

TOIA 20170165

Information for release

| | | |
|-----|---|-----|
| 1. | Treasury Code of Conduct - pg 9 | 1 |
| 2. | Guidance Document - Update November 2016 | 2 |
| 3. | Introductory Workshop Official Information Act 1982 Facilitators' Guide | 43 |
| 4. | Treasury Intranet pages | 74 |
| 5. | TOIA relevant documents spreadsheet | 109 |
| 6. | TOIA Acknowledgement template | 110 |
| 7. | TOIA Extension template | 111 |
| 8. | TOIA Inform template | 113 |
| 9. | TOIA Reply template | 121 |
| 10. | TOIA Transfer to department template | 124 |
| 11. | TOIA Transfer to Minister template | 128 |
| 12. | TOIA Gameplan template | 132 |

Deleted - Not covered by your request

Official Information

We must follow established procedures when responding to information requests. When we receive requests to release politically sensitive information, we must notify the Minister of Finance well in advance of any release.

All material, whether or not stored on Treasury's computer systems - including jokes, graphics and personal emails - is likely to be official information for the purposes of the OIA, and may be subject to a request under the OIA. Therefore, there is scope for considerable damage to Treasury's reputation if any objectionable, obscene or offensive material is stored.

You must make a permanent record of substantive business emails and other forms of communication. You must summarise substantive business telephone calls, mobile phone texts or instant messages in a file note.

The disclosure of official information is subject to the Official Information Act 1982 and the Privacy Act 1993. Specific instructions on the application of these Acts is available to staff. For more information on Treasury procedures around official information please see the following links <http://intranet/policies/oiaprocesses.htm> and <http://intranet/legal/ofinfoact.html>

We must:

- ▶ work to improve the performance and efficiency of the Treasury

We have an obligation to consider how we can carry out our functions in more successful ways. The Treasury staff are required to perform efficiently, effectively, economically and with a spirit of service to the public. This includes being aware of the sustainability implications of what we are doing.

All other pages of this document deleted - Not covered by your request

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| Status | Current – Effective from September 2016 |
| Version | 4.0 |
| Approved | |
| Owner | Ministerial Advisory Service |
| Contact | Ministerial Advisory Service <ul style="list-style-type: none"> • About this document • For further advice about the OIA process |
| About This Document | This document complements the steps for handling an OIA request that are documented in the OIA Process Map by providing detail about “how” to complete each process step. |
| Due for Revision | |
| iManage File Reference | MS-2-0 |

RELEASED UNDER THE OFFICIAL INFORMATION ACT

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OIA GUIDANCE DOCUMENT

CONTENTS

| | |
|--|----|
| The Official Information Act..... | 4 |
| Core Business..... | 4 |
| Purposes and Principle | 4 |
| Time Limit for Deciding Requests..... | 4 |
| OIA Requests dealt with by Treasury | 4 |
| The Process for Dealing with OIA Requests..... | 4 |
| Ombudsman Investigations..... | 4 |
| Key Roles & Responsibilities | 5 |
| Analysis and Planning..... | 6 |
| Log the OIA Request..... | 6 |
| Confirm Assignment & QA Analyst..... | 6 |
| Update Visibility Board | 7 |
| Setup Meetings | 7 |
| Analyse Request Meeting..... | 8 |
| Clarify Request – Request is Unclear..... | 9 |
| Document Search | 11 |
| Create List of Relevant Information..... | 12 |
| Clarify Request – To Narrow the Scope | 13 |
| Game Plan..... | 13 |
| Approve Game Plan (QA Analyst)..... | 17 |
| Assessment and Drafting..... | 19 |
| Assessment and Drafting..... | 19 |
| Update Visibility Board | 19 |
| Consultation – Notify Parties to be Consulted (if applicable)..... | 19 |
| Consulted Parties – Notified about OIA Request..... | 20 |
| Prepare Transfer (if needed)..... | 20 |
| Prepare Extensions (if needed)..... | 21 |
| Finalise, Assess and Mark-Up Relevant Information | 22 |
| Redact Documents Required For Consultation..... | 25 |
| Progress Meeting..... | 26 |
| Draft Proposed Response | 26 |
| Approve Proposed Response (Research Analyst or Assigned Analyst)..... | 27 |
| Approve Proposed Response (QA Analyst)..... | 27 |
| Send Proposed Response to Consulted Parties (if required)..... | 27 |
| Consulted Parties – Review Response and Provide Feedback | 29 |
| Progress Meeting (If required)..... | 29 |
| Review Consultation Feedback | 29 |
| Approve Proposed Response – After Consultation (Research Analyst or Assigned Analyst)..... | 30 |
| Approve Proposed Response – After Consultation (QA Analyst)..... | 30 |
| Deliver Reply to Manager..... | 30 |
| Approve Reply (Manager) | 31 |
| Production | 32 |
| Update Visibility Board | 32 |
| Deliver Marked-Up Information to Research Analyst..... | 32 |
| Electronically Redact Marked-Up Information for Release..... | 32 |
| Check: Redacted Documents..... | 32 |

IN-CONFIDENCE

OIA GUIDANCE DOCUMENT

| | |
|---|-------------------------------------|
| Approve Printing of the Response | 33 |
| Apply OIA Stationery to Information For Release | 33 |
| Format and Print Response..... | 33 |
| Confirm Documents..... | 33 |
| Deliver to Manager | 34 |
| Sign Out Response | 34 |
| Delivery..... | 35 |
| Update Visibility Board | 35 |
| Make Copies of Signed Out Documents..... | 35 |
| TOIA Inform – Send to Minister(s)..... | 35 |
| Review and Respond to Feedback or Advice Received from Office | 35 |
| Report Returned to Treasury..... | 36 |
| Check Information for Release is Correct..... | 36 |
| Create TOIA Reply Letter..... | 36 |
| Review & Check TOIA Reply Letter and Information for Release..... | 36 |
| Sign Out..... | 37 |
| Copy the Signed Response..... | 37 |
| Send to Requestor | 37 |
| Update Visibility Board | 37 |
| Finished | Error! Bookmark not defined. |
| Transfers | 39 |
| Confirm Transfer Details..... | 39 |
| Create & Draft Transfer Letters..... | 39 |
| Format & Print..... | 39 |
| Approve..... | 39 |
| Deliver to Manager..... | 39 |
| Sign Out..... | 40 |
| Copy & Deliver to Ministerial Coordinators | 40 |
| Send | 40 |
| Review and Respond to Feedback from Office..... | 40 |
| Report Returned..... | 40 |
| Update Visibility Board..... | 41 |

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OIA GUIDANCE DOCUMENT

THE OFFICIAL INFORMATION ACT

Core Business

The Official Information Act 1982 (**OIA**) imposes important statutory obligations on Ministers and government departments, including the Treasury, which are considered to be “core business”.

Purposes and Principle

The [purposes](#) of the OIA are to increase the availability of official information while protecting official information to the extent consistent with the public interest. Underlying these purposes is the [principle of availability](#): “information shall be made available unless there is good reason for withholding it.”

Time Limit for Deciding Requests

OIA requests must be decided [as soon as reasonably practicable](#) and not later than 20 working days after the request is received. The time limit may be [extended](#) in certain situations, and the period of extension must be reasonable in the circumstances.

OIA Requests dealt with by Treasury

Treasury deals with OIA requests and Ombudsman Investigations made to the Treasury (**TOIA**) or Ministers to whom Treasury provides Ministerial Servicing (**MOIA**). Treasury may also be consulted by departments about OIA requests they are dealing with.

The Process for Dealing with OIA Requests

The process for handling OIA Requests that Treasury is dealing with is documented in the following Process Map: [OIA Process Map \(#2568522\)](#).

Ombudsman Investigations

Requestors are entitled to [complain to the Ombudsman](#) about the decision made on their OIA request (under the OIA or the Ombudsman Act). After receiving a complaint, the Ombudsman will usually contact Treasury (or the Minister) to advise of an investigation and to specify their requirements, which must be complied with.

Ombudsman investigations are logged in a similar manner to OIA requests and a member of the Legal Team is expected to be involved and consulted [before](#) Treasury responds to an Ombudsman investigation. It is important that decisions made on OIA requests are robust, accurate and timely. Appropriate record keeping can significantly reduce the amount of time and effort required to meet Ombudsman’s requirements.

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KEY ROLES & RESPONSIBILITIES

The **Minister** is ultimately accountable for decisions made on MOIAs.

The **Secretary to the Treasury** is ultimately accountable for decisions made on TOIAs and for advice provided to Ministers on MOIAs. Responsibility for making decisions on OIA requests is delegated to the appropriate Manager (or authorised staff member).

The **Manager** (or authorised staff member) responsible for signing out the OIA response (or Ombudsman Investigation) is responsible for ensuring the response meets statutory requirements. Responsibility for preparing the OIA response will usually be assigned to a specific team member (i.e. the Assigned Analyst).

The **Assigned Analyst** is responsible for leading the preparation of the OIA response and includes, when applicable:

- Confirming a QA Analyst
- Analysing the OIA request
- Clarifying and/or narrowing the OIA request with the requestor
- Locating relevant information and preparing the *List of Relevant Information*
- Preparing the Game Plan
- Assessing relevant information and marking-up information to be withheld
- Identifying and consulting stakeholders on the OIA response
- Drafting the Report and/or Letter of Reply (unless agreed otherwise with the Research Analyst)

The **QA Analyst** is responsible for providing quality assurance through out the preparation of the OIA response. This includes, when applicable, reviewing:

- The OIA request and interpretation, including if clarified or narrowed
- The *List of Relevant Information* and the related search strategy
- The Game Plan
- Withholding grounds applied
- Consultation identified and undertaken
- Report and Letter of Reply

A **Research Analyst** from the Ministerial Advisory Service will be appointed to the OIA request and provide a “project manager” overview and, when applicable:

- Provide advice about the process of preparing an OIA response
- Set up meetings
- Advise on appropriate search strategy for relevant information
- Review the Game Plan
- Review the Report and Letter of Reply (or agree to draft these)
- Electronically redact the marked-up information from documents to be released
- Progress an OIA response through the production stage

The **Formatting PA** is responsible for formatting and printing finalised documents that are to be signed, copied and sent to the Minister, requestor or Ombudsman (as applicable).

Records Advisors can assist with the retrieval of hardcopy records, advanced iManage search techniques, and confirming any additional results to document searches that may be constrained due to issues of access rights.

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ANALYSIS AND PLANNING

| Log the OIA Request | |
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| Responsibility | Ministerial Coordinators |
| Objective(s) | To log OIA requests in Moto and assign them to the most appropriate staff (i.e. Manager, Analyst and Research Analyst). |
| Instructions | <p>The following document provides a guide to staff responsible for different subject areas: Ministerial Advisory Service - Staff Subject Areas (updated 25-1-12) (Treasury:1056573v5) Add to worklist</p> <p>For further instructions about procedures for logging and processing OIA requests refer to the Ministerial Coordinator Deskfile (Treasury:2588305v1) Add to worklist .</p> |
| Other Considerations | N/A |
| Time Estimate | 15 minutes |

| Confirm Assignment & QA Analyst | |
|--|--|
| Responsibility | Assigned Analyst Manager (Optional) |
| Objective(s) | To assign the OIA request to the most appropriate Analyst in the most appropriate Team; and To appoint a QA Analyst and add them to Moto. |
| Instructions | <p>Note: <i>The Manager does not need to take any action before approving the Game Plan but may intervene if they choose. Analysts will proceed unless advised otherwise.</i></p> <p>Review the OIA request, consider the following key questions, and email the Research Analyst to :</p> <ul style="list-style-type: none"> • Has the request has been assigned to the right Team? Yes: no action required. No: If another Team in Treasury is better placed to deal with the request discuss the request with that Team. If agreed, confirm who the Assigned Analyst will be Advise Ministerial Coordinators (using Moto) which Team and Analyst the request should be reassigned to. • The request has been assigned to the right Analyst? Yes: no action required. No: Discuss with your Manager whether the OIA Request |

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| | <p>should be assigned to another team member. If agreed, use Moto to reassign the OIA Request to another team member.</p> <ul style="list-style-type: none"> • Who will be the QA Analyst? Identify and confirm who the QA Analyst will be and add them to the QA Tab in Moto and advise the Research Analyst. |
| Time Estimate | 5-20 minutes |

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| Update Visibility Board | |
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | OIA Visibility Boards are up-to-date and current. |
| Instructions | <p>The Assigned Analyst adds the OIA Request to their team's OIA Visibility Board.</p> <p>The Research Analyst adds the OIA Request to the MAS OIA Visibility Board.</p> <p>For further guidance about Visibility Boards see the Business Support & Improvement team.</p> |
| Time Estimate | |

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| Setup Meetings | |
| Responsibility | Research Analyst |
| Objective(s) | To setup meetings with relevant staff at key stages. |
| Instructions | <p>Analyse Request Meeting (within 2 days of receipt of request) Game Plan Meeting (within 4 days of receipt of request) Progress Meeting (within 9 days of receipt of request)</p> <p>The "Activity Schedule" in the <i>Game Plan</i> of the OIA Request provides dates when these meetings should occur.</p> <p>Meeting Attendees:</p> <ul style="list-style-type: none"> • Assigned Analyst • Research Analyst <p><u>Potential Additional Attendees (if considered appropriate)</u></p> <ul style="list-style-type: none"> • QA Analyst • Manager • Other relevant staff (Assigned Analyst to confirm) |
| Time Estimate | 30 minutes |

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| Analyse Request Meeting | |
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| Responsibility | Assigned Analyst (NB: the Research Analyst will setup meeting – additional invitations are the responsibility of the Assigned Analyst) |
| Objective(s) | To confirm the OIA Request is sufficiently clear and well expressed to undertake a document search; and To identify whether coordination/engagement with external agencies or Ministers may be required. |
| Instructions | <p>This meeting is often a brief meeting between the Research Analyst and the Assigned Analyst.</p> <p>The Assigned Analyst should review the OIA Request and confirm:</p> <ul style="list-style-type: none"> • Clarity of Request: The language, terminology or timeframe is clear or can reasonably be inferred. When a reasonable inference cannot be made about something unclear then consideration should be given to contact the Requestor to clarify the Request. • Potential Size of Request: Whether the request is likely to cover a large number of documents. If so, further consideration will need to Narrow the Scope stage • Cross-Government Request: Whether the OIA Request has been received by other Ministers/Departments and will a coordinated response be appropriate. If so, further considerations will include: who should lead, the role of Treasury, and whether requests should be transferred (in full or part) to another agency or Minister. • Transfer: Whether a transfer (full/part) may be likely. <p>If the request is straight forward, i.e. the above factors issues are clear and do not present any issues, the Assigned Analyst may prefer to contact the Research Analyst to confirm the above and cancel this meeting.</p> <p>If the request is complex it may be beneficial for the QA Analyst and/or the Manager to attend, particularly if there are potentially different approaches to issues that could lead to changes to approach later in the process.</p> <p>Consider whether there is value in informing or involving other Treasury staff. Judgment will be required as to when input from others will be appropriate.</p> |
| Other Considerations | An initial discussion before searching for requested information may be useful. For example, to develop an approach that may |

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| | <p>satisfy the requestor while also narrowing scope.</p> <p>Will cross-Treasury coordination be required and, if so, how will this be managed?</p> <p>Things to consider when reviewing the scope of the request:</p> <ul style="list-style-type: none"> • The types of information requested. • Whether the requested information been previously released. • The number of documents covered by the request and whether the request meets the requirements of section 18(f) (regarding substantial collation and research). |
| Time Estimate | Review – 15mins Meeting |

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| Clarify Request – Request is Unclear | |
| Responsibility | Assigned Analyst |
| Objective(s) | The OIA Request clearly specifies the information requested. The scope of the requested information is manageable. |
| Instructions | <p>Treasury must give reasonable assistance to a person who wishes to make a request to make a request in accordance with the OIA (s13).</p> <p>When the requested information is unclear: The request should be sufficiently well specified (s12 – “specified with due particularity”) to enable the information to be identified and located. Some factors that may assist include:</p> <ul style="list-style-type: none"> • Subject matter • Type or nature of documents • Time period <p>If the request is not clear it is advisable to consider consulting the Requestor.</p> <p>When the scope is broad: The requested information may be clear but have a broad scope and cover a large amount of information. This raises the possibility that the request could be refused because the information requested cannot be made available without substantial collation or research (section 18(f)).</p> <p>What is “substantial collation or research”? Options / Strategies</p> <p>Advice about what to do next – subprocess?</p> |
| Other | Can the original OIA request be managed within usual resource |

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| Considerations | <p>and time allocations?</p> <p>Can key documents be identified?</p> <p>What types of information are involved?</p> <p>How could the scope of relevant information be narrowed while still including the key information requested?</p> <p>Who will need to be consulted? Will the Cabinet Office be involved?</p> |
| Time Estimate | |

Clarifying request with the requestor

Treasury must give reasonable assistance to a person who wishes to make a request to make a request in accordance with the OIA (s13).

All requests must be 'specified with due particularity' (s.12). Clarifying a request can be done in order to avoid having to assess material that will yield little or no value to the requestor. This is particularly important if the request is vague, ambiguous, or yields a large amount of material on initial searching. In regards to the time period that the requestor wants to cover, shrinking the time period can narrow the focus of the search.

Clarifying a request can remove the need for an extension, or possible refusal on substantial collation and research grounds (s.18(f)).

Before you contact the requestor, get an idea of what you think the requestor is really after. It is best to reformulate the request so that it excludes material that is not really be wanted, such as internal correspondence, or to focus the request more specifically on certain material, such as 'substantial advice only'. The request could also be limited to cover specific documents only. This reformulation can then be used as a basis for a conversation with the requestor.

Answering the question "Where is the key information held?" may help you in reformulating the request so it only covers this material.

It is important that requests are not revised to exclude information that you know is sought by the requestor, but that you do not wish to release or make known.

Some requests, however, just cannot be deciphered so you will need to contact the requestor to get clarity of what they are after. A request cannot be declined on grounds that it is not understood. Reasonable steps must be taken to contact the requestor and seek clarification (s.13).

You are still able to go back to the requestor to seek further clarification if the search is bringing up too many results.

Contacting the Requestor

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Options for Contacting the Requestor

You can contact the requestor by any means. A phone conversation may initially be more useful than an email. It is expected that there will be a record of contact with the Requestor. So, it is recommended that a phone conversation is followed up with an email that confirms the outcome, agreement or understanding reached so both parties can be clear. It is important to document the request if it is revised or narrowed.

Key points:

- Avoid increasing the scope of the request
- Consider whether the request is sufficiently different to warrant logging as a new request – consult the Ministerial Advisory Service for further advice

Scoping the request

Things to consider when reviewing the scope of the request:

- What types/forms of information are being requested?
- Is the timeframe of the request specified or reasonably implied from the request?
- Does any aspect of the request need clarification?
- Has the information been previously released?

| Document Search | |
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| Responsibility | Assigned Analyst |
| Objective(s) | To identify and locate the relevant information |
| Time to Complete | 1 hour (then seek assistance: Records Advisor and/or QA Analyst) 2 hours (max) |
| Instructions | <p>Relevant sources to search for relevant information might include:</p> <ul style="list-style-type: none"> • iManage • Moto • Outlook • Network drives • Archives / Storage <p>Develop and document an appropriate search strategy.</p> <p>Consider segmenting search results by document type, e.g. Treasury Reports, Aide Memoires, Other Advice, Emails.</p> <p>If required, contact Records Management Advisors about:</p> <ul style="list-style-type: none"> • information only available in hardcopy at archives or offsite storage • iManage search strategy advice <p>Bear in mind:</p> <ul style="list-style-type: none"> • Who is most familiar with the relevant subject matter? • What are useful search strategies? How can these be documented? <p>Suggested method for searching iManage and copying results into</p> |

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| | a spreadsheet – as interim step to using the List document? |
| Other Considerations | <p>For further assistance with searching for documents in iManage, refer to the following:</p> <ul style="list-style-type: none"> • Training: HeadStart User Guide (Treasury:2163937v1) Add to worklist (Module 11 – Searching for Documents) • http://intranet/kis/managingmydocs/default.htm#search <p>Your search strategy may also need to consider information that is not stored in iManage:</p> <ul style="list-style-type: none"> • such as information in people’s Outlook Inbox, filing cabinet etc; • information may also be held in the basement or offsite. You will need to contact a Document Management Advisor to access this information. For offsite material, you will also need to consider the time it takes to retrieve this information. <p>You ought to also consider whether the information is publicly available, and if so, to advise the requestor of the location (for example by providing a URL for information that is online, or referring them to Bennett’s Government Bookstores if appropriate).</p> <p>It is good practice to keep a File Note of your search strategy.</p> |
| Time Estimate | |

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| Create List of Relevant Information | |
| Responsibility | Assigned Analyst |
| Objective(s) | To create a List of Relevant Information . |
| Due | 3 days after receipt of request |
| Time to Complete | 1 hour (then seek assistance) 2 hours |
| Instructions | <p>Use the List of Relevant Information to record the relevant documents.</p> <p>The List is a spreadsheet that is automatically created by Moto from a standard spreadsheet template and is accessed from the Document Tab of the OIA Request in Moto.</p> <p>Print copies of the relevant documents, if required.</p> |
| Other Considerations | Has any of the requested information been previously released? |

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| Clarify Request – To Narrow the Scope | |
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| Responsibility | Assigned Analyst |
| Objective(s) | To narrow the scope of the request to a manageable size. |
| Instructions | <p>Some requests can be clear but have a broad scope and cover a large amount of information.</p> <p>If the request will require “substantial collation or research” it may be refused under section 18(f).</p> <p>What is “substantial collation or research”? Options / Strategies</p> <p>Advice about what to do next – subprocess?</p> |
| Other Considerations | <p>Can the original OIA request be managed within usual resource and time allocations?</p> <p>Can key documents be identified?</p> <p>What types of information are involved?</p> <p>How could the scope of relevant information be narrowed while still including the key information requested?</p> <p>Who will need to be consulted? Will the Cabinet Office be involved?</p> |
| Time Estimate | |

| Game Plan | |
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| Responsibility | Assigned Analyst QA Analyst Manager |
| Objective(s) | To document the approach for dealing with the OIA request (i.e. ‘Game Plan’). |
| Instructions | <p>Note: the Research Analyst will create initial dates in the “Activity Schedule” of the Game Plan using the Date Generator Tool until this can also be automated.</p> <p>What is the Game Plan? The initial draft Game Plan is automatically created by Moto from a standard template and is accessed in Moto from the Document Tab of the specific OIA request. As a template, it includes a range of</p> |

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| | <p>issues and prompts to consider that may be pertinent to an OIA Request.</p> <p>Purpose of the Game Plan The Game Plan is intended to be to be a fit-for-purpose tool that facilitates good planning and provides clarity about the handling of the OIA Request for all staff involved.</p> <p>The initial draft Game Plan is a document automatically created by Moto from a standard template. It is accessed from the Document Tab of the specific OIA request in Moto. The template includes a range of issues and prompts to consider that may be pertinent to an OIA Request.</p> <p>The Game Plan includes an “Activity Schedule” of when certain activities need to be completed to keep the response to the OIA Request on schedule for meeting the due date.</p> <p>The Game Plan enables Managers to confirm the approach to an OIA Request before a substantial amount of staff time and effort has been expended. It also provides Managers with a tool to evaluate the amount of resource that an OIA request will likely to require to complete – and to provide better indication of when consideration should be given to narrowing the scope of an OIA request. This tool will assist Managers to manage their resources across competing priorities.</p> <p><u>Process Map Steps:</u></p> <ul style="list-style-type: none">• Refine Game Plan & Circulate After reviewing the <i>List of Relevant Information</i>, the Assigned Analyst refines the Game Plan to reflect the key aspects, considerations and decisions relevant to handling the OIA Request. Any issues requiring decision also be highlighted. Email the refined Game Plan to the Research Analyst, Manager, QA Analyst and any other staff involved with the request. This becomes the agenda for the Game Plan Meeting• Game Plan Meeting (Setup by Research Analyst) This meeting is aimed at getting as many people in Treasury who might have an interest or voice in how the OIA Request is dealt with together as early as possible. In many cases, it will be a meeting between the Research Analyst and the Assigned Analyst. However, it is recommended that the QA Analyst and/or the Manager attend if there are complex issues and alternative approaches to issues that the Manager may hold a different view about. Getting input from relevant staff early reduces rework and |
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OIA GUIDANCE DOCUMENT

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| | <p>the risk of an approach being overruled later in the process.</p> <p>The Game Plan Meeting is also the point where the Assigned Analyst can agree with the Research Analyst what additional responsibilities the Research Analyst can take on, including, for example, creating an initial draft of letters and/or reports, which are the responsibility of the Assigned Analyst initially.</p> <p>Stakeholders & Consultation</p> <ul style="list-style-type: none"> • <i>A TOIA Inform Report is expected when the OIA request is from a political party, media representative, a special interest group, or when judged prudent to do so.</i> • <i>Identify and list relevant stakeholders and who should be consulted – e.g. who needs to be aware of the request/response and/or be involved in decisions?</i> • <i>Will <u>Cabinet Office</u> be involved?</i> • <i>Who needs to be consulted before making decisions about releasing/withholding information?</i> • <i>Will other Minister's require consultation?</i> • <i>Should anyone be informed/notified of the request/release before it is sent? e.g. if named in any released documents, or former receiving Ministers?</i> <p>Liaison with Ministers' Offices Consider:</p> <ul style="list-style-type: none"> • <i>Will communication through Minister's Offices be appropriate?</i> • <i>Does the Minister's Office staff need to provide input?</i> • <i>Is any cross-Government coordination required ?</i> <p>Resource Allocations</p> <ul style="list-style-type: none"> • <i>Can the OIA request be managed within usual resource and time allocations?</i> • <i>Will cross-Treasury coordination be required? How will this be managed?</i> • <i>How could the scope of relevant information be narrowed while still including the key information requested?</i> <p>• Finalise Game Plan</p> <p>Following the Game Plan. The Assigned Analyst may need to make some further modifications and refinement to the Game Plan.</p> <p>• Agree Game Plan</p> <p>The QA Analyst is expected to review and agree the Game Plan.</p> <p>• Send Game Plan to Manager</p> |
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| | <p>The Assigned Analyst is responsible for sending (by email) the Game Plan to the Manager.</p> <ul style="list-style-type: none"> • Approve Game Plan <p>The Manger is required to review and approve the Game Plan before any further work is spent progressing the response. The approval is confirmation of decision making and the approach is agreeable.</p> |
| Time Estimate | |

The Manager needs to make a “stop/go” decision about whether to proceed with the Game Plan.

What is a Game Plan?

The Game Plan is essentially a plan produced by the Assigned Analyst for responding to the OIA request. It summarises key information about the OIA request and the estimated amount of time that will be necessary to process and complete the request.

In general terms, the purpose of the Game Plan is to assist Treasury staff dealing with OIA requests, and to allow the responsible Manager to make a resource allocation decision about dealing with the OIA request at an early stage.

In some instances a Game Plan meeting may not be necessary. For example, the request may be for a single document. In such cases, the Assigned Analyst should email the Game Plan to the responsible manager and cancel the Game Plan Meeting.

Decision to Refuse Request because of Substantial Collation and Research

What is substantial collation and research?

Substantial collation and research is the time spent locating, extracting and collating information in order to comply with the request.

The following factors have been identified as relevant when assessing whether meeting a particular request would involve “substantial collation and research” in terms of section 18(f):

- the amount of work involved in determining what information falls within the scope of the request;
- the difficulty involved in locating, researching or collating the information;
- the amount of documentation to be looked at;
- the work time involved;
- the nature of the resources and the personnel available to process requests for information and
- the effect on other operations of the diversion of resources to meet the request.

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Time spent assessing or consulting does not count towards substantial collation and research.

Pre-refusal obligations

The starting point for analysis of Treasury's obligations (before deciding to refuse a request) are the purposes of the Act (s4) and the principle of availability (s5)-the latter provides that information shall be made available unless there is good reason for withholding it.

Section 18(f) is an "administrative" reason for refusal, which is distinct from the "good" reasons set out in sections 6,7 and 9. The implication of this distinction is that we are required to comply with certain obligations within the Act before we can/should refuse a request.

The specific obligations on Tsy before refusing a request under section 18(f) are to:

- Refine/clarify the request directly with the requester to reduce the number of documents within scope (s13 imposes a duty on Treasury to assist requesters make their requests in accordance with s12(2) of the Act);
- Consider whether fixing a charge under s15 of the Act would enable the request to be granted (s18A(1)(a) of the Act requires Treasury to consider whether fixing a charge before deciding whether to refuse a request under s18(f));
- Consider whether extending the time limit under section 15(a) would enable the request to be granted (s18A(1)(b) of the Act requires Treasury to consider extending the time limit before deciding whether to refuse a request under s18(f)); and
- Consider consulting the requester before refusing their request under section 18(f), in order to establish whether further consultation would assist the requester to make the request in a form that would remove the reason for refusal.

The Ombudsman has also suggested that an organisation considering refusing a request under section 18(f) should also consider whether alternative forms of disclosure may avoid the need to peruse large volumes of information/enable the request to be granted (see 13th Compendium Practice Guidelines-Official Information, Part B, Chapter 2).

As noted above, in practice this means that we should clarify/refine the request with the requester, and consider charging/extending before refusing under section 18(f).

Decisions to refuse a request can be investigated by the Ombudsman.

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| Approve Game Plan (QA Analyst) | |
| Responsibility | QA Analyst |

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| Objective(s) | To review the Game Plan and confirm the approach for responding to the OIA request is robust, accurate, and appropriate. |
| Instructions | <p>Read the OIA Request and review the Game Plan.</p> <p>Consider the following and any other pertinent factors and identify any issues that may require attention:</p> <ul style="list-style-type: none"> • Is the request clear? • Is the interpretation or any inference reasonable? • Has the requestor been contacted? If not, should they be contacted? • If they have, is there a record of the outcome of the contact? • Is there a List of Relevant Information? If not, why not? • If so, do you understand how the List of Relevant Information was prepared? • Were an appropriate search strategy used? • Were other parties consulted on the search? |
| Other Considerations | <p>Read the OIA request. Review the Game Plan and consider:</p> <ul style="list-style-type: none"> • Interpretation of the request • Is the request specific enough? Is it necessary to narrow the scope? Has the requestor been contacted? |
| Time Estimate | |

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OIA GUIDANCE DOCUMENT

ASSESSMENT AND DRAFTING

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|--------------------------------|---|
| Update Visibility Board | |
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | To ensure OIA Visibility Boards are up-to-date and current. |
| Instructions | The Assigned Analyst adds the OIA Request to their team's OIA Visibility Board. The Research Analyst adds the OIA Request to the MAS OIA Visibility Board. |
| Time Estimate | |

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| Consultation – Notify Parties to be Consulted (if applicable) | |
| Responsibility | Assigned Analyst |
| Objective(s) | To inform parties to be consulted when their views will be sought on the response to an OIA request. |
| Instructions | <p>It is recommended that the Assigned Analyst contact the identified parties to be consulted by email and convey:</p> <ul style="list-style-type: none"> • The nature of the OIA Request received • Amount and nature of the information to be consulted • When the documents will be provided for consultation • When views will be required <p>The following template can be used:</p> <p>Dear X</p> <p><i>Treasury is dealing with an OIA Request that requests information that we consider is necessary to consult you about before we make our decision about whether there are good reasons to withhold some or all of the requested information.</i></p> <p><i>The OIA Request has been made by [requestor] and is for: [Details of Request]</i></p> <p><i>We have identified approximately X documents that we expect to consult you about.</i></p> <p><i>It is our intention to assess these documents and provide our initial view for your comment and input by [date]. We will require your comments as soon as practical, but not later than [date].</i></p> |

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| | <i>We would appreciate your confirmation that you will be able to provide the necessary review within the above timeframe.</i> |
| Other Considerations | |
| Time Estimate | |

Consulted Parties – Notified about OIA Request

Prepare Transfer (if needed)

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|-----------------------|---|
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | To identify requests that are appropriate to transfer (in full or part) and to make the appropriate transfer. |
| Instructions | <p>The Assigned Analyst must confirm:</p> <ol style="list-style-type: none"> The request (or which part of it) is to be transferred The agency or Minister the request (or which part of it) will be transferred The reason for the transfer. <p>The Research Analyst will create and draft the required letters of transfer, based on the advice received from the Assigned Analyst.</p> <p><u>Transfers</u></p> <p>If another agency or Minister is better placed to handle the request, or a part of the request, the request should be transferred either in full or in part.</p> <p>The grounds for transfer are as follows:</p> <ul style="list-style-type: none"> Where the Treasury/Minister does not hold the information, but another agency/Minister does; or That the request is more closely connected with the functions of another agency/Minister. <p>Transfers need to be undertaken <u>within ten days</u> of receiving the request. For a MOIA, transfers are recommended to the Minister</p> |

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OIA GUIDANCE DOCUMENT

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| | <p>no later than <u>day 5</u>, as the Minister needs to consider the recommendation.</p> <p>Transfers are processed in Moto, and both the requestor and receiving agency/Minister are notified of the transfer.</p> <p>Transfers can be investigated by the Ombudsman under the Ombudsman Act.</p> |
| Other Considerations | MOIA Transfer is due within five working days after receipt of the request (by the Ministers office). |

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| Prepare Extensions (if needed) | |
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | To notify the requestor of the additional time required to make a decision on their OIA request, when this is required. |
| Instructions | <p>The Assigned Analyst needs to review/revise the Activity Schedule in the Game Plan and be confident that it is achievable, and then advise the Research Analyst:</p> <ol style="list-style-type: none"> a) That an extension is necessary, based on the Activity Schedule; and b) The reason(s) for the extension. <p>The Research Analyst will draft the letter of extension based on the advice received from the Assigned Analyst. The additional time required may be slightly more than what the Activity Schedule suggests, but this will not alter the duty to respond to the OIA request "as soon as reasonably practicable".</p> <p><u>Extensions</u></p> <p>An extension of the time limit of a request can only be done once, and only for a 'reasonable' period of time, 'having regard to the circumstances'.</p> <p>Extensions can only be granted due to one or both of the following reasons:</p> <ul style="list-style-type: none"> • The request is for a large quantity of information, or, necessitates a search through a large quantity of information; and/or • Consultations are necessary to make a decision on the request, and these cannot reasonably be done within the original time limit. |

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OIA GUIDANCE DOCUMENT

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| | <p>In general, if we are contemplating extending on the grounds that the request is for a large quantity of information, then we ought to first consider narrowing the scope of the request (see Clarify Request).</p> <p>Under the OIA, the extension needs to be done within 20 working days from receipt of the request. For a MOIA, extensions are recommended to the Minister <u>no later than day 15</u>, as the Minister needs to consider the recommendation.</p> <p>When extending, due consideration needs to be given to the time required by the Ministers office to consider our report, as well as the time required by Treasury after the return of an Inform Report. If the Ministers office needs to undertake consultations (which it will if we extend on these grounds) then the office needs 10 days to consider our report. If this is an Inform Report, we also need to build in an extra 5 days to process the returned report and reply.</p> <p>Extensions are processed through Moto and the requestor is notified of the extension.</p> <p>Extensions can be investigated by the Ombudsman.</p> |
| Other Considerations | <p>An extension can be made at any time up until the due date of the reply. An OIA request can only be extended once, so be sure to take into consideration all relevant factors, including resourcing, when extending.</p> |
| Time Estimate | |

| Finalise, Assess and Mark-Up Relevant Information | |
|--|---|
| Responsibility | Assigned Analyst |
| Objective(s) | To ensure that all relevant information is appropriately assessed and information to be withheld is clearly identified (i.e. marked-up) and applicable withholding grounds specified. |
| Instructions | <p>Generally, the following method will be useful when there is relevant information being released.</p> <ul style="list-style-type: none"> • Finalise and order the <i>List of Relevant Documents</i> and by document date • Print a copy of each document and number it according to the <i>List of Relevant Documents</i> • Assess each document and determine whether there is good reason under the OIA to withhold any information from the document. • Where information is to be removed, indicate precisely what (and only what) information is to be removed from the document to be released and in the margin note the appropriate OIA withholding ground(s) (see below). • If you are unsure of the appropriate withholding ground, check |

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OIA GUIDANCE DOCUMENT

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| | <p>with MAS or consult your legal liaison lawyer.</p> <ul style="list-style-type: none"> • If at all possible, remove complete blocks of text (e.g. whole phrases, sentences, paragraphs, or pages) rather than individual words or numbers. If the removal of certain words or numbers makes the remaining information irrelevant or meaningless, then remove the entire sentence or paragraph. • Identify information that is ‘out of scope’ – this <u>not</u> the same as ‘withheld’. <p>‘Out of scope’ means information not relevant to the request, therefore it should not be considered as part of the response and withholding grounds are not applicable.</p> <p>‘Withheld’ information is information that is within scope of the request and there is a good reason for withholding it that outweighs the public interest. Therefore if a document is largely ‘out of scope’ but there are a few sentences within scope (which are subject to withholding grounds), you cannot ‘withhold’ the entire document.</p> <p>Common Withholding Grounds</p> <ul style="list-style-type: none"> • Personal contact details such as home or cell phone numbers, personal email addresses, etc should be withheld under privacy grounds s9(2)(a) • Name, work email address and work phone number of staff level senior analyst and above should be left in. Personal contact details of senior staff can be redacted for privacy reasons (as above) • Name and all contact details of staff level analyst and below should be withheld under free and frank grounds s9(2)(g)(i) [There is some debate with the Ombudsman’s office at present about withholding junior officials’ names, but for now we should continue with our current practice] |
| <p>Other Considerations</p> | <p><u>Withhold & Refusal Grounds</u></p> <p>Relevant information is expected to be made available (i.e. released) unless there is good reason to withhold it.</p> <p>Good reasons to withhold information are set out in sections 6 and 9. The most common reasons for withholding information are contained in section 9.</p> <p>The provisions of section 9 are not conclusive. Before they can be applied, you need to identify the harm that releasing the information might cause. Then assess whether the withholding of the information is outweighed by other considerations that would</p> |

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OIA GUIDANCE DOCUMENT

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| | <p>make it desirable, in the public interest, to make that information available.</p> <p>Complete list of withholding grounds: http://intranet/oia/guide/groundswithholdinginfo.htm</p> <p>The <i>most common</i> grounds for withholding information under section 9 are:</p> <p><i>Active Consideration – section 9(2)(f)(iv):</i> used to protect, for a period, advice that is currently under active consideration by the Minister, such as Budget advice. If the minister has made a decision, then generally these grounds will not apply. However, these grounds can apply to imminent public announcements if the Minister has concluded consideration of the advice.</p> <p><i>Free & Frank – section 9(2)(g)(i):</i> used to protect the provision of advice by junior analysts, and also to protect the expression of opinions.</p> <p><i>Privacy – section 9(2)(a):</i> used when withholding personal contact details of analysts, names of non-policy staff, and names of people from the private sector.</p> <p><i>Confidential information – section 9(2)(ba):</i> used where information is given to Treasury under an obligation of confidentiality.</p> <p>The most common grounds for refusing/declining a request are the following:</p> <p><i>The information is, or is soon to be, publicly available – section 18(d):</i> a good example is budget material which is mostly made publicly available after Budget day. However, just because the information has been publicly released, it doesn't mean it is 'available'. The information must be generally accessible. If the information is online, a URL is provided.</p> <p><i>No information held – section 18(e):</i> self-explanatory.</p> <p><i>Substantial collation or research – section 18(f):</i> (see previous chapter of this document).</p> <p>Decisions on withholding information can be investigated by the Ombudsman, so it is important that all key decisions and their rationale are recorded, by saving all important emails and keeping a File Note (if required).</p> |
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IN-CONFIDENCE
OIA GUIDANCE DOCUMENT

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| | <p>Documents requiring particular handling:</p> <p><u>Documents from a Previous Government</u></p> <p>When considering releasing papers from a previous Government that is not the same party as the current Government, as a matter of courtesy the previous Minister is informed of the release.</p> <p>For papers received by the previous Minister of Finance (Hon Dr Cullen), we can contact him directly. For papers belonging to a former Minister who is still in opposition, we liaise with their office directly.</p> <p><u>Cabinet Documents from a Previous Government</u></p> <p>When considering releasing Cabinet papers from a previous Government that is not the same party as the current Government, we have to first consult the Leader of the Opposition via the Cabinet Office. In this situation, we email copies of the information we propose to release to the appropriate contact at DPMC, who liaises with the Opposition on our behalf.</p> <p><u>Cabinet Documents from another Minister in Current Government</u></p> <p>The relevant portfolio Minister is responsible for giving the okay to release a document. If this is not a Minister that Treasury reports to directly, we ought to advise our Minister (via an Inform Report) to seek approval from the responsible Minister.</p> <p>In some circumstances, it may be appropriate to transfer the part of the request that covers this cabinet material to the appropriate Minister.</p> <p>For cabinet documents pertaining to a Minister Treasury directly reports to, we can seek their approval when we advise/inform them of the proposed response to the request.</p> |
| Time Estimate | |

| Redact Documents Required For Consultation | |
|---|--|
| Responsibility | Research Analyst |
| Objective(s) | To prepare secure documents for external consultation |
| Instructions | Provide the Research Analyst with marked-up hardcopies. The RA can then produce secure electronic documents with a consultation watermark. |
| Other Considerations | |

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OIA GUIDANCE DOCUMENT

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| Time Estimate | |
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| Progress Meeting | |
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| Responsibility | Assigned Analyst (NB: Research Analyst will set up the meeting) |
| Objective(s) | To resolve any issues arising and to check progress Game Plan. |
| Instructions | This is an optional meeting that is intended to enable key stakeholders to meet and resolve any issues that have arisen in the course of preparing the response, including whether the Activity Schedule is on track. |
| Other Considerations | |
| Time Estimate | |

| Draft Proposed Response | |
|--------------------------------|---|
| Responsibility | Assigned Analyst (Research Analyst, if agreed) |
| Objective(s) | To draft the response to the OIA Request |
| Instructions | <p>Unless agreed otherwise in the Game Plan, the Assigned Analyst is responsible for creating and initial drafting of the Reply.</p> <p>Use Moto to create a Reply document to the OIA Request.</p> <p>The Reply includes a number of prompts that need to be addressed.</p> <p>The Reply includes tables of documents being released, withheld or publicly available. These tables should be populated using the <i>List of Relevant Information</i>.</p> <p>Applicable withholding grounds are also to be included in the tables.</p> <p>Confirm that the TOIA Response should be published on the Treasury website, and seek Minister's agreement in the Inform Report. See TOIA Inform template for notes about web publishing.</p> |
| Other Considerations | |
| Time Estimate | |

IN-CONFIDENCE

OIA GUIDANCE DOCUMENT

| Approve Proposed Response (Research Analyst or Assigned Analyst) | |
|---|--|
| Responsibility | Research Analyst (or Assigned Analyst – if agreed) |
| Objective(s) | To review and approve the proposed response, including Report and Letter of Reply. |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| Approve Proposed Response (QA Analyst) | |
|---|--|
| Responsibility | QA Analyst |
| Objective(s) | Confirm that the response to the OIA request meets current Treasury Requirements |
| Instructions | |
| Other Considerations | <p>The second key task of the QA Analyst is to review the draft Inform Report and/or Letter of Reply. Things to consider when reviewing this are:</p> <ul style="list-style-type: none"> • Have the right people (internally and externally) have been consulted? • Does the Inform Report give the Minister all the necessary information in order to make a decision? Does the Letter of Reply adequately explain Treasury's decision? • Has the Inform Report (if required) adequately addressed issues arising from the OIA response that might cause public comment? Have other risks been adequately identified? • Are all documents to be released correctly listed in the Inform Report and/or Letter of Reply in the appropriate order? • Have affected parties been notified of the OIA response? • <p>The third key task is to review the redacted bundle of documents that are going to be released. Things to consider when reviewing this are:</p> <ul style="list-style-type: none"> • All information intended to be withheld from documents being released has actually been removed from the Information for Release and the grounds for withholding is noted. • |
| Time Estimate | |

| Send Proposed Response to Consulted Parties (if required) | |
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| Responsibility | Assigned Analyst |

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OIA GUIDANCE DOCUMENT

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| Objective(s) | <p>To complete all required consultation</p> <p>To provide consulted parties with the appropriate information required to enable them to provide appropriate input into the decision to be made on the OIA request.</p> |
| Instructions | |
| Other Considerations | <p>Consultation with other departments or Ministers may be necessary to reach a decision on a request. Consultation is often necessary:</p> <ul style="list-style-type: none"> • as a matter of courtesy; • to make the other department(s) aware of the request, our proposed action, and to seek their feedback; • to check whether they have received similar requests, to ensure a consistent response, or to co-ordinate a response. <p>Consultation with the appropriate departments or Ministers ought to be undertaken when:</p> <ul style="list-style-type: none"> • Treasury/the Minister holds relevant information that was jointly created with another department; • Treasury/the Minister holds relevant information that is 'owned' by another department/Minister; • Where the information covers Treasury advice to another department; • Any other matter which may result in publicity for that department. <p>As a matter of course, when Treasury receives an OIA request from the Opposition, other political party, the media, or any other party of interest, the Minister ought to be informed through an Inform Report.</p> <p>Ministers will be provided with 10 working days to consider the report when a decision has required by Treasury consultation and/or Ministers will need to be consulted.</p> <p>There is no specific procedure for consulting with another department. If documents are required to be redacted for consulting purposes, this can be undertaken by the Ministerial Advisory Service.</p> <p>Where another Minister ought to be consulted, we advise our Minister (via the Inform Report) to undertake this consultation. It is advised that this information is run past the appropriate department first.</p> <p>All other consultation ought to be completed before informing the Minister.</p> |
| Time Estimate | |

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OIA GUIDANCE DOCUMENT

Consulted Parties – Review Response and Provide Feedback

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| Responsibility | |
| Responsibility | Assigned Analyst |
| Objective(s) | To identify withholding grounds applicable to requested information to be withheld |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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| <i>Progress Meeting (If required)</i> | |
| Responsibility | Assigned Analyst |
| Objective(s) | To discuss any issues or impediments affecting progress, revise the Game Plan and Activity Schedule, and confirm response is on schedule for being sent on time. |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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|--|---|
| <i>Review Consultation Feedback</i> | |
| Responsibility | Assigned Analyst |
| Objective(s) | To consider and assess input from consulted parties. |
| Instructions | Review feedback and decide whether changes to the proposed response should be made. Consider whether any other parties (including within Treasury) should be informed or consulted about the subsequent changes being considered. Consider whether the proposed response needs to be amended or further action taken. Consider whether it is appropriate to reflect feedback from consulted parties should be reflected in the Report. |
| Other Considerations | |
| Time Estimate | |

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OIA GUIDANCE DOCUMENT

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| Approve Proposed Response – After Consultation (Research Analyst or Assigned Analyst) | |
| Responsibility | Research Analyst (or Assigned Analyst – if agreed) |
| Objective(s) | To review and approve the proposed response, including Report and Letter of Reply. |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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| Approve Proposed Response – After Consultation (QA Analyst) | |
| Responsibility | Research Analyst (or Assigned Analyst – if agreed) |
| Objective(s) | To review and approve the proposed response, including Report and Letter of Reply. |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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| Deliver Reply to Manager | |
| Responsibility | Assigned Analyst |
| Objective(s) | To ensure the proposed Response is delivered to the Manager for approval |
| Instructions | <p>Collect the approved proposed response (Report, Letter, and Marked-up Information for Release) from the QA Analyst and deliver to the Manager.</p> <p>Ask the Manager to review the proposed response and either:</p> <ul style="list-style-type: none"> a) Approve the proposed response without changes; or b) Advise any changes required to be made before it will be approved. <p>Note that once the Manager has approved the proposed response no further changes are expected to be made.</p> |
| Other Considerations | |
| Time Estimate | |

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OIA GUIDANCE DOCUMENT

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| Approve Proposed Response (Manager) | |
| Responsibility | Manager |
| Objective(s) | |
| Instructions | |
| Other Considerations | No changes are expected to be made after this point. MAS will not make redactions to documents to be released until they have been approved by the Manager. |
| Time Estimate | |

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OIA GUIDANCE DOCUMENT

PRODUCTION

| <i>Update Visibility Board</i> | |
|---------------------------------------|---|
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | To ensure OIA Visibility Boards are up-to-date and current. |
| Instructions | The Assigned Analyst adds the OIA Request to their team's OIA Visibility Board. The Research Analyst adds the OIA Request to the MAS OIA Visibility Board. |
| Time Estimate | |

| <i>Deliver Marked-Up Information to Research Analyst</i> | |
|---|---|
| Responsibility | Assigned Analyst |
| Objective(s) | To ensure the Research Analyst receives the relevant information required to be redacted for release and confirmation that the Manager has approved the Proposed Response |
| Instructions | Collect the Proposed Response from the Manager Ensure there is an email recording that the Manager has approved the Proposed Response, and add this email to Moto Documents tab. |
| Other Considerations | |
| Time Estimate | |

| <i>Electronically Redact Marked-Up Information for Release</i> | |
|---|------------------|
| Responsibility | Research Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| <i>Check: Redacted Documents</i> | |
|---|--|
| Responsibility | Assigned Analyst QA Analyst |
| Objective(s) | To ensure that the electronically redacted documents match the |

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OIA GUIDANCE DOCUMENT

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| | marked-up information approved for production and release |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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| Approve Printing of the Response | |
| Responsibility | Assigned Analyst |
| Objective(s) | To confirm the Response should be printed for sign out. |
| Instructions | Email the Research Analyst and confirm that the Response should be printed for Manager sign out. |
| Other Considerations | |
| Time Estimate | 5 minutes |

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| Apply OIA Stationery to Information For Release | |
| Responsibility | Research Analyst |
| Objective(s) | To ensure that OIA Release Paper is only applied to finalised documents that have been confirmed and approved for release under the OIA (i.e. not draft or still subject to consultation) |
| Instructions | Create a pdfDocs Binder of the documents being released under the OIA (whether or not they have required redactions) and use the OIA Release Paper |
| Other Considerations | |
| Time Estimate | 30 minutes |

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| Format and Print Response | |
| Responsibility | Formatting PA |
| Objective(s) | To ensure the Response is formatted to applicable standards and that a hardcopy is delivered to the Assigned Analyst |
| Instructions | Open, format and print the relevant documents. Deliver the documents to the Assigned Analyst |
| Other Considerations | |
| Time Estimate | |

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| Confirm Documents | |
| Responsibility | Assigned Analyst QA Analyst |

IN-CONFIDENCE
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| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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| <i>Deliver to Manager</i> | |
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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| <i>Sign Out Response</i> | |
| Responsibility | Manager |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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DELIVERY

| <i>Update Visibility Board</i> | |
|---------------------------------------|---|
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | To ensure OIA Visibility Boards are up-to-date and current. |
| Instructions | The Assigned Analyst adds the OIA Request to their team's OIA Visibility Board. The Research Analyst adds the OIA Request to the MAS OIA Visibility Board. |
| Time Estimate | |

| <i>Make Copies of Signed Out Documents</i> | |
|---|--|
| Responsibility | Formatting PA |
| Objective(s) | |
| Instructions | Do not retain any additional copies of these documents for any reason – e.g. for future sending etc. |
| Other Considerations | |
| Time Estimate | |

| <i>TOIA Inform – Send to Minister(s)</i> | |
|---|-------------------------|
| Responsibility | Ministerial Coordinator |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| <i>Review and Respond to Feedback or Advice Received from Office</i> | |
|---|--------------------------------------|
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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| | |
|------------------------------------|-------------------------|
| Report Returned to Treasury | |
| Responsibility | Ministerial Coordinator |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|---|------------------|
| Check Information for Release is Correct | |
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|---------------------------------|------------------|
| Create TOIA Reply Letter | |
| Responsibility | Research Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|---|---|
| Review & Check TOIA Reply Letter and Information for Release | |
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | Review to confirm that the content of the letter is correct – i.e. it should be exactly the same as was in the Report returned to Treasury. |
| Other Considerations | |
| Time Estimate | |

IN-CONFIDENCE
OIA GUIDANCE DOCUMENT

| | |
|-----------------------------|--|
| Sign Out | |
| Responsibility | |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|---------------------------------|---------------|
| Copy the Signed Response | |
| Responsibility | Formatting PA |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|-----------------------------|--|
| Send to Requestor | |
| Responsibility | Ministerial Coordinator |
| Objective(s) | To send the correct documents to the Requestor. |
| Instructions | Send original documents to the requestor Complete filing requirements, as per the Ministerial Coordinator Deskfile. |
| Other Considerations | |
| Time Estimate | |

| | |
|--------------------------------|---|
| Update Visibility Board | |
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | To ensure OIA Visibility Boards are up-to-date and current. |
| Instructions | The Assigned Analyst adds the OIA Request to their team's OIA Visibility Board. The Research Analyst adds the OIA Request to the MAS OIA Visibility Board. |
| Time Estimate | |

IN-CONFIDENCE

OIA GUIDANCE DOCUMENT

| | |
|-----------------------------------|---|
| Arrange for Web publishing | |
| Responsibility | Research Analyst (in conjunction with Web & Publishing team) |
| Objective(s) | To publish TOIA responses and release documents on Treasury's website. |
| Instructions | <p>Confirm that the Minister has agreed with the recommendation to publish.</p> <p>Complete the Publishing spreadsheet. Ensure the PDF file to be uploaded is the correct file. Ensure all details provided to Web & Publishing team are correct and have been QA'd and authorised.</p> |
| Time Estimate | |

Finished

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TRANSFERS

| Confirm Transfer Details | |
|---------------------------------|------------------|
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| Create & Draft Transfer Letters | |
|--|------------------|
| Responsibility | Research Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| Format & Print | |
|-----------------------------|---------------|
| Responsibility | Formatting PA |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| Approve | |
|-----------------------------|--------------------------------|
| Responsibility | Assigned Analyst QA Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| Deliver to Manager | |
|-----------------------------|------------------|
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |

IN-CONFIDENCE
OIA GUIDANCE DOCUMENT

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|----------------------|--|
| Time Estimate | |
|----------------------|--|

| | |
|-----------------------------|---------|
| Sign Out | |
| Responsibility | Manager |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|---|---------------|
| Copy & Deliver to Ministerial Coordinators | |
| Responsibility | Formatting PA |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|-----------------------------|------------------|
| Send | |
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|---|------------------|
| Review and Respond to Feedback from Office | |
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

| | |
|-----------------------------|------------------|
| Report Returned | |
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |

IN-CONFIDENCE
OIA GUIDANCE DOCUMENT

| | |
|----------------------|--|
| Time Estimate | |
|----------------------|--|

| | |
|--------------------------------|---|
| Update Visibility Board | |
| Responsibility | Assigned Analyst Research Analyst |
| Objective(s) | To ensure OIA Visibility Boards are up-to-date and current. |
| Instructions | The Assigned Analyst adds the OIA Request to their team's OIA Visibility Board. The Research Analyst adds the OIA Request to the MAS OIA Visibility Board. |
| Time Estimate | |

| | |
|-----------------------------|------------------|
| | |
| Responsibility | Assigned Analyst |
| Objective(s) | |
| Instructions | |
| Other Considerations | |
| Time Estimate | |

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DEPARTMENT
of the PRIME MINISTER
and CABINET



STATE SERVICES COMMISSION
Te Komihana O Nga Tari Kawanatanga



Introductory Workshop

Official Information Act 1982

Facilitator's Guide

March 2017

Official Information Act 1982

About this course

This course is designed to introduce participants to the Official Information Act 1982.

Topics covered in this course include:

- The purpose of the Official Information Act 1982
- The principle of availability
- The reasons for withholding information
- Who to talk to for advice and assistance with OIA requests
- The rules around access to official information
- The consequences of improper release or non-release of information.

This course is not intended to go into any area in great detail – it is intended to introduce participants to the Official Information Act 1982. Coaching around the process of responding to Official Information Act requests will be provided by the MAS team when you are assigned an OIA request.

Target audience

This course is suitable for:

- All managers
- All analysts/advisors who are likely to be assigned OIA requests
- Other staff who deal with OIAs

Prior knowledge required

None.

Facilitator instructions and guide layout

For ease of use and so that you know what participants are looking at, the facilitator's guide is set out exactly the same as the participant workbook with a few exceptions:

- Facilitator notes and instructions are inserted – these are in grey shaded areas.
- Answers are below questions in grey shaded areas.
- A full list of resources is below

Resources required

| Quantity | Resource |
|---|---|
| 1 | Whiteboard plus several markers |
| Plenty | Post-its |
| 1 | Flip chart |
| 4 | Paper for flip chart |
| Enough for all participants to have one | Felt pens for group work and post-its |
| 1 | Screen and data projector (map and overlay on slides) |
| 16 | Copies of the Act for participants to refer to |
| | |

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Introduction and Context

Welcome

Welcome to the Official Information Act workshop.

This course is intended to introduce you to the Official Information Act 1982 and its legislative requirements. It is not intended to go into the OIA process. Following this course, you will be expected to contact the Ministerial Advisory Service when you receive your next OIA request, and they will provide you with coaching and guidance.

Introduce yourself to the group.

Make sure that you include what qualifies you to be running the course.

Next, get the participants to introduce themselves. Ask them to state something apart from their name, for example what they're expecting to get from the course. This is important to do as it encourages and lets participants know that it's okay to speak and participate rather than be 'talked at'.

What we want participants to get out of this course:

s9(2)(g)(i)

s9(2)(g)(i)

OIAs form part of core government work and need to be viewed as such by Treasury staff. Managers need to ensure their staff have the time and resources to complete OIAs on time.

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To start

s9(2)(g)(i)

Brain storm and capture on whiteboard.

Some possibilities participants might think of are:

s9(2)(g)(i)

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s9(2)(g)(i)

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s9(2)(g)(i)

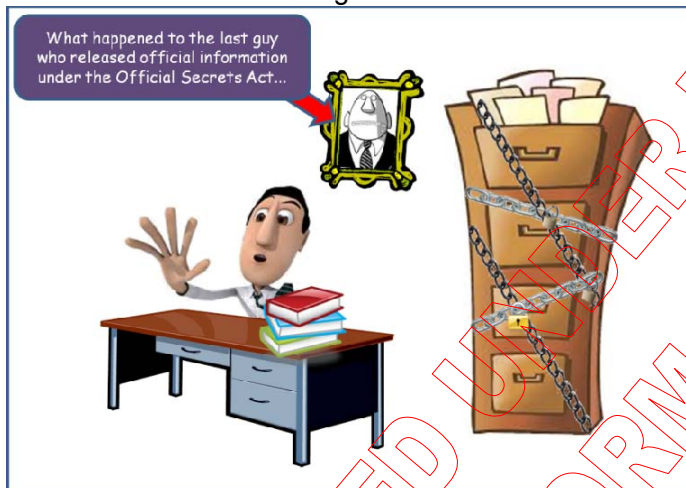
s9(2)(g)(i)

Hopefully this will generate some debate, but it needs to be kept short.

In the beginning...

Before the Official Information Act 1982 there was the Official Secrets Act 1951.

The Official Secrets Act was the complete opposite of the Official Information Act. It operated on the presumption that official information was the property of the government and should **never** be released without specific and compelling reason or authorisation. In fact it was a criminal offence to release government information.



During the 1970s the traditional approach began to be challenged, both in New Zealand and overseas. In many countries lobby groups for 'open government' sprang up, encouraging debate about government plans and policies, and arguing that the public should be able to see the information behind them.



In 1978 the government set up the Committee on Official Information. This committee was called the Danks Committee after its chairman, Alan Danks (pictured to the left in a portrait by Leo Bensemann).

The main lobby group in New Zealand was the Coalition for Open Government. It formed in 1979 to campaign against the then government's 'think big' programme of major industrial projects. The coalition later became the major force in the development of the Official Information Act 1982.

The Danks Committee produced two reports in 1981, recommending fundamental change, which led to the passing of the Official Information Act in 1982.

The basic facts

The Official Information Act 1982 allows people to ask for any information to be made available from a Minister, Government departments, Crown Entities, State-Owned Enterprises, organisations or commissions involved with upholding, managing or administering New Zealand legislation – basically most organisations that are publicly funded.

When a request is made under the Official Information Act 1982, all information related to the request must be released to the requestor unless there is good reason to withhold the information as stated in

the Act. Some of the withholding grounds must be balanced against the public interest in releasing the information. The Act allows for the protection of official information to the extent consistent with public interest and preservation of personal privacy.

As a Government department, we don't get to pick and choose what information is most suitable to release

All information held at Treasury, DPMC and SSC (even if it is information that originated outside the agency) must be considered for release if requested – therefore all documents (including e-mails, diagrams, recordings etc) must be written and handled with the knowledge that the information contained in them could be discoverable now or in the future. Information is not limited to just documents either!

Ask what is official information?

“Official” information is information that is held by a department, organisation (as listed in the Official Information Act or Ombudsmen Act) or Minister of the Crown in his or her official capacity. For example, there would be a separation between Bill English the Minister of Finance, acting in his capacity as, or for the purposes of his position as, Minister of Finance, in his capacity or for the purposes of his position, as Minister in charge of the Treasury, in his capacity as Minister in charge of Housing New Zealand Corporation and Bill English, National Party MP, Deputy Party Leader and Bill English, New Zealand citizen!

A list of Departments and Organisations to whom the Act applies can be found in Schedule 1 of the Official Information Act 1982 and Schedule 1 (Part 1 and 2) of the Ombudsmen Act 1975. Offices of Parliament are excluded except for the Parliamentary Commissioner for the Environment. This means the Act does not apply to the Office of the Attorney General, Office of the Ombudsmen, PCO (even though it is listed as a Department in the OA it is specifically excluded in the OIA). State Owned Enterprises and Crown Entities are subject to the Act but Mixed Ownership Model companies are not. It can become a little complex when trying to analyse who the Act does and does not apply to and the reasons for the discrepancies especially in light of the the primary purpose of the OIA, which is to provide a measure of accountability to the public.. There are also further references to other Acts that need to be consulted depending on the situation, for e.g. if you are wondering if universities are subject to the OIA you would need to refer to Part 2 of the OA (which lists organisations subject to the OA and OIA). Part 2 lists “Institutions established under Part 14 of the Education Act 1989” as being subject. Which means you would then need to refer to the Education Act 1989 to figure out which universities were subject to the Acts!

“Information” includes documents, electronic content, conversations, recollections etc – basically anything you might do, say, observe or create as a public servant is considered to be information.

Let's take a minute...

Before you begin launching into the Official Information Act and what it's all about, explore with participants why the OIA is important and how this affects us as public servants.

Exercise in pairs

- Divide into pairs
- Using post-it notes, spend 5 minutes writing as many reasons as possible for why the OIA matters. Also identify what this means for you as a public servant (contrasting with experience in the private sector if this is relevant).
- Participants then put their notes on a flip chart at the front for a group discussion which we facilitate.
- Some notes to help are below.

Notes from the Encyclopaedia of New Zealand:

Improving the quality of decision-making

"It has been suggested that the scrutiny that the act enabled has improved the quality of advice and decision-making at all levels of government. Commentators have identified this consequence both in relation to policy advice, where the advice had to be able to withstand scrutiny by interested parties, media and academics, and in relation to lower-level administrative decision-making. Any previous looseness in those systems was quickly eliminated once those affected could see and challenge the basis on which decisions were being taken.

Culture of openness

In 2011 New Zealand had, by international standards, a strong culture of openness in government. Any significant reform usually involved public consultation – often several times. That consultation was supported by the publication of a significant amount of information and advice. The submissions received, and their analysis, were also likely to be made public. Most official papers and advice were written on the assumption that they could be made public and needed to be able to withstand scrutiny.

Greater accountability

Many commentators have also credited the OIA with playing a major part in ensuring the accountability of governments and public sector decision-makers. The level of openness, and the ability to access information about what decision-makers are doing and why, has given the media, opposition parties in Parliament, lobby groups and others, a powerful tool with which to question and challenge."

Other points we want to bring out:

As public servants we want the wider public to have trust in government processes and administration. We are required to be impartial, fair and politically neutral.

The Official Information Act 1982 has a direct link to public perception and expectations of a good Government and government administrators.

Treasury's Living Standards Framework references the importance of public trust in core institutions that underpin our society (e.g. trust in the rule of law, democracy, Crown-Māori relationships etc) – transparency of government process, administration and decision-making goes a long way towards ensuring public confidence.

Another, quite different, example of what has been achieved by the OIA is the return of examination scripts to tertiary students. Before the passing of the OIA students rarely saw their marked papers. Once the precedent had been established, the system changed so that papers were sent back to students on request.

Explain:

s9(2)(g)(i)

Freedom of Information on a World stage

Participants to read the quote below

“A new era of government transparency has arrived. It is now widely recognised that the culture of secrecy that has been the modus operandi of governments for centuries is no longer feasible in a global age of information. Governments in the information age must provide information to succeed.

Laws opening government records and processes are now commonplace among democratic countries. Over fifty countries have adopted comprehensive laws to facilitate access and over thirty more are in the process. The laws are broadly similar, allowing for a general right by citizens, residents and often anyone else to demand information from government bodies. There are exemptions for withholding critical information and appeals processes and oversight...

...Access to government records and information is an essential requirement for modern government. Access facilitates public knowledge and discussion. It provides an important guard against abuses, mismanagement and corruption. It can also be beneficial to governments themselves – openness and transparency in the decision making process can assist in developing citizen trust in government actions and maintaining a civil and democratic society.”

David Banisar

Director – Freedom of Information Project of Privacy International

(Note that there are now over 100 countries with freedom of information laws.)

Ask:

Does it sound like we're overstating the importance of freedom of information here? Take a look at this (powerpoint slides)

Slides showing the corruption index and which countries have Freedom of Information laws.

Explain: Each year, Transparency International¹ publish a Corruption Index that measures then ranks the perceived levels of public sector corruption in 177 countries/territories around the world.



Go to powerpoint and map above. Give participants a couple of minutes to look at it. Then move to the next map which shows the countries that have Freedom of Information laws. There is a close correlation between the most corrupt countries and those that have no Freedom of Information laws.

Note some countries do have Freedom of Information laws but are still ranked as corrupt. In some of these countries the laws have only recently been introduced. It takes time for these laws to be implemented properly, especially in countries where there has been major regime change, authoritarian rule or widespread unrest. Leave some time for discussion.

Transparency International is an organisation that has the vision:

A world in which government, civil society and the daily lives of people are free of corruption.

In 1993, a few individuals decided to take a stance against corruption and created Transparency International. Now present in more than 100 countries, the movement works relentlessly to stir the world's collective conscience and bring about change. Much remains to be done to stop corruption, but much has also been achieved, including:

- *The creation of international anti-corruption conventions*
- *The prosecution of corrupt leaders and seizures of their illicitly gained riches*
- *National elections won and lost on tackling corruption*
- *Companies held accountable for their behaviour both at home and abroad.*

Purpose and Principle of Availability

Introduction

So far we've looked at how the Official Information Act 1982 came about and the importance of Freedom of Information rules/laws at a global level.

Let's now look at the key purpose of the Official Information Act 1982 and the Principle of Availability as stated in the Act.

Purpose and Principle of Availability

Key purpose of the Official Information Act 1982 –

Section 4

To increase progressively the availability of official information:

- To enable more effective participation
- To promote accountability
- To enhance respect for the law and promote the good government of New Zealand.

Principle of Availability – Section 5

- When deciding whether any requested official information should be released, agencies must make their decision following the principle that:
- “the information should be made available unless there is good reason for withholding it.” Some of the withholding grounds **must** be balanced against the public interest in releasing the information.

When a request is made under the Official Information Act 1982, all information related to the request must be released to the requestor unless there is good reason to withhold the information as stated in the Act. The withholding grounds must be balanced against the public interest in releasing the information. The Act allows for the protection of official information to the extent consistent with public interest and preservation of personal privacy.

Ask:

What could the possible reasons be to *increase progressively*?

In the beginning:

- *The Public Servant mindset - public servants went from one day - withholding information unless there was good reason to release it to the next day – releasing information unless there was good reason to withhold it.*
- *Avoidance of an information ‘free-for-all’ – media and the public suddenly had access to a whole lot of information they didn’t have access to before. An information ‘free-for-all’ could have caused a work overload and backlog for many government departments.*
- *Good reasons to withhold needed to be properly tested and applied before a glut of information was released.*

Ongoing:

- *As time goes on information can lose its sensitivity, therefore information that may be withheld today may not be withheld in five years or even in six months.*
- *Precedents are set to release information where previously it would have been withheld.*
- *In 2013 Cabinet directed MOJ and central agencies to develop a work programme to improve access to official information and to find ways to reduce the burden of responding to requests.*
- *Since then guidance has been developed and is on the PSI website*
- *Work is ongoing, including looking at ways to proactively release of information*
- *In Treasury, our CE is very committed to transparency.*
- *Treasury now publishes most of its OIAs on its website.*

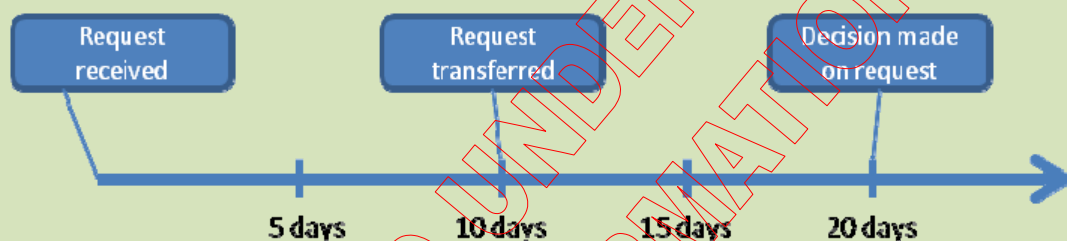
(Consider cutting this out if running out of time.)

How to Deal with a Request

Introduction

So far we've looked at the context, purpose and principle of making official information freely available. Now we'll look at how you should approach a request when you receive one.

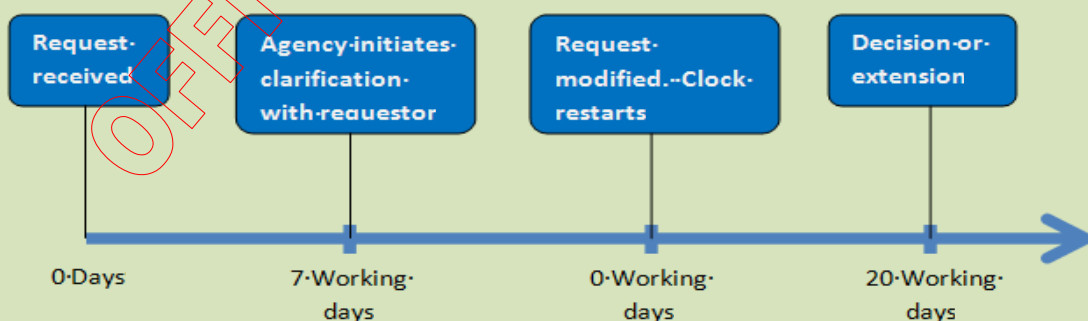
Once a request has been received, a department, organisation or Minister of the Crown has 20 working days to decide whether (and if so, how) the request for information will be granted and how it will be granted; however, during those 20 days, you might need to clarify the request, or you might consider it is appropriate to transfer or extend the request.



Clarifying a Request

Provided you seek to clarify a request within 7 working days of receipt, then the amended request replaces the original and the 20wd clock starts again. (You can seek to clarify or amend a request after the 7wd timeframe, but it won't reset the clock.)

If the requestor initiates a clarification of the request, then this replaces the original and the 20wd timeframe restarts when the amended request is received.



Ask – what are some of the common ways you would seek to clarify or narrow a request?
Eg, can you exclude emails? Narrow the timeframe? Change from “all documents” to “substantive advice to Minister”. Advice prepared by Treasury? etc

Transferring a Request

Departments deal with a huge amount of information, often on closely related matters. For example:

DIA deal with passports but **MBIE** deals with immigration.

Treasury deals with New Zealand's fiscal matters but **Reserve Bank** deal with interest rates.

CERA has traditionally dealt with the Christchurch earthquake recovery - but this has now been transferred to **DPMC** - and **EQC** deals with the insurance, **Treasury** deals with the policy relating to earthquake insurance...furthermore **Civil Defence** deals with quake readiness!

With all of these departments and organisations, it's no wonder Joe Public - and even the media - isn't always sure who to ask for what!

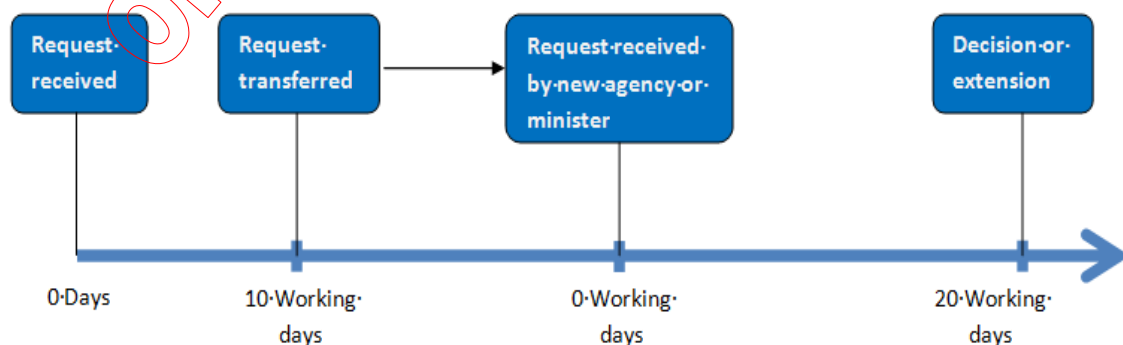
It would be very easy for requestors to be fobbed off from department to department and never be able to access information! (As Central Agencies, we also have some involvement or responsibility for many issues even when we are not the agency most closely connected to a particular function.)

For that reason, legislation provides for the transfer of requests.

A transfer may be for all or part of a request and can be made where the information requested -

- (i) Is not held by the department or Minister of the Crown or organisation but is believed by the person dealing with the request to be held by another department or Minister of the Crown or organisation, or by a local authority; or
- (ii) Is believed by the person dealing with the request to be more closely connected with the functions of another department or Minister of the Crown or organisation, or of a local authority.

A request must be transferred promptly, and in any case not later than 10 working days after the day on which the request is received



Extending a Request

What do you think happens if you can't reasonably make a decision on the request within the timeframe?

The Act allows for a time extension to be requested. This must be done within the 20 working days when a decision should normally have been made.

Allow enough time when extending. Think carefully as you can only get one extension. Talk to your Ministerial Advisor.

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Reasons for withholding information

Introduction

Remember that information **must** be made available unless there is good reason for withholding it. As we know, there are risks in releasing certain information and these need to be carefully considered.

Ask participants what some of those risks could be.

To ensure that the principle of making information available does not harm our country's national security, citizen's human rights or commercial operations, the Act states reasons for withholding information.

Withholding or Refusing Information

The reasons for withholding information are quite interesting and we could spend hours discussing them. Remember that this is an introduction to the Official Information Act 1982 and participants can expect to work with Ministerial Advisors on specific requests. The Legal team can also provide advice. This section provides just a taste of the reasons to withhold.

Section 6

Section 6 provides conclusive, or irrefutable, reasons for withholding official information. It does not allow the person dealing with the request to use their discretion or to weigh or balance the impact of releasing the information. If the release of the information would prejudice New Zealand's security or defence or our international relationship, prejudice the maintenance of the law, endanger the safety of any person, damage New Zealand's economy or prejudice the entrusting of information to the Government of New Zealand on a basis of confidence, information should be withheld.

Section 9

Section 9 provides other good reasons for withholding information. Even where these good grounds apply, the person dealing with the request must always determine whether withholding the information would be outweighed by other considerations which render it desirable, in the public interest, to make that information available. This is known as the public interest test.

Explain: Three of the most common reasons for withholding information under section 9 are to protect the privacy of natural persons, maintain the constitutional conventions for the time being which protect the confidentiality of advice (commonly known as being under active consideration) and maintaining the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers of the Crown or members of an

organisation or officers and employees of any department or organisation in the course of their duty.

Section 18

Section 18 provides administrative reasons for refusing requests. Unlike sections 6 and 9 where information is withheld, section 18 does not look at the content and its suitability for release. Instead it looks at whether the information exists, whether the recipient of the request holds the information, how much work is required to collate the information and whether the information is or will soon be publicly available.

Summarise:

1. What is the difference between sections 6 and 9?

Section 6 provides conclusive reasons to withhold information, whereas section 9 provides reasons to withhold only if the reasons to withhold the information outweigh the public interest.

2. What is the difference between sections 6 and 9, and section 18?

Section 18 looks at the administrative side of the request – rather than whether the information should be held or not based on its content, it looks at the work involved to collate the information, whether the information actually exists or not, or whether the request is made in good faith.

Exercise

Below are some case studies. (We may not have time to use them all.)

For each case study, discuss how you would assess the request, what actions you would take and whether you would release or withhold the information or refuse the request and why.

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s9(2)(g)(i)



Bear in mind that as case studies, there are potential important details missing, therefore every request must be considered on a case-by-case basis. One simple detail can affect the outcome of an OIA request decision.

Ask the group for examples in their everyday work where some of the information they deal with would likely be withheld and why.

Rules, roles and support

Introduction

The Official Information Act 1982 also provides for the way that Official Information Act requests are administered.

As you can imagine, if Official Information Act requests are not administered in a specific way, the integrity of the Act's purpose and its principle of availability can be called into question.

We've already looked at the Act's purpose and its principle of availability. If departments were not required to release information in a timely manner, the usefulness of the information to its requestor diminishes. Similarly, in some cases, departments are required to transfer official information requests – as public servants, we are required to ensure that requestors are given the best possible chance to get their hands on releasable official information in the easiest way possible from the right source within a timely manner.

Who can request official information?

Any person, being –

- (a) A New Zealand citizen; or
- (b) A permanent resident of New Zealand; or
- (c) A person who is in New Zealand; or
- (d) A body corporate which is incorporated in New Zealand; or
- (e) A body corporate which is incorporated outside New Zealand but which has a place of business in New Zealand, -

May request a department or Minister of the Crown or organisation to make available to him or it any specified official information.

Generally though, if somebody who didn't fit into the categories above asked for official information, your first question to yourself would be "why wouldn't I release the information?"

The Act also allows for a request to be refused if the information cannot be made available without substantial collation and research. But in order to do this, the organisation must consider whether fixing a charge or extending the time limit (or both) would enable the request to be granted. Note, however, that charging is not current practice for the Central Agencies.

Departments also often prepare responses to information requests to Ministers (in Treasury these are known as MOIAs as opposed to TOIAs). However, where a request has been made to a Minister, it is the Minister who makes the final decision on the request.

How should information be made available

Where the information is contained in a document, it can be made available to the requestor by:

- Giving them reasonable opportunity to inspect the document; or
- Providing the person with a copy of the document; or
- If the document is an article or thing from which sounds or visual images are capable of being reproduced, making arrangements for the person to hear or view those sounds or visual images; or
- Giving a written transcript; or
- By giving an excerpt or summary of the contents; or
- By furnishing oral information about its contents.

Adding context to a reply

It is useful to both the requestor and the agency or Minister responding to the request to add explanations about the information provided where this is appropriate.

For example, the information may be out of date, or may provide a narrow view of the topic.

Discuss other reasons

Who is responsible for signing out requests?

Managers are responsible for signing out requests.

When a request is assigned to your team – your manager is responsible for signing the information out and over to the requestor, or to the Minister in the case of a MOIA.

MOTO

The request will be assigned to the appropriate manager through MOTO. The manager needs to use MOTO to assign the request to an analyst within 2 days of receipt. Once this has happened, a number of documents will automatically be generated through MOTO. These include:

- *The Game Plan*. This document is important and needs to be followed throughout the OIA process. It provides a timeline and outlines the responsibilities of manager, assigned analyst, QA analyst and research analyst.
- *Relevant documents spreadsheet*. This is where links and other details go of documents within scope of the request.
- *Charging timesheet*. This can usually be ignored.

If the OIA is assigned to a junior analyst, the manager should consider whether appointing a buddy would be appropriate.

You're not alone though! Your Ministerial Advisor can help you.

In Treasury, the Ministerial Advisory Service will assign one of their analysts to the request – while each staff member will have their own responsibilities, the MAS research analyst will be on hand to provide advice and coaching.

Ultimately, however, the information that is released to the requestor is your responsibility – you are advised to request coaching from MAS for your next Official Information request.

Review of decisions

Any decisions made on the release of official information can be reviewed by the Ombudsman.

In respect to the Official Information Act, the Ombudsman can investigate:

- Refusals of requests
- Delays (deemed to be refusals)
- Charges
- Manner of release
- Conditions on use, communication, publication
- Extension of time limits for responding
- Decisions to transfer
- Part 4 requests for access to personal information
- Requests for a statement of reasons
- Requests for policies, rules and guidelines.

If you receive notification of an Ombudsman's Investigation into an OIA, you must consult your Ministerial Advisors and your legal team.

Note that the Ombudsman is also there to offer guidance and support with a whole raft of useful information on their website.

That's a wrap

Conclusion

That's it!

Hopefully you have found this session interesting and informative.

By now you should be able to:

- Understand the purpose of the Official Information Act 1982
- Understand the Principle of availability
- Understand and be able to apply reasons for withholding information at a basic level
- Know who to talk to for advice and assistance with OIA requests

- Understand the legislation around access to official information

Remember, the next time you receive an Official Information Act request, contact the experts in your agency for coaching:

- Treasury: the Ministerial Advisory Service (MAS)
- DPMC: a Ministerial Advisor in the Office of the Chief Executive
- SSC: the Ministerial Servicing team in the Office of the Head of State Services.

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Make a contribution that counts

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Responding to OIA Requests

Analysts are responsible for responding to requests for information made under the Official Information Act 1982 (OIA), with the support of Ministerial Advisory Services (MAS).

If you have queries about the OIA process, contact your Research Analyst in MAS and refer to the OIA page (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Background-.aspx) of the MAS intranet. Your team's liaison lawyer (<http://image/?number=2263807>) is able to help with questions relating to the legal interpretation and application of the OIA.

Part 1 of the OIA sets out a number of grounds on which information requested under the Act can be withheld. Section 6 provides conclusive reasons for withholding official information. These withholding grounds apply regardless of any public interest in releasing the information. Section 9 provides other reasons for withholding official information, which apply only if there is no outweighing public interest in releasing the public interest.

The application of a withholding ground generally depends on questions of fact and judgment that the analyst is best placed to answer. You can find guidance (<http://www.ombudsman.parliament.nz/resources-and-publications/guides/official-information-legislation-guides>) about the withholding grounds and their application on the Office of the Ombudsman's website.

If you remain unsure as to the meaning or application of a particular withholding ground, contact your team's liaison lawyer.

Ombudsmen investigations

The legal team must be involved in any Ombudsman investigation into The Treasury, whether relating to compliance with the OIA or to any other complaint under the Ombudsmen Act 1975. If the Office of the Ombudsman contacts you regarding an OIA request or any other matter, contact your liaison lawyer.



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Background

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The Official Information Act was passed in 1982 as a result of the perception that the advice and actions of the public sector were too often hidden from public view.

Its purposes are:

- to make official information progressively more available, in order to:

- enable people to participate more effectively in making and administering laws and policies
- promote the accountability of Ministers and their officials and thereby enhance respect for the law and promote the good government of New Zealand
- to provide individuals access to information held about themselves.

- to protect official information when that is necessary for the public interest or to protect personal privacy.

These provisions turned the Official Secrets Act on its head. The goal of the Official Secrets Act had been to protect official information in virtually all circumstances.



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Official Information Act

The Official Information Act 1982

(<http://www.legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html>) (OIA) imposes important statutory obligations on Ministers and government departments, including the Treasury, which are considered to be "core business".

Treasury deals with OIA requests and Ombudsman Investigations made to the Treasury (**TOIA**) or Ministers to whom Treasury provides Ministerial Servicing (**MOIA**). Treasury may also be consulted by departments about OIA requests they are dealing with.

Why have an Official Information Act?

The Official Information Act is important constitutional legislation that upholds the democratic rights of New Zealanders to have a say and an opportunity to influence decision-making, hold the government to account for any decisions it makes and understand why decisions have been made. NZ used to have the Official Secrets Act 1951 (http://www.nzlii.org/nz/legis/hist_act/osa1951/osa1951n77183/). This assumed that official information was the property of the government and should never be released without specific authorization. This was easy from officials' points of view; they could be loose and free with their policy decisions with no fear of exposure. Ministers could not be held to account. But in the late 70s there was clamour for more openness, partly as a result of the government's "think big" programme of industrial projects. In 1982 the Official Information Act was born and turned the Official Secrets Act on its head.

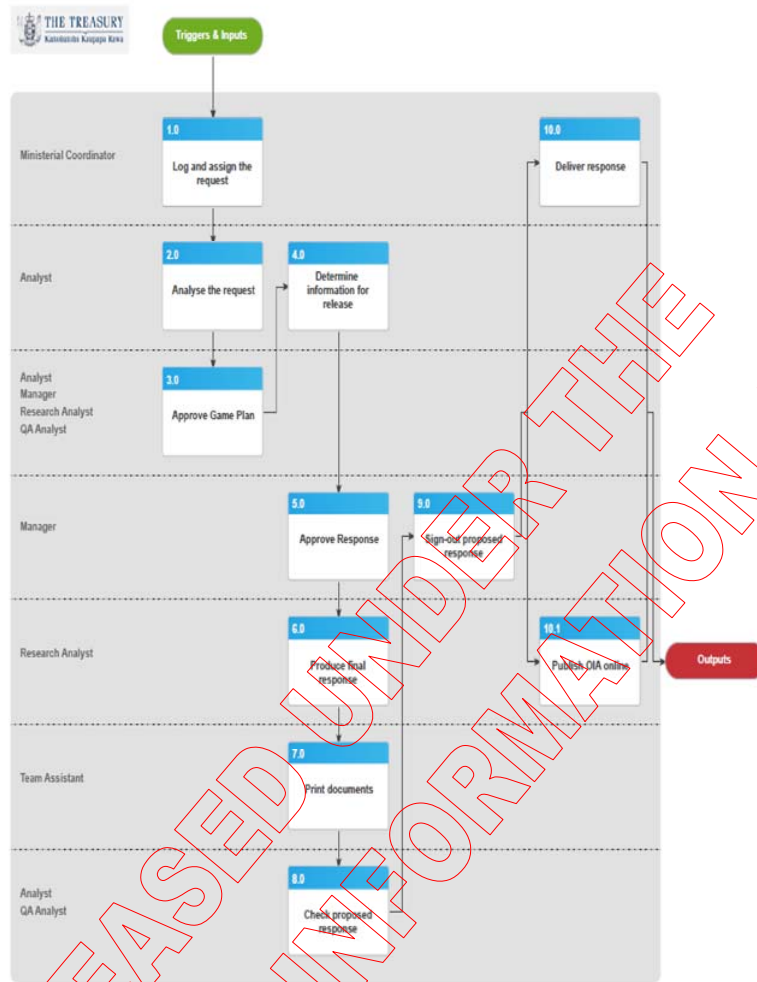
What is Official Information?

Official information is any information that is held by the department (or Minister), including (but not limited to) reports, aides memoire, drafts, notes, work diaries, videos, written correspondence, and emails. Basically, any information you produce is official information. This covers tangible mediums such as handwritten, printed, or electronic material, as well as intangible mediums such as recollections of meetings or discussions.

What is the purpose of the OIA?

The purposes (<http://www.legislation.govt.nz/act/public/1982/0156/latest/link.aspx?id=DLM65364>) of the OIA are to increase the availability of official information while protecting official information to the extent consistent with the public interest. Underlying these purposes is the principle of availability (<http://www.legislation.govt.nz/act/public/1982/0156/latest/link.aspx?id=DLM65365>): "information shall be made available unless there is good reason for withholding it."

Outline of the OIA process



How MAS can help

A Research Analyst from MAS will be appointed to the OIA request and provide a "project manager" overview. The RA can also:

- Provide advice about the process of preparing an OIA response;
- Advise on interpreting the request, timelines, and the Game Plan;
- Advise on appropriate search strategy for relevant information;
- Advise on withhold grounds and the Official Information Act;
- Advise on consultation;
- Draft (and/or review) the Report and Letter of Reply;
- Prepare Letters of Transfer and Extensions;
- Redact information, and create secure OIA release versions.

Please contact us at ResearchAnalysts@treasury.govt.nz (<mailto:ResearchAnalysts@treasury.govt.nz>) if you have any queries.



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OIA Processes

Summary of Actions Required

Initial Actions (assigned analyst responsible)

To be completed in the first 5 days

1. Meet with relevant research analyst to discuss interpretation and scope, timelines and the Game Plan.
2. Contact requestor for clarification if necessary.
3. Complete the Game Plan and get it signed off by the QA analyst and your manager.
4. Identify relevant documents and enter them into the relevant documents spreadsheet.

Decision Making (assigned analyst responsible)

1. Make decisions on what information is to be released/withheld and which withholding grounds apply.
2. Mark up hard copies of all documents with highlighter and pen. Include the appropriate withholding grounds.
3. Clear these preliminary release versions with the QA analyst and your manager.
4. Consult internally and with other agencies as necessary.

Production of report, reply and release documents (assigned analyst and RA responsible)

For a MOIA: report, reply and release documents

For a TOIA: usually an inform report (required when requestor is from a political party or the media, and for other requestors on a case-by-case basis), reply and release documents

The RA will generate the report and reply and will redact the release documents. The assigned analyst will provide input into the report and reply letter.

Final production

Once all documents are completed they are progressed through the Moto process and sent to Minister/requestor.

Timeframes

Statutory deadlines are:

- 10wd for transfer
- 20wd for reply (unless extended)
- 20wd for extension

Treasury deadlines are:

For a TOIA:

- 10wd for transfer
- 20wd for extension
- Inform report:
 - Without an extension, 15wd
 - With an extension, **the inform to the Minister needs to be sent 15wd before the due date of the reply.** This allows 10wd for the Minister's office to consider the request and consult other Ministers, and 5wd for final processing within Treasury. For example, with a 20wd extension, Treasury only gains 5wd.
- 20wd for final reply or as determined by extension.

For a MOIA:

- Without an extension, the golden rule is to get your report and draft letter to the Minister 5wd in advance of the due date.
 - 5wd for transfer
 - 15wd for extension
 - 15wd for report and draft reply to Minister
- With an extension, you need to get your report and draft reply to the Minister 10wd in advance of the new due date.
 - ie 10wd before the Minister's due date for reply. This allows 10wd for the Minister's office to consider the request and consult other Ministers.

Ombudsman Investigations

Requestor has the right to complain to the Ombudsman about the way their request has been responded to. The Ombudsman will then instigate an inquiry. Treasury must cooperate to the fullest extent with any such inquiry. The Ombudsman has the right to full access to any material covered by an OIA request, including any material withheld from the applicant, as well as any material showing why and how a decision was made to withhold information.

When dealing with Ombudsmen's investigations, staff must consult the Legal team. Although the deadline for responding to an investigation is 20 working days, in practice the Ombudsman may ask for an earlier initial response in some circumstances. An investigation can take months, even years, with a series of letters, meetings and other communications, each with their own deadline.

All correspondence with the Ombudsman regarding reviews must be logged through Ministerial Services (mailto:Ministerial.Services@treasury.govt.nz).

The Ombudsman usually provides a preliminary opinion if it is contrary to the decision made by Treasury or the Minister.

Commenting on the Ombudsman's preliminary opinion is an opportunity to clarify points the Ombudsman has not fully understood, or to re-emphasise points the Ombudsman has in our view not given sufficient weight. It is usually not an opportunity to provide new arguments or evidence in favour of withholding the information.

In cases where the Ombudsmen's preliminary opinion is persuasive, it is normally good practice to release the information on the basis of the preliminary view, rather than waiting for a formal recommendation.

Any formal recommendation of the Ombudsman must be complied with within 20 working days unless the Cabinet overrules the Ombudsman by Order in Council. To date this has never happened.

More detail on the decision making process

- Consider each request independently on its merits.
- Some withholding grounds are only temporary. For example, information that is under active consideration (s9(2)(f)(iv)) at one point in time may no longer be under active consideration a few months later. So if documents have been released previously with some information withheld, this needs to be reconsidered for a new request.
- Withholding information under section 6
 - This is a conclusive ground
 - It is not used very often and has a very high bar.
- Withholding information under section 9
 - This is the section most often relevant to Treasury's work.
 - Where good reason exists for withholding information under section 9 this is not reason on its own for withholding. Grounds must be balanced against **public interest** considerations. That is, even if there are grounds for withholding information, the public interest may make it desirable to disclose the information.
- Refusing a request under section 18
 - Not a withholding ground as such
 - Applies where for some procedural or administrative reason it is not reasonable to fulfil the request.
 - The most common grounds used by Treasury in this section are:
 - 18(d) – the information is or will soon be made publicly available
 - 18(e) – document doesn't exist
 - 18(f) – the information can't be made available without substantial collation and research
 - 18(g) – the information isn't held by the agency or Minister and it's not believed to be held by another agency or Minister
- Transferring a request under section 15
 - Transfer can be full or part
 - Can be transferred to another department, organisation or Minister
 - Only 2 grounds apply – information must be held by or more closely connected with the functions of the other department, organisation or Minister



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The Official Information Act Overview

An electronic copy of the Official Information Act is available to view through NZ Legislation (<http://www.legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html?src=qs>) or Westlaw (http://www.westlaw.co.nz/maf/wlnz/app/document?docguid=19cc12520e03f11e08eefa443f89988a0&tocDs=AUNZ_NZ_LEGCOMM_TOC&isTocNav=true&startChunk=1&endChunk=1).

PURPOSES OF THE ACT

Section 4 - Purposes - The purposes of this Act are, firstly -

(a) To increase progressively the availability of official information to the people of New Zealand in order -

(i) To enable their more effective participation in the making and administration of laws and policies; and

(ii) To promote the accountability of Ministers of the Crown and officials, -

and thereby to enhance respect for the law and to promote the good government of New Zealand;

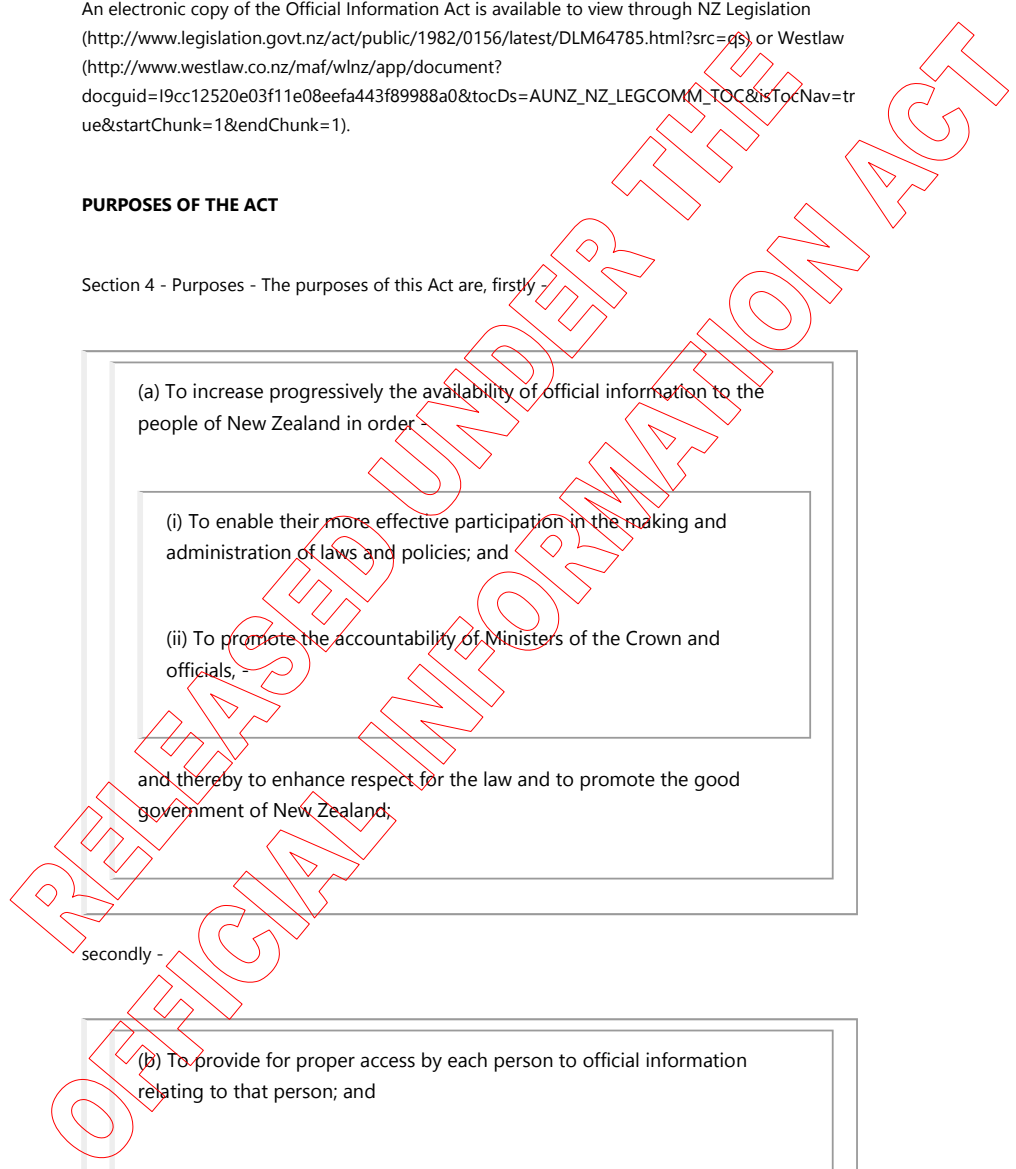
secondly -

(b) To provide for proper access by each person to official information relating to that person; and

lastly -

(c) To protect official information to the extent consistent with the public interest and the preservation of personal privacy.

Section 5 - Principal of Availability - Information is to be made available unless there is a good reason to withhold it.



What IS OFFICIAL information?

Official information is given its widest possible meaning by the Act, not only does it extend to tangible records but has been held by the Ombudsman to extend to the collective memories of officials and Ministers.

FOR EXAMPLE: A recruitment video commissioned by the Treasury in 1990 was regarded as official information in terms of the Act.

Official information is any information held by -

- (i) A Department; or
- (ii) A Minister of the Crown in his official capacity; or
- (iii) An organisation. An organisation includes a wide range of Crown entities and other bodies including State enterprises and their subsidiaries.

The definition also extends to information held by an unincorporated body established for the purpose of assisting or advising, or performing functions connected with, any Department, Minister or organisation.

FOR EXAMPLE: There has been considerable debate over the applicability of the Act to the Crown Forestry Rental Trust. The outcome of this is yet to be finally determined but there are good arguments to be put forward both for and against.

For the remainder of this overview of the Act I will refer to the obligations of departments under the Act, however, it is equally applicable to Ministers and organisations.

WHO CAN MAKE A REQUEST?

Section 12 - Anybody who is a New Zealand citizen, is a permanent resident of or is in New Zealand; a body corporate incorporated in New Zealand or which has a place of business in New Zealand.

Note: That we have been known to receive requests from persons who do not fall within any of these categories - make sure you check the identity of the requester before sending out information.

NATURE OF REQUESTS

Section 12 - Information must be specified with due particularity.

for example: A request for all papers held by the Treasury relating to the Treaty of Waitangi would not be regarded by us as specific enough in terms of the Act.

The Official Information Act Overview

Note: that a request for a large amount of information does not necessarily mean a request has not been specified with due particularity. However such a request may be refused on other grounds i.e. that the information requested cannot be made available without substantial collation or research.

An interesting recent development has been requests for lists of reports and lists of meetings held with Ministers over particular time periods. These appear to be in the nature of fishing expeditions which the Act does not explicitly deal with. If such requests were to continue and are complied with we might as well put all Treasury reports on the Internet!!

DUTY OF ASSISTANCE

Section 13 - It is the duty of every Department to give reasonable assistance to a person, who wishes to make a request, has not made his or her request in accordance with the Act, or has not made his or her request to the appropriate body.

NOTE: Included in responses in any case where a request is not in accordance with the Act should be an offer of assistance - For example - the name of someone able to help the requester properly formulate his or her request should be given to the requester.

TRANSFER OF REQUESTS

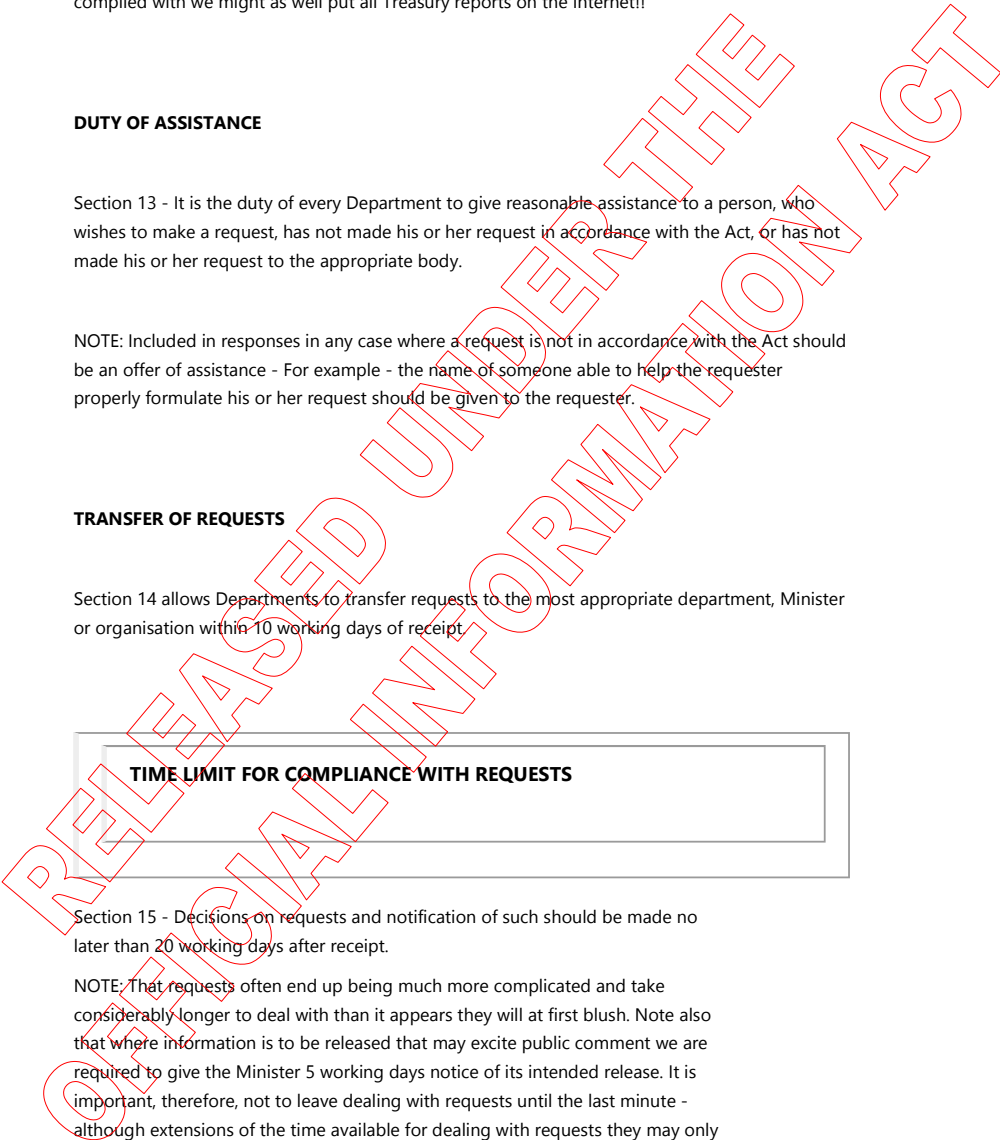
Section 14 allows Departments to transfer requests to the most appropriate department, Minister or organisation within 10 working days of receipt.

TIME LIMIT FOR COMPLIANCE WITH REQUESTS

Section 15 - Decisions on requests and notification of such should be made no later than 20 working days after receipt.

NOTE: That requests often end up being much more complicated and take considerably longer to deal with than it appears they will at first blush. Note also that where information is to be released that may excite public comment we are required to give the Minister 5 working days notice of its intended release. It is important, therefore, not to leave dealing with requests until the last minute - although extensions of the time available for dealing with requests they may only be used in certain circumstances.

Section 15A - The time limits can be extended where:



- (a) 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 the Department or

- (b) 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.

Such extension must be reasonable having regard to the circumstances.

FOR EXAMPLE: A request for an extension where it was necessary to consult with other departments or organisations on the release or otherwise of the information is likely to be regarded by the Ombudsman as reasonable in the circumstances but such extension must not be for an unreasonable length of time.

Section 15 permits reasonable charging for requests.

Note: Time spent considering a request can not be charged for. Cabinet has issued guidelines for charging under the Act and charges made in accordance with these are generally regarded by the Ombudsman as reasonable.

HOW THE INFORMATION IS MADE AVAILABLE

Section 16 - The information may be made available in various ways including:

- (a) By giving the person a reasonable opportunity to inspect the document;
or
- (b) By providing the person with a copy of the document; or
- (c) By giving an excerpt or summary of the contents; or
- (d) By furnishing oral information about its contents.

NOTE: That when written information is provided to requesters it should be copied on to paper bearing the legend "RELEASED UNDER THE OFFICIAL INFORMATION ACT". This is available in all branches - see your support staff.

Section 17 allows for partial disclosure of information by the deletion or alteration of some information.

NOTE: That the Ombudsman has taken the view that often the problems associated with disclosure of the actual words can be overcome by providing a summary which contains the substance of the information.

NOTE: That all deletions or alterations are information withheld and must be treated accordingly i.e. good reasons within the terms of the Act must exist for the information being withheld.

NOTE: Also that if a document contains other material which is not relevant to the request such information should be deleted and a note made on the document that the deleted material is not relevant to the request.

REFUSAL OF REQUESTS

Section 18 provides the grounds upon which a request can be refused, namely:

- (a) That, by virtue of various sections of the Act there is good reason for withholding the information;
- (b) That, the department concerned does not confirm or deny the existence or non-existence of the information requested;
- (c) That the making available of the information requested would be contrary to any Act, or constitute contempt of Court or of [the House of Representatives];
- (d) That the information requested is or will soon be publicly available;
- (e) That the document alleged to contain the information requested does not exist or cannot be found;
- (f) That the information requested cannot be made available without substantial collation or research;
- (g) That the information requested is not held by the Department and the person dealing with the request has no grounds for believing that the information is either held by another Department, Minister or organisation or connectedore closely with the functions of another Department, Minister or organisation; and
- (h) That the request is frivolous or vexatious or that the information requested is trivial.

NOTE: That (a) is most likely to be the reason used by the Treasury for refusing to release information. The section of the Act under which we withhold information is usually section 9. However, given the widespread interest in and the number of documents published by this department every year (such as budgets, fiscal updates etc) (d) is also often used.

Section 6 provides for conclusive reasons for withholding official information, where the making available of that information would be likely to:

(b) To prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by -

(i) The government of any other country or any international organisation; or

(e) To damage seriously the economy of New Zealand by disclosing prematurely decisions to change or continue Government economic or financial policies in relation various matters such as taxation.

NOTE: That to my knowledge this section has rarely been used by the Treasury as a reason to withhold information.

Section 9 provides good reasons for withholding official information where it is necessary to:

- (a) Protect the privacy of natural persons;

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(b) Protect information where the making available of the information -

(i) Would disclose a trade secret; or

(ii) Would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or

(ba) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any act, where the making available of the information -

(i) Would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or

(ii) Would be likely otherwise to damage the public interest; or

(c) Avoid prejudice to measures protecting the health or safety of members of the public.

(d) Avoid prejudice to the substantial economic interests of New Zealand; or

(e) Avoid prejudice to measures that prevent or mitigate material loss to members of the public.

(f) Maintain the constitutional conventions for the time being which protect -

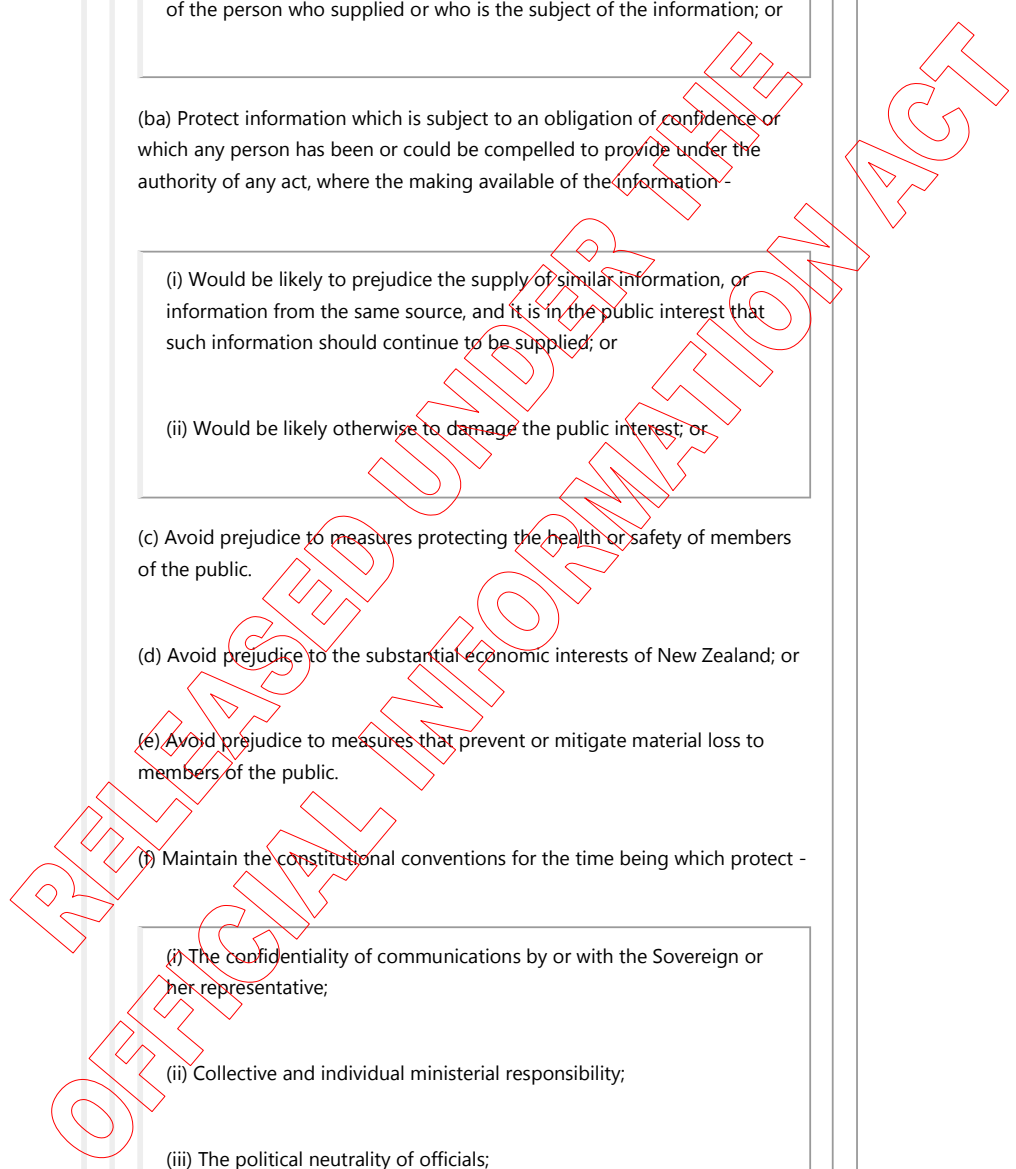
(i) The confidentiality of communications by or with the Sovereign or her representative;

(ii) Collective and individual ministerial responsibility;

(iii) The political neutrality of officials;

(iv) The confidentiality of advice tendered by Ministers of the Crown and officials; or

(g) Maintain the effective conduct of public affairs through -



- (i) The free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any Department or organisation in the course of their duty; or
- (ii) The protection of such Ministers, members of organisations, or officers or employees of any department from improper pressure or harassment; or

(h) Maintain legal professional privilege; or

- (i) Enable a Department holding the information to carry out, without prejudice or disadvantage, commercial activities; or
- (j) Enable a Minister of the Crown or any Department or organisation holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- (k) prevent the disclosure or use of official information for improper gain or improper advantage.

NOTE: That Information is most often withheld by the Treasury on the grounds of section 9(2)(f)(ii) and (iv) and 9(2)(g)(i) in relation to policy advice and 9(2)(b)(ii), 9(2)(i) and 9(2)(j) in relation to commercial matters.

FOR EXAMPLE: A request for macro economic forecast material generated for the budget was refused on the grounds of section 9(2)(f)(iv) and (g)(i). This refusal was appealed to the Ombudsman who ultimately upheld Treasury's decision to withhold.

An example of information withheld under section 9(2)(f)(ii) is where the subject matter of the information is with Ministers for decisions. The Ombudsman has decided that in these circumstances Ministers are entitled to undisturbed consideration of the issues concerned.

Even if you feel you have established that there is good reason to withhold information under section 9 the section requires you to consider whether the particular circumstances of the case the withholding is outweighed by other considerations which render it desirable in the public interest to make that information available.

For example: In the Treasury Recruitment Video case the Ombudsman considered that although there was good reason in terms of Section 9(2)(a) to withhold the information there was a countervailing public interest that outweighed those and recommended that the video be released

Section 19 - Reasons for refusal of requests are to be given and applicants should be informed of their right to complain to the Ombudsmen.

NOTE: That examples of the wording used to do this are contained in the Communications Handbook. In general in an initial response which contains a refusal we cite the sections of the Act on which we are basing our refusal. The actual reasons i.e. any damage that we perceive would result from release, are not given unless a requester seeks that information.

THE OMBUDSMEN

Section 28 - The Ombudsmen is able to review decisions by Departments in relation to official information ie where a department refuses to make official information available, charges for granting a request or imposes conditions on the use of information.

REVIEWS BY THE OMBUDSMAN

Section 29A - Departments must cooperate to the fullest extent with any inquiry by the Ombudsman into OIA complaints.

The Ombudsman has the right to full access to any material covered by an OIA request including any material withheld from the applicant, as well as any material showing why and how a decision was made to withhold information.

Generally, Ombudsman's inquiries must be answered within 20 working days.

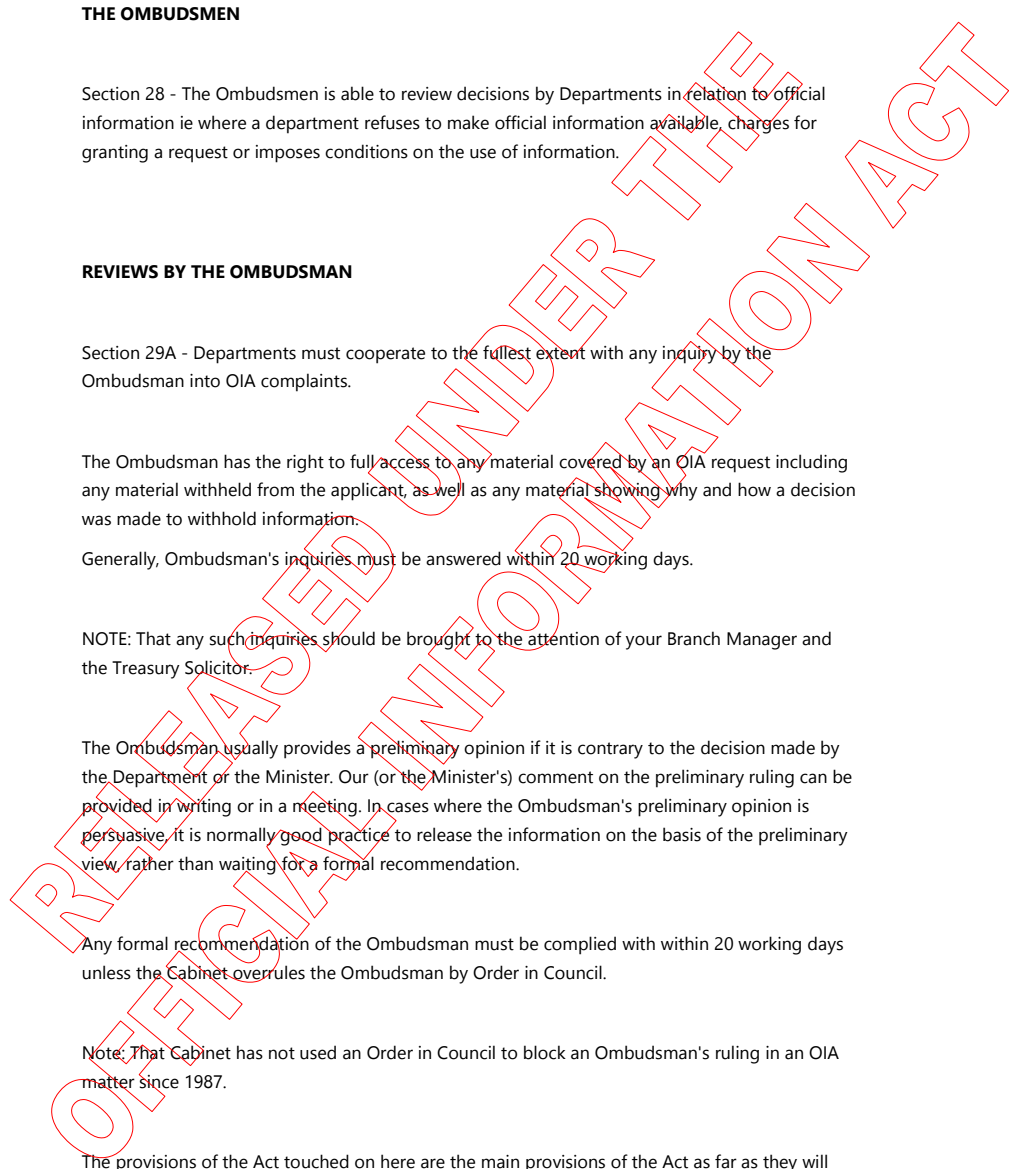
NOTE: That any such inquiries should be brought to the attention of your Branch Manager and the Treasury Solicitor.

The Ombudsman usually provides a preliminary opinion if it is contrary to the decision made by the Department or the Minister. Our (or the Minister's) comment on the preliminary ruling can be provided in writing or in a meeting. In cases where the Ombudsman's preliminary opinion is persuasive, it is normally good practice to release the information on the basis of the preliminary view, rather than waiting for a formal recommendation.

Any formal recommendation of the Ombudsman must be complied with within 20 working days unless the Cabinet overrules the Ombudsman by Order in Council.

Note: That Cabinet has not used an Order in Council to block an Ombudsman's ruling in an OIA matter since 1987.

The provisions of the Act touched on here are the main provisions of the Act as far as they will affect your work in Treasury. In dealing with requests you will find most of the information you need in the Communications handbook, the Case notes of the Ombudsmen and of course the Act. The Communications Directorate and legal section are available to answer any queries you may have.



(<http://www.treasury.govt.nz>) [Return to old Intranet \(http://portal/sites/treasury/default.aspx\)](http://portal/sites/treasury/default.aspx)

Feedback (mailto:Communications@treasury.govt.nz;web.publishing@cass.govt.nz?Subject=TSY%20Intranet%20Feedback)

The-Official-Information-Act-Overview (/people-and-teams/Ministerial%20Advisory%20Service/Pages/The-Official-Information-Act-Overview.aspx) The Official Information Act Overview

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Tipsheet - When is a request an OIA?

SharePoint

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Last Modified : 5/05/2017
1:00 a.m.

Tipsheet - When is a request an OIA?

Oyez, Oyez - when is an OIA an OIA?

When you get an outside request for information, how do you know whether or not to treat it as an OIA request and send it to [Ministerial Services](#) to be logged?

Is it from another Government department or agency?

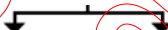


If the answer is Yes - it's not treated as an OIA



Take their request. Refer them to the right section in Treasury. If it's not clear ask the Ministerial Coordinator who can ring around to find who to ask.

Is it from someone working on contract or as a consultant to another department or agency?



If asking on business related to work for other companies, or personal research - it is treated as OIA

If they're asking on business related to their work for that agency - then it's not treated as OIA



Treat the same as for a request from another department or agency

Take details of their requests and refer to [Ministerial Services](#) for logging the OIA request

Is it for information that has already been published (e.g. Annual Reports, Working papers, data available on website)?



If the answer is Yes - it's not treated as an OIA

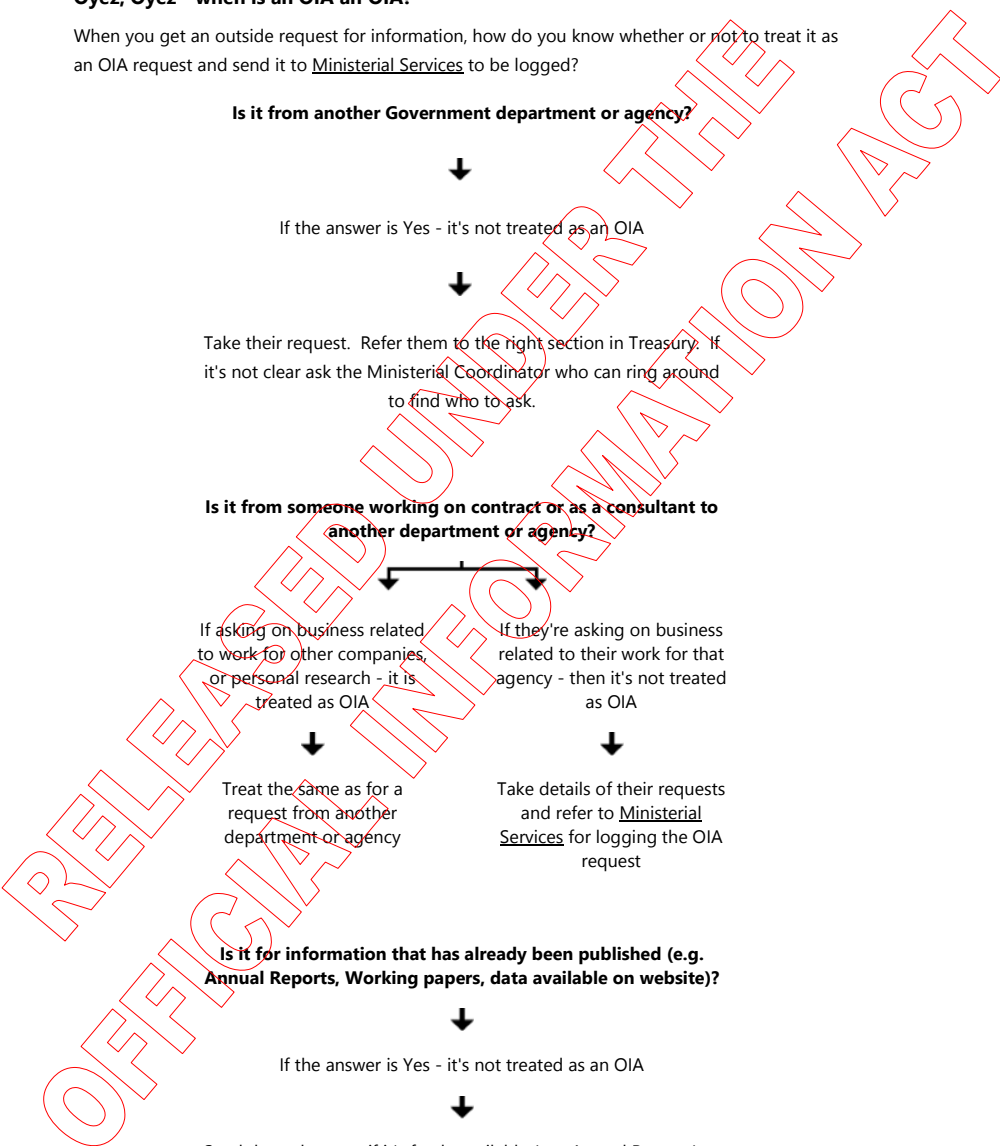


Send them the copy if it's freely available (e.g. Annual Reports) or refer them to library or website to get it

Is it a request for previously released material?



Take their request and contact details. Tell them you'll get back to them



Tipsheet - When is a request an OIA?

Consult the right section in Treasury, probably the section who wrote the reports. (If it's not clear check with your Team Leader or the Ministerial Coordinator) Ask the authors or manager to look over the report and get back on whether they are happy to release it directly, or whether they want to put it through the OIA process again



If the section or manager is ok about releasing it, get the report copied and sent to the requestor



If the section manager wants to treat it as an OIA request, inform the requestor and send the request to Ministerial Services for logging

What if you aren't sure whether the material has been published before?



Take their request and contact details and get back to them



Consult the right section in the Treasury, probably the section who wrote the reports. (if it's not clear check with your Team Leader or the Ministerial Services). Ask the authors or manager to look over the report and get back on whether they are happy release it directly or whether they want to put it through the OIA process again.



If the section or manager is ok about releasing it, get the report copied and sent to the requestor



If the section or manager wants to treat it as an OIA request, inform the requestor and send the requestor to Ministerial Services for logging.

Is it very wide-ranging or vague request, e.g. Government spending in all areas, Treasury influence on any legislation?



If the answer is Yes - it's too broad to be treated as an OIA



If you aren't sure, discuss the question with your section or manager



Refer them to their school or local library, Treasury or other website, or recommend some general information, such as Yearbooks, Annual Reports, Decisionmaker Guides



If they still want to make an OIA request, send it to Ministerial Services to be logged. Once it has been assigned to an analyst, it will be their job to contact the requestor to refine the request

Is it a request more closely related to the role of another agency, eg ACC budgeting?



Tipsheet - When is a request an OIA?

If the answer is clearly Yes - the caller should be directed to the agency that deals with that area



If you aren't sure, discuss the question with your section or manager



If they still want to make an OIA request or Treasury, send it to Ministerial Services to be logged. Once it has been assigned to an analyst, it will be their job to write a letter transferring the request to another agency, if appropriate

Is it a very vague request, eg the effect of climate on NZ's economy?



See if the caller has any more information about where their request comes from - was it prompted by a news item? Check the Treasury website - it may be from a working paper



If you are still unsure, discuss the question with your section or manager - someone else might have more ideas



If you find the source is a working paper or other item on the website, make arrangements to send the person a copy, or refer them to the link



If they still want to make an OIA request, for example, if they want more information than is publicly available, send it to the Ministerial Services to be logged

Warning Bells - when to alert others

For some requests, according to topic or the requestor, you should consider treating them as OIAs or making sure to inform Treasury staff who might be affected:

Look out for subject areas where:

- The subject area is controversial, or has been in the news a great deal. Examples are the sale of Air NZ, the Australia-US Free Trade Agreement;
- The advice or facts in the information are controversial or unexpected - or can be portrayed as such. An example is the working paper which portrayed Treasury as supporting a common NZ/Australian currency;
- The information reveals differences of opinion among Ministers or Government agencies, or between the Minister and Treasury;
- The papers have been released before but their subject matter has been in the news again recently. An example might be material about NZ's nuclear free policy in light of recent US Free Trade Agreement discussions.

Be mindful of who has made the request:

- Generally, releasing to academics is low risk, whereas releasing to media or the opposition is higher risk;
- Remember that the Minister's office must be informed of any requests for Official Information from the media or politicians;
- It's also a good idea to let the Communications Group know, if a request has come in from the media, or a politician.

And if you're not sure? Ask the:

Tipsheet - When is a request an OIA?

- section who wrote the paper;
- Communications Group;
- Legal Group;
- Ministerial Services

Or let people know:

- Your Team leader;
- Ministerial Services (who can keep the Minister's office informed);
- Communications;
- Section who is affected.

Remember - if unsure:

- Ask someone.
- Mention it to someone.
- Make a note of it.
- Bring it up at a meeting with your section.



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zealand-treasury) (<http://www.youtube.com/nztreasury>)

Tipsheet--When-is-a-request-an-OIA (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Tipsheet--When-is-a-request-an-OIA.aspx) Tipsheet
- When is a request an OIA?

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Office of the Ombudsmen advice and guidelines

Guidelines

The [Office of the Ombudsmen website](http://www.ombudsmen.govt.nz/index.htm) (<http://www.ombudsmen.govt.nz/index.htm>) publishes [practice guidelines](http://www.ombudsmen.govt.nz/guidegenintro.htm) (<http://www.ombudsmen.govt.nz/guidegenintro.htm>) to assist holders and requestors of official information. The guidelines cover administration of the legislation and the Ombudsmen's current approach to particular parts of the legislation.

- For information on how to process Ombudsmen's investigations in Treasury see [Ombudsmen's Investigations](#) (</help-me-with/IM/Pages/Ombudsmen%27s-Investigations.aspx>)

Publications

The website's [publications index](http://www.ombudsmen.govt.nz/Publications.htm) (<http://www.ombudsmen.govt.nz/Publications.htm>) lists a range of publications, including annual reports, special reports and the [Ombudsmen's Quarterly Review](http://www.ombudsmen.govt.nz/quarterl.htm) (<http://www.ombudsmen.govt.nz/quarterl.htm>), and includes a consolidated index searchable by subject.

- A pdf of the Quarterly Review is also accessible from Treasury's Library catalogue - [Quarterly Review on Liberty](http://liberty/liberty3/gateway/gateway.exe?application=Liberty3&database=library&searchform=opac/srchfull0&displayform=opac/list&SRCHMMID=760298) (<http://liberty/liberty3/gateway/gateway.exe?application=Liberty3&database=library&searchform=opac/srchfull0&displayform=opac/list&SRCHMMID=760298>) - and paper copies are held in our collection.

Selected editorials from the Ombudsmen's Quarterly Review

- [The Public Records Act](http://www.ombudsmen.govt.nz/downloads%20Quarterly%20reviews/oqr11-3.pdf) (<http://www.ombudsmen.govt.nz/downloads%20Quarterly%20reviews/oqr11-3.pdf>) - The Public Records Act came into force in April 2005. Expectations regarding document retention and management within government organisations are discussed in the editorial of September 2005.
- [Requests for Draft Documents](http://intranethome/opennrl.asp?number=456262) (<http://intranethome/opennrl.asp?number=456262>) - The Editorial of the December 2001 looks at whether draft documents should be released if requested. In short, the OIA does not provide particular protection for draft documents, however there are often good reasons under the Act for declining requests for them.

In March 2002 the Office of the Ombudsmen issued two important pieces of advice to help with successful & efficient processing of OIA requests:

- [A General Release Of Information May Not Satisfy A Specific Information Request](http://intranethome/opennrl.asp?number=443710) (<http://intranethome/opennrl.asp?number=443710>) - One page guidance about how to avoid the situation where a general release of information does not meet the specific information request.
- [Trivial Information](http://intranethome/opennrl.asp?number=443711) (<http://intranethome/opennrl.asp?number=443711>) - In March 2002 the Office of the Ombudsmen clearly identified that s18(h) of the OIA can be used for a request to be declined (in full or in part) if the information request is trivial (for example in the case of widely framed requests that would include non-substantive emails)."



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[Office-of-the-Ombudsmen-advice-and-guidelines \(/people-and-teams/Ministerial%20Advisory%20Service/Pages/Office-of-the-Ombudsmen-advice-and-guidelines.aspx\)](/people-and-teams/Ministerial%20Advisory%20Service/Pages/Office-of-the-Ombudsmen-advice-and-guidelines.aspx) Office of the Ombudsmen advice and guidelines

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Lessons Learned

1. Lessons in Making Judgements

The **presumption is to release** all information requested unless there are legitimate grounds not to.

While the OIA provides the grounds to withhold, there is **significant scope for judgement** in considering how those grounds apply in specific circumstances. We need to **apply lateral thinking** and ensure any basis to withhold is founded on **sound argument** that will be upheld by the Ombudsmen if we are challenged. Treasury has a good reputation for not needlessly withholding information (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Withholding-Information.aspx) and we want to maintain our reputation.

The objectives of the Act are also worth reading to help inform judgements about what can be withheld. In particular, they focus on the need to **balance the public interest and the effective conduct of public affairs**.

Frequently used withholding provisions. Sections 9(2)(f)(iv) and 9(2)(g)(i) apply when it is necessary to withhold information to -

(f) maintain the constitutional convention for the time being which protect -

(iv) the confidentiality of advice tendered by Ministers of the Crown and officials.

(g) maintain the effective conduct of public affairs through -

(i) the free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duties.

Application of 9(2)(f)(iv) and 9(2)(g)(i). No precise rules, but relevant to note:

- Separate reasons but in practice closely related.
- On general level, protection where necessary in the public interest for information relating to the internal workings of government.

Making a Judgement under s9(2)(f)(iv). Shorthand is "Ministers entitled to undisturbed consideration" - the focus is on protecting the constitutional position of the Crown and allowing for active consideration by Ministers. There are no precise rules of application, but experience shows relevant factors may include:

- content of the advice;
- context in which it was generated;
- whether a decision has been taken (Are Ministers considering the information or likely to make a decision in the near future? Length of time before a decision is relevant to 'active' consideration - there's no set rule, but the further away the decision is, the less likely it is a basis to withhold);
- extent to which the information is already publicly available.

Making a Judgement under 9(2)(g)(i). Shorthand: "Free and Frank advice". No precise rules of application, but generally:

Lessons Learned

- only where disclosure of particular information is likely to inhibit the future expression of free and frank opinions and therefore affect the conduct of public affairs.
- It is relevant to consider not only the way the advice is worded, but also whether releasing it would mean that we were not prepared to provide the advice (or similar) at all in the future.
- It is not sufficient for the information under consideration to be 'embarrassing' to another party (eg to the person/agency who provided it, or received it, or who is referred to in the advice).

Consideration of **Ombudsmen's decisions may help judgements**

- Note the Ombudsmen maintain that their decisions do not create precedent. In practice, however, Treasury has referred to previous Ombudsmen's decisions as part of our justification for further withholding decisions (eg savings bids during the budget). BMB coordinated a recent example.

Case Study Lessons: Request to Minister of Finance and to various Ministers in relation to specific papers setting out savings options within their portfolio

"Cabinet papers, correspondence, ministerial briefings and other documents concerning savings identified by departments and Ministers in response to your call for savings in government spending on 20 December 1996". All requests were declined and information withheld under sections 9(2)(f)(iv) and 9(2)(g)(i). Requester complained to the Ombudsmen.

- Budget Secrecy. Class or category of information per se is not protected but rather in terms of whether its disclosure would prejudice an interest which the Act specifically protects.
- Ombudsman has accepted 9(2)(f)(iv) and 9(2)(g)(i) has applied to Budget information.
- Generally once decisions made and announced information would not normally require ongoing protection.
- Process followed (lessons for lateral thinking and judgement): Minister of Finance wrote to the Ombudsmen prior to individual Ministers dealing with the request. The substance of the letter was to: seek agreement to deal with the generic issue prior to Ministers' responding individually; justify lead by the Minister of Finance because of the threat to the integrity of the budget process; explain the requested information actually had a three year horizon; link to free and frank expressions of opinions; assert likelihood of fewer savings options coming forward because of criticism for putting forward options even if not taken up. Offer to make information where decisions made and announced available in summary form; offer to meet.
- Ombudsman upholds withholding.

If in doubt, or if you need help in applying judgements to a specific OIA, contact the **Legal Group** (</people-and-teams/Legal/Pages/Legal-Services-Team.aspx>).

2. Process Lessons

Currently we have more requests, and more complex requests, coming directly to Treasury than in the past. Those we refer to the Minister's office are being coordinated in the PM's Office. Ministers' offices are also actively considering the wide variety of proposed releases (the PM's office is coordinating all OIA releases). Under these conditions, it's harder to meet deadlines. Key lessons from experience, in addition to those in the [process flowcharts](#) (<http://intranet/oia/flowcharts/default.htm>), are:

- Start early - [scope the request](#) (</people-and-teams/Ministerial%20Advisory%20Service/Pages/Considering-the-Request.aspx>) on the first day you get it. You may need to refuse the request if it requires substantial collation or research (s18(f)) or contact the requestor to narrow the request. Generally, the latter is recommended.
- Be clear at the outset who is releasing any material - the Minister or Treasury. Once clear, keep the Minister's office fully informed and involved in the release.
- Talk to other Departments early. Different departments have different views about [releasing information](#) (</people-and-teams/Ministerial%20Advisory%20Service/Pages/Releasing-Information.aspx>) and different processes for determining release. If we can't agree a joint approach we can (and should) transfer the part of the request authored by another department

Lessons Learned

early.

- Depending on the timeline, more resources may be required. The OIA may need to be divided into more manageable tasks. Agree task allocation and accountabilities early. Revisit early, if necessary.
- It always takes longer than you think to get the administration and production side organised. The checking of reports, photocopying of pages containing withheld text and quality assurance of the production phase all take considerably longer than expected.
- It is advisable to agree a process for receiving feedback from the Minister's office with the Minister's staff before the material is sent over, if possible. One option is to add after each release/ withhold recommendation: (agreed/declined/discuss).
- Get information to be released to Ministers' offices early (and/or warn them of timeframe early).
- The process for the final quality assurance of the release should be organised from the start. Include at least 1 day for final quality assurance processes and agree early with Manager when this will be.
- Use the OIA website and other experienced people for advice.

Extension Hint

If you think you will need an [extension](/people-and-teams/Ministerial%20Advisory%20Service/Pages/Collating-the-Information.aspx) (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Collating-the-Information.aspx) take a longer extension time than you think you'll need - it's better than requesting multiple extensions. And there's nothing stopping you providing the info earlier than indicated if it's possible.

Transfer Hints

- Transferring to Ministers generally occurs when we have a disagreement as to whether material should be released or not. Under the Act, Departments have a right/responsibility to act independently (can't be directed by Ministers). In practice, we can decide that Ministers may be in a better position to judge, or have additional information, and therefore transfer the request to them.
- You can transfer to Ministers any information held by Treasury for them to take a decision on whether or not to release (ie, it is possible for Ministers to take a decision on "Treasury information").
- Work closely with the Minister's office: if you are to meet the timeframe for transfer as a way to manage a particular release, you need to know early whether Ministers may wish to consider withholding specific information where Treasury may not have identified grounds for withholding.
- See [transferring the request](/people-and-teams/Ministerial%20Advisory%20Service/Pages/Transferring-the-Request.aspx) (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Transferring-the-Request.aspx)

Dealing with multiple agencies. Currently the same request is more often being sent to multiple agencies:

- If you hold information prepared by another department that is covered by the request to Treasury, contact the Department **early** to see whether they have the same request. If they do not, discuss whether you need to transfer or can agree to a joint release. Build time into your process for this to occur.
- Different agencies have different opinions as to whether the material should be released. It can be important to know the approach taken by other agencies to the same material and to make Ministers' offices aware of this.
- The Ombudsmen's Office can sometimes be a useful (informal) sounding board on deciding whether or not to release information (although note that advice given is unlikely to add weight to a decision not to release if it were later contested). Treasury has used the Ombudsmen's Office to informally discuss differing views between Treasury and another Department on what to release - this helped break a deadlock between Treasury and the Department.
- In some cases Treasury and another Department may take a different view on similar information such that the Department releases that information and Treasury does not. Withholding grounds must be sound (see above and double check with legal in this case) and

Lessons Learned

Ministers' offices and Communications need to be informed, preferably prior to the Department releasing the information.

Dealing with very broad requests (eg "copies of all correspondence, briefings, reports, advice, aide memoirs, and backgrounders held by Treasury in relation to xyz"):

- Be prepared to narrow the request early. It can be more efficient to contact the requester to better specify the request, rather than get locked into sorting through huge piles of information. Experience shows that most requestors are looking for something specific and will discuss narrowing their request. This does not have to be in writing.
- In July 2000 CCMAU sought to withhold all emails included in an OIA under s9(2)(f) (iv) and, in a few cases, s9(2)(g)(i). With (9(2)(f)(iv) they argued that a department in the constitutional context has to present Ministers with a single stream of advice and recommendations. Release of early emailed comments (not necessarily reflecting the final departmental product or view - given the subject paper would itself be developing) would undermine that principle. The Ombudsman confirmed their entire withholding decisions under section 9(2)(f) alone. (Note that Ombudsmen decisions are not precedent setting - this decision does not mean that all emails can be withheld under the Act - but rather Ombudsmen's decisions provide some guidance as to acceptable grounds to withhold.)
- In March 2002 the Office of the Ombudsmen issued two significant pieces of advice (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Office-of-the-Ombudsmen's-advice-and-guidelines.aspx), "A General Release Of Information May Not Satisfy A Specific Information Request" & a guidance note on trivial information.

Dealing with snowballing OIAs (where answering broad requests can lead to multiple further requests) is easier if you:

- Keep organised files
- Keep language professional
- Keep a record of reasons for withholding
- Keep a diary of timelines
- Consider managed release. In some situations proactively managing the release of the information will avoid unnecessary reliance on the OIA for its release. An example in the health reforms was that the Minister of Health established a website for the release of public papers.

3. Media Lessons

A Identifying Controversy

Public Comment is likely if:

- the subject area is controversial, or has been in the news a great deal. A recent example is the release of our working paper on the brain drain.
- the advice or facts in the information are controversial or unexpected - or can be portrayed as such. An example here is the working paper on common currency which we released, and it was portrayed as Treasury supporting a common currency.
- the information reveals differences of opinion among Minister or Government agencies. A good example is our advice that increased certainty of public provision of retirement income would have a negative impact on private savings - something which the Minister disagreed with.

Who you're releasing it to is important - generally, releasing to academics is low risk, whereas releasing to media or the opposition is higher risk.

Re-releasing info (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Logging-the-Request.aspx). In cases where the information has already been released, re-releasing it generally carries less risk. However, be aware that journalists on a quiet news day can often find new angles to a piece of information! Therefore, let the right people know if you're releasing information to the opposition or MPs, even if it has been released before.

B Dealing with the Controversy

Let the Communications Directorate know when you've decided that an OIA release is likely to be contentious. They can make sure the right people are informed.

Lessons Learned

Clearly identify the controversial issues for Ministers' offices. The Minister's press staff simply don't have time to read through every OIA and determine what the issues might be for themselves. The more specific you are about what's controversial the more time you'll save in finalising the OIA with Ministers' offices.

Consider managing releases to ensure comment is more balanced than it might otherwise have been. In the past we have held media briefings to be clear about the status and context of particularly contentious releases, and to provide an environment in which we could have a decent discussion about some of the ideas in the paper. We have also provided covering letters explaining the material and providing suitable quotes for journalists. Talk to the Communications directorate if you want to consider this type of approach.

Prepare for follow-up requests. If you're releasing information that's likely to get media coverage, you should make sure you're prepared for the follow-up requests that flood in once the material is given some media coverage. One way of doing this is to put the material on the Internet. Otherwise, having a pile of photocopied material ready to send out is a good idea.



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Lessons-Learned (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Lessons-Learned.aspx) Lessons Learned

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Withholding Information

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4:17 a.m.

Can the Minister tell me to withhold information?

When a request is made to the Minister (a MOIA), the Treasury advises the Minister on how s/he should respond to the request, and prepares the necessary paperwork, but the Minister makes the decision whether to release or not.

When a request is made to the Treasury (a TOIA), the decision whether to release or not is ours alone. You must not invite a Minister to approve a Treasury release of information. You may advise the Minister of any implications of the release, but asking the Minister for an instruction is outside the terms of the OIA.

If, in your opinion under section 14, the decision on an TOIA is for the Minister to make, then transfer the request formally to the Minister and advise the requester accordingly.

Sometimes during consultations it will become clear that the Minister disagrees with the Treasury's intention to release information under the OIA. When this remains unresolved, we can transfer the request to the Minister if we believe, on reasonable grounds, that the relevant information is more closely connected with the functions of the Minister. Note that a Ministerial request for transfer is one of the factors to weigh up in considering whether the relevant information is more closely connected with the functions of the Minister.

Can I refuse to provide information?

The main premise of the OIA is the "principle of availability": **information shall be made available unless there is good reason for withholding it.**

All decisions on whether to release information must be made with this provision in mind. And the Court of Appeal has held that if the decision-maker is having difficulty deciding, s/he should come down on the side of availability of information.

Consider each document paragraph by paragraph. Just because the document contains a piece of information that should be withheld is not grounds to withhold the whole thing. In these cases, the document should be released with the piece of information deleted.

If any information is withheld, including deletions, the requester must be informed of his or her [right to complain to the Ombudsman](http://intranet/oia/guide/complaintsprocess.htm) (<http://intranet/oia/guide/complaintsprocess.htm>).

How do I make deletions?

Unless the requester asks otherwise, release a new document of the requested information from the electronic document system, rather than a photocopy of the original. This allows you to make any deletions electronically, and store that version in the document system for easy reference as to what has been released. You must ensure that a copy of the document as released is held in our central records. It should have the same security access restrictions as the original unedited document. The Subclass should be OIA-release, and you should [relate it](http://intranet/ki/imanage/menu/saving/Relatingdocuments.htm) (<http://intranet/ki/imanage/menu/saving/Relatingdocuments.htm>) to both the original document and to the OIA request and reply.

The requester must be able to identify where material has been taken out. Mark the place with square brackets and the reason for withholding the information. It's important that you replace text with characters, e.g. soft returns [Shift + Enter] and spaces, to help ensure that paragraph numbering and the amount of space the original text took up is preserved.

It is not necessary to cite reasons for not releasing parts of the documents that contain information that is not covered by the request. In that case, state that you are "releasing the relevant portion[s] of the document[s]" - other material can then be deleted from the document[s] without further comment.

If any deletions relevant to the request are made, the requester must be informed of his or her [right](#)

Withholding Information

[to complain to the Ombudsman](http://intranet/oia/guide/complaintsprocess.htm) (<http://intranet/oia/guide/complaintsprocess.htm>).

If you're releasing documents which contain information not relevant to the request, you may delete this information. Mark the place with square brackets, and note "Not relevant to request." In this case, the requester does not have to be notified of their right to complain to the Ombudsman.

Do not simply make text white, as it is possible for people to recover information from electronic copies of files. For this reason, we prefer that you print it out and manually post it to the requester. However, if there is a need to send it electronically, scan the hardcopy printout as a PDF.

If in doubt about what to delete, check with the [Legal Group](#) (</people-and-teams/Legal/Pages/Legal-Services-Team.aspx>).

Can I impose conditions on the use of the information?

The Ombudsman considers that under section 28(1)(c) there is an implied right for Treasury to "impose conditions on the use, communication, or publication of information" released under the Act. Given the OIA's principle of availability, imposing conditions on the use of information may be preferable to withholding it entirely.

However, the right to impose conditions is at best a tenuous one. Some commentators have argued that the legality and appropriateness of the practice of imposing conditions are doubtful.

In addition, there is no way to enforce any conditions imposed, even if the requester agrees to them.

Therefore, you should consult the [Legal Group](#) (</people-and-teams/Legal/Pages/default.aspx>) if you are considering imposing conditions on the use of information to be released.



<http://www.treasury.govt.nz> | [Return to old Intranet \(http://portal/sites/treasury/default.aspx\)](http://portal/sites/treasury/default.aspx)

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(<http://www.youtube.com/nztreasury>)

[Withholding-Information \(/people-and-teams/Ministerial%20Advisory%20Service/Pages/Withholding-Information.aspx\)](/people-and-teams/Ministerial%20Advisory%20Service/Pages/Withholding-Information.aspx) Withholding Information

Other useful links

SharePoint

Owen Thornber [TSY]

(-)

[Home \(/Pages/default.aspx\)](#) [About \(/About/Pages/default.aspx\)](#) [Key Initiatives \(/Key-Initiatives/Pages/default.aspx\)](#) [People and Teams](#)

Last Modified : 8/11/2016
4:22 a.m.

Other useful links

The Official Information Act: a window on government or curtains drawn? - a paper by Steven Price, November 2005

- <http://www.law.vuw.ac.nz/vuw/fca/law/files/Occasional%20paper%2017.pdf>
(<http://www.law.vuw.ac.nz/vuw/fca/law/files/Occasional%20paper%2017.pdf>)

Laws, policy, directives from Cabinet

- [The Official Information Act \(/people-and-teams/Ministerial%20Advisory%20Service/Pages/The-Official-Information-Act-Overview.aspx\)](#) (electronic copy)
- [Cabinet Office Manual \(Section 6: Official Information : protection, availability and disclosure\)](#) (<http://www.dpvc.govt.nz/cabinet/manual/6.html>)
- [Letter from Dr Cullen to Alan Bollard](#) (<http://intranethome/opennrl.asp?number=437651>) requesting a change in the TOIA referral process. All TOIAs from the Media or Political Parties are to be referred to the Minister's office prior to release.
- [Reminder about OIA Processes from Ministerial Services to Treasury Staff](#) (<http://iimage?number=518520>) (9 April 2003)
Reinforces good practice principles for staff replying to OIA requests.

Research on the Act

- Hager, N. (2002). A researcher's view of New Zealand's Official Information Act. Paper presented at the International Symposium on freedom of information and privacy: Auckland, 28 March 2002, Auckland.
<http://www.privacy.org.nz/media/isfoipnh.html>
(<http://www.privacy.org.nz/media/isfoipnh.html>)
- Stewart, B. (2002). Taking freedom of information laws into the future. Paper presented at the International Symposium on freedom of information and privacy: Auckland, 28 March 2002, Auckland.
<http://www.privacy.org.nz/media/isfoipblair2.html>
(<http://www.privacy.org.nz/media/isfoipblair2.html>)
- [Requests made under the Official Information Act 1982: a survey at the agency level](#) (<http://intranet/oia/survey.doc>), by Dave Clemens for the requirements for the degree of MLIS
- [Transcript of interview on National Radio about OIA](#) (<http://intranethome/opennrl.asp?number=459619>) (RNZ 'Media Watch', Sunday 9 June 2002)

Checklist for Analysts

- [MTA Notes and OIA Checklist for Analysts](#) (<http://iimage?number=633099>)
- [OIA Workflow - iManage](#) (<http://intranet/ki/iManage/menu/workflow/oia.htm>)
- [OIA Requests - Document Management Information](#) (<http://intranet/ki/docforMinisters/oiarequests.htm>)
- [OIA Research Tips - iManage](#) (<http://intranet/ki/iManage/menu/search/oiaresearch.htm>)



<http://www.treasury.govt.nz> [Return to old Intranet \(<http://portal/sites/treasury/default.aspx>\)](#)



[Feedback \(mailto:Communications@treasury.govt.nz;web.publishing@cass.govt.nz?Subject=TSY%20Intranet%20Feedback\)](mailto:Communications@treasury.govt.nz)



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[https://www.linkedin.com/company/new-](https://www.linkedin.com/company/new-zealand-treasury)

zealand-treasury) <http://www.youtube.com/nztreasury>

[Other-useful-links \(/people-and-teams/Ministerial%20Advisory%20Service/Pages/Other-useful-links.aspx\)](#) Other useful links

SharePoint

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(↵)

[Home \(/Pages/default.aspx\)](#) [About \(/About/Pages/default.aspx\)](#) [Key Initiatives \(/Key-Initiatives/Pages/default.aspx\)](#) [People and Teams \(/pe](#)

Last Modified : 18/11/2016
6:39 a.m.

Causing Public Comment

Is the release likely to cause public comment?

If a Treasury OIA is likely to attract public comment, or if it is from a political party or the media, you must inform the Minister of the release at least five working days before the information is due to be released. This enables the Minister to state any reasons why the information should not be released, to develop any communication strategies necessary, and to notify any other minister(s) who might be affected by the release.

Judgement is required in deciding whether a release fits into this category. While we don't want to flood ministers with notifications of trivial releases, we do want to keep them informed of releases on which they are likely to want to comment, or to be asked to respond to.

A release may be likely to lead to public comment if:

- the information has never been released before
- the information is being given to media, an interest group, or an opposition MP
- the subject area is controversial or has been in the news a great deal
- the advice or facts in the information are controversial or unexpected
- the information reveals differences of opinion among ministers or government agencies

The [Communications Directorate](http://zephyr/ngaingoa/ListNode.asp?NodeName=Communications) (<http://zephyr/ngaingoa/ListNode.asp?NodeName=Communications>) can help you to decide whether a report is likely to attract public comment if you're unsure.

If you decide the release is likely to attract public comment, you should send the Minister a Treasury report outlining the nature of the request and attaching the draft response to the requester. The report generally asks the Minister to refer the information and response to their press staff.

The report should state clearly the likely issues involved in releasing the information. It is not enough to merely state that releasing the information is likely to cause public comment - the Minister's office simply does not have time to read through each planned release and make judgements on the likely communications issues.

The report may also note Treasury's planned strategy for releasing the information.

In the case of a Ministerial OIA, you should note the likely communications issues in the accompanying report. You may also wish to make recommendations on how to manage these risks.

In the case of both Treasury and Ministerial OIAs, the Communications Directorate can help you to identify and evaluate the likely communications risks, as well as developing a strategy for managing these risks. Often the extent or severity of public comment can be mitigated by carefully managing the release of the information.

You must not invite the Minister to approve a Treasury release of information. See [Can the Minister tell me to withhold information?](http://intranet/oia/guide/withholdinginfo.htm#Can%20the%20Minister%20tell%20me%20to%20withhold%20information?) (<http://intranet/oia/guide/withholdinginfo.htm#Can%20the%20Minister%20tell%20me%20to%20withhold%20information?>) .

In cases where a minister/ministers other than Treasury Ministers may have an interest in the release, and the release is likely to cause public comment, you should include a letter from the Minister of Finance to the relevant minister(s) notifying them of the impending release along with your report to the Minister of Finance. This letter should be sent over to the Minister of Finance as early as possible - but at least five working days before the date of the release. A [template](#) (<http://intranethome/openurl.asp?number=414822>) for this letter is available in iManage.

The Communications Directorate

Causing Public Comment

In any case where the release of information is likely to lead to public comment, you should contact the [Communications Directorate](http://zephyr/ngaingoa/listnode.asp?nodename=Communications) (http://zephyr/ngaingoa/listnode.asp?nodename=Communications) as early as possible. They will be able to help you identify and evaluate the likely communications risks, and assist you to manage the release process.

[Elisa Eckford](http://zephyr/ngaingoa/Ngalngoa.asp?id=568) (http://zephyr/ngaingoa/Ngalngoa.asp?id=568) is the chief contact for OIAs from Social Policy Branch and Assets and Liability Management. [Justin Brownlie](http://zephyr/ngaingoa/Ngalngoa.asp?id=1036) (http://zephyr/ngaingoa/Ngalngoa.asp?id=1036) is the chief contact for OIAs from Budget Management Branch and Regulatory and Tax Policy.

[Back to Releasing information](http://intranet/oia/guide/releasinginfo.htm) (http://intranet/oia/guide/releasinginfo.htm)



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Causing-Public-Comment (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Causing-Public-Comment.aspx) Causing Public Comment

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Filing OIA Requests

SharePoint

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Home (/Pages/default.aspx) About (/About/Pages/default.aspx) Key Initiatives (/Key-Initiatives/Pages/default.aspx) People and Teams (/pe

Filing OIA Requests

Last Modified : 18/11/2016
6:37 a.m.

- A copy of the response and all released material is filed on the Master OIA file (held in the Information Centre)
- A copy of the OIA request and the response is filed on the subject file
- A copy of OIA request and the response is also filed in iManage



(<http://www.treasury.govt.nz>) [Return to old Intranet \(http://portal/sites/treasury/default.aspx\)](http://portal/sites/treasury/default.aspx)

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treasury) (<http://www.youtube.com/nztreasury>)

Filing-OIA-Requests (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Filing-OIA-Requests.aspx) Filing OIA Requests

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Background

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5:37 a.m.

Background

The Official Information Act was passed in 1982 as a result of the perception that the advice and actions of the public sector were too often hidden from public view.

Its purposes are:

- to make official information progressively more available, in order to:
 - enable people to participate more effectively in making and administering laws and policies
 - promote the accountability of Ministers and their officials and thereby enhance respect for the law and promote the good government of New Zealand
 - to provide individuals access to information held about themselves.
- to protect official information when that is necessary for the public interest or to protect personal privacy.

These provisions turned the Official Secrets Act on its head. The goal of the Official Secrets Act had been to protect official information in virtually all circumstances.



(<http://www.treasury.govt.nz>) [Return to old Intranet \(http://portal/sites/treasury/default.aspx\)](http://portal/sites/treasury/default.aspx)

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(<https://www.linkedin.com/company/new-zealand-treasury>)

treasury) (<http://www.youtube.com/nztreasury>)

Background- (/people-and-teams/Ministerial%20Advisory%20Service/Pages/Background-.aspx) Background

Charging for collating the information

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Last Modified : 18/11/2016
6:13 a.m.

Charging for collating the information

The OIA does allow Treasury to fix a charge for the release of Official Information. **However, as a rule, Treasury does not charge for the release of information.**

In the rare case where we do decide to charge, any charge we impose should be reasonable, and have regard to the cost of the labour and materials involved in making the information available. Any costs incurred in order to meet a request for urgency can also be charged for.

If you are considering whether to charge a requester for the release of information under the OIA, you should firstly seek the advice of the Legal Group ([/people-and-teams/Legal/Pages/Legal-Services-Team.aspx](#))



<http://www.treasury.govt.nz> [Return to old Intranet \(http://portal/sites/treasury/default.aspx\)](http://portal/sites/treasury/default.aspx)

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treasury)



<http://www.youtube.com/nztreasury>

[Charging-for-collating-the-information \(/people-and-teams/Ministerial%20Advisory%20Service/Pages/Charging-for-collating-the-information.aspx\)](#) Charging for collating the information



| | |
|-------------------|--|
| OIA Number: | |
| Team: | |
| Manager: | |
| Assigned Analyst: | |
| QA Analyst: | |
| Research Analyst: | |
| Legal Team: | |
| Records Advisor: | |

Title: _____
Requestor: _____

| Item | Doc Date | Document Description | iManage Number (original) | iManage Number (OIA Version) | Relevance to request? (All / Part / None) | Previously released? (Yes / No / Part) | Publicly available? (if so, specify website address) | Release Document? (Full / Part / No) | Withhold information under the OIA? (No / Yes - specify sections) | Is public comment likely? Yes / No | Responsible Analyst | Consultation (Required/Done) | Comments |
|------|----------|----------------------|---------------------------|------------------------------|--|---|---|---|--|---------------------------------------|---------------------|------------------------------|----------|
| 1 | | | Link | Link | | | | | | | | | |

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{{prop:ReceivedByDepartmentDate[display=!]}}

{{prop:SubmitterFullAddress}}

Dear {{prop:SubmitterFullName}}

On behalf of Gabriel Makhlouf, Secretary to the Treasury, I acknowledge receipt of your letter requesting:

“{{prop:QuestionSummary}}”

Your request was received by the Treasury on {{prop:ReceivedByDepartmentDate[display=!]}} and will be dealt with in accordance with the provisions of the Official Information Act.

[For requests sent through www.fyi.org.nz or those without a postal address (on a case-by-case basis). Delete if not applicable.]

To confirm your eligibility to make a request under section 12 of the Official Information Act, please reply by return email giving your [personal email and] postal address. This will also enable us to contact you promptly should clarification of your request be necessary.

Treasury will use the information you provide to establish your eligibility or clarify your request. The information you provide will be subject to the requirements of the Privacy Act 1993 and the Official Information Act 1982.

Yours sincerely

{{prop:CreatedByUser[display=fullname]}}

Ministerial Coordinator



Reference: {{prop:IntReference}}

[ENTER DATE SENT]

{{Prop:SubmitterFullAddress}}

Dear {{prop:SubmitterFullName}}

Thank you for your request made under the Official Information Act, received on {{prop:ReceivedByDepartmentDate[display=!]}}. You requested:

"{{prop:QuestionSummary}}"

I have decided under section 15A of the Official Information Act to extend the time limit for deciding on your request by an additional {{prop:ExtensionDays}} working days. The new due date for responding to your request is XXX.

[Reason: **Consultation** (delete if not applicable)]

The extension is required because of the consultations needed to make a decision on your request.

[Reason: **Quantity of Information** (delete if not applicable)]

The extension is required because your request necessitates a search through a large quantity of information before a decision can be made on your request.

[Reason: **Consultation & Quantity of Information** (delete if not applicable)]

The extension is required because your request necessitates a search through a large quantity of information, and consultations are needed before a decision can be made on your request.

This extension will also apply to the time limit for transferring your request, should this become relevant.

Notwithstanding this extension, I undertake to make a decision on your request as soon as reasonably practicable.

You have the right to ask the Ombudsman to investigate and review this decision.

Yours sincerely

{{prop:Manager}}
{{prop: Manager[display=jobTitle]}}

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Treasury Report: [moto template] TOIA Inform (includes Reply Letter)
2016

| | | | |
|--------------|-------------|---------------------|-----------------------|
| Date: | [Date Sent] | Report No: | {{prop:ReportNumber}} |
| | | File Number: | MS-9-1 |

Action Sought

| | Action Sought | Deadline |
|---------------------|---|---|
| {{prop:portfolios}} | Note the proposed response of the Treasury to the OIA request made by {{prop:SubmitterFullName}} of {{prop:SubmitterOrganisation}} for information regarding {{prop:Summary}}. | {{prop:workflowduedate}} [-1 working day] |

Contact for Telephone Discussion (if required)

| Name | Position | Telephone | | 1st Contact |
|---------------------------|---|--|--|--------------------|
| {{prop: Assignee}} | {{prop: Assignee[display=jobTitle]}} | {{prop: Assignee[display=phoneNumber]}} } (wk) | {{prop: Assignee[display=mobileNumber]}} } (mob) | ✓ |
| {{prop: Manager}} | {{prop: Manager[display=jobTitle]}} | {{prop: Manager[display=phoneNumber]}} (wk) | {{prop: Manager[display=mobileNumber]}} (mob) | |
| {{prop: ResearchAnalyst}} | {{prop: ResearchAnalyst[display=jobTitle]}} | {{prop: ResearchAnalyst[display=phoneNumber]}} (wk) | {{prop: ResearchAnalyst[display=mobileNumber]}} (mob) | |

Actions for the Minister's Office Staff (if required)

Return the signed report to Treasury.
[Check: Does the Office need do anything else?]

Note any feedback on the quality of the report

Enclosure: Yes (attached) **[Do not include iManage links]**

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OFFICIAL INFORMATION ACT

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Treasury Report: [moto template] TOIA Inform (includes Reply Letter) 2016

[Delete sections of report that are not required or relevant]

On {{prop:ReceivedByDepartmentDate[display=1]}}, the Treasury received an Official Information Act request from {{prop:SubmitterFullName}} of {{prop:SubmitterOrganisation}}. The request was:

“{{prop:QuestionSummary}}”

[Check: Has the requestor (or others) made the same/similar request to other agencies?]
 [Check: Was the request clarified/revised by requestor?]
 [Check: Was any part of the request transferred?]

A response to the request is due by {{prop:workflowduedate}}.

[Check: Was the time limit extended?]

The proposed letter of reply and the information for release are attached for your information.

Information to be Released

The following information is covered by the request and proposed to be released.

| Item | Date | Document Description | Proposed Action | Previously Released? Y / N / Unknown | Comms Risk? Y / N |
|------|------|----------------------|-----------------|---|----------------------|
| 1. | | | Release in part | | |
| 2. | | | Release in full | | |
| 3. | | | | | |
| 4. | | | | | |

We propose to release [the relevant parts only of] the documents listed in the above table, subject to information being withheld under the following sections of the Official Information Act, as applicable:

[Check: Do section 6 grounds apply? Common grounds for withholding information are provided below, with a complete list of withholding grounds [here](#):

- personal contact details of officials, under section 9(2)(a) – to protect the privacy of natural persons, including deceased people,
- advice still under consideration, section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials,
- names and contact details of junior officials and certain sensitive advice, under section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions, **and**

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- commercially sensitive information, under 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.

[**Check:** is explanation of context required for Minister?]

Previously Released Documents

[Provide details of any previously released documents, indicating if they were released with the same or different redactions]

[Delete this section if documents have not been previously released or if unknown.]

Communications Implications

[**Check:** does the release of these documents create risk of public comment? If you think there will be media interest, please contact the Communications team.]

[**Check:** Have you researched the requestor? Have they written before? Do they have any affiliations?]

The response to the request [and release of information] may cause public comment because [identify relevant risks and reasons, and how they might be addressed.] In particular:

Doc 1: explain risk and judgements made; identify specific page or para as necessary

Doc 2: explain risk and judgements made; identify specific page or para as necessary

If you do not think there will be any interest, please keep this heading with a line below "No communications implications are expected."

Context

[**Check:** Consider if further explanation or contextual information about the documents being released would be helpful.] {delete this section if not applicable}

Information Publicly Available

The information listed in the table below is also covered by the request and available on the [Treasury, Beehive or other] website. Accordingly, we propose to decline the request for this information under section 18(d) of the Official Information Act – the information requested is or will soon be publicly available.

| Item | Date | Document Description | Website Address |
|------|------|----------------------|-----------------|
| 5. | | | |
| 6. | | | |

[**Check:** has relevant information been removed from published documents? If so:

Some relevant information has been removed from documents listed in the above table and we believe this information should continue to be withheld under the Official Information Act, on the grounds described in the documents.]

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Information to be Withheld

There are additional documents covered by the request listed in the table below that we propose to withhold in full, under [one or more of] the following sections of the Official Information Act, as applicable:

[Check: Do section 6 grounds apply? Common grounds for withholding documents in full are provided below, with a complete list of withholding grounds [here](#):

- advice still under consideration, section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials, and
- commercially sensitive 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.

[Check: Has requestor asked for a list of withheld documents?]

| Item | Date | Document Description | Proposed Action |
|------|------|----------------------|-----------------|
| 7. | | | |
| 8. | | | |

[Check: is explanation of context required for Minister?]

Consultation

[Check: specify the consultation undertaken in preparing the response to the request. Any substantive difference of opinion about decisions relating to specific information should be addressed above]

In preparing the response to the request, Treasury has consulted with:

Response to be Published Online

The Treasury intends to publish its response to this OIA request on our website, usually in the week following the response being sent. Consistent with the Act, publishing our OIA responses increases the availability of information to the public and helps promote balanced public debate.

[Delete this section – for info only: The default position is to publish the response where we are releasing information to the requester, unless there is good reason not to. Some reasons for not publishing might be:

- there is no or limited public interest;
- where the particular context means it could distort rather than support balanced public debate;
- where it is not in the best interests of Ministers and Treasury to publish.

{Check – consider if early engagement with Communications team and the Minister’s office is needed.}

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Recommended Action

We recommend that you:

- a. **note by** **{{prop:workflowduedate}}** **[-1 working day]** the proposed response of the Treasury to the OIA request made by **{{prop:SubmitterFullName}}** of **{{prop:SubmitterOrganisation}}** for information regarding **{{prop:Summary}}**;
- b. **refer** a copy of the report and attached material to the **[Minister(s) Portfolio]**; *{delete this rec if not applicable}*
- c. **note** that the Treasury intends to publish this response to the requestor on the Treasury website. Please contact us should you wish to raise any issues.

{delete this rec if not applicable}

{{prop:Manager}}
{{prop:Manager[display=jobTitle]}}

{{prop: FromPortfolioMinister[display=ministerFullNameCheckTitle]}}
{{prop: FromPortfolioMinister[display=portfolioName]}}

DRAFT ONLY

DO NOT SEND UNTIL THE INFORM REPORT IS RETURNED

Reference: {{prop:IntReference}}

[ENTER DATE SENT]

{{Prop:SubmitterFullAddress}}

Dear {{prop:SubmitterFullName}}

Thank you for your Official Information Act request, received on {{prop:ReceivedByDepartmentDate[display=1]}}. You requested the following:

“{{prop:QuestionSummary}}”

[Check: Was the request clarified/revised by requestor?]

[Check: Was any part of the request transferred?]

[Check: Was the time limit extended?]

Information Being Released

Please find enclosed the following documents:

| Item | Date | Document Description | Decision |
|------|------|----------------------|----------|
| 1. | | | |
| 2. | | | |

I have decided to release [the relevant parts of] the documents listed above, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

[Copy and Paste from Report (above)]

[Check: if information has been deleted as out of scope, consider providing appropriate explanation or context of why it is out of scope e.g. *Some information has been deleted because it is not covered by the scope of your request. This is because the documents include matters outside your specific request.*]

Information Publicly Available

The following information is also covered by your request and is publicly available on the [Treasury, Beehive or other] website:

| Item | Date | Document Description | Website Address |
|------|------|----------------------|-----------------|
|------|------|----------------------|-----------------|

| | | | |
|----|--|--|--|
| 3. | | | |
| 4. | | | |

Accordingly, I have refused your request for the documents listed in the above table under section 18(d) of the Official Information Act – the information requested is or will soon be publicly available.

[Check: has relevant information been removed from published documents? If so, include the following paragraph:

Some relevant information has been removed from documents listed in the above table and should continue to be withheld under the Official Information Act, on the grounds described in the documents.]

Information to be Withheld

There are additional documents covered by your request that I have decided to withhold in full under **[one or more of]** the following sections of the Official Information Act, as applicable:

[Copy and Paste from Report (above)]

[Check: Has requestor asked for a list of withheld documents?]

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

[Check: delete the above if no information has been withheld under section 9.]

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

{{prop:Manager}}
{{prop:Manager[display=jobTitle]}}



THE TREASURY
Kaitohutohu Kaupapa Rawa

Reference: {{prop:IntReference}}

[ENTER DATE SENT]

{{Prop:SubmitterFullAddress}}

Dear {{prop:SubmitterFullName}}

Thank you for your Official Information Act request, received on
{{prop:ReceivedByDepartmentDate[display=I]}}. You requested:

"{{prop:QuestionSummary}}"

[Check: Was the request clarified/revised by requestor?]

[Check: Was any part of the request transferred?]

[Check: Was the time limit extended?]

Information Being Released

Please find enclosed the following documents:

| Item | Date | Document Description | Decision |
|------|------|----------------------|----------|
| 1. | | | |
| 2. | | | |

I have decided to release [the relevant parts of] the documents listed above, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

[Check: Do section 6 grounds apply? Common grounds for withholding information are provided below, with a complete list of withholding grounds [here](#):

- section 9(2)(a) – to protect the privacy of natural persons, including deceased people,
- 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,
- section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials, and
- section 9(2)(g)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions.

1 The Terrace
PO Box 3724
Wellington
New Zealand
tel. 64-4-472 2733
fax. 64-4-473 0982
www.treasury.govt.nz

[Check: if information has been deleted as out of scope, consider providing appropriate explanation or context of why it is out of scope e.g. *Some information has been deleted because it is not covered by the scope of your request. This is because the documents include matters outside your specific request.*]

Information Publicly Available

The following information is also covered by your request and is publicly available on the [Treasury, Beehive or other] website:

| Item | Date | Document Description | Website Address |
|------|------|----------------------|-----------------|
| 3. | | | |
| 4. | | | |

Accordingly, I have refused your request for the documents listed in the above table under section 18(d) of the Official Information Act – the information requested is or will soon be publicly available.

[Check: has relevant information been removed from published documents? If so, include the following paragraph:

Some relevant information has been removed from documents listed in the above table and should continue to be withheld under the Official Information Act, on the grounds described in the documents.]

Information to be Withheld

There are additional documents covered by your request that I have decided to withhold in full under [one or more of] the following sections of the Official Information Act, as applicable:

[Check: Do section 6 grounds apply? Common grounds for withholding documents in full are provided below, with complete list of withholding grounds [here](#):

- 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
- section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials]

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act.

[Check: delete the above if no information has been withheld under section 9.]

Please note that this letter (with your personal details removed) and enclosed documents may be published on the Treasury website.

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review my decision.

Yours sincerely

{{prop:Manager}}
{{prop:Manager[display=jobTitle]}}

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



THE TREASURY
Kaitohutohu Kaupapa Rawa

Reference: {{prop:IntReference}}

[ENTER DATE SENT]

{{Prop:SubmitterFullAddress}}

Dear {{prop:SubmitterFullName}}

Thank you for your request made under the Official Information Act, received on {{prop:ReceivedByDepartmentDate[display=|]}}. You requested:

"{{prop:QuestionSummary}}"

[Note: has the request been revised by the requestor?]

[EITHER: Option 1 – No Information Held]

[Full]

The Treasury does not hold information relating to your request but I believe such information is held by the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer your request to the {{prop:TransferDepartment}}.

[Part]

The Treasury does not hold information relating to the part of your request for {{prop:Summary}}. I believe this information is held by the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer this part of your request to the {{prop:TransferDepartment}}. The other parts of the request will remain with the Treasury.

[OR: Option 2 – Closely Connected]

[Full]

I believe that the information you have requested is more closely connected with the functions of the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer your request to the {{prop:TransferDepartment}}.

[Part]

I believe that the part of your request for information about {{prop:Summary}} is more closely connected to the functions of the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer this part of your request to the {{prop:TransferDepartment}}. The other parts of the request will remain with the Treasury.

The {{prop:TransferDepartment}} has 20 working days from receipt of this transfer to make a decision on your request.

Yours sincerely

{{prop:Manager}}
{{prop:Manager[display=jobTitle]}}

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



THE TREASURY
Kaitohutohu Kaupapa Rawa

Reference: {{prop:IntReference}}

[ENTER DATE SENT]

{{prop:TransferDepartment[display=ceFullName]}}
{{prop:TransferDepartment[display=ceTitle]}}
{{prop:TransferDepartment}}
{{prop:TransferDepartment[display=Address]}}

Dear {{prop:TransferDepartment[display=ceSalutation]}}

On {{prop:ReceivedByDepartmentDate[display=|]}} the Treasury received the **attached** Official Information Act request from {{prop:SubmitterFullName}} of {{prop:SubmitterOrganisation}}. The request was for:

"{{prop:QuestionSummary}}"

[Note: has the request been revised by the requestor?]

[Note: Would an explanation of context be helpful to the requestor?]

[EITHER: Option 1 – No Information Held]

[Full]

The Treasury does not hold information relating to the request but I believe such information is held by the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer the request to you, as Chief Executive of {{prop:TransferDepartment}}.

[Part]

The Treasury does not hold information relating to the part of the request for {{prop:Summary}}. I believe this information is held by the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer this part of the request to you, as Chief Executive of {{prop:TransferDepartment}}. The other parts of the request will remain with the Treasury.

[OR: Option 2 – Closely Connected]

[Full]

I believe that the information requested is more closely connected with the functions of the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer the request to you, as Chief Executive of {{prop:TransferDepartment}}.

[Part]

I believe that the part of the request for information about {{prop:Summary}} is more closely connected to the functions of the {{prop:TransferDepartment}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer this part of the request to you, as Chief Executive of {{prop:TransferDepartment}}. The other parts of the request will remain with the Treasury.

I have today informed the requestor of the transfer, and that you have 20 working days to make a decision.

Yours sincerely

{{prop:Manager}}

{{prop:Manager[display=jobTitle]}}

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



THE TREASURY
Kaitohutohu Kaupapa Rawa

Reference: {{prop:IntReference}}

[ENTER DATE SENT]

{{Prop:SubmitterFullAddress}}

Dear {{prop:SubmitterFullName}}

Thank you for your request made under the Official Information Act, received on {{prop:ReceivedByDepartmentDate[display=|]}}. You requested:

“{{prop:QuestionSummary}}”

[Check: has the request been revised by the requestor?]

[Option 1 – No Information Held]

[Full]

I do not hold information relating to your request. I believe that such information is held by the {{prop:TransferPortfolioMinister[display=portfolioDetails]}}. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer your request to {{prop:TransferPortfolioMinister[display=portfolioDetails]}}.

[Part]

I do not hold information relating to the part of your request for [request details]. I believe this information is held by the {{prop:TransferPortfolioMinister[display=portfolioDetails]}}. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer this part of your request to the {{prop:TransferPortfolioMinister[display=portfolioDetails]}}. The other parts of your request have not been transferred, and I will respond in due course.

[Option 2 – Closely Connected]

[Full]

I believe that the information you have requested is more closely connected to the functions of the {{prop:TransferPortfolioMinister[display=portfolioDetails]}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer your request to the {{prop:TransferPortfolioMinister[display=portfolioDetails]}}.

[Part]

I believe that the part of your request for information about [Request Details] is more closely connected to the functions of the

{{prop:TransferPortfolioMinister[display=portfolioDetails]}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer this part of your request to {{prop:TransferPortfolioMinister[display=portfolioDetails]}}. The other parts of the request have not been transferred, and I will respond in due course.

The {{prop:TransferPortfolioMinister[display=portfolioName]}} has 20 working days from receipt of this transfer to make a decision on your request.

Yours sincerely

{{prop:Manager}}
{{prop:Manager[display=jobTitle]}}

RELEASED UNDER THE
OFFICIAL INFORMATION ACT



THE TREASURY
Kaitohutohu Kaupapa Rawa

Reference: {{prop:IntReference}}

Date: [ENTER DATE SENT]

{{prop:TransferPortfolioMinister[display=ministerFullName]}}
{{prop:TransferPortfolioMinister[display=porfolioName]}}
{{prop:TransferPortfolioMinister[display=ministerAddress]}}

Dear Minister

On {{prop:ReceivedByDepartmentDate [display=]}}, I received the **attached** Official Information Act request from {{prop:SubmitterFullName}}. The request was for:

“{{prop:QuestionSummary}}”

[Check: has the request been revised by the requestor?]

[Note: would an explanation of context be helpful to the requestor?]

[Option 1 – No Information Held]

[Full]

I do not hold any information that is relevant to the request. I believe that you, as the {{prop:TransferPortfolioMinister[display=porfolioName]}}, may hold such information. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer the request to you.

[Part]

I do not hold any information relating to the part of the request for [Request Details]. I believe that you, as the {{prop:TransferPortfolioMinister[display=porfolioName]}}, may hold such information. Accordingly, I have decided under section 14(b)(i) of the Official Information Act to transfer this part of the request to you.

[Option 2 – Closely Connected]

[Full]

I believe that the information requested is more closely connected to the functions of your portfolio as the {{prop:TransferPortfolioMinister[display=porfolioName]}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer the request to you.

[Part]

I believe that the part of the request for information about [Request Details] is more closely connected to your functions as the {{prop:TransferPortfolioMinister[display=porfolioName]}}. Accordingly, I have decided under section 14(b)(ii) of the Official Information Act to transfer this part of the request to you.

I have today informed the requestor of the transfer, and that you have 20 working days to make a decision.

Yours sincerely

{{prop:Manager}}
{{prop:Manager[display=jobTitle]}}

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

TOIA GAMEPLAN `{{prop:summary}}`

| | |
|---------------|---|
| Date received | <code>{{prop:ReceivedByDepartmentDate[display=!]}}</code> |
| Transfer date | <code>{{prop: TransferDueDate}}</code> |
| Inform date | <code>{{prop: InformDueDate}}</code> |
| Reply Date | <code>{{prop: ReplyDueDate }}</code> |

| | |
|---------------------|---------------------------------------|
| Responsible Analyst | <code>{{prop:Assignee}}</code> |
| Research Analyst | <code>{{prop:ResearchAnalyst}}</code> |
| Signout Manager | <code>{{prop:Manager}}</code> |
| Formatting TA | <code>{{prop:FormattingPA}}</code> |

| | |
|----------------|---|
| OIA number | <code>{{prop:IntReference}}</code> |
| OIA Type | <code>{{workflowlink:type}}</code> |
| Moto Link | <code>{{workflowlink}}</code> |
| Requestor name | <code>{{prop:SubmitterFullName}}</code> |

Request
`{{prop: QuestionSummary}}`

Notes



LETS BEGIN

WHAT TO CONSIDER:

- Has OIA been assigned to the right team?
- Does the request need refining or clarifying?
- Dates?
- Types of document.

We have a duty to work with the requestor to formulate a workable request.

Do we need to coordinate with other agencies or is a transfer required

Identifying and consulting stakeholders on the OIA response

RA MEETING

TO BE ARRANGED BY THE RA WITHIN FIVE DAYS TO DISCUSS:

- Clarity of Request:** Re-scope needed? Within 7 days
- Potential Size of Request:** Extend?
- Cross-Government Request**
- Transfer** Is this for another agency
- Legal input needed?** Consultation with internal and external parties

ASSESSMENT

Locating relevant information, preparing the *List of Relevant Information and identifying sensitive information*

Records advisors can assist with searches. Think about dates/variables to narrow the field.

RA help to draft response

CHECKPOINT 15 MINUTES

This should be done FIVE days before reply is due to the minister

Manager, Analyst, RA and QA analyst to attend.

Proposed response approved, including the redactions

Communications issues: Involve Comms

Is there a reason for this to NOT go on the web?

Check withholding grounds

Review wording of the reply?

| No. | Approval required | Confirmed |
|-----|-------------------|-----------|
| 1 | Report | |
| 2 | Draft reply | |

PRODUCTION

Sensitive information is selected for redaction.. Consult RA to ensure enough time is allocated.

Information for release checked for accuracy.

Response approved for printing.

This stage is done once. Manager and others to provide feedback beforehand.

INFORM

QA Approved

Manager needs to sign-out. This process take can several days. The inform is due on `{{prop: InformDueDate}}` and should be underway by day 12.

TA to format and print.

Inform including reply letter and information for release is sent to Ministers office for comment.

REPLY

When inform is returned.

Check for changes

Final reply is set up by the RA. TA prints reply and information for release.

Manager to sign before reply date (Day 20).

MANAGER RESPONSIBILITY FOR AN OIA

- Assign to an analyst & A QA analyst by DAY 2
- Check the assigned analyst has the time/resource to complete OIA.
- Agree the scope, approve the redactions and attend the checkpoint meeting.
- Ensure the inform and reply is signed out and sent on time.
- Ensure the response is sent on time.

ANALYST RESPONSIBILITY FOR AN OIA

- Here is some useful guidance to applying the Official Information Act [Guide to the OIA](#).
- The analyst is responsible for finding the information in scope of the request.
- Keeping the manager informed of the progress of the OIA and ensuring they are available at key points.
- Communicating with your team on process and any issues.
- Ensuring the Moto process is followed.
- Reminder: OIAs are important as they are seen by the Minister, our Chief Executive and the public

WHO IS MAS?

If you would like more information on the Ministerial Advisory Service and how we can help please visit our intranet page [MAS INTRANET](#), email the team on @Ministerial Advisory Service [TSY] or give us a call.

QA RESPONSIBILITY FOR AN OIA

- The QA Analyst is responsible for providing quality assurance throughout the preparation of the OIA response.
- This includes, when applicable, reviewing: the OIA request and interpretation, including if clarified or narrowed.
- Agreeing the Game Plan.
- Reviewing the list of relevant Information and the related search strategy.
- Advise on parties to consult.
- Reviewing the withholding grounds applied.
- Review and approve Inform and Letter of Reply.
- You have a QA tab in Moto when your approval is required.

HELP WITH WITHHOLDING GROUNDS

- Remember [Section 5](#) “the information shall be made available unless there is good reason for withholding it”
- Here is some useful guidance to how to apply withholding grounds [Withholding Information](#)
- Here are some links to the sections of the Act relating to withholding
[Section 6](#) [Section 9](#)
- Here is a link to section 18 of the Act relating to refusal of requests [Section 18](#)
- MAS and the Legal team are also happy to sit down and go through any specific questions

NEED MORE TIME - EXTENDING

- The deadline to extend the request is the date of reply (20 working days after receipt of request).
- You can extend due to the amount of information to assess and review and/or to allow Treasury to consult with other parts of the Treasury, the Minister or other government departments.
- YOU CAN ONLY EXTEND ONCE!!! So carefully consider how long you need to extend by, be realistic and err on the side of caution.
- When extending please remember that the Ministers office gets an extra 5 days to review our inform so a 20 day extension only gives the Tsy 10 extra working days and a 5 day buffer before replying.

