




**MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT**
HĪKINA WHAKATUTUKI



Official Information Act Requests Policy

August 2017

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Purpose

MBIE is responsible for its compliance with the Official Information Act 1982 (OIA). The purpose of this policy is to:

- recognise the constitutional significance of the legislation and the obligations it places on MBIE as a government agency
- support staff in responding to requests made to MBIE for official information (departmental requests)
- support staff in providing advice to Ministers regarding requests made to Ministers for official information (ministerial requests)
- managing any legal or reputational risk associated with OIA requests
- ensure MBIE meets its obligations under the OIA
- support MBIE's commitment to Open and Transparent Government in order to *Grow New Zealand for All*.

Scope

This policy applies to:

- all staff at MBIE and any contractors, temporary or permanent, employed or engaged by the Ministry both on and off-shore
- any official information held by MBIE
- requests by a person for personal information about another person.
- requests from the media that are handled as media queries.

The Ministry also deals with interactions with the media through various approved channels, including Social Media channels. Generally speaking a media request is seeking a view point from the Ministry or relates to a request for information that is already in the public domain, and as such is not treated as a request under the Official Information Act.

Help

Please contact the [Ministerial Services Team](#) for further assistance or information.

Definition of terms

Official information – Official information defined in the OIA. In general terms, it includes all the information held by the Ministry in a variety of forms, and includes internal rules and policies, emails, meeting notes, and employee recollections.

Official Information Act requests - Requests for information can be made in any format including verbally. The request does not have to mention the OIA, or be worded in a specific way. The State Services Commission notes that a request for official information will be logged when it requires considered application of the OIA.

Departmental OIA requests – These are requests made directly to MBIE for information it holds. A step-by-step guide for departmental OIA requests can be found [here](#).

Ministerial OIA requests – These are requests made to one of our Ministers. In this case a Private Secretary may refer the request to MBIE for advice to the Minister, including a draft response. A step-by-step guide for Ministerial OIA requests can be found [here](#).

Privacy Act requests – Requests by a natural person for personal information about themselves is always considered under the Privacy Act. For more information refer to the Privacy Policy [here](#).

Timeframe for communication of a decision and making information available – A decision needs to be made and communicated to a requester within 20 working days unless there is a reason to extend the time limit. If the associated information is to be provided separately it must be done so without ‘undue delay’.

Extensions – Extending the statutory timeframe in which to communicate a decision on a request or transfer of a request.

Transfers – Requests can be transferred to a Minister or another government agency where the information requested is held by them and is not held by MBIE, or the information is more closely associated with the functions of another agency or Minister.

Charging – Seeking payment from a requester for work done on an OIA in accordance with the Ministry of Justice Guidelines.

Media query – Requests received from the media that can be dealt with quickly and not processed using the formal OIA process. MBIE’s News Media Policy can be found [here](#).

Policy statements

MBIE is committed to the intent and purpose of the OIA. Its key objectives are to:

- progressively increase the availability of official information to the people of New Zealand to:
 - enable more effective public participation in the making and administration of laws and policies; and
 - promote the accountability of Ministers and officials;and so enhance respect for the law and promote good government; and
- protect official information to the extent consistent with the public interest and the preservation of personal privacy.

MBIE contributes to the Open Government Partnership New Zealand and the whole-of-government work led by the State Services Commission to improve agency OIA practices.

MBIE cooperates fully with the work of the Ombudsman in reviewing and investigating any complaints made under the OIA.

MBIE will regularly and progressively publish more of its information proactively, such as OIAs responses, reports, research and data sets to enhance public access to information and to reduce the need for information to be requested under the OIA.

MBIE continuously develops and improves its procedures to respond to requests ensuring compliance with the statutory requirements and also increasing public satisfaction with the OIA service it provides.

MBIE consistently educates management and staff on their obligations and responsibilities under the OIA to lift performance and understanding across the agency, and to give them the support and tools they need.

Main policy rules or guidance

- Extensions must be notified to a requester within 20 working days of the request. More than one extension is permissible so long as all extensions are notified within the original 20 working days. If it is a Ministerial OIA a decision must be made by the Minister on advice from MBIE. This advice should usually be provided within 15 working days of the Minister receiving the request depending on individual Ministers' requirements.
- Transfers of requests must be identified and notified to a requester within 10 working days after a request is received. If it is a Ministerial OIA a decision to transfer must be made by the Minister on advice from MBIE. This advice should be provided within 5 working days of the Minister receiving the request. The time for making a transfer can be extended in accordance with the same reasons for extending the communication of a decision.
- If a request is too broad or complex or the information being requested is unclear, MBIE should contact the requester to seek refinement or clarification. If this contact is made within the first 7 working days after receiving the original request, the timeframe for responding can be reset from the date that the requester confirms their revised/clarified request.
- A requester may ask that a request be treated as urgent, and if so must give the reasons for seeking the information urgently. MBIE should consider any request for urgency, and assess whether it would be reasonable to give the request priority.
- The decision to charge must only be made with the involvement of a senior branch Manager. MBIE can charge for the supply of information under the OIA and may require that all or part of the charge be paid by the requester in advance of the information being made available. Charges cannot be made for the time spent deciding whether or not to release the information.
- Delegations for the sign-out of responses depend on business group or branch preferences. Generally Deputy Chief Executives have delegated OIA sign-out to either Tier 3 or Tier 4 Managers, unless a response entails reputational or other significant risk. Managers are responsible for the content of the response that they sign-out, so it is important that a Manager has reviewed the response, including any decisions made on information being withheld.

- Ministers or their Offices should be informed of all departmental OIAs where it is determined they have an interest in MBIE's intended response. When consulting Ministers, a briefing and intended response is normally provided 5 full working days before any official information is released.
- Under the "no surprises" convention, MBIE must advise the relevant Minister about any request for official information that is "particularly sensitive or potentially controversial". This would cover all requests made by opposition MPs, opposition political parties, journalists, bloggers and special interest groups. The decision on the request is made by MBIE in accordance with the OIA.
- The Minister for Economic Development, as the Minister Responsible for MBIE, is to be notified of all departmental ownership OIAs received by MBIE.
- Departmental ownership OIAs relate to cross Ministry information, for example, departmental expenditure, staffing, personnel issues, consultants, contractors, contracts, international travel, domestic travel, industrial relations, and gifts.
- All responses to OIA requests from the media must be signed-out by an authorised or delegated communications advisor before the response is sent. Communications advisors must also be consulted on high risk requests from oppositions MPs, opposition parties, and lobby groups or on high profile issues.
- All OIA requests must be logged and allocated promptly by the Ministerial Services Workflow team in accordance with performance expectations, and the team completing the response must arrange a scoping meeting within 3 working days of receipt. A scoping meeting early in the process is vital to ensure all participants are clear about the scope and interpretation of the request.
- Staff do not have an absolute expectation of privacy in relation to work product information and staff personal information. MBIE will take all reasonable steps to protect the privacy and security of its staff members when responding to requests for information.
- All staff names should be considered for release unless there are relevant withholding grounds including a likelihood of harm such as harassment or threatening behaviour against staff or other safety concerns. Final decisions should continue be made on a case-by-case basis and, if in doubt, Legal Services or Ministerial Services consulted.

Mandatory procedures

Standard Operating procedures

Step-by-step daily guide: Departmental OIA request (no Ministerial consultation)
Step-by-step daily guide: Departmental OIA request (Ministerial consultation)
Step-by-step daily guide: Ministerial OIA request
MBIE OIA Procedures - Departmental and Ministerial OIA Request
Scoping OIA meeting checklist document

MBIE Templates

Acknowledgement of OIA request
To narrow or clarify the scope of the request: 18(e)
To narrow or clarify the scope of the request: 18(f)
Advise time extension under the OIA
Letter to accompany release under the OIA: No information withheld
Letter to accompany release under the OIA: Some/most information withheld
Letter to advise decision to refuse: Section 9 substantive reasons
Letter to advise decision to refuse: Section 18 administrative reasons
Transferring a request: Letter to transfer
Transferring a request: Letter to transferee
Letter to advise reason for refusal: Section 23 request
Letter to communicate a decision with the information provided at a later date

Related MBIE policies and documents

Related internal policies and documents:

- [Code of Conduct](#)
- [News Media Policy](#)
- [Privacy Policy](#)
- [Records Management Policy](#).

Relevant legislation and regulations

Relevant legislation and regulations include:

- [Official Information Act 1982](#)
- [Ombudsmen Act 1975](#)
- [Privacy Act 1993](#)
- [Public Records Act 2005](#).

External Guidance

Broader guidance material on the provision of official information is available through the following links:

- [Ombudsman Guides](#) - Comprehensive guides to the OIA legislation and use of withholding provisions
- [Cabinet Office Manual](#) - Detailed guidance for Ministers on the operation of the OIA and the release of official information including Cabinet Papers

Date of issue: 1/08/2017

Approved: Chief Executive

Policy Author: Manager, Ministerial Services

Next Review: 1/08/2019

Policy Owner: General Manager,
ECoMS

- State Services Commission - [Release of Official Information: Guidelines for Co-ordination, request for draft reports, correspondence and advice.](#)
- [Public Sector Intranet OIA Guidance](#)
- Privacy Commissioner - [Guidance on the relationship between the OIA and the Privacy Act 1993 with respect to personal information held by government agencies.](#)

Measures of Success

The Ministry has the following measure of success in place.

- Ministerial servicing standards for portfolios agreed with Ministers require 95% or more of advice on Ministerial OIAs to be provided within specified timeframes.
- The OIA requires 100% of decisions to be completed and communicated within statutory timeframes.
- The number of OIA complaints to the Ombudsman regarding MBIE is no more than 5% of total requests responded to in any financial year.
- The number of OIA final views formed by the Ombudsman against MBIE will be 5 or fewer in any financial year.

Consultation processes in developing or reviewing this Policy

In reviewing and updating this policy, Ministerial Services consulted with:

- Enterprise Risk and Assurance
- Legal Services
- Engagement and Communications and Business Groups.

Compliance Management

Compliance management process

Staff are required to use and comply with the compliance tools located in the mandatory procedures.

Tools such as those listed below will help ensure compliance with this policy

- Completing the coversheet/checklist process or briefing for each OIA:
 - Sign out and quality assurance requirements – peer review, subject matter experts, Tier 3 or 4 managers or General Manager review
 - Consultation with subject matters experts, and where necessary Communications, Legal Services or Ministerial Services
 - Risks and mitigation analysis as required
- Saving a complete record of the OIA into MBIE's record management system including evidence that the OIA was acknowledged, any other correspondence (i.e. relating to extensions), consultation, the decision/s made and the response sent to the requestor
- Compliance with service standards and expectations set out in the Business Partnering Agreements between Ministerial Services and Business Groups
- Monitoring the Ministry's progress against its success measures.

Compliance reporting and information

Ministerial Services information regarding the performance of this policy will be provided to the Enterprise Risk and Assurance Branch every quarter including The Hive's report which tracks the Ministry's performance against its success measures.

The Ministry's OIA performance and complaints statistics are also made publicly available on the:

- State Services Commission (SSC) website which publishes all OIA request statistics and timeliness performance across all State sector organisations.
- Ombudsman website which publishes the number and outcomes of OIA complaints against Ministers and State sector organisations.

Training and Communication

In conjunction with the Legal Services Branch, Ministerial Services provides an *Official Information Act and Privacy* course, available to all Ministry staff monthly through Learn@MBIE.

Ministerial Services has established an *OIA Community of Practice* monthly sessions for MBIE's OIA practitioners and advisors to ensure they have up to date information on the latest Ombudsman guidance and have a forum where common issues and best practice can be debated.

Role-specific training to support staff in self-servicing teams should be provided by business units.

The MBIE OIA Policy, mandatory procedures and processes, and guidance information is available through the intranet.

Key Accountabilities and Responsibilities

Role	Description of responsibility
Chief Executive	Responsible for: <ul style="list-style-type: none">• Approval of this policy and procedures• The Ministry meeting its obligations under this policy
Senior Leadership Team	Responsible for reviewing and endorsing this policy and associated procedures or recommending changes to the policy.
Deputy Chief Executives	Responsible for: <ul style="list-style-type: none">• Embedding this policy in their groups• Ensuring their business groups are complying with this policy, procedures, guidance and templates as applicable• Ensuring their business groups are complying with the <i>no surprises</i> convention• Ensuring appropriate managers have been delegated responsibility for signing out OIA responses in their areas.
Policy owner (General Manager)	Responsible for: <ul style="list-style-type: none">• Ensuring the policy is working effectively through regular

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- Engagement, Communications and Ministerial Services)	<p>monitoring and reporting of compliance to the policy</p> <ul style="list-style-type: none"> • Proactive release of information • Maintenance and updating of this policy • Promoting staff awareness.
Tier 3 or 4 Managers who have been delegated OIA sign out	<p>Responsible for:</p> <ul style="list-style-type: none"> • The content and signing out of the OIA response or advice. A manager must review the response, including any decisions made on information • Escalating or informing the DCE about any aspects of a request that might create risk. • Approving consultation with Ministers on departmental OIA.
All staff	<p>Responsible for:</p> <ul style="list-style-type: none"> • Advising Ministerial Services at OIA@mbie.govt.nz on the same day they receive an OIA request which is required to go through the formal process • Checking with Ministerial Services that a request should be logged as an OIA if unsure • Treating the OIA response process as a priority • Following correct records management process
Ministerial Services, Communications Advisors, Legal Services	<p>Responsible for:</p> <ul style="list-style-type: none"> • Working with the relevant business group to determine which approach is the most appropriate to take in responding to an OIA request received where staff are unsure about the correct process to follow
Writer or analyst	<p>Responsible for:</p> <ul style="list-style-type: none"> • Drafting the OIA response • Arranging a scoping meeting within 3 working days of receipt • Coordinating input from the relevant business group or groups • Managing the quality assurance and sign out process • Advising manager and communications on need to consult Minister of departmental OIA. • Consulting requester on scope of request.

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