

Official Information Act policy



Purpose

The purpose of the Official Information Act policy is to:

- Reinforce the commitment of the Ministry of Health to the principles and purposes of the Official Information Act 1982 (the Act);
- Provide guidance to requesters on requesting information from the Ministry.
- Provide guidance to Ministry employees, contractors and consultants about their obligations and responsibilities in responding to requests for official information
- Provide guidance on the relationship between the Ministry and relevant Ministers and their offices when handling requests under the Act; and
- Provide guidance on the proactive release of responses to requests under the Act.

Scope

This policy applies to all Ministry of Health employees, contractors and consultants and informs them of their responsibilities under the Act when handling requests to the Ministry for official information, and drafting responses to requests on behalf of Ministers.

The Ministry is bound by the Act and in any inconsistency of interpretation between this policy and the law, the Act must prevail.

Context

The Act is an important part of New Zealand's constitution and gives New Zealanders the legal right to ask for official information so that they can more fully participate in their democracy and to hold governments and Public Sector agencies to account. When New Zealanders ask for information, government agencies need to assist and be responsive, and approach requests in line with the principle of availability. It also recognises there may be good reasons under the Act to withhold information, but such a decision often needs to be weighed against the public interest.

All requests for information are potentially requests for official information, including requests for publicly available and previously released information.

“Official information” means any information held by an agency that is subject to the Act and includes documents, emails, drafts, notes, diaries, recordings, videos, texts, usb and other portable storage devices and can also include information in officials' memories. An “agency” includes Ministers acting in their official capacity and government departments and organisations like the Ministry of Health and district health boards.



However, information held by courts and tribunals, and inquiries established under the Inquiries Act, are not subject to the Act as they are excluded from the definition of an “agency.”¹

Principles

The guiding principle of the Act is that information should be made available unless there are good reasons under the Act to withhold it². In handling requests for official information, the Act requires the Ministry to:

- Deal with requests for official information carefully, conscientiously, and in accordance with the law.³
- Recognise a request may be made in any form and communicated by any means (including orally) and does not need to refer to the Act.⁴
- Reach a decision on all requests as soon as practicable, and always within statutory time frames.⁵
- Assist requesters, directing them to publicly available information, clarifying their requests, and transferring requests to relevant agencies where appropriate within statutory time frames.⁶

- Co-operate fully with any investigation by the Office of the Ombudsman into a requested review of a decision under the Act.⁷

The Ministry will also:

- Inform or consult with third parties about requests for official information that concern them where appropriate, and consider any feedback provided.
- Inform relevant Minister(s) of requests for official information it receives and, where appropriate, provide copies of responses to the relevant Minister’s office in accordance with the ‘no surprises’ approach.
- Consult Minister(s) on any requests to the Ministry that relate to their functions or involve Cabinet material and consider any feedback provided.
- Proactively release responses to requests for official information to make information more available and assist in public understanding of health and disability issues.
- Review and monitor its performance in responding to requests.
- Cooperate with any investigation by the Office of the Ombudsman and carry out any agreed recommendations to improve the Ministry’s performance in responding to requests.

¹ Section 2(6)

² Section 5

³ Cabinet Manual section 8.30 <https://www.dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-2>

⁴ Section 12(1AA)

⁵ Section 15 and Cabinet Manual section 8.32

<https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-2>

⁶ Section 13

⁷ Cabinet Manual section 8.60 <https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-2>

- Provide information about the importance of the Act to employees, and specific training to employees with responsibility for the Act.

Working with requesters

It is the duty of every agency subject to the Act to provide reasonable assistance to requesters⁸. The Ministry does this by directing everyone to publicly available information and clarifying⁹ and transferring requests¹⁰ to other agencies where appropriate. It will also publish information on its website to guide requesters in making requests to the Ministry.

The Ministry will promptly acknowledge receipt of a request and communicate its decision whether to grant a request for official information as soon as reasonably practicable, and in no later than 20 working days (unless extended).¹¹

The Ministry will clearly communicate with requesters when rescoping or clarifying a request, and any decisions to extend the timeline or transfer requests to another agency. The Ministry will advise requesters of their right to ask the Ombudsman to review any decisions made in handling a request.

⁸ Section 13

⁹ Section 15(1AA)

¹⁰ Section 14

¹¹ Sections 15 and 15A

Requesters may ask for official information to be provided urgently but need to provide justification for the need for expediency. Where appropriate, the Ministry may consider levying a charge to recover costs, such as requests made under urgency. The advice of Health Legal must be sought before a charge is levied.

Working with Ministers' offices

Informing the Minister's office about requests to the Ministry

Under the 'no surprises' approach, the Ministry notifies the relevant Minister's office of requests for official information it receives that might attract wider public, political or media interest. The Ministry will also advise the Minister if it intends to release any information that is particularly sensitive or potentially controversial. A notification for this purpose is not the same as consultation and should not unduly delay the release of information.¹²

Consulting a Minister on a request to the Ministry

The Ministry will consult the relevant Minister if the request relates to the Minister's functions or Cabinet material, because such material relates

¹² Cabinet Manual section 8.53 www.dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-2



to their activities as a Minister.¹³ In instances involving the Minister's functions or Cabinet material, it may be appropriate to transfer the request to the Minister.¹⁴

The Ministry will be clear it is consulting rather than providing the request for the Minister's information, and enough time will be given for the Minister's office to raise any concerns about the proposed decision. The Ministry will have regard to any feedback, but the decision on how to respond to the request will be made by the Ministry in accordance with the Act.¹⁵

Ministerial OIA requests

The Ministry may, at the request of a Minister's office, prepare draft responses for requests to a Minister for official information. The draft response will be provided within timelines set by the Director-General and the relevant Minister's office.

Proactive publication

The Ministry proactively publishes responses to requests for official information on its website to make information more available and to assist in public understanding of health and disability issues. Proactive release of responses promotes good government, openness and transparency

¹³ Cabinet Manual section 8.50 <https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-2>

¹⁴ Cabinet Manual section 8.51 <https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-2>

and fosters public trust and confidence in agencies.

The Act protects agencies from any criminal or civil proceedings from the release of official information under the Act if it is released in good faith¹⁶. These protections do not apply to information (including responses to requests for official information) that are proactively published. Before publication, careful consideration is given as to whether such responses should be released, or whether additional information might need to be withheld.

The Ministry will always withhold the names and contact details of requesters whose responses are published. Letters responding to requests will advise requesters that their response may be published, and the Ministry will consider any feedback received.

Roles and responsibilities

To meet its statutory obligations, the Ministry operates a centralised and collaborative model for managing and preparing responses to requests for official information.

¹⁵ Cabinet Manual section 8.52 <https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-2>

¹⁶ Section 48

The **Director-General of Health** is accountable to the **Public Service Commissioner** for the Ministry's performance in respect of the Act and this policy.

Executive Leadership Team members are responsible to the Director-General for all responses prepared by their Directorates and, unless delegated, approve all Ministry responses to requests for official information. They also approve all draft responses prepared for Ministerial requests.

OIA Services is responsible for managing requests from end-to-end, preparing response letters and document bundles, providing expertise on the OIA and undertaking necessary clarifications, extensions, transfers and internal and external consultation. It is also responsible for managing complaints from the Office of the Ombudsman and coordinating the response. It also undertakes reporting and training on the OIA and maintains detailed guidance on handling requests, including keeping abreast of relevant Ombudsman guidance.

Directorates as the 'information owners' are responsible for providing the information required to respond to a request and final approval of a response at the appropriate management tier.

The **Media Team** reviews some draft responses, particularly those to journalists. It also provides communications guidance if a response may attract wider political, public or media interest.

The **Office of the Director-General** reviews responses that might attract wider political, public or media interest, particularly those provided to a Minister's office either for information or consultation.

Health Legal provides legal advice on the Act.

Ministers' offices receive notification of responses provided to them for their information under the 'no surprises' approach and provide feedback on proposed responses to requests to the Ministry that are sent to them for consultation. They also provide feedback on any draft Ministerial responses that the Ministry has been asked to prepare.

Ministers approve any responses to requests for official information directed to them.

The Office of the **Ombudsman** reviews and investigates complaints by requesters about the handling of their requests, particularly refusals to supply information.

The **Public Service Commission – Te Kawa Maataho** regularly publishes comprehensive statistics on the number of OIA responses completed, timeliness and the number of complaints notified to the Office of the Ombudsman. It also publishes guidance for agencies in responding to requests.



Key legislation and related policies, procedures and guidance

- [Official Information Act 1982](#)
- [Privacy Act 2020](#)
- [Cabinet Manual](#)
- [Public Services Commission Guidance](#)
- [Ombudsman Guidance](#)
- [Ministry of Justice Charging guidelines](#)

OWNER - Deputy Director-General (Office of the Director-General)

CONTACT - Manager OIA Services.

Endorsed: 9 June 2021

To be reviewed by June 2024.



New Zealand Government