply.

TIP: Keep a record of any information that is withheld from a requester and why. When preparing documents that will have information blacked out, make three copies of each document: a clean copy, a mark-up copy (that shows what parts of the document will be withheld and why), and a redaction copy (redaction means when the information has been blacked out). The redacted copy will be sent to the requester.

If the requester makes a complaint to the Privacy Commissioner's office we will have to provide a copy of our response including what information we refused to provide.

Step three

Draft a response using a [template letter](#). Have it peer reviewed by a manager, LTS or Corporate Legal then send it.

Requests to correct information

Under principle 7 of the Privacy Act individuals have the right to ask that their information be corrected. However, the information does not have to be corrected.

If you receive a request for correction, decide if the information should actually be corrected. For instance if someone's date of birth or address is wrong then we would certainly want to update that information and would agree to correct it.

However, if someone disagrees with a decision made by IR and wants that corrected, we do not have to make any changes.

Principle 7 states if an agency is not willing to correct information it should attach a statement of correction to the information at issue. Usually the statement is provided by the individual themselves and records the correction sought. The statement should then be attached to the information in such a way that they will always be read together. Let the requester know that their statement has been attached and give them a copy.

If IR attaches a statement of correction it should, if reasonably practicable, inform anyone to whom the information has been disclosed that a statement of correction has been added.

Last updated by [s 9\(2\)\(a\)](#) on 7 September 2018, 3:30pm

Reasons to refuse a request

The right to have access to personal information under the Privacy Act is not absolute and sections 27-29 of the Act provide some reasons why information may be withheld. The most common reasons why information may be withheld are:

- to maintain the law
- the information is about someone else (not the requester)
- another law prohibits the information being released (for instance section 18)
- section 18 when they want names of staff who have accessed their file
- someone may be harmed
- it's evaluative material
- disclosing it would breach legal privilege
- the information can't be found
- the request is frivolous or trivial
- the information is not personal information about the requester

When providing screen-shots to requesters, Inland Revenue used to redact the user ID, screen system ID and screen identifier. However, in May 2015 the Chief Information Security Officer rated the security risk of releasing this information as Low. Given the effort involved in redacting (removing) this on every screen it was recommended this information did not have to be deleted when releasing screen-shots to requesters.

Maintaining the law

Disclosure of the information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial - section 27(1)(c)

Agencies that have criminal law enforcement functions (including Inland Revenue) can rely on this section. It's important that agencies that maintain the law, can investigate and prevent crime and other offences. Sometimes, there's a real risk that releasing information to a requester could get in the way of investigating and detecting offences.

Agencies should release as much information as they can without prejudicing their ability to maintain the law. For example, releasing a summary of information can be a good way to give a requester as much information as possible, while not revealing investigation techniques.

This section can also be used to withhold the names of informants.

Example: *Donald Duck runs a distribution company. Mickey Mouse has contacted IR and said that Donald is not declaring all of the goods that he sells, and is paying his nephews, Huey, Dewey and Louie, in cash so they aren't paying tax. IRs investigation team starts to look into Donald's business. Donald finds out and asks IR for a copy of its investigation file so he can see what's been uncovered. IR can refuse to provide Donald with its file as disclosing some of the information at this stage may prejudice the investigation. If Donald finds out the details of what's being investigated he could hide evidence or influence witnesses.*

Breach of another's privacy

Disclosure of the information would involve the unwarranted disclosure of the affairs of another individual - section 29(1)(a)

This section is designed to protect the privacy of people other than the requester. A requester's right of access to information about themselves is very strong but sometimes other people's privacy rights are even more important. This section is most often used where information about the requester is also information about someone else (for instance, information about family members).

Disclosing information about the other person must be 'unwarranted' and disclose the 'affairs' of another person. 'Affairs' has been interpreted broadly and applies to not only private situations but aspects of ordinary pursuits of life or professional business. Even someone's name will constitute their 'affairs'.

In deciding whether disclosure is 'unwarranted' you have to balance the requester's right to access information against the other person's privacy rights. Consider:

- What does the information reveal about the other person?
- Is the information confidential or sensitive?
- What were the other person's expectations about how the information would be used and disclosed? Were they told it would be treated confidentially?
- What harm might there be to the other person if the requester gets the information - for instance, would they be harassed, would it result in serious damage to relationships or affect their business standing?
- If the requester already knows the information about the other person, releasing it is unlikely to be unwarranted.

Example: In the example above, Mickey has made a complaint to IR about Donald Duck. Donald asks IR for a copy of the complaint that was made about him. IR could withhold Mickey's name under this section of the Privacy Act as releasing his identity would be an unwarranted disclosure of his affairs. Mickey thought he was being a good citizen by letting IR know about Donald's alleged illegal practice and expected his name to be kept confidential. If IR told Donald who the complainant was then this would prejudice the future supply of such information. IR relies on the free flow of information from third parties in order to detect and prevent offences. If the identities of informants are released, those people would not provide information, which would prevent offending from being discovered.

In this case, IR could release general details to Donald of what the allegation is without disclosing who the informant was.

Another law prohibits the information being released (section 18)

Another law prohibits or restricts information from being released - section 7(2)(a)

The Privacy Act can be overridden by other laws that authorise, require, prohibit or restrict the availability of information. For example, section 62 of the Insolvency Act 2006 provides there must be a public register of people who are discharged or undischarged bankrupts. Because this is required under the Insolvency Act a person cannot make a Privacy Act complaint about their name being made public.

Section 18 of the Tax Administration Act is an example of a law that prohibits or restricts information being made available unless communicating the information is to carry into effect tax law or an exception applies. If you are refusing a request using section 18 this will override the Privacy Act reasons to withhold so use the following text:

Information is refused under section 7(2)(a) of the Privacy Act 1993 as disclosure is prohibited under another Act, namely section 18 of the Tax Administration Act 1994 (officers to maintain confidentiality). Disclosure of the information requested does not fall within any of the specific permitted disclosures to confidentiality, or would adversely affect the integrity of the tax system or would prejudice the maintenance of the law under section 18(3).

Request to know names of staff who have accessed someone's information

Occasionally we receive requests from customers who want to know who has accessed or read their information and why.

The view of LTS is that generally this information may be withheld from a customer under section 18 of the Tax Administration Act (section 18 overrides the reasons in the Privacy Act for withholding information). However, we should provide the customer with the names of staff who have made decisions about them, or who have already had contact with the customer for example by writing to them.

If customers are asking for this information as they are concerned an IR employee may have accessed their information without proper authority, we will investigate the concern if the customer provides the name of the employee they suspect is involved and why they believe their file may have been accessed.

A danger to safety

Disclosure would endanger the safety of any individual - section 27(1)(d)

Sometimes releasing information to a requester may put someone's physical safety at risk: either the requester him or herself, an employee of the agency, or someone else. But there must be some evidence to indicate that a danger in fact exists. If there is evidence that physical harm will result if the information is released the agency can withhold the information. Safety is more important than rights of access to information.

Evaluative material

The information is evaluative material and disclosure of the information, or of information identifying the person who supplied it, would breach a promise made to that person that the information, or their identity, would be held in confidence - section 29(1)(b)

Evaluative material is very specific and only applies to evaluative or opinion material compiled solely to determine someone's suitability, eligibility or qualifications for employment, appointment, promotion or removal from employment (for instance, a reference check).

Evaluative material is information about what someone thinks about the person who's asking for the information - it's a judgment about the person's skills, their character, or their qualities.

The agency must be able to show that the person who gave them the evaluative material (the supplier) did so on a clear understanding that the material was to be kept confidential or that they wouldn't be identified as the source of the material. For instance, there is a record on file. If there's no record, to claim confidentiality it has to be obvious from the circumstances that the supplier *must* have expected that it would be kept confidential. Would the supplier have given the agency the evaluative material if he or she thought the agency would hand it over to the person concerned? If the answer is no, then it's confidential.

Legal professional privilege

Disclosure of the information would breach legal professional privilege - section 29(1)(f)

When people go to see a lawyer, they need to know that what they say, and the lawyer's advice, will be kept confidential. There are two types of privilege:

1. 'Solicitor/client privilege' protects information contained in communications between a lawyer and their client

- undertaken for the purpose of seeking or giving advice, and the communications were intended to be confidential;
2. 'Litigation privilege' protects communications between a lawyer and their client or third parties relating to court proceedings. The document(s) requested must have come into existence when litigation was already under way or 'reasonably apprehended' **and** the 'dominant purpose' for creating the document was to enable the client's legal adviser to conduct the case or advise the client.

Note: if you forward a lawyer's email to someone else, you may actually waive the legal privilege. Forwarding the email means it is no longer a communication between a lawyer and their client in which advice is sought or provided.

Information cannot be found or retrieved

The information requested is not readily retrievable - section 29(2)(a) - or the information requested does not exist or cannot be found - section 29(2)(b)

An agency can refuse a request if the information is not 'readily retrievable', does not exist or cannot be found, or the agency dealing with the request does not believe that another agency would have the information. Agencies cannot provide what they don't have or can't locate.

A lot of information is technically 'retrievable'. For instance, even if information has been deleted from a computer, it can often be retrieved. It may also be difficult to retrieve physical documents particularly if they date back a long way and the records of where they are are not clear. Agencies need to try their best to get information for requesters, but there is only so far that they can reasonably be required to go.

Vexatious, frivolous, trivial

Personal information can be withheld if the request is frivolous or vexatious, or the information requested is trivial - section 29(1)(j)

It is not common to withhold information on this ground. However, it is a protection against requests that are made for malicious or other improper reasons. You cannot use this withholding ground simply because a requester is an annoying or even malicious individual. Unpleasant individuals are still entitled to access their personal information. It is the **request** that needs to be vexatious or frivolous before the information can be withheld.

Information is not personal information about the requester

Under the Privacy Act people are only entitled to access their own information. Sometimes information requested is simply not information about the requester as it does not identify them in anyway. In this case, you should consider the Official Information Act and reasons to withhold under that law. Inland Revenue is subject to the Official Information Act which covers any information held by a public sector agency. You can find out more about the Official Information Act [here](#).

Last updated by **s 9(2)(a)** on 21 March 2019, 3:38pm

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Handling Official Information and Privacy Act requests

The [Privacy Act](#) and the [Official Information Act](#) give people the right to ask for any information held by an agency. Both acts state that a decision on a request must be issued to the requestor within 20 days of the date the request is received. This means that it is imperative we begin to manage these requests as quickly as possible.

What to do

If you receive a request for information, the first step is to identify whether it is suitable for you to manage and respond to, or if it needs to be referred to Government & Executive Services (G&ES). Information to help you identify which requests need to be referred to G&ES can be found [here](#).

Once it has been established who should manage the request, you need to identify whether it is a request for information under the Privacy Act, the Official Information Act, or both. Further information to help you with this is available [here](#).

Need further assistance?

If you have any questions about information requests, please contact GES by email at gia@ird.govt.nz.

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OIA requests

What is Official Information?

Official information means any information held by a department, organisation, or Minister of the Crown, in his official capacity. (For exceptions to this see the [Act](#))

Information includes documents in any form, e.g. reports, emails, meeting notes, as well as recordings, computer records, pictures, plans, or drawings.

Any requests for personal information relating to an individual is covered by the Privacy Act. Go to [this site](#) for more info.

20 days

We must respond to every request within 20 working days from the date Inland Revenue receives it. This is a statutory deadline. Extensions can be sought under specific circumstances. (Check out the [calculator](#) on the Ombudsman's website to help you find out when the due date is. It's on the left side bar)

Helpful links

- [Information Management](#)
- [Information Sharing](#)
- [Revenue delegations matrix](#)
- [Office of the Ombudsman](#)
- [Office of the Privacy Commissioner](#)



Does your request...

- come from the media, a politician, or parliamentary research unit?
- relate to an issue that has already received media coverage?
- contain any issue involving misconduct, mistakes, or serious oversight by IR staff?
- hold possible interest to an opposition MP?
- relate to information that the Minister may be asked about?
- potentially affect our relationship with important stakeholders?

Then you need to contact us.

Contact us

If you're uncertain about any aspect of responding to an OIA request please contact us.

[Email us](#)
s 9(2)(a)

Resources

We have developed a set of tools and templates to assist you in preparing your OIA request response.

There are a number of resources available to help you with this process.

OIA Requests: Common withholding grounds for staff reference –
(Please remember to remove any bracketed explanations before pasting into your response letter).

Is the information requested tax secret under s81 of the Tax Administration Act 1994 (note that in most cases it will be, refer to "Information Law at Inland Revenue") and none of the exceptions to secrecy apply? If so, use the following withholding ground:

- section 18(c)(i) – making the requested information available would be contrary to the provisions of a specified enactment, namely Inland Revenue's secrecy obligation in section 81 of the Tax Administration Act 1994. Disclosure of the information requested does not fall within any of the general or specific exceptions to the secrecy obligation in section 81.

Is the information requested tax secret and none of the exceptions to secrecy apply, but it is requested under section 22 or 23 of the OIA in which case section 18(c)(i) doesn't apply? If so, use the following withholding ground:

- section 6(c) – disclosure would prejudice the maintenance of the law.

If the information requested is not tax secret, consider whether any of the following commonly used withholding grounds apply:

- section 9(2)(a) – to protect the privacy of natural persons, including deceased persons. *(Note if using to redact names of staff, please follow your business group processes),*
- section 9(2)(b)(ii) – to protect the commercial position of the person who supplied the information or who is the subject of the information *[note that it is often useful to consult person referred to here to obtain their views on whether the information is commercially sensitive];*
- section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials *[note that this is often used where advice is still under active consideration ie before decisions have been made];*
- section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expressions of opinion *[note this requires an expression of opinion];*
- section 18(d) - the information requested is or will soon be publicly available *[note that information should be available "soon" ie not too far into the future, insert website if available];*
- section 18(e) – document alleged to contain the information requested does not exist or cannot be found *[note that you should check section 18B if you intend to withhold information under section 18(e)];*
- Section 18(f) – the information requested cannot be made available without substantial collation or research *[note that you check section 18A and 18B if you intend to withhold information under section 18(f)].*

IN CONFIDENCE

IN CONFIDENCE



**Guide to
Official Information Act
and
Privacy Act requests**

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Introduction

Information is fundamental to the operation of Inland Revenue and is found in many forms, including taxpayer specific information, internal policies and employee information. All information obtained by Inland Revenue must be held in the upmost trust. Consideration must be given to the concepts of confidentiality and privacy when dealing with any information.

Inland Revenue is subject to the Tax Administration Act 1994 (TAA), Official Information Act 1982 (OIA) and Privacy Act 1993 (PA). These Acts impose requirements on how we deal with requests for information.

The purpose of the OIA is to facilitate open government, and therefore the presumption is Government agencies will be as open as possible. Likewise, the PA gives individuals a right to access personal information about themselves that is held by an agency.

The Commissioner of Inland Revenue has an obligation under the TAA to maintain confidentiality in relation to sensitive revenue information and is not required to disclose information that would adversely affect the integrity of the tax system or the maintenance of the law. The general right of access under the OIA and the individual's right to personal information under the PA are both subject to these provisions. Therefore, it is important to understand the inter-relationship between the TAA and the OIA or PA.

This guide is designed to assist people to recognise and respond to requests for official information. This guide is based on a guide produced by the Ombudsman for requests made under the OIA and PA. This guide also explains the process to determine whether requests for information fall within the confidentiality provisions in the TAA.

Although case study examples are included in this guide, requests for official information must be assessed on a case-by-case basis under the relevant Acts (the TAA, OIA and/or PA) when deciding to release or withhold information. Decisions to release information must be made by those with the appropriate revenue delegation or approval authority.

What is official information?

All information held by Inland Revenue is **official information**.

Official information is not limited to documentary material. It includes material held in **any format**, such as:

- **Written documents** including reports, memoranda, letters, notes, emails, eCase notes and attachments—even text messages and draft documents.
- **Non-written documentary information** such as material stored on or generated by computers, including databases, storage devices e.g. iron-keys, video or audio recordings.
- **Information that is known to Inland Revenue**, but which has not yet been recorded in writing or otherwise (including knowledge of a particular matter held by an officer, employee or member of Inland Revenue in their official capacity).
- **Documents and manuals** that set out the policies, principles, rules or guidelines for decision-making by Inland Revenue.
- **The reasons for any decisions** that have been made about a person.

What is not official information?

Official information does not include:

- Library or museum material for reference or exhibition purposes.
- Information held by an agency solely as an agent or for the sole purpose of safe custody on behalf of a person who is not subject to the OIA.
- Information held by the Public Trustee or Māori Trustee in their capacity as a trustee.
- Evidence or submissions to a Royal Commission or a commission of inquiry.
- Certain information relating to inquiries established under the Inquiries Act 2013 (evidence or submissions subject to an order forbidding publication, and documents relating to the internal deliberations of an inquiry).
- Any correspondence or communication between any agency and the Ombudsman or the Privacy Commissioner, in relation to their investigations.
- Victim impact statements.
- Evidence, submissions or information given or made to the Judicial Conduct Commissioner, a Judicial Conduct Panel, or the Judicial Complaints Lay Observer.

Is the information 'held' by Inland Revenue?

It doesn't matter where the information originated, or where it is currently located, as long as it is held by Inland Revenue. For example, the information could have been created by a third party and sent to Inland Revenue. The information could be held in the memory of an employee of Inland Revenue.

For the OIA to apply, the information must be held by Inland Revenue. With the exception of providing a response to a request for a statement of reasons, there is **no obligation on Inland Revenue to form an opinion or create information** to answer a request.

If a requester seeks information by asking a question, there is a distinction between:

- questions which can be answered by providing information already known to and held by Inland Revenue (official information), and
- questions which require Inland Revenue to form an opinion or provide an explanation and so create new information to answer the request (not official information).

If a request is made for information that is **not** held by Inland Revenue, you need to consider:

- whether a valid request has in fact been made under section 12 of the OIA
- whether to [transfer](#) the request to another agency subject to the OIA or the Local Government Official Information and Meeting Act (LGOIMA), or
- whether to refuse the request under sections 18(e) or 18(g) of the OIA (because the requested document does not exist, or the information is not held).

However, there is nothing to prevent Inland Revenue from creating information in response to a request, if we choose to do so. Even if there is no information held by Inland Revenue that can be requested under the OIA, it may be administratively unreasonable for Inland Revenue to refuse to provide a response to the questions asked. If the person has any concerns about the response that they receive, then they can complain to the Ombudsman under the Ombudsmen Act 1975.

Information held by employees

Information which an officer, employee or member of Inland Revenue holds in their **official capacity** is deemed to be held by Inland Revenue.

Information held by Ministers of the Crown

The OIA applies to information held by a Minister of the Crown in their **official capacity** only. Official information does not include information which is held by a Minister:

- in their private capacity
- in their capacity as an MP (electorate information), or
- in their capacity as a member of a political party (caucus information).

However, such information may become official information if it is subsequently used for official Ministerial purposes.

Information held by independent contractors

Inland Revenue may contract private individuals, companies or other organisations to carry out particular work on their behalf.

Information which an independent contractor to Inland Revenue holds in that capacity is deemed to be held by Inland Revenue.

For examples of the types of information held by Inland Revenue, refer to [Information Law at Inland Revenue](#)

Tax confidentiality

When an OIA or Privacy Act request is made to Inland Revenue the first consideration is whether or not the information requested is sensitive revenue information and therefore confidential under the TAA. The requirements of the TAA will take precedence over the OIA and the PA.

Section 18(1) of the TAA requires all officers of Inland Revenue to keep confidential **sensitive revenue information**, unless the disclosure is permitted under sections 18D to 18J of the TAA. Also, they may not disclose **revenue information**, where disclosure of that information would adversely affect the integrity of the tax system or the maintenance of the law.

Is the information revenue information?

First determine whether the information is revenue information. **Revenue information** is defined in section 16C (2) of the TAA as any information acquired, obtained, accessed, received by, disclosed to, or **held** by the Commissioner—

- under or for the purposes of a revenue law; or
- under an information sharing agreement.

Revenue law is defined in section 16C(1), and includes:

- the Inland Revenue Acts;
- the Accident Compensation Act 2001, the Accident Insurance Act 1998, the Accident Rehabilitation and Compensation Insurance Act 1992, or the Accident Compensation Act 1982;
- the New Zealand Superannuation Act 1974; and
- any Act that imposes taxes or duties payable to the Crown.

An information-sharing agreement includes an approved information sharing agreement made under s 18E(2) of the TAA; an agreement made through consent under s 18E(3); agreements made by regulations under section 18F for public services purposes; and memoranda of understanding that IR has with other agencies to share information.

If the information is not held under or for the purpose of a revenue law, or under an information sharing agreement, consider the information under the PA or under the OIA. If the information is revenue information, next determine if it is sensitive revenue information.

Is the information sensitive revenue information?

Sensitive revenue information is defined in section 16C (3) of the TAA as revenue information that **relates to the affairs of a person or entity** and:

- identifies, or is reasonably capable of being used to identify, the person or entity, whether directly or indirectly; or
- might reasonably be regarded as private, commercially sensitive, or otherwise confidential; or

- the release of which could result in loss, harm, or prejudice to a person to whom or entity to which it relates.

“reasonably capable” of identifying a person or entity

The information does not necessarily of itself need to disclose a person/entity’s identity but could enable someone to identify a person/entity. Whether information is reasonably capable of identifying a person/entity depends on the facts. For example, where the information disclosed could be combined with information that is publicly available to identify the person/entity then it may be reasonable capable of identifying a person or entity.

private, commercially sensitive, or otherwise confidential

Information “might reasonably be regarded” as private if it is reasonably foreseeable that information belonging to particular persons is of a type that the persons concerned would prefer is kept private. It is common practice to have confidentiality clauses in commercial contracts, particularly in a competitive industry. It is also reasonable to conclude that a company would want Inland Revenue investigating them kept private as it could damage their reputation.

commercially sensitive

What is commercially sensitive is usually measured in terms of the possible business harm or negative commercial effect through the disclosure of that information. The release of information of a commercial nature relating to a taxpayer should be approached with caution even if the information is anonymised. For example, in the course of a tax investigation we may come across information about a product that is being developed and kept secret pending an application for a patent.

otherwise confidential

This is a catch all provision - although it is difficult to see what information would be confidential on this basis that is not already private or commercially sensitive. However, it would cover any information reasonably regarded by the taxpayer/s to whom it relates as confidential. To determine this, as well as considering the nature of the information, it is necessary to consider the basis on which it was provided. So, for example, if the person provided the information on the condition that it was kept confidential, then the information may meet this requirement.

The release could result in loss, harm, or prejudice to a person to whom, or entity to which, it relates

As well as “commercially sensitive” information, this would also include all forms of potential damage or detriment to any person or entity to whom the information relates. It would include physical or non-physical harm, monetary and non-monetary loss, reputational harm, and any disadvantage resulting from being prejudiced.

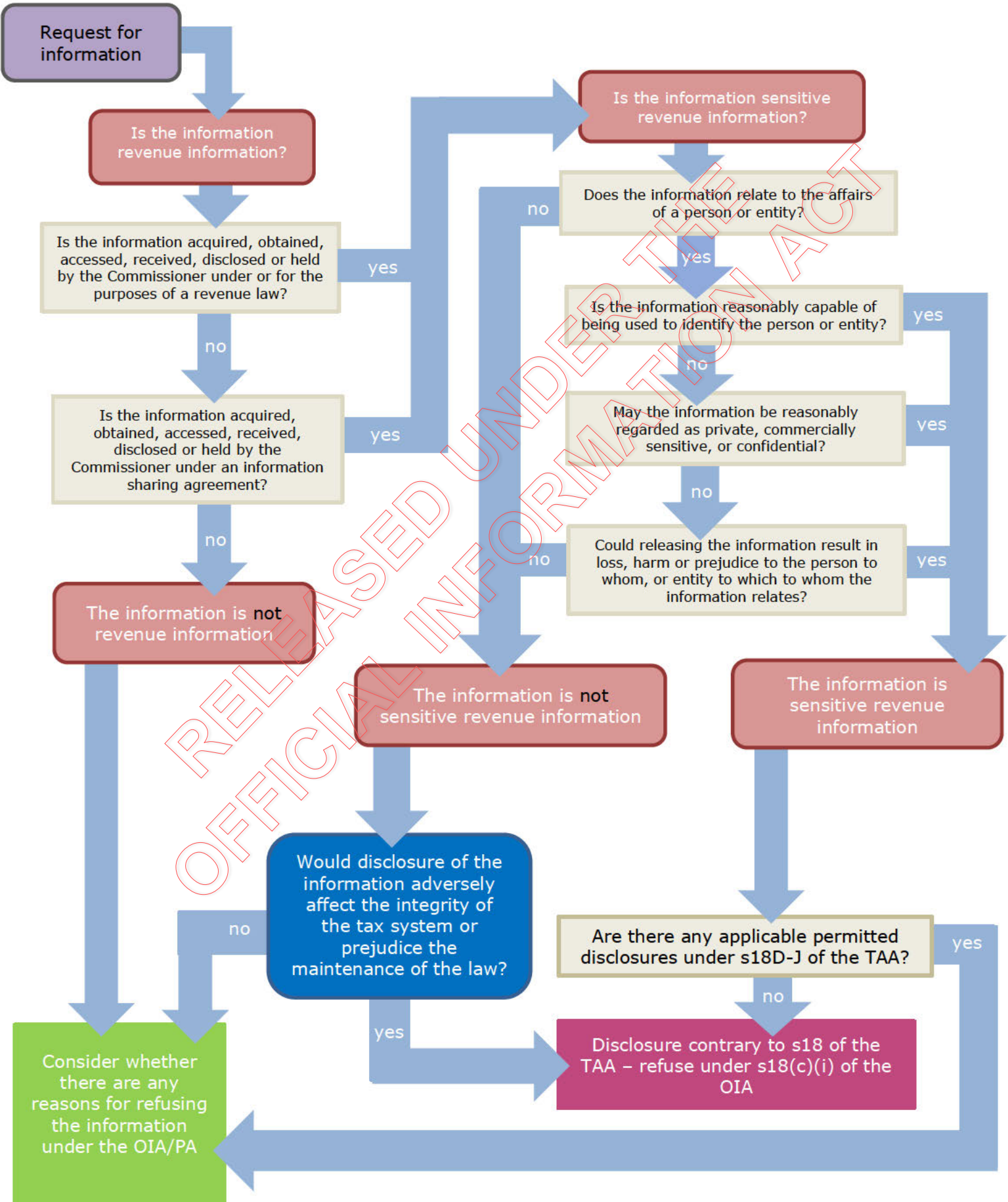
Exclusion from sensitive revenue information

Aggregate data (suggests a grouping of things that are not necessarily numbers focused) and statistical data are explicitly excluded from being sensitive revenue information.

Aggregate or statistical data that may contain information about a person or entity is not sensitive revenue information.

If the information is **sensitive revenue information**, consider whether there is a permitted disclosure applicable under s18D – s18J of the TAA. If there is no applicable permitted disclosure refuse the request under s18(c)(i) of the OIA on the basis that disclosure of the information is contrary to the TAA.

Revenue information or sensitive revenue information? – flow chart



If the information is **not sensitive revenue information**, consider whether disclosure of that information would **adversely affect the integrity of the tax system or the maintenance of the law**. If it would not, the information should be considered under the PA or OIA as applicable.

Integrity of the tax system and maintenance of the Law

A request for revenue information should be refused if the disclosure of the information would adversely affect the integrity of the tax system or the maintenance of the law.

Before releasing revenue information, that is not sensitive revenue information, consider whether communicating the information "would adversely affect" taxpayer perceptions that tax liabilities are determined fairly and impartially, that all taxpayers must comply with the law, and that Inland Revenue keeps individuals' and entities' tax affairs confidential.

Consider the following questions when determining whether disclosure of the information would adversely affect the integrity of the tax system:

- What are the likely short and long-term effects on taxpayer compliance of releasing the information, and of not releasing the information?
- Could releasing the information assist Inland Revenue or taxpayers to make better decisions about how the current law applies, or assist in developing a better tax system?
- Could not releasing the information cause taxpayers to view Inland Revenue as unnecessarily secretive and unwilling to promote greater taxpayer participation in the tax system?

The following types of information are examples of information that if disclosed may adversely affect the integrity of the tax system:

- investigative techniques
- industry benchmarks
- audit strategy
- tolerance levels and thresholds
- new policy development

If releasing the information is likely to have negative effects on compliance that outweigh any benefits to tax integrity from releasing it, then a request for the information should be refused under s18(c)(i) of the OIA on the basis that disclosure of the information is contrary to the TAA.

Example

Information about generic audit or investigative techniques would be revenue information which is not sensitive revenue information because it is revenue information that applies generally and does not relate to a particular person. However, releasing this information is likely to have a material negative impact on taxpayer compliance because some taxpayers may attempt to use it to avoid their tax obligations. This negative impact is likely to outweigh any benefits to the integrity of the tax system from releasing this information (from, for example, increased transparency). Therefore, the information should not be released.

Another reason for not disclosing revenue information that is not sensitive revenue law is where the maintenance of the law would be prejudiced. This includes tax laws and laws administered or maintained by other agencies.

The OIA and PA both have a ground for refusing information on the basis of "maintenance of the law". The Privacy Act allows agencies to collect, withhold, use or disclose personal information where it is necessary for the 'maintenance of the law'. Under the OIA and PA maintenance of the law relates to law enforcement action by a public sector agency, including the prevention, detection, investigation, prosecution and punishment of offences.

These reasons only require the maintenance of the law to be "prejudiced". This does not require the maintenance of the law to be negated or nullified. It would be enough if release could have a compromising or detrimental effect.

Example would be where the Police have informed Inland Revenue that they are investigating a possible scam in a particular part of New Zealand. They have asked if Inland Revenue has any specialised investigative techniques that Inland Revenue uses in countering organised crime. The media has subsequently asked if Inland Revenue has been approached by the Police regarding any investigation into the suspected scam, and if so, in which location in NZ. This information would not be able to be released under the OIA if disclosure would prejudice the maintenance of the law by compromising the Police investigation.

Permitted Disclosures of sensitive revenue information

Sensitive revenue information can only be disclosed if doing so is a "permitted disclosure" under sections 18D-J of the TAA.

Carrying into effect - s18D(1)

Sensitive revenue information can be disclosed for the purpose of carrying into effect a revenue law, or for the purpose of performing or supporting a function lawfully conferred on the Commissioner under a revenue law.

Example

A customer has income tax arrears. You have issued a deduction notice, instructing the taxpayer's bank to deduct a sum of money. In this way, you have disclosed to the bank that the customer has tax arrears. This disclosure, however, is necessary for the purposes of carrying into effect the TAA.

Carrying out or supporting a function of the Commissioner – s18D(2)

Sensitive revenue information can be disclosed under this section by a senior member of Inland Revenue with appropriate delegation, who has considered competing factors to reach a judgement that a disclosure is reasonable in the particular circumstances (guidance on the application of s 18D(2) can be found in Standard Practice Statement 11/07).

The first step is to assess if disclosure would be made in carrying out or supporting a function of the Commissioner. The functions of the Commissioner include:

- administering the tax system
- implementing the tax system, and
- improving, researching or reforming the tax system.

The second part of the test is to determine whether disclosure would be reasonable, after weighing and balancing the following five factors:

1. the Commissioner's obligation at all times to use best endeavors to protect the integrity of the tax system, and
2. the importance of promoting compliance by taxpayers, especially voluntary compliance, and
3. any personal or commercial impact of the communication or in any other way, and
4. the resources available to the Commissioner, and
5. the public availability of the information.

Disclosures to persons and their representatives – s18G

Sensitive revenue information can be disclosed to the person (or their agent) in relation to whom the information is held. [Clause 15 of schedule 7](#) of the TAA sets out caveats on provision of personal information. The Commissioner must consider whether –

- the information is readily available; and
- if it is "reasonable and practical" to provide the information.

If the information is not "readily retrievable" –

- if the request is by or on behalf of an entity the request may be refused under s.18(c)(i) of the OIA on the basis that the information is sensitive revenue information and there is no permitted disclosure
- if the request is by or on behalf of a natural person the request may be refused under [s.29\(1\)\(i\)](#) of the PA on the basis that the information is sensitive revenue information and there is no permitted disclosure

If we consider that the disclosure of the information would adversely affect the integrity of the tax system. Although the information may be personal information, there would not be a permitted disclosure as it would not be "reasonable and practical" for the Commissioner to disclose the information.

Other permitted disclosures

Other permitted disclosures that will not usually be relevant in the context of an OIA/PA request.

Seek any advice as required, from subject matters experts, LTS, Corporate Legal, or Inland Revenue's Privacy Officer.

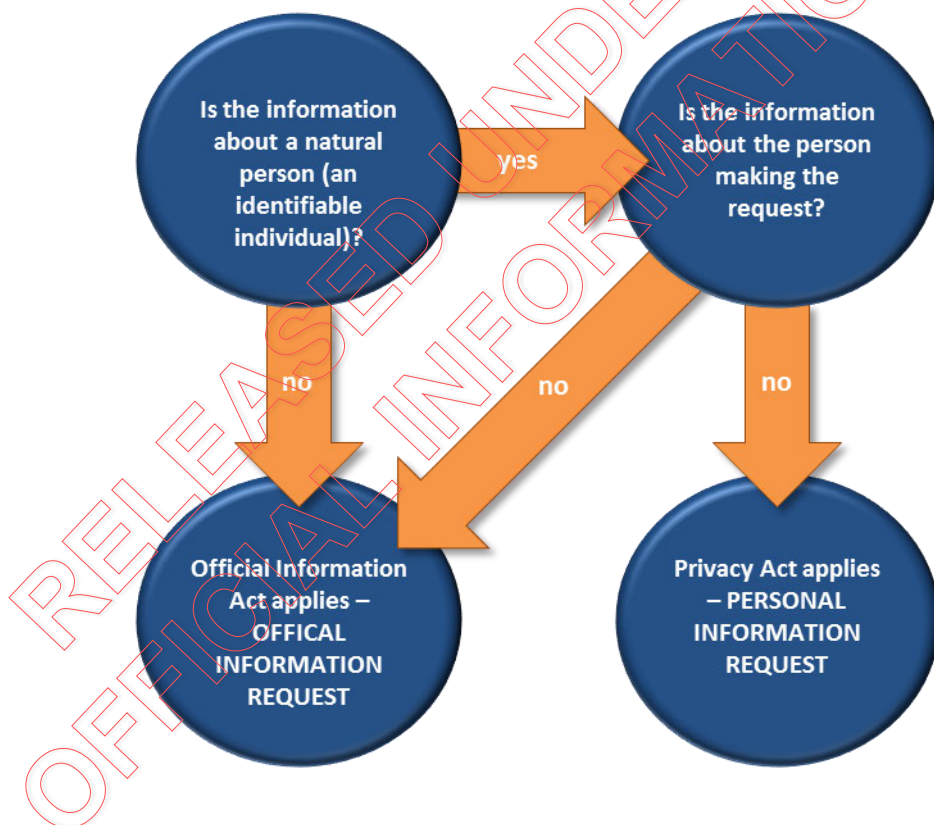
Eligibility to request official information

OIA and Privacy interface

If you have concluded that you are permitted to disclose the information requested under the TAA, then you may consider the Official Information Act 1982 (OIA) and the Privacy Act 1993 (PA). The OIA and PA are two pieces of legislation that govern most information requests. You first need to work out which Act applies:

- When an individual asks for information about themselves, the PA applies; this includes requests from a person's authorised agent.
- When the request is from someone else, the OIA applies.

The following flow chart can be used to determine whether the request should be considered under the OIA or PA.



Who can make an OIA request?

Any person is entitled to make a request under the OIA who is:

- a New Zealand citizen
- a permanent resident of New Zealand

- a person who is in New Zealand
- a body corporate which is incorporated in New Zealand
- a body corporate which is incorporated outside New Zealand but which has a place of business in New Zealand, or
- a duly appointed agent acting on behalf of any of the above.

Who can make an PA request?

Any person is entitled to make a request under the PA for information about themselves. Such request can be made by a duly appointed agent. Inland Revenue is entitled to satisfy itself as to the requester's eligibility to make a request under the OIA or PA.

If a request is made by email or over the internet, system verification may be required to confirm eligibility. If you are still uncertain as to whether the request is valid or not, you are entitled to ask reasonable questions to check whether the person is eligible to make a request. If you do wish to query eligibility, please do so promptly so as to not unnecessarily delay the processing of a valid request.

What if a requester is not eligible?

Even if a person is not eligible to make a request for official information under the OIA (for example a person who is overseas and not a New Zealand citizen or resident), they can still ask an agency for the information they are seeking.

Although Inland Revenue isn't required to respond in accordance with the requirements of the OIA, we should still deal with the request for information in an administratively reasonable manner. If the person has any concerns about the response that they receive, then they can complain to the Ombudsman under the Ombudsmen Act 1975.

The form of an official request

What does an OIA request look like?

There is no set way in which a request must be made. An OIA request is made in any case when an eligible person asks Inland Revenue for access to specified official information. In particular:

- a request can be made in any form and communicated by any means, including orally
- the requester does not need to mention that it is an OIA or Privacy Act request, and
- the request can be made to any person in Inland Revenue.

If a request is made orally, we may ask the requestor to put it in writing if that's "reasonably *necessary*" to clarify the request. If the requester declines or is unable to do

so, then we should record our understanding of the request and provide a copy of that record to the requester.

The working-day count will start the day after the requester confirms or clarifies Inland Revenue's understanding of the request is correct.

“Due particularity”: a requester’s obligation

To be a valid request, the information sought must be '*specified with due particularity*'. This means that Inland Revenue must be reasonably able to identify what information is being requested.

When you receive a request:

- consider the request carefully
- identify the specific information that has been requested
- consider the scope of the request, and
- the relevant time period the requester has identified.

If there is any doubt about the scope of the information requested, you will need to clarify this with the requester as soon as possible.

Is a formal OIA/PA response necessary?

For Inland Revenue to meet its obligations under the OIA and PA, every information request must be accurately recorded and counted. Inland Revenue regularly receives requests for information through a variety of channels: phone, email, letters etc. At times, it's not easy to decide if the request is an official request that requires consideration and a formal response under the OIA or PA. To help you decide if a formal response is needed, ask yourself the following questions:

To respond to the request, do you need:

- manager approval/oversight
- consultation with others, or
- significant staff time?

Also, do you need to withhold (redact) some or all of the information requested?

If any one of the above applies, then the request must be recorded and counted to avoid the risk of Inland Revenue not complying with the OIA/PA's requirements.

Examples of Official Information requests

- A Member of Parliament requests all information about specific Inland Revenue spending.
- A journalist requests statistical data on a particular tax type.
- A taxpayer requests information about a specified tax type and details on how many outstanding returns there are for a stated city or region.

- The media requests information about IR's announcements /releases.
- A researcher has requested all policies relating to GST rates.

Examples of Privacy Act Requests

- A customer requests their own records that are with Investigations and Advice.
- A customer requests a copy of their administrative review and statement of financial position.
- A customer requests all information from the start of their student-loan account.
- A staff member requests information from their personal file.
- A customer requests an audio recording of a phone-call they had with Inland Revenue on a specified date/time.

Large requests

The fact that a request is for a large amount of information does not mean that the request lacks due particularity. The term "fishing expedition" is not recognised in the OIA as a reason to refuse a request. If the information requested is duly particular, the request cannot be refused simply on the basis that it's so large as to be considered a fishing expedition.

If there are genuine administrative concerns with processing the request or making the information available, the reasons for refusal under section 18 of the OIA may need to be considered, along with other mechanisms for managing broad requests.

Amended or clarified requests

Section 15(1AA) and (1AB) of the OIA deal with "*amended or clarified requests*".

If a request is amended or clarified after it is made, it can be treated as a new request which replaces the original one. This voids Inland Revenue's obligation to respond to the original request, and starts again the statutory time limit for responding to the new request.

However, this will not apply where the amendment or clarification was sought by Inland Revenue more than seven working days after receiving the original request.

The primary intention of these provisions is to identify and clarify problematic requests early on.

Although this may sound straightforward, the effect of this section will depend on various factors, including:

- whether the amendment or clarification was sought by Inland Revenue or made on the requester's own initiative
- whether the amendment or clarification is actually received after it is sought by the agency and, if so, when, and

- whether the “new” request is intended to amend or clarify the terms of the original one, or to be separate and additional to it.

The following scenarios may arise:

<p>Requester amends or clarifies the request on their own initiative.</p>	<p>The new request replaces the original one, and the 20 working-day time limit for responding starts the day after the new request is received. IR has no further obligation to respond to the original request.</p> <p>NB. It must be clear that the new request is intended to replace the original request by amending or clarifying its terms. This will not apply where the new request is clearly intended to be separate and additional to the original one.</p>
<p>IR seeks amendment or clarification within 7 working days and the amendment or clarification is received within 20 working days</p>	<p>The new request replaces the original one, and the 20 working-day time limit for responding starts the day after the new request is received. IR has no further obligation to respond to the original request.</p>
<p>IR seeks amendment or clarification within 7 working days and amendment or clarification is not received within 20 working days</p>	<p>The original request still stands, and to ensure that it complies with its obligations under the OIA, IR must, within the original 20 working days, either extend the time limit for responding (to enable consultation with the requester) or convey its decision on the request.</p> <p>IR will need to consider whether the request can be granted as it stands, or whether extending or charging would enable it to be granted or, as a last resort, whether the request must be refused under one (or more) of the applicable refusal grounds.</p>
<p>IR seeks amendment or clarification outside 7 working days and amendment or clarification is received within 20 working days</p>	<p>Provided that what is received is in fact an amended or clarified version of the original request, then the maximum 20 working-day time limit for responding to that request still counts from the day after the original request was received. Within that time, IR must either extend the time limit for responding, or convey its decision on the request.</p> <p>However, if a completely different request is received (as opposed to an amended or clarified version of the original request), that will be a new request and the 20 working day time limit for responding will start the day after that request was received. Note. It must be clear that the new request is intended to replace the original request. If there is any doubt about this, it may be wise to check with the requester.</p>

IR seeks amendment or clarification **outside 7 working days** and amendment or clarification is **not received within 20 working days**

The original request still stands, and to ensure that it complies with its obligations under the OIA, IR must, within the original 20 working days, either extend the time limit for responding (to enable consultation with the requester), or convey its decision on the request.

IR will need to consider whether the request can be granted as it stands, or whether extending or charging would enable it to be granted, or, as a last resort, whether the request must be refused under one (or more) of the applicable refusal grounds.

A duty to assist requesters

Inland Revenue has a duty to give reasonable assistance to a person who:

- wishes to make a request in accordance with section 12 of the OIA or the PA
- in making such a request, has not done so in accordance with the requirements of the OIA or PA, or
- has not made the request to the appropriate agency.

If Inland Revenue cannot reasonably identify what information is being requested, then there is a duty on Inland Revenue to give reasonable assistance to the requester to reformulate the request in order to determine exactly what information is being requested.

Reasonable assistance is more than telling the requester that the request is not specific. Having regard to the purposes of the OIA and the principle of availability, all reasonable steps should be taken to provide assistance. The aim of the assistance should be to enable the requester to clarify the request so that it is specific enough for Inland Revenue to identify the information sought.

The key is to communicate with the requester. If a request isn't clear, contact the requester and explain what you need to help them.

What is reasonable assistance?

Reasonable assistance may include things like:

- providing an outline of the different kinds of information which might meet the terms of the request
- helping the requester understand the general nature and extent of information held by Inland Revenue (at a high level)
- providing a general response to the request, setting out options for further information which could be provided on request, and
- giving the requester a reasonable opportunity to consult with a contact person.

Processing requirements

How should I document OIA requests?

The knowledge base currently includes processing instructions for various business groups.

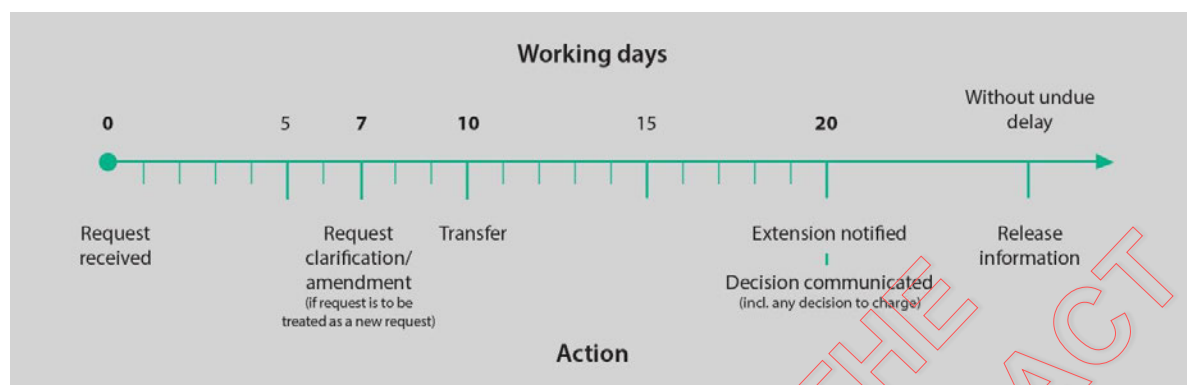
The following key points need to be included in system updates and/or reports/ sign off check sheets to ensure all relevant information is captured for reporting and reviewing purposes.

Record:

- the date the request was received
- the request identifier (reference number, e.g. 19/OIA0012)
- the information requested
- any contact/clarification with customer
- the outcome of the contact
- any transfers or extensions of time needed
- a copy of what was released
- what was withheld and why
- the factors considered in making the decision, e.g. internal advice, emails
- the time taken to complete the request
- evidence of consultation with other agencies or any internal consultation
- reference legislation and DLN numbers of the information sent out
- the revenue delegation level, name and position title of who had the authority to approve the release or withholding of the information
- Government and Executive Services sign off – if applicable.

All requests for information should be lodged with Government and Executive Services by sending a copy of the request to ويا@ird.govt.nz.

Key timeframes



Inland Revenue's legal timeframe requirements for responding to requests for official information are to:

- **make a decision and communicate it** to the requester "*as soon as reasonably practicable*" and no later than **20** working days after the request is received, and
- **make available** any official information it has decided to release without '*undue delay*'.

Where necessary in a particular case, additional timeframe requirements are to:

- **request clarification** of a request within **seven** working days, if the amended request is to be treated as a new request
- transfer a request to another agency promptly, and no later than **10** working days, after the request is received, and
- **extend** the maximum time limits to make a decision or transfer a request, within **20** working days after the day on which the request was received.

How to count time

A tool to automatically calculate response times is available on the Ombudsman's website at www.ombudsman.parliament.nz. You find information about OIA requests and access the Ombudsman's time calculator via the Stakeholder Relations [intranet page](#).

When counting working days, day one is the first working day after the day on which Inland Revenue receives the request.

"*Working day*" means any day of the week other than Saturday and Sunday and excludes national public holidays: Waitangi Day, Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, and from 25 December to 15 January inclusive.

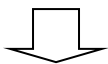
A regional anniversary is a working day.

A working day is not limited to 9am to 5pm. Therefore, if a request is received by email or other electronic means outside business hours, it will still be counted as being received on that day, and the count will start on the next working day.

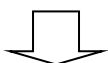
Examples of how to count time

Example 1

Inland Revenue receives an information request by email at 9pm on 6 October 2019 (Sunday).

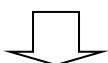


The working day after which the request is received = 7 October 2019 (the time and that it is received is irrelevant).



Public holidays that don't count in the 20-working-day timeframe:

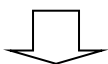
- Labour Day = 28 October 2016



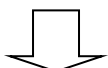
The 20-working-day maximum time limit is **4 November 2016**.

Example 2

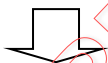
Inland Revenue receives an information request at 3pm on 21 December 2019 (Saturday).



The working day after which the request is received = 23 December 2019 (Monday).



The days between 25 December to 15 January of every year are not "working days".



The 20-working-day maximum time limit is **10 February 2017**.

There is a calculator on the Ombudsman's web-site which can help you work out the maximum timeframe for when a response is required, at www.ombudsman.parliament.nz.

Timeframe for making and communicating a decision

Inland Revenue must make a decision and communicate it to the requester "as soon as reasonably practicable" and no later than 20 working days after the day on which the request is received.

The decision must state whether the request will be granted, and if so in what manner and for what charge (if any).

Inland Revenue's primary legal obligation is to notify the requester of the decision on the request "*as soon as reasonably practicable*". The reference to 20 working days is not the de facto goal but the **absolute maximum** (unless it is extended appropriately).

Timeframe for making information available

If a decision is made to release information, then we must not unduly delay in making it available. In some cases, Inland Revenue may be justified in providing the information to the requester at a later date, after the decision is made and communicated within the timeframe.

Note. The distinction between the time requirements for making and communicating a decision on a request, and for making information available, can be important, especially when responding to large requests. Ideally, where a request is granted, the decision and the information will be sent to the requester together. If the information is ready to be released at that stage, not to send it would amount to '*undue delay*'. However, that may not always be possible and sometimes we may need extra time to prepare the information for release.

For instance, we may know that we intend to grant a request subject to some redactions but the process of preparing the material for release will take a bit longer. We can advise the requester of our decision on the request as soon as reasonably practicable and within the maximum 20 working-day time limit, and give an indication of when we will be in a position to release the information requested. Our decision must still comply with the OIA, but so long as there is no '*undue delay*' in making the information available there will be no breach of the timeframe requirements in the OIA.

Transferring a request

The OIA and PA require requests to be transferred between agencies in certain circumstances.

Transfers are not common with requests for entity-specific tax information.

Transfers can be made between any agencies subject to the OIA or Local Government Official Information and Meetings Act 1987 (LGOIMA), including Ministers, central government agencies and local government agencies.

Refer to the template letters for transferring a request to another agency, and advising the requester of the transfer.

The obligation to transfer

Inland Revenue **must** transfer a request to another agency if some or all of the information requested:

- is not held by Inland Revenue, but is believed by the person dealing with the request to be held by another agency, or
- is believed by the person dealing with the request to be more closely connected with the functions of another agency.

The obligation to transfer is not discretionary, but a mandatory requirement in circumstances either of the above two criteria are fulfilled.

Example

A parent (the child's principal caregiver) asks Inland Revenue for a copy of all information relating to their Working for Families (WFF) tax credit payments for 2015. Although Inland Revenue may have some information, the information is more closely connected with MSD as MSD has been paying the WFF tax credit.

In the absence of these circumstances, a request cannot be transferred. Therefore, as receiver of the request, Inland Revenue must make the decision on it. However, this does not prevent Inland Revenue from consulting other interested parties before making the decision.

The OIA does not support a blanket policy of transferring all requests from a particular source (for example, media requests), or all requests about a particular subject. It is the specific **information requested** that must be held by the other agency or more closely connected with its functions, and this must be assessed on a case by case basis.

Deciding if information is "more closely connected" with another agency

The following factors can be considered in deciding whether information is more closely connected with another agency's functions:

- The author of the information—if another agency wrote it, maybe they should decide on the request.
- The nature and content of the information—which agency does the information relate to; which agency will be called to account for the information?
- The overall process that the information forms part of—which agency has responsibility for that process?

Partial transfers

Where the above circumstances only apply to part of the information requested, only the relevant part of the request should be transferred, rather than the request in its entirety. The transfer should make it clear what parts of the request are being retained by Inland Revenue and what parts are being transferred.

Example:

An official information request has been received from a customer who wants copies of information used to calculate and determine the level of benefit they are currently receiving and a copy of their Working for Families (WFF) tax credit calculation for the current year. The customer has elected that Inland Revenue pays the WFF tax credit. As the benefit information is not held by IR, this part of the request must be transferred to MSD within 10 working days and the customer advised of the partial transfer.

Timeframe for transferring a request

Any decision to transfer a request to another agency for response must be made promptly and no later than **10 working days** after Inland Revenue received the request. (Unless a

valid extension of that time limit is made within 20 working days of the original request.) The requester must be informed that the request has been transferred.

When the other agency receives the transferred request, it is effectively a new request made to that agency under the OIA. The working day count, in terms of the maximum time limit for making and communicating a decision, begins again when they receive the request.

Note: The OIA is clear—the need to transfer a request is something that every agency should identify and action as early as possible. An extension to the maximum time limit of 10 working days for transfer may be made, for example where the relevant agencies are consulting about the proposed transfer. However, if a request is transferred outside the maximum (or extended) time limit, this could potentially be the subject of complaint to the Ombudsman under the Ombudsman’s Act (OA) and a potential finding that the agency had acted ‘*contrary to law*’.

Having said that, a delay will not invalidate the transfer. Even if a transfer is made out of time, it will still have the effect of shifting the responsibility for reaching a decision on the request to the most appropriate agency. That is, after all, what the transfer provision is about—ensuring that the agency that holds the information, or that is best placed to know whether there are valid concerns about disclosure, makes the decision on the request.

If Inland Revenue identifies the need to transfer all or part of a request outside the 10 working days (or extended time period), we should consider contacting the requester to explain the reason for the delay and the need for the transfer. Requesters will appreciate being kept informed, and may be more understanding if the agency ends up in breach of the timeframe requirements.

Consulting about the proposed transfer

It may be a good idea to consult the requester and/or the other agency before transferring a request.

The requester can clarify why they made the request to Inland Revenue, and what information they hoped to obtain. They may be interested in knowing what Inland Revenue holds in connection with its functions, and not what the “lead agency” on a particular issue holds.

Consulting with the other agency will enable you to make appropriate arrangements for the transfer. It is helpful to ask the other agency:

- Have they already received the same request?
- Are they the right agency to receive the transfer?
- Who within the other agency should the transfer be addressed to?

Consulting will also minimise the risk of “bounce-backs”, where the other agency disagrees that the information is more closely connected with its functions, and returns the request to Inland Revenue.

What if the other agency already has the same request?

Sometimes, your consultation about a proposed transfer will reveal that the other agency is already dealing with exactly the same request. In this instance, it's probably pointless to make the transfer. You could try discussing the situation with the requester. They will likely want an assurance that Inland Revenue doesn't hold any additional relevant information that the other agency won't have, and they may end up withdrawing their request if such an assurance can be given. Alternatively, you could respond to the requester along the following lines:

In our view, it would have been necessary under section 14 of the OIA to transfer your request to [agency] because the information you requested is [held by that agency / more closely connected with its functions]. However, we are aware that you have already made your request to [agency], and therefore we have not transferred it. [We do not hold any additional relevant information that is not already held by [agency] / We have provided copies of all additional relevant information that we hold to [agency] for consideration in responding to your request] You have the right to complain to the Ombudsman about this decision. Relevant information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Transfers between Ministers and agencies

In determining whether information is more closely connected with a Minister's or an agency's functions, it can be helpful to consider the role of the Minister.

Ministers:

- take significant decisions and determine government policy collectively, through the Cabinet decision-making process
- exercise statutory functions and powers under legislation within their portfolios, within the collective Cabinet decision-making context
- determine both the policy direction and the priorities for their departments, and
- have a political role in maintaining government stability, which requires maintaining close working relationships with all other parties as issues arise.

If the information relates to executive government decision making functions, and release could prejudice Cabinet's or the Minister's ability to perform those functions, then transfer to the Minister may be justified. If the information relates more closely to operations and policy implementation, then the agency should probably be responsible for deciding on the request.

Even if a transfer is not warranted, there is nothing to prevent an agency consulting its Minister (see the "Consulting Ministers" section).

If consultation leads to disagreement about the appropriate response to a request, this is not, in itself, a reason to transfer. The person dealing with the request must have a genuine belief that the information is more closely connected with the Minister's functions before transfer can legitimately occur. If disagreements arise, these should be handled at a senior level of the agency.

In any case, it is important that the transfer of the request does not have the effect of narrowing its scope or excluding relevant information. The agency that received the

request should identify the relevant information first and, if necessary, transfer that information along with the request.

Extensions of time

Inland Revenue may extend the maximum time limits for **making a decision and communicating it** to the requester and also for **transferring a request** – but only if certain criteria are met. These are:

- there must be a valid reason for the extension, either:
 - the request is for a large quantity of information or necessitates a search through a large quantity of information, and meeting the original time limit would unreasonably interfere with the operations of Inland Revenue; or
 - consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.
- the extension must be for "*a reasonable period of time having regard to the circumstances*"; and
- the decision to extend the maximum time limit must be communicated to the requester within 20 working days after the day on which the request was first received by Inland Revenue.

When making an extension, Inland Revenue must advise the requester:

- that it has decided to extend the time limit
- the specific period of the extension
- the reasons for the extension
- the section of the OIA or PA the request is being extended under, and
- that the requester has a right to complain to the Ombudsman or the Privacy Commissioner about the extension decision.

To keep things simple when giving the period of the extension, it may be helpful to specify a date rather than the number of working days or weeks when the response can be expected.

Nothing in the OIA prevents multiple extensions being made, providing any extensions are made **within** the original 20 working-day time period after receiving the request. For example, if Inland Revenue notifies the requester of a one-week extension, and then later realises that a two-week extension is actually necessary, a second extension may be notified as long as the original 20 working-day time period has not yet passed.

To avoid confusion, it may be better to make one extension, for a reasonable but realistic period of time, and indicate that Inland Revenue will respond to the request sooner if possible.

Failure to meet the maximum time limits

If it looks like it will not be possible to meet either the original or an extended maximum time limit, Inland Revenue should consider contacting the requester to let them know the current state of play and reasons for the delay. Requesters will appreciate being kept informed, and may be more understanding if Inland Revenue ends up in breach of the timeframe requirements.

Another option is a staged reply. If most of the decision on a request is straightforward and ready to go, there is often no need to hold that up in order to deal with a few remaining issues.

However, failure to comply with a time limit may be the subject of a complaint to the Ombudsman.

Requests for urgency

A requester may ask that a request is treated as urgent, and if so must give the reasons for seeking the information urgently. Inland Revenue should consider any request for urgency, and assess whether it would be reasonable to give the request priority.

Notwithstanding a request for urgency, Inland Revenue's legal obligations remain the same – in other words, to:

- make and communicate the decision on the request as soon as reasonably practicable and no later than 20 working days after the day on which the request was received, and
- release any official information without undue delay.

A genuine and legitimate need for urgency may affect when it is '*reasonably practicable*' to make a decision on the request, and what would constitute '*undue delay*' in releasing the information.

In responding to a request for urgency, Inland Revenue should:

- assess the requester's reasons for seeking urgency (do they merit the request being accorded priority over other work, including other information requests?)
- decide whether to accord urgency to the request, and
- advise the requester of this decision, and (if applicable) provide an indicative timeframe for response.

Inland Revenue can consider discussing an urgent request with the requester. This may enable:

- Inland Revenue to clarify the competing priorities that would need to be side-lined in order to accord urgency to the request
- requesters to clarify the reasons for urgency, in light of these competing priorities, and
- requesters to clarify the intended scope of their request, or to prioritise particular information, allowing decisions on certain information to be made sooner rather than later.

The OIA makes it clear that charges may be imposed to cover the costs incurred pursuant to a request to make information available urgently.

A requester who is dissatisfied with Inland Revenue's response to an urgent request may complain to the Ombudsman that Inland Revenue has failed to make and communicate its decision on the request "*as soon as reasonably practicable*", or to release the information without "*undue delay*".

Urgent requests are often made in order to enable the requester to participate in a consultation or decision-making process on an informed basis. If you can see that this is a valid concern in the context of the particular request at issue, you could consider extending the deadline for participation. This may enable the information to be released and used by the requester, without imposing an unreasonable burden on Inland Revenue to comply with an urgent request.

Consultation

Inland Revenue may consult before making a decision on an official information request. When consulting externally, staff should bear in mind their confidentiality obligations under the TAA.

Consultations may be with:

- the requester
- relevant business areas within IR, such as Government and Executive Services, LTS, the Internal Communications Team and other Inland Revenue specialists.
- external third parties, e.g. those who originally provided the requested information to Inland Revenue, or whom the information is about, and
- any other agency with an interest in the information, including Ministers.

Any consultations should be necessary for Inland Revenue to make a proper decision on the request. If there are unnecessary consultations and sign-offs taking place, this could give rise to a complaint that Inland Revenue has failed to make and communicate its decision on a request '*as soon as reasonably practicable*'.

When consultations are being undertaken, Inland Revenue should consider:

- whether the maximum time limit for responding to the request needs to be extended
- whether all or part of the request must be transferred to another agency, on the basis that its functions are more closely connected with the requested information
- whether a decision can be made in respect of some of the information requested while consultations on the remaining information are under way, and
- speaking to the requester to explain the need to consult with others.

Although the requester is not obliged to do so, they may be able to clarify why the information is being requested. This often helps to expedite or inform the consultation process. Equally, the requester may be able to narrow or limit the request so that any consultation is no longer necessary.

Consulting requesters

Consulting requesters can be very useful when considering a request. The reasons for consultation can include:

- confirming the exact nature of the information requested
- explaining any difficulties Inland Revenue is having in processing the request (for example when there is a large amount of information at issue), and allowing the requester to consider amending or refining the scope of the request, and

- informing the requester if there are likely to be any delays in processing their request.

Often there may be a perception that agencies are unwilling to provide information or are deliberately seeking to delay or to hide information due to a lack of understanding about the process. If there is going to be a delay for any reason, it is important to let a requester know the reasons for this.

Inland Revenue can consult with requesters for any reason. However, the OIA specifically requires agencies to consider consulting them before refusing a request on the basis that the information does not exist or cannot be found, despite reasonable efforts to locate it, or the information cannot be made available without substantial collation or research.

Consultation with a requester may result in an amended or clarified request. The implications of this for our statutory obligations are discussed above, under ["Amended or Clarified Requests"](#).

Consulting third parties - Commercial sensitivity considerations s18

There is no requirement under the OIA for agencies to consult external third parties before making a decision on a request. However, we should consider whether it is necessary to do so if:

- the information is about the third party
- the information was supplied by the third party, and/or
- release could adversely affect the third party.

This will often be relevant if we are proposing to release information that may raise privacy, confidentiality or commercial concerns.

Notwithstanding the outcome of any consultation, the decision on the request for information remains with Inland Revenue to take. We should consider what the third party has to say, and reach an own independent view on the applicability of any withholding grounds, and the public interest in release.

The OIA provides protection for agencies that **release information in good faith** in response to a request. However, a complaint may potentially be made to the Ombudsman under the Ombudsmen Act that an agency has acted unreasonably in either omitting to consult an external third party, or in how they went about that consultation, or in deciding to release the information notwithstanding consultation.

What information should I include when consulting external third parties?

An efficient and effective consultation should include the following matters:

- Sufficient relevant background information about the request.
- The identity of the requester (unless there is specific good reason not to provide this). Good administrative practice is to advise the requester of the intended consultation first to check that there are no genuine concerns about disclosure of the requester's identity. If the requester wishes to remain anonymous, Inland Revenue should consider whether there is a reasonable basis for non-disclosure, given that the identity of the requester may often be a relevant factor for a third party in identifying any concerns with release of the information requested.
- A copy of the information at issue if the third party does not already hold it, or a brief description of the information Inland Revenue holds which is captured by the request and on which we are seeking the third party's comments.
- Advice about the agency's obligations under the OIA for responding to the request for this information, including that:
 - the agency must follow the principle of availability set out in the OIA
 - it is for the agency to assess whether there is 'good reason' for withholding information
 - third parties can expect their concerns to be taken into account, but they cannot veto release, and
 - lack of consent is not, in itself, a reason for refusal.
- A request for confirmation as to whether the third party has any concerns with release and if so, a detailed explanation of these and the basis for them.
- A date for response to enable the agency to make a timely decision on the request.

Consulting Ministers

Responsible Ministers often have a legitimate interest in OIA requests received by their agencies. Agencies are permitted to consult Ministers about the decision they propose to make on an official information request. However, Inland Revenue officers have tax confidentiality obligations under the TAA (whereas Ministers do not). This means that we should only be providing Ministers with information where an exception to confidentiality applies.

The most relevant exception may often be the one set out in section 18D(2) of the TAA, that disclosure supports a "function of the Commissioner" (note that this must be a tax-related duty and does not include the duty to respond to official information requests) and is "reasonable" regarding the factors set out in section 18D(2).

In practice, this means we should only be notifying the Minister of requests where we consider there is a real need to, such as where we are seeking the Minister's opinion on the appropriate approach to the request (bearing in mind that this is still ultimately our decision), or where we have a contentious or topical request that may receive some publicity.

Where consultation with the Minister(s) is considered appropriate, one way to do this is to provide advance notice to the Minister of the request, the information at issue, and the

decision Inland Revenue plans to take. Under the “no surprises” principle, request should be sent to the Minister’s office **five** working days prior to the statutory due date.

Consultation arrangements should be configured so that Inland Revenue can meet our requirement to make and communicate the decision on a request within the maximum 20 working days. Accordingly, Inland Revenue should endeavour to provide advance notice to the Minister’s office well before the maximum 20 working days expire (for instance, around the 10 to 15 working-day mark).

Government and Executive Services (GES) is responsible for coordinating communication between Inland Revenue and the Minister’s offices. GES is the first point of contact for advice and guidance on contacting a Minister.

Making a decision

Considering whether to grant the request

When making a decision on an OIA request, Inland Revenue must decide:

- whether the request will be granted, and if so
- in what manner, and
- for what charge (if any).

Inland Revenue must then communicate that decision to the requester as soon as reasonably practicable and no later than 20 working days after the day on which the request was received (unless the maximum time limit is extended).

Information that comes to be held after a request is received

IR may receive or generate additional relevant information after a request is received but before a decision is conveyed. Technically, a requester is only entitled to request information ‘held’ (i.e. in existence) at the time of their request. However, there is nothing to prevent Inland Revenue from considering the additional relevant information in conveying our decision on the request. It may be reasonable to do so if there is no practical reason not to, and it is clear the requester would want to obtain the additional relevant information. At the least, Inland Revenue should make it clear to a requester if additional relevant information has come into existence which has not been captured by the scope of the request, so they may request it if they wish.

Which part of the OIA applies?

Different rules apply to different type of requests. It is important to be aware of which rules apply, in order to ensure that the right decision is made.

Part 2 OIA: General requests for access to official information that is not about the requester.

Part 3 OIA: Requests under section 22 for access to an agency’s policies, principles, rules or guidelines for making decisions or recommendations in respect of any person.

Part 3 OIA: Requests under section 23 for a written statement of reasons why a decision or recommendation was made about the requester.

Deciding how to release information

If the decision is to grant the request, Inland Revenue must also decide how the information will be released.

There are a number of different ways to make information available. Inland Revenue can:

- give the requester a reasonable opportunity to inspect the information (e.g. when a staff member reviews a piece of information on their personnel file)
- release a hard copy of the information
- release the information in electronic form or by electronic means
- arrange for the requester to hear or view the information
- provide a written transcript of the information
- provide partial disclosure of the information, e.g.:
 - release a document with some information deleted (redacted)
 - release a summary of the information
 - release an excerpt, or particular passage, from a document, or
- provide the requester with an oral briefing.

However, Inland Revenue must release the information in the way preferred by the requester, unless to do so would:

- impair efficient administration
- be contrary to any legal duty we have in respect of the information
- prejudice the interests protected by section 6, 7 or 9 of the OIA (and in the case of the interests protected by section 9, there is no countervailing public interest), or
- prejudice the interests protected by section 27 or section 28 or section 29 of the PA and (in the case of the interests protected by section 28) countervailing public interest.

If information is not provided in the way preferred by the requester, Inland Revenue must explain the reason for not providing the information in that way and, if asked, the grounds supporting that reason.

Inland Revenue may also decide to:

- release the information subject to certain conditions (for an OIA)
- release the information with an additional statement to put it into context (this can be useful if there is a concern that releasing the requested information on its own might be misleading or incomplete), and
- release other additional information we consider relevant to the request and helpful to the requester.

If the information to be released is contained in a document that includes other information outside the scope of the request, Inland Revenue can choose to:

- release the document in its entirety, or
- delete the information that is outside the scope of the request and advise the requester accordingly.

If deleting information as being outside the scope of the request, it is important not to take an unreasonably narrow interpretation of the request.

However the information is released, we should keep a replica of that information, as any decision to withhold official information can be reviewed by either the ombudsman or by an internal review. It is important to keep clear and accurate records of what has been released or withheld and why.

Tips for making deletions

Deletions (redactions) can be made by:

- whitening out the information and then photocopying it
- cutting out the information and then photocopying it, or
- deleting the information electronically by using redaction software.

Alternatively, if there will be so many deletions that only a few sentences are visible on a page, consider providing a summary. This should be an accurate summary of what was requested and can be pasted into a new document.

Care should be taken with electronic releases, having regard to potentially embedded information such as document versions, track changes and pivot tables. Similarly, information should not be blacked out on a hard copy document and then photocopied, as this may **not** obscure the deleted information in certain circumstances.

Any deletions should not change the essential formatting of the document, and it is good practice to indicate the reasons for the deletions on the document itself.

Screen dumps

It is no longer necessary to redact user ID, screen-system ID and screen identifier information from system screenshots.

Analyse the information

Analyse the material gathered to see whether any information can be released. There are times when personal information about a requester would not be given to them. For example:

- once Inland Revenue has advised that a tax investigation is to commence and disclosure would prejudice the effective conduct of the investigation
- when the information requested would disclose the identity of a person who has supplied information to Inland Revenue, thereby breaching an obligation of confidentiality, and
- when the information requested would disclose particular targeting or investigation techniques and selection criteria which, if disclosed, would prejudice Inland Revenue's ability to investigate in the future.

In these cases, a request maybe refused as the release of this information would be likely to prejudice the maintenance of the law.

If you have any doubts about anything, check them out with the appropriate people, i.e. subject matter experts, LTS, the Privacy Officer or Government and Executive Services.

Common withholding provisions in the OIA

It is important to understand the scope of a request to correctly apply the withholding provisions. To do this, you will need to analyse each individual item of information and consider whether to withhold any information based on the withholding criteria. Making a “blanket approach” does not comply with the Act. The *Kelsey* case (explained below) emphasises the importance of scope and understanding the correct application of the withholding provisions.

The *Kelsey* case (*Kelsey v Minister of Trade* [2016] 2 NZLR 218) is a useful reminder that officials should not take blanket approaches to withholding information and should read the relevant documents to consider whether any information can be released. The case also emphasises that, when applying the substantial collation and research withholding ground, officials must first consider whether to extend the timeframe response or charge for their time. The case related to decisions made purely under the OIA where the principle of availability of information applies (whereas Inland Revenue has the opposite starting point under the TAA). However, the *Kelsey* case still makes the useful point that we need to have a good understanding of the information that falls within scope of a request in order to be able to justify our use of withholding grounds.

You will need to establish if the information requested is subject to tax confidentiality under section 18 of the TAA (in most cases, information **will** be tax confidential). The second step is to establish whether any of the exceptions to confidentiality apply (that is, a “permitted disclosure”, as noted above). If none of the exceptions apply, you can withhold under section 18(c)(i) of the OIA:

The information you requested is refused under section 18(c)(i) of the OIA as making the requested information available would be contrary to the provisions of a specified enactment, namely Inland Revenue’s confidentiality obligation in section 18 of the Tax Administration Act 1994 (TAA). Disclosing the information requested does not fall within any of the exceptions to the confidentiality obligation in section 18 of the TAA.

If the information requested is not tax confidential, consider whether any of the following commonly used withholding grounds apply:

Consideration	OIA reference
The release could prejudice the maintenance of the law.	section 6(c) – disclosure would prejudice the maintenance of the law.
The release would provide personal information about other individuals.	section 9(2)(a) – to protect the privacy of natural persons, including deceased persons.
The release could compromise the commercial position of the person who supplied or is the subject of the information.	section 9(2)(b)(ii) – to protect the commercial position of the person who supplied the information or who is the subject of the information.

The release would breach the confidentiality of advice tendered by, or to Ministers of the Crown and officials.	section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials.
The release would prevent the free and frank expressions of opinions.	section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expressions of opinion.
An administrative reason for refusing a request for information.	section 18(d) – the information requested is or will soon be publicly available.
We can't be sure the information exists, or know where it is.	section 18(e) – the document alleged to contain the information requested does not exist or cannot be found <i>[note that you should check section 18B if you intend to withhold information under section 18(e)].</i>
The release requires substantial collation or research.	section 18(f) – the information requested cannot be made <i>available without substantial collation or research [note that you check section 18A and 18B if you intend to withhold information under section 18(f)].</i>

Common withholding provisions under the PA

Section 18G of the TAA permits Inland Revenue to provide people (or their representative) with sensitive revenue information. [Clause 15 of schedule 7](#) of the TAA sets out to caveats on provision of the personal information. The Commissioner must consider whether –

- the information is readily available; and
- if it is “reasonable and practical” to provide the information.

Inland Revenue is subject to the information privacy principles in the PA. Principle 6 provides that where an agency holds personal information in a form that is readily retrievable, individuals are entitled to have access to information relating to them.

If we consider that the disclosure of the information would adversely affect the integrity of the tax system. Although the information may be personal information, there would not be a permitted disclosure as it would not be “reasonable and practical” for the Commissioner to disclose the information.

Before releasing information in response to a request under the Privacy Act consider whether any of the reasons for refusal to supply information are contained in sections 27, 28 and 29 of the PA are applicable in the circumstances.

Consideration	PA reference
The release could prejudice the maintenance of the law including the detection, investigation or prosecution of offences.	section 27(1)(c) [note this can be used if there is a current investigation, but generally not if the investigation has been completed]. It can also be used to withhold the names of informants.
The release is likely to put a person in danger.	section 27(1)(d) [note this must be physical safety and you must have evidence to prove the danger].

The release would provide personal information about other individuals.	section 29(1)(a) An agency may refuse to disclose any information requested under principle 6 if disclosing the information would involve the unwarranted disclosure of the affairs of another individual or a deceased individual. [note this may be used to remove staff names in some circumstances but if staff have had direct contact with the requester there would be no reason to delete their name
The information requested is evaluative material and disclosing the information, or information identifying the person who supplied it, would breach a promise made to that person that the information, or their identity, would be held in confidence.	section 29(1)(b) [note evaluative material is very specific and only applies to evaluative or opinion material compiled solely to determine someone's suitability, eligibility or qualifications for employment, appointment, promotion or removal from employment];
Disclosure of the information would breach legal professional privilege;	section 29(1)(f)
The information requested is not readily retrievable.	section 29(2)(a)
The information does not exist or cannot be found	section 29(2)(b)
The information requested is not held by Inland Revenue and the person dealing with the request has no grounds for believing the information is held by another agency.	section 29(2)(c)

Communicating the decision

A decision on the request must be communicated by giving or posting notice to the requester within the relevant timeframe.

Notice of the decision must include:

- whether the request will be granted, and if so
- in what manner, and
- for what charge (if any) if an OIA request (you cannot charge for responding to a PA request).

Decisions should be clearly worded and sensitive to any particular needs the requester may have.

If the decision is to **refuse** the request, reasons must be given for that decision. This means that you must refer to the particular subsection relied on under the OIA or PA (as applicable) to refuse the request.

The OIA also requires agencies to provide the grounds for relying on the relevant subsection, if the requester asks for them.

Every decision to refuse a request must advise the requester of the right to complain to the Ombudsman or the Privacy Commissioner (as applicable) and to seek an investigation and review of Inland Revenue's decision. Refer to the template letter(s) for communicating a decision to the requester.

The requester also has the option of seeking a review on OIA decisions by an Inland Revenue officer. This option doesn't preclude the requester seeking a review by the Ombudsman if the requester is not satisfied with the department's internal review.

Releasing information in response to a request

The OIA requires that information must be made available without "*undue delay*". Generally, when a decision is made to grant a request for information, whether in full or in part, the decision and the information should be provided to the requester at the same time.

However, there may be times when this is not possible. For example, when the request is for a large amount of information and although Inland Revenue has reached a decision to grant the request, it will still take further time to prepare the information for release.

Provided that there is no undue delay, the information may be provided to the requester at a later stage, after the decision has been made and communicated. In these circumstances, the notice of the decision should clearly indicate that the information will be provided, with an estimated timeframe for the release. If some of the information is to be withheld, the notice should also advise this and state the reasons for refusing that part of the request.

A later release of information may also be appropriate when a decision has been made to charge for providing the information. Inland Revenue may require all or part payment of the charge in advance, before the work is undertaken to prepare the information for release. (See the "Charging" section below.)

Awaiting the requester's response to know if they are prepared to be charged for the information will not generally be considered to be an undue delay in making the information available.

Complaints: OIA

Complaints about OIA decisions

Requesters have the option of raising any concerns about their OIA decision with the Office of the Ombudsman (www.ombudsman.parliament.nz) or by applying for an Inland Revenue internal review (by emailing oia@ird.govt.nz).

Inland Revenue's internal review is an independent review carried out by Government and Executive Services.

Complaints: Privacy

Complaints about PA decisions

Requesters who have concerns about their PA decisions should contact the Privacy Commissioner to seek resolution (www.privacy.org.nz).

Charging

Public sector agencies cannot charge for responding to a Privacy Act request.

Part of making a decision on a request under the OIA includes whether to charge. Any decision to charge must be notified to the requester at the same time as the requester is advised of the decision to release information, of:

- the decision to charge
- the maximum amount of the charge
- how the charge has been calculated
- whether all or part payment of the charge is required in advance of release of the information, and
- that the requester has the right to complain to the Ombudsman about the decision to charge.

Charges can be made for making the information available, including time spent retrieving and collating the information, and preparing it for release. However, charges **cannot** be made for the time spent or any expenses incurred in deciding whether or not to release the information.

It may not be reasonable to charge for locating or retrieving information if there are poor record-keeping practices in place that mean the information is not stored where it should be (in accordance with Inland Revenue's normal business practice).

The Ombudsman has published *Charging: A Guide to charging for official information under the OIA and LGOIMA*. You can access the publication [here](#), or go to www.ombudsman.parliament.nz and look under "Resources and publications" and "Guides".

Special categories of official information

Certain rules apply to three particular categories of information that may be requested under the OIA. These are:

- internal rules or guidelines for decision making
- statements of reasons for decisions, and
- personal information requests by corporate entities.

The OIA provides requesters with a **right** to access any document which:

... contains policies, principles, rules, or guidelines in accordance with which decisions or recommendations are made in respect of any person or body of persons in [their] personal capacity.

The ability to refuse such a request is very limited.

Requests for statements of reasons

Section 23 of the OIA also provides a **right** to a written statement of reasons for a decision or recommendation made about the requester by the agency.

Requests for written statements of reasons are often made by individuals or groups with concerns about a decision or recommendation that affects them personally. The right to a statement of reasons provides a requester with the ability to obtain further information about that decision.

Requesters need not specifically refer to section 23 of the OIA in seeking to invoke their right to request a written statement of reasons for a decision that has affected them personally. However, it should be relatively clear from the terms of the request that this is what they are seeking to obtain. If it is unclear whether the requester is seeking a written statement of reasons, it may help to consult them.

The right to request for a written statement of reasons must be exercised within a 'reasonable time' of the decision or recommendation at issue.

A written statement of reasons should be full and comprehensive in explaining the decision making process, and must include the following elements:

- the findings on material issues of fact
- a reference to the information on which the findings were based, and
- the reasons for the decision or recommendation.

Inland Revenue may already hold a written statement that contains all the elements listed above. If not, we will need to create such a statement.

There is only a limited basis to withhold information from a statement of reasons (see sections 23(1), 23 (2A) and 23 (2B) of the OIA).

Information requests by corporate entities

Every corporate entity (company or incorporated society), which is either incorporated in New Zealand or has a place of business in New Zealand, has the **right** to access any information an agency holds about it, under section 24 of the OIA.

The requirements for Inland Revenue to process such requests are more or less the same as for any other request for official information. However, as the corporate entity has a specific right to access any information about itself that can be readily retrieved, the reasons for refusing such requests are more limited. Section 24 of the OIA is subject to section 52 of the OIA, which makes it clear that such reasons may include that the information is subject to tax confidentiality obligations under the TAA and no exception to secrecy applies.

Special precautions must also be taken when information is released, to confirm the identity of the requester and ensure that the information will only be received by the requester or their authorised agent. The requester must also be advised of their right to request correction of the information released.

Conditional release

The OIA implicitly recognises that information may be released subject to conditions on the use, communication or publication of the information. Conditions can include:

- an embargo
- a requirement that the requester keep the information confidential
- a requirement that any discussion of the information should include reference to a contextual statement the agency has also provided, and
- a requirement to use the information only for a specific purpose.

It is important to note that conditions are **not enforceable** under the OIA. Releasing information subject to a condition therefore relies on a relationship of trust and confidence between the agency and the requester, or the establishment of a formal contract or deed.

You cannot place conditions on the use of information released under the Privacy Act.

Publication of information

An agency may, whether proactively or in response to a request, choose to publish information as it sees fit. For example, an agency may decide to make information generally available to the public on its website.

Proactively releasing information to the public promotes good government, openness and transparency and fosters public trust and confidence in agencies. Proactively releasing information also has administrative benefits for the agency, including by reducing requests for information which is already publicly available, and allowing for greater ease of handling of the requests that are received.

Note that responses to requests made via the FYI website www.fyi.org.nz are published online on that site.

Good faith protection

Occasionally, an agency may be reluctant to make official information available for fear that release of the information could expose the agency to litigation.

However, releasing information in good faith in response to a request made under the OIA will not expose an agency to civil or criminal proceedings. The OIA explicitly states:

Where any official information is made available in good faith pursuant to this Act no proceedings, civil or criminal, shall lie against the Crown or any other person in respect of the making available of that information, or for any consequences that follow

This means that, as long as an agency releases information in the honest belief that the OIA requires disclosure (which may be demonstrated by the agency having made reasonable efforts to identify the interests requiring protection as well as any public interest in release, and to consider those interests in good faith), no civil or criminal proceedings will lie against the agency. This section effectively protects the Crown from any defamation or breach of confidence proceedings, or complaints to the Privacy Commissioner under the Privacy Act, in respect of information which is made available in good faith under the OIA.

Some protection is also afforded to the author or supplier of the information. However, such protection does not extend to publication of the information by the requester or subsequent parties, such as a newspaper.

The good faith protection under the OIA is also not available when an agency decides to proactively release information, rather than releasing information to a requester in response to an OIA request.

Even when an agency does release information in good faith under the OIA, a complaint to the Ombudsman under the OA may still be made by any person affected by the release, if it is considered that the agency has not acted in an administratively reasonable manner. For example, by not taking due care when making deletions to information, or not affording them a reasonable opportunity to comment before release.

Further guidance from the Ombudsman

Separate guidance is available on making a decision whether or not to grant a request, in relation to particular sections of the OIA and specific subject areas.

The Ombudsman's website contains searchable case notes, opinions and other material relating to past cases considered by the Ombudsman: www.ombudsman.parliament.nz.

The Ombudsman's staff can provide general advice to agencies on the processing of an official information request, including the current interpretation of the OIA and how it has been applied in similar fact situations in the past. You can email info@ombudsman.parliament.nz or freephone 0800 802 602.

Appendix

Process for responding to straightforward information requests: eight steps

Once you have decided that Inland Revenue holds the information requested, and you have determined which Act(s) applies (TAA, OIA or PA), the following steps must always occur:

- 1) Identify the information you need to respond to the request, or if it should be transferred to another agency
- 2) Develop your timeline
- 3) Find the documents
- 4) Analyse and consult
- 5) Update records
- 6) Decide if you need to extend the time limit
- 7) Draft the response
- 8) Get the sign-off, send the response and update records

Identify the information you need to respond to the request

Scope the response: read the request carefully and identify anything that seems unclear. If there is any ambiguity, consider consulting with the requester to clarify exactly what they are requesting. Think about the context of the request and what the requester may want to know, and why. This may help identify things that the requester may not need or want to receive. Clarifying a request will save time and effort in the long run.

Develop your timeline

The statutory deadline for a response is 20 working days from when Inland Revenue (not the relevant business unit) receives a request. A tool that automatically calculates the statutory due dates for responses to information requests is available on the Ombudsman's website at www.ombudsman.parliament.nz. You find information about OIA requests and access the Ombudsman's time calculator via the Stakeholder Relations [intranet page](#).

Once you have the final 20-day deadline, work backwards to calculate your timeline – for example, how long you can take to compile the information, when you will need to finish drafting your response by, and when it will need to be approved by a manager. It's very helpful to leave a buffer of at least two days, as some steps take longer than expected.

Be aware that some steps in the process affect each other, so you may need to keep adjusting your timeline (this is also where the buffer comes in handy). The statutory deadline is 20 working days from when the request is received, but Inland Revenue's obligation is to respond as soon as reasonably practicable. So if we can respond to a request before the maximum statutory time limit, we should.

Find the documents

If the requester is asking for various types of information or complex data, identify and consult with key staff who are likely to know what information exists and where it might be held, including access to other system or databases, to gather the requested information. Keep a record of your searches. In the event that no relevant information can be found, it's helpful to be able show that all reasonable efforts were made to locate the information (especially in the case of a complaint to the Ombudsman about our response).

Analyse and consult

Analyse the material gathered to see whether any information can be released.

There are times when even personal information about a requester cannot be released to them:

- once Inland Revenue has advised that a tax investigation is to commence and disclosure would prejudice the effective conduct of the investigation
- when the information requested would disclose the identity of a person who has supplied information to Inland Revenue, thereby breaching an obligation of confidentiality, or
- when the information requested would disclose particular targeting or investigation techniques and selection criteria which, if disclosed, would prejudice Inland Revenue's ability to investigate in the future.

In these cases, a request can be refused under 6(c) of the OIA, as the release of this information would likely to prejudice the maintenance of the law.

If you have any doubts about anything check it out with the appropriate people. For example: subject-matter experts, LTS, Inland Revenue's Privacy Officer, or Government and Executive Services.

Keep records

Any decision to withhold official information can be reviewed by the Ombudsman or by an internal review. It is therefore important to keep clear and accurate records of what has been released or withheld and why.

When preparing documents that will have information redacted (withheld), make three copies of each document: a clean copy, a mark-up copy (that shows which parts of the document will be withheld or released and why), and the final, redacted copy (with information blacked out). The redacted copy will be sent to the requester.

It is no longer necessary to redact user ID, screen-system ID and screen identifier information from system screenshots.

Decide if you need to extend the time limit

If extensive retrieval of documents or consultations necessary to make a decision are making the 20-day time limit unachievable, you can extend the time limit to respond to a request. You can extend the time limit at any point before the original 20 days end.

However, unless it is obvious at the start, it's best practice not to extend until you have already, in good faith, tried to answer the request. This way, you will have a good idea of how long to extend the time.

If you need to extend the time limit, you must advise the requester of the period of the extension (which must be reasonable, for example five or ten working days) and give the reasons for the extension.

Under the OIA, the only acceptable reasons for extending the time limit are:

- the request is for a large quantity of information or necessitates a search through a large quantity of information, and meeting the original time limit would unreasonably interfere with the operations of Inland Revenue; or
- consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.

In all other cases, Inland Revenue must keep to the statutory deadline.

Get the sign-off, send the response and update records

Remember to check that you know who in your area has the revenue delegation to sign the response. This means they have the approval to authorise the release or withholding of information. It's a good idea to include in your records the position or title of the person who holds the revenue delegation and has approved the response.

This is an added protection for Inland Revenue. In the past, people have signed out responses without having the appropriate delegation to do so.

Troubleshooting tips

A number of factors can contribute to delays and administrative difficulties in processing an OIA or PA request. Most of these factors are addressed in this guide or on the Ombudsman's website at www.ombudsman.parliament.nz

Consulting the requester

If you need to consult the requester, do so as soon as possible. If you consult within the first seven working days of the request, it may be possible to treat any amended or clarified request as a new request (see the "Amended or clarified requests" section).

If you need to consult the requester, it may really help you to collate the information if you ask them:

- to be as clear and specific as possible about the information they want, and
- if there's any information they don't want.

These points may also be helpful:

- If the requester is seeking reasons why a decision or recommendation was made: the request may be for a statement of reasons under section 23 rather than for documentary information.
- If a requester has asked for urgent consideration, it's reasonable to ask why it's urgent and for their timeframe. (The Ombudsman's view is that agencies should consider requests for urgency, but do not have to treat the request as such.)
- If you need to consult third parties before making a decision on the request, ask the requester if they have concerns with the disclosure of their identity to third

parties. (If they do have concerns, we can consult without revealing the requester's identity).

- If there's a lot of information or the requester has asked for it to be provided in a format that's difficult to do, you can ask if they would be happy to receive the information in an alternative form that would be easier to provide (e.g. an oral briefing, a viewing, or a summary of the information).

Taking ownership to co-ordinate and manage a broad or multi-revenue detailed request

Inland Revenue often receives requests that are very broad. For example, a customer might request information that covers a wide range of information including multiple tax types (child support and income tax), and that covers a long period of time.

If this is the case:

- First, ascertain if this request meets the criteria to be managed by Government and Executive Services. If not, then:
- Establish who will take overall responsibility and ownership of the request.
- If you are responding to the request identify who else needs to be involved in considering the request to supply the information.
- Arrange a scoping meeting with these identified people to verify if the requester has previously made similar requests or if there are any investigations or legal cases underway.
- To avoid multiple contacts about different aspects of the request by various Inland Revenue people, nominate one person to make contact with the customer.
- Explain the problem, including how much information their request covers as currently phrased.
- Invite the requester to reconsider or refine their request. If you take steps to consult the requester within the first seven working days, it may be possible to treat any amended or clarified request that is received as a new request (see amended or clarified requests above). Have in mind some potential strategies for refining or redirecting the request that might be able to meet the needs of the requester without imposing an unreasonable administrative burden on Inland Revenue. For instance:
 - Refining the time period covered by the request.
 - Refining the types of document covered by the request.
 - Consider engaging additional staff.
 - Consider whether charging for the supply of information would be reasonable and appropriate in the circumstances.
 - Consider whether to extend the maximum time limit for making a decision on the request.
 - Consider whether it is possible to release the information in an alternative form, for example, summarised.
 - Consider releasing the information at a later time, after the decision is made, as long as the information is prepared for release without undue delay.
 - As a last resort, the decision maker who holds the appropriate delegation may need to consider whether it is necessary for Inland Revenue to refuse the request under section 18(f) of the OIA, on the basis that the

information cannot be made available without substantial collation or research.

Managing multiple requests from the same requester

- Invite the requester to prioritise the order in which they would prefer the requests to be answered.
- Consider extending the time limit on each request as needed.
- Consider whether charging for the supply of information would be reasonable and appropriate in the circumstances.
- Advise the requester of the decision on each request as soon as reasonably practicable (and no later than 20 working days), and subsequently roll out the information to be released without undue delay.
- Consider whether it is possible to release the information in an alternative form, for example, summary, viewing, or oral briefing.
- Consider whether, in the circumstances of the case, the multiple requests can be treated as a single request under section 18A(2) of the OIA, for the purposes of deciding whether it is appropriate to refuse the request under section 18(f) on the basis that the information cannot be made available without substantial collation or research.
- Consider whether it would be appropriate to refuse the requests under section 18(h) on the grounds that the requests are frivolous or vexatious.

What to do when the information requested is difficult to identify or cannot be found

- Contact the requester—explain the problem and ask whether the request can be made more specific, or whether they can provide more information to assist in locating the information.
- Consider whether Inland Revenue is being asked to create information or express an opinion rather than to provide information that it holds.
- If the information is in the form of discussions that were held but not recorded, identify the relevant officials and record their recollections in writing.
- Consider extending the time limit to give Inland Revenue more time to locate the information.
- Consider whether all or part of the request should be transferred to another agency that does hold the information.
- Consider whether it is appropriate to refuse the request under section 18(e) of the OIA on the basis that the relevant document does not exist or cannot be found, despite reasonable efforts to locate it.
- Consider whether it is appropriate to refuse the request under section 18(g) of the OIA on the basis that the agency does not hold the information and has no grounds for believing the information is held by, or more closely connected with the functions of, another agency subject to the OIA or LGOIMA.

What to do when the information is not ready to be released

- Consider refusing the request under section 18(d) of the OIA, if the information will soon be publicly available (for example the information is being printed or is in the final stages of being prepared for imminent public release). If so, explain to the requester:
 - where and how the information will be able to be obtained;
 - the date of public release; and
 - the difficulty in meeting the request immediately.
- Consider whether there is a substantive concern about releasing the information at the time of the request. If so, identify the particular harm in release at this stage and assess that harm against the reasons in the OIA for withholding information.

Revenue delegations

Under section 7 of the Tax Administration Act 1994, the Commissioner of Inland Revenue has the authority to delegate functions or powers of the Commissioner, to Inland Revenue employees under any of the Inland Revenue Acts.

The purpose of these delegations is to enable you to make decisions that are delegated to you under the appropriate Inland Revenue Act and that relate to your day to day work in the position you currently hold taking into account an assessment of your level of skills and experience you have displayed.

Delegations fall under three main areas of responsibility:

- revenue
- financial, or
- human resources.

Your delegation letter sets out the authority levels you have under those three areas of delegations. Check your delegation letter to identify your Business Group and Position.

The Business Group is the group you currently work for, and your current position title for which these delegations apply.

Example:

Your Business Group is Customer Services, identified on the matrix as **Group K**
Your position title is: Customer Service Specialist, Fundamental/Applied – position identifier in the matrix as **CSSFA**.

Revenue Delegations

The Acts for which you have revenue delegations are:

(Example:)

- | |
|---|
| <ul style="list-style-type: none">• Income Tax Acts 1994, 2004 and 2007 |
| <ul style="list-style-type: none">• Tax Administration Act 1994 |

• Goods and Services Tax Act 1985
• Child Support Act 1991
• Student Loan Scheme Act 2011
• KiwiSaver Act 2006

The specific provisions within the Acts that you are delegated to make tax technical decisions under can be found in the [Revenue delegations matrix](#).

This guide may be helpful: [How to find what you are looking for in the Revenue delegation matrix](#)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



- All IR buildings ▾
- IR Websites ▾
- Projects ▾
- Manuals ▾
- Technical & Policy ▾
- Working at IR ▾
- Business Units ▾

Policy and Strategy

Te Wāhanga o te Rautaki me te Kaupapa

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Team space

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 - » Useful

Official Information Act requests

The **Government and Executive Services** team from the **Stakeholder Relations** group co-ordinate most Official Information Act requests that Policy and Strategy receives.

Process overview

Stage	Description
Receiving	<p>Most requests are received directly by Inland Revenue areas. Customer specific requests are generally responded to directly by the area that receives them.</p> <p>All other requests are lodged with and managed by Government and Executive Services. If you are unsure about whether they will manage a request, discuss it with them.</p> <p>Most Policy and Strategy Official Information Act requests should be sent to Government and Executive Services for lodging and managing.</p>
Allocating	<p>Any items allocated to you by Government and Executive Services will include:</p> <ul style="list-style-type: none"> • A coversheet with the request details and timeframes • A checklist and guidelines for preparing the response.
Drafting	<p>The appropriate group within Inland Revenue drafts a response to the request.</p> <p>This also includes drafting a report to the Minister about the request.</p>
Editing	<p>Editors in the Government and Executive Services team edit the response.</p>

- websites
- » Roles and contacts
- » Index - Resources
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- » Index - A-Z
- » Guides

- » Technology
- » Working at Policy and Strategy

Stage	Description
Finalising	The Government and Executive Services team finalises and sends the response.

Timeframe for responses

- Official Information Act requests - 100% within 20 days (note: responses have to be with Government and Executive Services within 12 working days)
- Transfer of requests to another agency - 100% within 10 working days after the request is received

Contact information

- [Team Manager Government and Executive Services](#)

Resources

Resource	Description
Information requests	Information about the process for Official Information Act requests provided by Government and Executive Services .
Allen & Clarke - Release of official information under the Official Information Act 1982 - Flowchart	This flowchart sets out the steps and key information when considering the release of information under the Official Information Act 1982. This is provided courtesy of Allen & Clarke .
Guide to Official Information Act and Privacy Act requests (DOCX 620KB) (last updated 20 September 2019)	This guide provides guidelines for dealing with requests for information held by Inland Revenue. It has detailed information on reasons for refusal. It covers: <ul style="list-style-type: none"> • Summary of the relationship between the secrecy provisions of the Tax Administration Act, the Official Information Act and the Privacy Act • Dealing with a request - the process • Dealing with a request - should the requested information be disclosed?
Templates	Templates to use when responding to official information requests: <ul style="list-style-type: none"> • Transfer of request to another agency • Extension of time - when the response will take longer than the statutory 20 days • Response to the requestor - template for the response • Report to the Minister - advising the Minister about the response.
Ombudsman guides	Practical guidelines from the Office of the Ombudsman's website.

<p>Official Information Act 1982</p>	<p>Legislation New Zealand website: Official Information Act 1982. Westlaw NZ - Path: change to Browse by Product Title > Statutes of New Zealand > O > Official Information Act 1982 > Official Information Act 1982</p>
<p>Other resources</p>	<p>Other guidance on responding to official information requests, some are specific to policy staff:</p> <ul style="list-style-type: none"> • CO Notice (09) 5 - Publishing Cabinet material on the web: approval process and publication requirements (7 August 2009) (PDF 57KB) • Access under the Official Information Act to policy papers (PDF 32KB) • Requests for Cabinet papers (PDF 18KB) • Complete list of OIA withholding grounds (PDF 37KB) • SSC guidance on OIA requests for lists of documents (PDF 106KB) • Additional guidance for policy staff when responding to OIA requests (PDF 118KB) - Memo to policy staff dated 13 June 2012 • Internal reviews of Official Information and Privacy Act refusals (PDF 34KB)

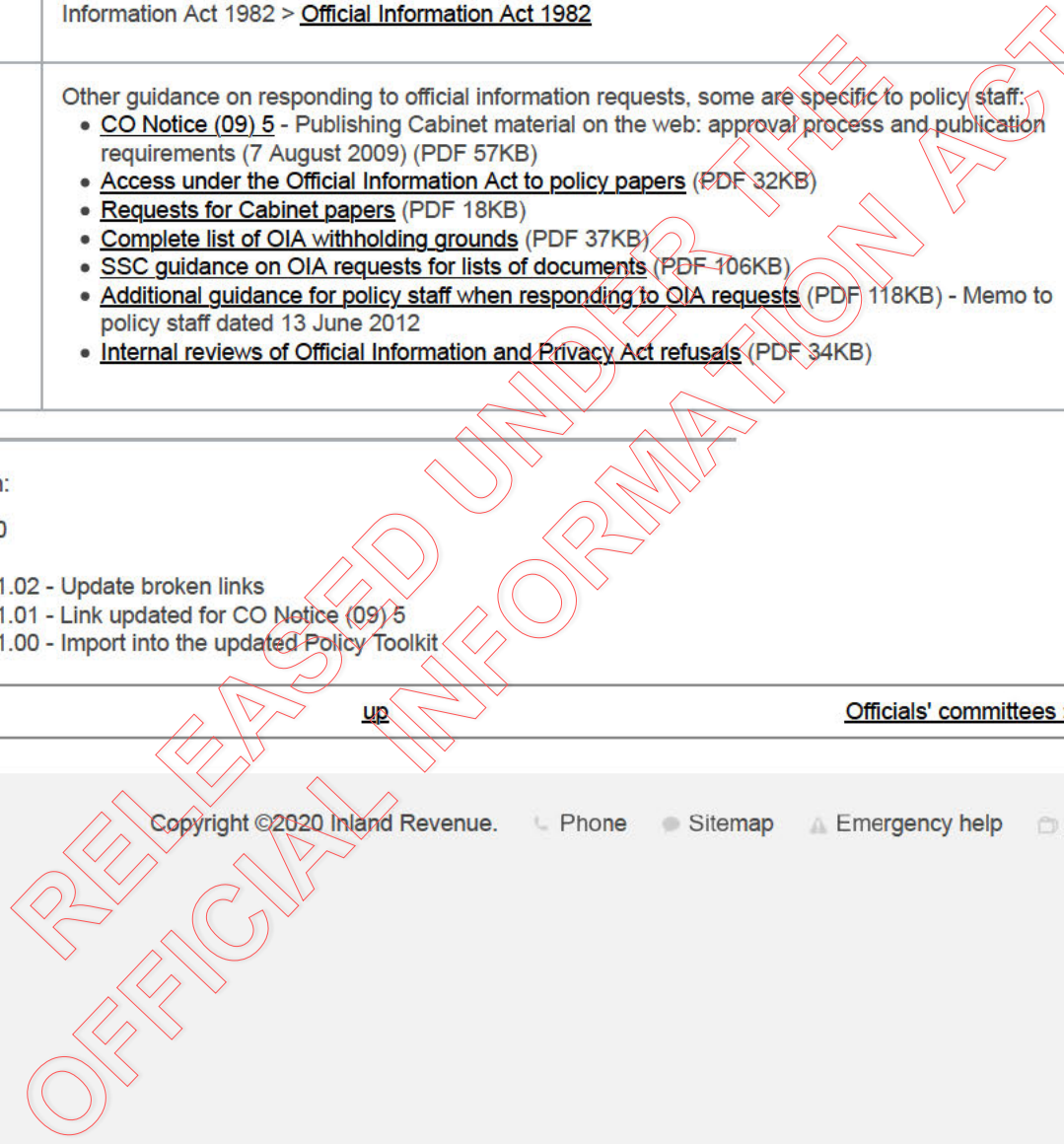
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[Official correspondence](#)

[up](#)

[Officials' committees](#)





Requests for Cabinet papers are treated in the usual way

There is no blanket protection of Cabinet and committee papers and minutes from release under the Official Information Act 1982. Cabinet and committee records are covered by the Official Information Act 1982 in the usual way. See chapter 6 of the [Cabinet Manual](#) for detailed guidance on the protection and disclosure of Cabinet records and other official information.

If advice is required from the Cabinet Office, contact the relevant committee secretary in the first instance.

The Cabinet Office no longer keeps a record of Cabinet papers and minutes that Ministers and departments have released publicly. Ministers and departments are responsible for keeping a record of the Cabinet documents that they have made publicly available.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Complete list of Official Information Act 1982 withholding grounds (refer to Act for full text of sections)

Conclusive reasons for withholding official information

- Section 6(a) – to prejudice the security or defence of New Zealand or the international relations of the New Zealand Government.
- Section 6(b) – to prejudice the confidential entrusting of information to the New Zealand Government by other governments or by international organisations.
- Section 6(c) – prejudice the maintenance of the law (the operation of section 81 of the Tax Administration Act), including the prevention, investigation, and detection of offences, and the right to a fair trial.
- Section 6(d) – safety of a person being endangered.
- Section 6(e) – serious damage to New Zealand’s economy by premature disclosure of policy decisions.

Special reasons for withholding official information related to the Cook Islands, Tokelau, or Niue, or the Ross Dependency

- Section 7(a) – prejudice of security or defence of the Cook Islands, Tokelau, or Niue, or the Ross Dependency.
- Section 7(b) – relations between any of the Governments of New Zealand, Cook Islands, Niue.
- Section 7(c) – prejudice of the international relations of the Governments the Cook Islands, Niue.

Other reasons for withholding official information (where the withholding of information is outweighed by rendering it desirable in the public interest to make the information available)

- Section 9(2)(a) – privacy of natural persons.
- Section 9(2)(b)(i) – trade secrets.
- Section 9(2)(b)(ii) – unreasonable prejudice to the commercial position of a person.
- Section 9(2)(ba)(i) – confidential information and prejudice to its future availability.
- Section 9(2)(ba)(ii) – confidential information and damage to the public interest.
- Section 9(2)(c) – protection of the health and safety of members of the public.
- Section 9(2)(d) – substantial economic interests of New Zealand.
- Section 9(2)(e) – measures preventing or mitigating loss to the public.
- Section 9(2)(f)(i) – constitutional conventions protecting the confidentiality of communications with the Sovereign.
- Section 9(2)(f)(ii) – constitutional conventions protecting collective and individual ministerial responsibility.
- Section 9(2)(f)(iii) – constitutional conventions which protect the political neutrality of officials.
- Section 9(2)(f)(iv) – constitutional conventions which protect the confidentiality of advice tendered by Ministers or officials.

- Section 9(2)(g)(i) – effective conduct of public affairs through the free and frank expression of opinion by or to Ministers or officials.
- Section 9(2)(g)(ii) – effective conduct of public affairs through the protection of Ministers and officials from improper pressure or harassment.
- Section 9(2)(h) – maintenance of legal professional privilege.
- Section 9(2)(i) – enabling commercial activities to be carried out without prejudice or disadvantage.
- Section 9(2)(j) – negotiations being carried out without prejudice or disadvantage.
- Section 9(2)(k) – preventing the disclosure or use of official information for improper gain or advantage.

Information concerning existence of certain information

- Section 10 – neither confirming nor denying the existence or non-existence of the information.

Refusal of requests

- Section 18(a) - that by virtue of section 6,7,9, there is good reason for withholding the information.
- Section 18(b) – neither confirm nor deny the existence or non-existence of the information requested.
- Section 18(c)(i) – releasing the information requested would be contrary to the provision of a specified enactment, namely section 81 of the Tax Administration Act 1994. Disclosure of the information requested does not fall within any of the specific exceptions to the secrecy obligation, nor within the general carrying into effect exception in section 81(1).
- Section 18(c)(ii) – releasing the information requested would constitute contempt of court/the House of Representatives [delete one].
- Section 18(d) – the information requested is, or will soon be, publicly available.
- Section 18(e) – the document that contains the information requested does not exist or cannot be found [delete one].
- Section 18(f) – the information requested cannot be made available without substantial collation or research.
- Section 18(g) – the information requested is not held, and I do not believe the information is held by, or is more closely connected with the functions of, any other Department or Minister.
- Section 18(h) – the request is frivolous or vexatious or that the information requested is trivial.

Reasons for refusal of requests for personal information

- Section 27(1)(a) – likely prejudice to any of the interests protected by section 6(a) to (d) or section 7 or section 9(2)(b) and (in the case of the interests protected by section 9(2)(b)) there is no countervailing public interest.
- Section 27(1)(b) – unwarranted disclosure of the affairs of another person or of a deceased person.
- Section 27(1)(c) – disclosure of the information or of information identifying the person who supplied it, being evaluative material, would breach an express or implied promise
 - (i) which was made to the person who supplied the information; and
 - (ii) which was to the effect that the information or the identity of the person who supplied it or both would be held in confidence.
- Section 27(1)(g) – breach legal professional privilege.
- Section 27(1)(h) – the request is frivolous or vexatious, or the information requested is trivial.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



Internal reviews of Official Information and Privacy Act refusals

People who have requested official information and are dissatisfied with Inland Revenue's refusal to provide that information can have the decision reviewed. RMG is responsible for undertaking these reviews.

Advising requesters of the internal review option

Staff must advise requesters, when they are refusing a request for information either in whole or in part, that the requester has two review options

- to complain directly to the Ombudsman or Privacy Commissioner, or
- have the matter reviewed by a review officer who reports directly to the Commissioner of Inland Revenue.

Advise the requester that choosing the internal right of review does not preclude them from subsequently seeking a review by the Ombudsmen or Privacy Commissioner.

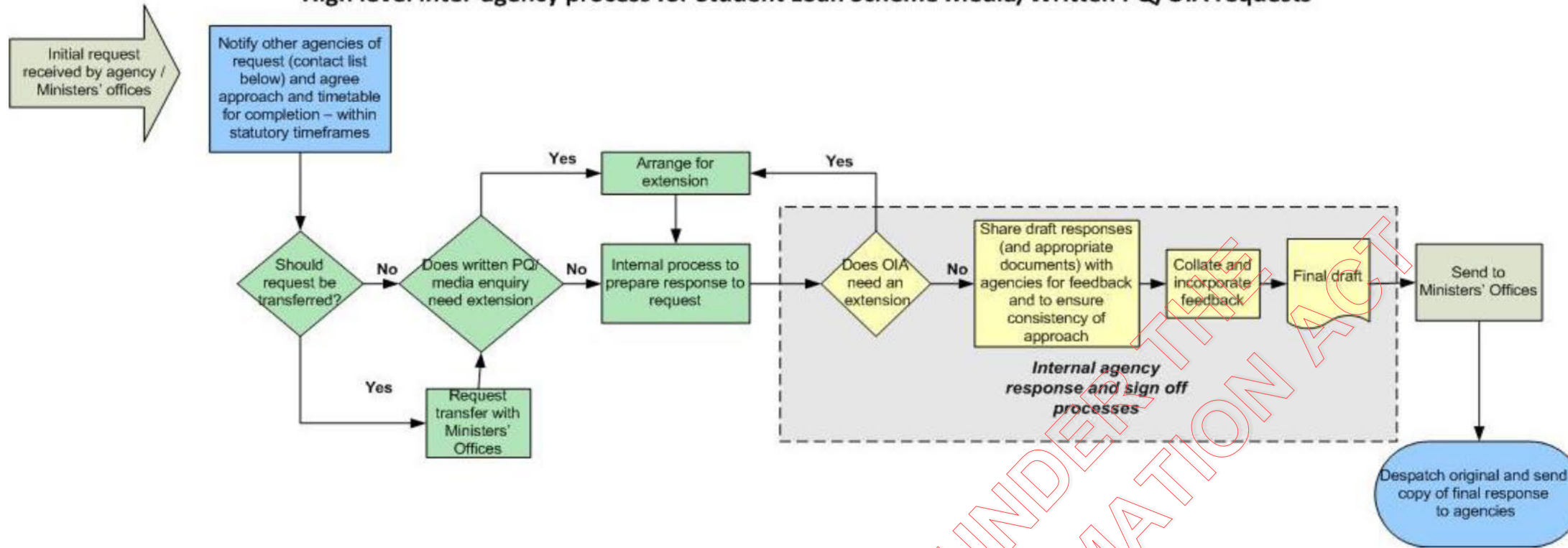
Process for managing internal reviews

The following timetable outlines the process and timelines that should be should be adhered to in order to complete the review within 20 working days.

Day	Actions
Day 1	RMG acknowledges the request and advises the writer of the 20 day review period, then notifies the appropriate business unit of the review request.
Days 2-5	Business Unit prepares a report setting out the essential concerns with release of the information and sends the report and copies of the information at issue to RMG.
Days 6-12	RMG reviews the information and prepares a draft preliminary view.
Days 13-15	Business Unit receives the preliminary review and is given the opportunity to comment.
Days 16-20	RMG considers the comments and forms a final view. Prepares a response to the requestor outlining the outcome of the review either confirming the original decision as correct, or providing the information that it determines should be released.

Student Loan Scheme – Interagency contacts for Ministerial Servicing and Media (updated February 2018)

High level inter-agency process for Student Loan Scheme Media/Written PQ/OIA requests



Governance:

Ministry of Education

§ 9(2)(a) Senior Lead Official, Deputy Secretary

§ 9(2)(a)

Ministry of Social Development

§ 9(2)(a) Group General Manager Client Service Support

§ 9(2)(a)

Inland Revenue

Sharon Thompson, Deputy Commissioner

§ 9(2)(a)

For each OIA, PQ etc. please include the offices of the Minister of Revenue § 9(2)(a) and the Minister for Education § 9(2)(a)			
	Ministry of Social Development	Inland Revenue	Ministry of Education
Official Information Act	§ 9(2)(a)	Kerryn McIntosh-Watt § 9(2)(a)	§ 9(2)(a)
Parliamentary Questions		Kerryn McIntosh-Watt	
Ministerial replies		§ 9(2)(a) Kerryn McIntosh-Watt	
Media		§ 9(2)(a) Media Team	

Official Information Requests

Introduction

All information held by Inland Revenue is "official information". All requests for information should be dealt with on a case-by-case basis.

The Official Information Act 1982 (OIA) prescribes the processes for handling requests for official information. The principle of the Act is "the principle of availability". This requires that requested information "shall be made available unless there is good reason for withholding it" - refer [section 5 OIA](#) . You should assume that information will be released, and then check to see whether the Act contains reasons that, on balance, suggest that the information ought to be withheld.

Inland Revenue receives many requests for information through a variety of channels each year. Our responses to Official Information Act requests should:

- reflect the intent of the legislation
- be consistent across all areas of Inland Revenue
- ensure that information is correctly released
- ensure that any refusals are correctly determined.

It is expected that all frontline staff should be able to respond to a Privacy Act request if it's received as part of business as usual. There is an exception for a request that involves Child Support. These requests are managed by Tauranga child support - refer to START Help: [Request information Inland Revenue holds](#) for instructions on how to send a request for this information.

On this page:

- [The Inter-relationship of the Confidentiality provisions of the Tax Administration Act 1994, the Official Information Act 1982 and the Privacy Act 1993](#)
- [Official Information Act 1982](#)
- [The Privacy Act 1993](#)
- [The Tax Administration Act 1994](#)
- [In Summary](#)
- [Referral to Complaints Management and Government and Executive Services](#)
- [Receiving the Request](#)
- [The Response](#)
 - [Timing](#)
 - [Urgency](#)
- [Reasons for Refusal](#)
- [Charging](#)
- [Ways information may be made available](#)
- [Related Information](#)

Refer START Help pages for process:

- [Receiving an Official Information request](#)
- [Actioning an Official Information request](#)
- [Preparing a response to an Official Information request](#)
- [Reviewing and Issuing an Official Information request](#)

The Inter-relationship of the Confidentiality provisions of the Tax Administration Act 1994, the

Official Information Act 1982 and the Privacy Act 1993

[Section 18 \(1\)](#) of the Tax Administration Act 1994 (TAA) imposes a duty on revenue officers to keep confidential all sensitive revenue information and must not disclose the information unless the disclosure is a permitted disclosure that meets the requirements of [sections 18D to 18J](#). It contains seven general and a number of specific exceptions, or permitted disclosures, to the confidentiality requirement.

Accordingly, confidentiality is not imposed in respect of information that is not a matter relating to the revenue laws or where one of the exceptions to the prohibition applies. Most, but not all, official information held by Inland Revenue can be categorised as a matter relating to revenue laws.

Where [section 18 \(1\) TAA](#) applies, that provides grounds for refusal of a request under the Official Information Act or Privacy Act, the reason for the refusal must be found in either the [section 18 \(c\) \(i\)](#) Official Information Act 1982 (OIA) or [section 7](#) Privacy Act 1993 (PA). Where [section 18 \(1\) TAA](#) does not apply, a decision on a request must only take into account the provisions of the Official Information Act or Privacy Act.

Official Information Act 1982

All information held by government departments is "official information" - refer [section 2 OIA](#). The Act's premise is that official information should be made available unless there is a good reason for withholding it. The Act defines what constitutes a "good reason". Some reasons are conclusive reasons for withholding official information - refer [section 6 OIA](#). Others are subject to the public interest, i.e. there is a need to balance those reasons against any considerations which render it desirable, in the public interest, to make the information available - [section 9 OIA](#).

The policy underlying the Act is one of open government. The availability of information promotes the accountability of officials and Ministers and allows the public more effective participation in the making and administration of laws and policies.

All requests for official information must be dealt with under the provisions of the Official Information Act. Such requests may be made orally or in writing and need not refer to the Act. When a request is made by or on behalf of a natural person for personal information about that person [section 12 OIA](#) deems the request to have been made under the Privacy Act 1993, so that the request should be considered under that Act. In addition to the general right to request official information [section 24 OIA](#) gives a right to companies and other bodies corporate to obtain access to information about themselves.

The Act provides a right of access to internal rules and to reasons for decisions. Under [section 22 OIA](#) every person has a legal right of access to any document held by a department or Minister which contains policies, principles, rules or guidelines in accordance with which decisions or recommendations are made in respect of that person. However, information can be withheld in certain circumstances contained - refer [section 52 OIA](#).

The Privacy Act 1993

The purpose of the Privacy Act 1993 is the promotion and protection of individual privacy. The Information Privacy Principles set out rules for the collection, use, access to and disclosure of information relating to individuals by public and private sector agencies. Government departments such as Inland Revenue fall within the definition of 'agency' and are, therefore, subject to those Information Privacy Principles.

Giving people access to information which agencies hold about them is an important part of promoting and protecting individual Privacy. [Principle 6](#) provides, inter alia, that where an agency holds information about an identifiable individual ("personal information") in a form that is readily retrievable, that individual is entitled to have access to that information. However, an agency may refuse to disclose any information requested pursuant to [Principle 6](#) in certain circumstances - refer [section 27](#), [section 28](#) and [section 29](#) Privacy Act 1993.

Like the Official Information Act 1982, the Privacy Act 1993 contains a provision which states that sections of that Act do not derogate from any other enactment which authorises or requires personal information to be made available, or which imposes a prohibition or restriction on the availability of personal information - refer [section 7](#) Privacy Act 1993.

The Tax Administration Act 1994

[Section 18 \(1\) TAA](#) requires revenue officers to keep confidential all sensitive revenue information and must not disclose the information unless the disclosure is a permitted disclosure that meets the requirements of sections 18D to 18J.

In addition, section 18(3) protects other revenue information that is not sensitive revenue information. It states that the Commissioner is not required to disclose any item of revenue information if the release of the information would adversely affect the integrity of the tax system or would prejudice the maintenance of the law. This information could include generalised analysis and statistics, business processes, finance and planning, and information that's already publicly available.

There are several reasons for the existence of the confidentiality provisions in the Tax Administration Act 1994. The most important ones are:

- To encourage complete honesty and openness on the part of customers, so that the Commissioner can assess the correct amount of tax;
- To ensure that the Commissioner can resort to third-party customer information to verify assessments;
- To enable the identification and remedying of risks to the revenue.

These reasons are all essential elements in the maintenance of a system of voluntary compliance and the efficient operation of the tax system.

[Section 18](#) TAA sets out a number of permitted disclosures. The general exceptions are contained in [section 18D](#) to [section 18J](#) TAA. They provide for permitted disclosure where the Commissioner and their officials consider communicating information is necessary for those purposes. Schedule 7 of the TAA lists specific instances where the Commissioner may disclose information. The Commissioner has discretion to provide information to a person from whom, or on behalf of whom, or in relation to whom, such information is held or was obtained. This section also covers obligations in respect of information sharing with other departments, including for the purposes of information matching programmes.

In Summary

- [Section 18 \(1\)](#) of the TAA requires officers to maintain confidentiality in respect of the revenue law,
- The Official Information Act obligates government departments to make official information available unless there are good reasons not to,
- The Privacy Act provides rights to individuals for access to information held about them.

Referral to Complaints Management & Government and Executive Services

Generally, any request for official information that is not customer-specific should be referred to Government and Executive Services (Stakeholder Relations) for logging. It is important to do this as soon as the request is received due to legislative timeframes imposed on the department.

Government and Executive Services manages potentially difficult or contentious requests. Generally, these are not customer specific.

Receiving the Request

A request for information is not any less an official information request because it is made verbally or communicated otherwise than in writing. It may be appropriate, to reduce the opportunities for misunderstandings and to ensure an accurate record is maintained, to ask the requester to commit their request to writing, or for Inland Revenue to write to the requester setting out Inland Revenue's understanding of the request and asking the requestor to confirm or provide further clarification.

Requests for official information are required to be "specified with due particularity". This means that the department must be able to identify the information being sought. If a request is very general in nature, it is reasonable for Inland

Revenue to ask the requester to specify the official information they are seeking. Reasonable assistance from the department should alleviate this problem. The fact that a request is for a large amount of information does not, of itself, mean that the request lacks due particularity.

Inland Revenue is required to give reasonable assistance to persons requesting information - refer [section 13 OIA](#) and [section 38 PA](#). This duty to assist will most often arise when the requester has either failed to specify the request with due particularity, failed to give reasons for seeking information urgently, or not made the request to the appropriate department or Minister.

Where a request is for information not held by Inland Revenue but believed to be held by another department or Minister or believed to be more closely connected with the functions of another department or Minister, Inland Revenue is required, within 10 working days of receiving the request, to transfer it to the other department or Minister and inform the person making the request accordingly.

The Response

Timing

A decision should be made on an information request and notice given of that decision to the requester as soon as reasonably practicable, but not later than 20 working days after the day on which the request was received by the department - refer [section 15 OIA](#), [section 40 PA](#).

Usually the information to be disclosed will be provided at the time the decision is conveyed to the requester. If this is not possible, the information should be provided as soon as practicable after the decision to disclose has been conveyed to the requester.

The 20-working-day time limit for responding to a request for information, or the 10-day time limit for transferring a request to another department, may be extended for a reasonable period of time if either:

- Meeting the original time limit would unreasonably interfere with the operations of the department; and the request is for a large quantity of information; or meeting the request will necessitate a search through a large quantity of information; or
- Consultations necessary to decide on the request are such that a proper response to the request cannot be made within the original time limit.

An extension of time is effected by sending or giving the requester, within 20 working days after the day on which the request was received, a notice which:

- Specifies the period of the extension (which must be a reasonable period only); and
- Gives the reasons for the extension; and
- Informs the requester that they have a right under [section 28 \(3\) OIA](#) or [section 67 PA](#) to make a complaint to an Ombudsman or the Privacy Commissioner about the extension; and
- Contains such other information as is necessary.

Urgency

The requester may ask that their request be treated as urgent. The requester is required - refer [section 12 OIA](#) and [section 37 PA](#) - to give their reasons for seeking the information urgently. Where the reasons for requesting information urgently are reasonable Inland Revenue should endeavour to treat the request with urgency.

Reasons for Refusal

Where any request for information is refused in whole or in part the requester should be advised of the reason for the refusal and the grounds in support of that reason unless this would prejudice the interests protected by certain withholding grounds.

Charging

On occasions Inland Revenue may wish to consider imposing a charge for supplying information. It is envisaged that this may occur when considerable departmental resources will be required to satisfy the request or perhaps where the requester has already made a number of requests and in the circumstances, it may be reasonable to impose a charge for meeting a further request for information.

There are certain circumstances in which Inland Revenue does not charge for the supply of information in response to requests for information. Namely where requests are made by:

- Members of Parliament and Parliamentary research units;
- Natural persons for information about themselves - refer [section 35 PA](#)

[Section 15 OIA](#) allows for the imposition of a reasonable charge for the supply of information.

Also reference the [Ministry of Justice charging guidelines](#) for Official Information requests.

Ways information may be made available

Both the Official Information Act and the Privacy Act provide that information must be made available in the way preferred by the requester unless to do so would be prejudicial to the department for the reasons identified in [section 16 OIA](#) and [section 42 PA](#). The Acts provide other means by which information may be made available when the preferred way is not an option. These include: inspection, copy, excerpt or summary and furnishing oral information about the contents. Where the only concern about the disclosure of anonymous information is that the handwriting may identify an informant, it may be that the provision of a typed reproduction of the material will resolve those concerns.

Internal reviews of Official Information and Privacy Act refusals

People who have requested official information and are dissatisfied with Inland Revenue's refusal to provide that information can have the decision reviewed. Government and Executive Services is responsible for undertaking these reviews.

Staff must advise requesters, when they are refusing a request for information either in whole or in part, that the requester has two review options:

- to complain directly to the Ombudsman or Privacy Commissioner, or
- have the matter reviewed by a review officer who reports directly to the Commissioner of Inland Revenue.

Choosing the internal right of review does not preclude requesters from subsequently seeking a review by the Ombudsmen or Privacy Commissioner.

Refer to [Complaints Management & Ministerial Services website](#), [Secrecy and Information Sharing](#), [Information Requests](#) and [Privacy Act Requests](#) for more information.

Important

Note: If you need advice on any aspect of an Official Information Request contact:

- [Kerryn McIntosh-Watt](#) - Manager Government & Executive Services.
- [§ 9\(2\)](#) - Senior Ministerial Advisor
- [§ 9\(2\)\(a\)](#) - Senior Ministerial Advisor

Related Information

Intranet

- [Government and Executive Services](#) (Stakeholder Engagement)
- [Complaints Management & Ministerial Services](#) OIA requests
- Confidentiality and Information Sharing
- [Information Requests](#)
- [Privacy Act Requests](#) Privacy Act requests

Legislation

Tax Administration Act 1994

- [Section 18](#) Confidentiality of sensitive revenue information

Official Information Act 1982

- [Part II Requests for access to official information](#)
- [Section 2](#) Interpretation
- [Section 5](#) Principle of availability
- [Section 9](#) Other reasons for withholding official information
- [Section 12](#) Requests
- [Section 13](#) Assistance
- [Section 15](#) Decisions on requests
- [Section 15A](#) Extension of time limits
- [Section 16](#) Documents
- [Section 18](#) Refusal of requests
- [Section 22](#) Right of access to internal rules affecting decisions
- [Section 23](#) Right of access by person to reasons for decisions affecting that person
- [Section 24](#) Right of access to personal information
- [Section 27](#) Reasons for refusal of requests for personal information
- [Section 28](#) Functions of Ombudsmen
- [Section 52](#) Savings

Privacy Act 1993

- [Principle 6](#) Information Privacy principles
- [Section 7](#) Savings
- [Section 27](#) Security, defence, international relations, etc
- [Section 28](#) Trade secrets
- [Section 29](#) Other reasons for refusal of requests
- [Section 35](#) Charges
- [Section 37](#) Urgency
- [Section 38](#) Assistance
- [Section 40](#) Decisions on requests
- [Section 41](#) Extension of time limits
- [Section 42](#) Documents
- [Section 67](#) Complaints

[^ Return to top](#)

Search terms: Procedures manual; Complaints Management; Government and Executive Services; Stakeholder Engagement; Privacy; official information act; sensitive revenue information

USER TIPS
RELATED TOPICS

- [Receiving an Official Information request](#)
- [Actioning an Official Information request](#)
- [Preparing a response to an Official Information request](#)
- [Reviewing and Issuing an Official Information request](#)
- [Request information Inland Revenue holds](#)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Receiving an Official Information request/referral

The content on this page is intended for officers who have received the request/referral.

This page to be used in conjunction with START Help: [Managing a general legal management case](#)

Important: Official Information Requests must be responded to within 20 working days of receipt. This is a legislative requirement.

On this page:

- [Government and Executive Services made request](#)
- [Customer made request](#)
 - [Body Corporate or Individual request](#)
 - [Receipt of the Official Information request](#)
 - [Forms of Requests](#)
 - [Information requested](#)
 - [General information requests](#)
 - [Urgent Requests](#)
 - [Information held by another Government Department\(s\)](#)
- [Criteria for extension of time](#)

Government and Executive Services made request

Government and Executive Services (Stakeholder Relations) manages potentially difficult or contentious requests. Generally these are not customer specific.

The Ministerial Co-ordinator will refer OIA requests to the most appropriate business unit to collate information and prepare a response. A Ministerial Advisor will be assigned to assist.

Customer made request

Is the request required to be handled by Government & Executive Services (Stakeholder Relations)?

Generally any request for official information that is not customer specific and not BAU should be referred to Government & Executive Services (Stakeholder Relations) for logging and tracking

If the request has been received from a customer AND you answer YES to any of these questions:

- Has the request come from the media, politicians or parliamentary research units?
- Is it possible that media would be interested in this?
- Does it relate to an issue that has already received media coverage?
- Would an opposition MP be interested in this information?
- Would the Minister be able to give an adequate answer if asked about this issue?
- Does the issue involve, or are there claims of, misconduct, mistakes or serious oversight by any Inland Revenue staff?
- Does the issue affect our relationships with important stakeholders such as SSC, Treasury and DPMC or delivery partners such as MSD and MOE?
- Does the issue involve people or institutions with a high profile – bearing in mind that any information passed to the Minister would be non-taxpayers specific, in line with S81?

Send the request to [s 9\(2\)\(a\)](#) - Ministerial Co-ordinator (GES)

Body Corporate or Individual request

A body corporate is an entity incorporated under one of a number of Acts. Most (but not all) partnerships are not separate legal entities. If not sure discuss with your advisor.

Receipt of the Official Information Request

Acknowledge the receipt of the Request by issuing [LoLA letter GN079](#) "Blank template - complete as required" (See [Outbound Correspondence - issuing letters to customers](#)).

If the request is from a customer in respect of their own tax affairs, lodge the Request in FIRST code 185. See [Lodge and self assign correspondence](#)

Information held by Inland Revenue may be requested orally or in writing by any of the following:

- a New Zealand citizen;
- a permanent resident of New Zealand;
- a person who is in New Zealand;
- a body corporate incorporated in New Zealand (also includes a body corporate which is incorporated outside New Zealand but which has a place of business in New Zealand).

If the customer is none of the above email [s 9\(2\)\(a\)](#) Ministerial Co-ordinator - Government and Executive Services advising of your conclusions and reasons.

If Government and Executive Services agree with your decision advise the customer in writing that they are not covered by the Official Information Act and the reasons why. Use [LoLA letter GN079](#).

If Government and Executive Services disagree with your decision treat the customer as being qualified to make the request.

Forms of Requests

A request for information is not any less an official information request because it is made verbally or communicated otherwise than in writing. However to reduce the opportunities for misunderstandings and to ensure an accurate record is maintained, it may be appropriate to seek written confirmation.

Consider asking the requester to commit their request in writing, or writing to the requester outlining Inland Revenue's understanding of the request and asking the requestor to confirm it is correct or provide further clarification. Use [LoLA letter GN079](#)

Information requested

Requests for official information are required to be "specified with due particularity".

(Under the Privacy Act the right of access applies only to "personal information [held] in such a way that it can readily be retrieved". One aspect of whether or not personal information can readily be retrieved is the degree to which the information sought is particularised)

This means that Inland Revenue must be able to identify the information being sought. If a request is very general in nature, it is reasonable for Inland Revenue to contact the requestor and attempt to clarify their request.

For example, in circumstances where a customer has asked for "all information Inland Revenue holds relating to the compliance and penalties regime" it would be helpful in such a situation for Inland Revenue to clarify the types of information held in the area of interest so that the requester is in a position to state his request more specifically.

In many cases requesters simply do not have sufficient knowledge of the precise nature of the information they are seeking, or the form in which it is or may be held, to be more specific.

General information requests

Ask the customer to specify the official information they are requesting. (Initially either orally or in writing, however if orally follow up with a letter.)

Consider clarifying the types of information held by Inland Revenue in the area of interest so that the requester is in a position to state his request more specifically.

The fact that a request is for a large amount of information does not of itself mean that the request is unspecific, or lacks 'due particularity'. Reasonable assistance should be provided to assist the customer in meeting the requirements of 'due particularity'.

Urgent Requests

If the requester has not already provided them, ask the requester for their reasons in seeking the information urgently.

If the reasons provided are reasonable then endeavour to treat the request with urgency.

If the reasons provided are not reasonable then the standard timeframes should be followed and a letter issued to advise that the request is not to be treated as urgent and why.

Information held by another Government Department(s)

You must transfer the request to the other department within the 10 working days. Government & Executive Services will do this on Inland Revenue's behalf.

If it will take longer to transfer the request than 10 working days, and the [criteria](#) for extending the time limit is met transfer the request to the other Department or Minister as soon as possible after the 10 working days.

Criteria for extension of time

The 20 working-day time limit for responding to a request for information or for transferring a request to another department may be extended for a reasonable period of time if either:

- Meeting the original time limit would unreasonably interfere with the operations of the department; and
 - The request is for a large quantity of information; or
 - Meeting the request will necessitate a search through a large quantity of information; or
- Consultations necessary to make a decision on the request are such that a proper response to the request cannot be made within the original time limit.

Keywords: Procedures manual; Complaints Management; Government and Executive Services; Stakeholder Engagement; Privacy; official information act;

USER TIPS

RELATED TOPICS

[Official Information Requests](#)

[Actioning an Official Information request](#)

[Preparing a response to an Official Information request](#)

[Reviewing and Issuing an Official Information request](#)

[Managing a General Legal Management case](#)

Actioning an Official Information request

The content on this page is intended for officers who are actioning the request/referral.

This page to be used in conjunction with START Help: [Managing a general legal management case](#)

Important: Official Information Requests must be actioned within 20 working days of receipt

On this page:

- [Actioning the request](#)
 - [Consideration](#)
 - [Large/Complex/Highly sensitive requests](#)
 - [Body Corporate or Individual request](#)
 - [Request for information held about themselves](#)
 - [Request for access to reasons for decisions and access to internal rules affecting decisions](#)
 - [Request for other information](#)
 - [Request from another Department](#)
 - [Request includes information from FIRST](#)
- [References](#)

Actioning the request

A decision should be made on an information request and notice given of that decision to the requester as soon as reasonably practicable, but not later than 20 working days after the day on which the request was received by the department. [Section 15 Official Information Act 1982](#) (OIA) and [section 40 Privacy Act 1993](#) (PA)

Consideration

Note that a complete list of OIA withholding grounds can be found [here](#). You should refer to the Act for a full text of the sections.

Large/Complex/Highly sensitive requests

This type of request is typical of customers in the Customer and Compliance Services - Business sector, however, where there are large volumes of information to be released from any investigation activity, this process must be followed.

This process does not cover OIA requests where there are a limited number of documents to be released and the request is non-complex. For example, the request is for copies of tax returns, letters etc.

Send the OIA request to your Team Lead

- have an initial discussion with your team lead on whether a team is required to be assembled to action the request
 - Yes - form a team to Action the request
 - determine respective roles and timeline
 - No - continue with the following process

Body Corporate or Individual request

Request for information held about themselves

Note: Anonymous information should not be released to protect the identity of the writer

Consider the confidentiality requirements of [section 18 TAA](#):

- when they don't apply continue with information request
 - For an individual consider [Principle 6](#) of the Privacy Act and the reasons for refusing access to personal information in Part IV of the Privacy Act. On the current interpretation of this section, readily available information about a person should be released upon request to that person unless there are good reasons to withhold that information under the Principle 6 of the Privacy Act and the reasons for refusing access to personal information in Part IV of the Privacy Act. The facts and the surrounding circumstances of each case must be carefully considered.
 - when there are good reasons to withhold the information under Principle 6 then the information should not be released
 - when there are no good reasons to withhold the information under Principle 6 then continue with the information request
- when the exception is [section 18D](#) (1), schedule 7, part B, clause 15 TAA applies:
 - consider [section 27 OIA](#)
 - when the exception does not apply the information should not be released

[Section 27 OIA](#) - On the current interpretation of this section, readily available information about a person should be released upon request to that person unless there are good reasons to withhold that information under the [section 27 OIA](#). The facts and the surrounding circumstances of each case must be carefully considered.

When there are good reasons to withhold the information under [section 27 OIA](#) then the information should not be released, if not then the information should be released.

Request for access to reasons for decisions and access to internal rules affecting decisions

Does [section 22](#) or [section 23](#) of the Official Information Act apply?

[Section 22](#) and [section 23](#) of the Official Information Act provide statutory rights of access to:

- internal policies, principles, rules or guidelines in accordance with which decisions or recommendations are made in respect of a requester; and
- a statement of reasons for any decision or recommendation made in respect of a requester in that person's personal capacity.

When the above sections do not apply the information should not be released.

Do the confidentiality requirements of [section 18 TAA](#) override the OIA?

Where [section 18 TAA](#) applies and confidentiality is required, access to that information can be refused. For example, it might be appropriate under [section 22 OIA](#) to provide a copy of a manual to illustrate that a person has been treated according to policy. On the other hand, this would not override the need to protect revenue information such as risk profiles, and audit thresholds that should be withheld having regard to the proper operation of [section 18 TAA](#). In terms of the application of the Official Information Act, information of this type could be said to be withheld pursuant to [Section 6\(c\)](#) of that Act because disclosure would prejudice the maintenance of the law, namely the proper operation of [section 18 TAA](#).

- Yes - information should be released
- No - information should not be released

Request for other information

[Section 18 TAA](#) requires a restrictive approach by the Commissioner to releasing sensitive revenue information to other persons. In practice this will mean the stringent application of the confidentiality provision when a request is made for

information about another taxpayer's affairs. [Section 6](#) TAA reinforces the right of taxpayers to have their individual affairs kept confidential.

When [section 18](#) TAA applies -

AND the general exceptions contained in [section 18](#) and [section 18D](#) (1) TAA do not apply the information should not be released

The general exception to [section 18](#) TAA provides for disclosure where this is necessary to carry into effect revenue law. This exception will apply whether it is officers of the department or third parties carrying into effect the Acts. Refer [Info Law](#) for case law relating to this matter.

When the permitted disclosures contained in [section 18](#) TAA applies continue with [Part II](#) provisions of OIA.

When the provisions of [Part II of the Official Information Act](#) apply to obligate release of the information:

- In full - release the information
- In part - release the information covered by [Part II](#) of the OIA
- No - information should not be released

Request from another Department

Advice on how to deal with the request should be sought from Government and Executive Services by emailing [S](#) - Ministerial Co-ordinator before continuing.

Request includes information from FIRST

When downloading information from FIRST to give to the requester, there is certain coding information from each printed screen page which needs to be withheld to maintain a secure database and thereby protect the integrity of the tax system.

The user id, screen system id and screen identifier should be deleted from the header of each page. (The appropriate withholding provision is [section 18 \(c\)\(i\)](#) OIA because disclosure would be contrary to [section 18 TAA](#).)

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References

Official Information Act 1982

- [Section 15](#) Decisions on requests
- [Section 18](#) Refusal of requests
- [Section 22](#) Right of access to internal rules affecting decisions
- [Section 23](#) Right of access by person to reasons for decisions affecting that person
- [Section 27](#) Reasons for refusal of requests for personal information
- [Part II](#) Requests for access to official information

Privacy Act 1993

- [Section 6](#) Information privacy principals
- [Section 40](#) Decisions on requests

Tax Administration Act 1994

- [Section 6](#) Responsibility on Ministers and officials to protect integrity of tax system
- [Section 18](#) Confidentiality of sensitive revenue information

IR intranet

- [Resources - Official Information Act requests](#)
- [Information Requests](#)

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Search terms: Procedures manual; Complaints Management; Government and Executive Services; Stakeholder Engagement; Privacy; Official Information Act

USER TIPS

RELATED TOPICS

[Official Information Requests](#)
[Receiving an Official Information request](#)
[Preparing a response to an Official Information request](#)
[Reviewing and Issuing an Official Information request](#)
[Managing a General Legal Management case](#)
[Request information Inland Revenue holds](#)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Preparing a response to an Official Information request

The content on this page is intended for officers who are preparing the response to the Official Information request.

This page to be used in conjunction with START Help: [Managing a general legal management case](#).

Important: Official Information Requests must be actioned within 20 working days of receipt

On this page:

- [Draft a response to the customer, to be signed by your manager](#)
- [Extension of Time](#)
- [Charging for supplying information](#)
- [Ways information may be made available](#)
- [Request from Government and Executive Services](#)

Draft a response to the customer, to be signed by your manager.

1. The letter notifying the customer of Inland Revenue's decision on the request for information should:
2. Repeat the original request for information and the date on which the request was received by Inland Revenue;
3. State which statutes the request fell to be decided under (i.e. the Privacy Act, the Official Information Act, the Tax Administration Act or any combination of these Acts);
4. Provide the department's decision in relation to the request;
5. Where the request is refused wholly or in part, provide the reasons for that refusal and if the applicant so requests, the grounds in support of that reason;
6. Where the department intends to impose a charge, state the proposed charge and whether the whole or part of the charge is to be paid before the information is supplied.
7. Advise the customer of their rights to either:
 - seek an investigation and review (by the Ombudsmen or Privacy Commissioner) of a decision to refuse to supply information or impose a charge; or
 - have the decision reviewed by a review officer who reports directly to the Commissioner of Inland Revenue.

The requester should be advised that choosing the internal right of review does not preclude the requester from subsequently seeking a review by the Ombudsman or Privacy Commissioner should they be dissatisfied with the department's internal review. The requester should be advised to write to the Commissioner of Inland Revenue, PO Box 2198, Wellington, if they seek an internal review.

Use [Response to OIA](#) template letter.

Where any request for information is refused in whole or in part the requester should be advised of the reason for the refusal and if the applicant so requests, the grounds in support of that reason. The reasons for refusals are outlined in [Guidelines for withholding information](#).

The draft responses also indicate the type of external review that will apply in the different scenarios. The highlighted statutory reference appearing in each text description must be entered in the refusals register.

Extension of Time

Official Information Requests must be responded to within 20 working days of receipt.

Criteria for extension of time if request will take longer than 20 working days:

- The 10 working-day time limit for responding to a request for information or for transferring a request to another department may be extended for a reasonable period of time if either:
 - Meeting the original time limit would unreasonably interfere with the operations of the department; and
 - The request is for a large quantity of information; or
 - Meeting the request will necessitate a search through a large quantity of information; or
 - Consultations necessary to make a decision on the request are such that a proper response to the request cannot be made within the original time limit.

Send or give the customer, within 20 working days after the day on which the request was received, a notice which:

- Specifies the period of the extension (which must be a reasonable period only); and
- Gives the reasons for the extension; and
- Informs the requester that they have a right under [section 28\(3\) OIA](#) or [section 67 PA](#) to make a complaint to an Ombudsman or the Privacy Commissioner about the extension; and
- Contains such other information as is necessary.

Use the [extension of time](#) template letter.

Charging for supplying information

On occasions Inland Revenue may wish to consider imposing a charge for supplying information. It is envisaged that this may occur when considerable departmental resources will be required to satisfy the request or perhaps where the requester has already made a number of requests and in the circumstances it may be reasonable to impose a charge for meeting a further request for information.

[Section 15](#) OIA allows for the imposition of a reasonable charge for the supply of information. The Government from time to time issues guidelines on reasonable charges for supplying information in response to requests for official information made under the Official Information Act

Only charge for supplying the information if the requester is not a Member of Parliament, a parliamentary research unit, or a natural person requesting information about themselves.

Calculate the amount to be charged:

- Staff time in searching for the relevant material, abstracting and collating, copying, transcribing and supervising access, when the total time involved exceeds one hour, should be charged at a rate of \$38 (including GST) for the first chargeable half hour or part of it, and then \$38 for each additional half hour or part. The rate of \$38 applies irrespective of the seniority or grading of the officer who deals with the request. Time spent on deciding whether or not to approve access and in what form is excluded from the charge;
- Photocopying on standard A4 or foolscap paper where the total number of pages exceeds 20 pages should be charged out at 20c (including GST) for each page after the first 20; and
- All other costs should be fixed at an amount which recovers the full costs involved.

Consider whether the liability to pay a charge should be modified or waived. Such decisions should have regard to the circumstances of each request. However, it is appropriate to consider, inter alia, financial hardship and whether the provision of the information is in the public interest.

Convey the decision to impose a charge the requester before, or at the time they are advised of the decision in response to their request for information. Ideally the requester should be advised as soon as possible after the decision to charge.

Seek the requester's written acceptance of the charge before actually providing the information.

Note: In certain circumstances it may be reasonable to require that part or whole of the charge be paid in advance of providing the information. A deposit may be required where the charge is likely to exceed \$76 (an hour of chargeable time) or where some assurance of payment is required to avoid waste of resources.

Once you have ascertained the final cost email the Ministerial Co-ordinator.

Ways information may be made available

Both the Official Information Act and the Privacy Act provide that information must be made available in the way preferred by the requester unless to do so would be prejudicial to the department for the reasons identified in [section 16 OIA](#) and [section 42 PA](#).

Will releasing the information in the format requested be prejudicial to the Department?

If	Then
Yes	<p>The Acts provide other means by which information may be made available when the preferred way is not an</p> <ul style="list-style-type: none">• inspection;• copy;• excerpt; or• summary and furnishing oral information about the contents.
No	The information can be released in the format requested

Where the only concern about the disclosure of anonymous information is that the handwriting may identify an informant, it may be that the provision of a typed reproduction of the material will resolve those concerns.

Request from Government and Executive Services

Note that the information and draft response is required to be forwarded to the Government and Executive Services group within 10 working days of receipt.

Draft a report for the Minister (likely in nearly all cases):

- use the [OIA report template](#).
- quote the words of the request.
- state whether any part of the request is being withheld and for what reason ([Guidelines for withholding information](#)).
- stating whether the release of any of the information is controversial.

References

IR Intranet

- [Resources](#) Official Information Act requests

Legislation

- Official Information Act 1982
 - [Section 15](#) Decisions on requests
 - [Section 16](#) Documents
 - [Section 28\(3\)](#) Functions of Ombudsmen
- Privacy Act 1993
 - [Section 42](#) Documents

- [Section 67 Complaints](#)

Search terms: Procedures manual; Complaints Management; Government and Executive Services; Stakeholder Engagement; Privacy; official information act;

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USER TIPS

RELATED TOPICS

[Official Information Requests](#)

[Receiving an Official Information request](#)

[Actioning an Official Information request](#)

[Reviewing and Issuing an Official Information request](#)

[Managing a General Legal Management case](#)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Reviewing and Issuing an Official Information request

The content on this page is intended for officers who are reviewing and issuing the Official Information request.

This page to be used in conjunction with START Help: [Managing a general legal management case](#)

Important: Official Information Requests must be actioned within 20 working days of receipt

On this page:

- [Reviewing an Official Information request](#)
 - [Customer request](#)
 - [Government and Executive Services request](#)
- [Issuing an Official Information request](#)

Reviewing an Official Information request

Customer request

Was a team set up to deal with the request due to it's size?

- Yes
 - The LS team member reviews the content of the information collated to be included in the response from commercial and IR specific perspectives
 - The whole team reviews the file and information for release
 - Two of the Customer Compliance officers on the team review names and redactions on the information to be released.
 - Ask an Customer Compliance officer to review the information to be released, focussing on names and redactions.
 - Request Team Lead to meet with manager and discuss the request and information to be released.
- No
 - Ask a local LS Team Lead to review the information to be released, focussing on names and redactions

Is the intention to decline the request in full or in part?

- No - send a draft response to your Team Lead for review
- Yes - forward to LS for Critical task assurance ensuring they are aware of the deadline - refer START Help: [Request Critical Task Assurance \(CTA\) review](#)
 - Once CTA approved send a draft response (and ministerial report of required) to your Team Lead for review

Once draft response is approved, move to the next phase of Issuing an Official Information request

Government and Executive Services request

Follow the above directions and then also:

- For Individuals email the draft response where required, to [s 9\(2\)\(a\)](#) - Ministerial Coordinator - Government and Executive Services.
- If any changes are required, make these and resubmit.

Once draft response is approved, move to the next phase of Issuing an Official Information request

Issuing an Official Information request

Note: Government & Executive Services will either send the response or alternatively they should be included in on any response.

Issue the Response to the Official Information Request to the requester.

Requested information has been collated:

- Yes - include the information with the response
- No - the information should be provided as soon as practicable after the decision to disclose has been conveyed to the requester.

Search terms: Procedures manual; Complaints Management; Government and Executive Services; Stakeholder Engagement; Privacy; official information act;

USER TIPS RELATED TOPICS

[Official Information Requests](#)
[Receiving an Official Information request](#)
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[Preparing a response to an Official Information request](#)
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[Request Critical Task Assurance \(CTA\) review](#)

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