



27 FEB 2020

K Lambert
fyi-request-11873-6c833dac@requests.fyi.org.nz

Dear K Lambert

On 12 December 2019, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982, the following information:

These requests pertain to the current year (2019) to date and the full three years prior (2016,17,18). It would be appreciated if this could be broken down year by year

Part 1: Statistics - Please provide for each of the OIA and PA the numbers of the following:

- 1. Requests received*
- 2. Requests acknowledged within 20 working days*
- 3. Requests in which the requested information or decision to decline was provided within 20 working days*
- 4 (a). Requests in which the information was provided, declined or provided in part (obviously separate figures).*
- 4 (b). In the case of declines or partials please identify the sections of each act relied upon to decline in whole or in part*
- 5. Requests that took more than three months to either fulfill or decline in whole or in part and the reason for the refusal and for the delay for each one*
- 6. Requests that were declined in whole or in part that were escalated to either the ombudsman or privacy commission*

In the case of instances that were escalated to either privacy commission or ombudsman, please provide the numbers for:

- 7. Cases in which the matter was found in favour of the applicant's position*
- 8. Cases that were found in favour of your position*
- 9. Please provide the number of instances in which rulings have gone against you and you have arrived at a monetary supplement with the applicant.*
- 10. Please provide the total figure for each year that you paid out in these settlements.*
- 11. Please also provide the numbers of both OIA and PA requests that at the time of this request, had been received by yourselves more than three months ago and that remain outstanding.*
- 12. Please provide a detailed an explanation for the length of time for each case.*

Part 2: Policy, procedure, practice and personnel Please provide copies of the following documents:

- 1. Any manuals, policy or process documents that you have relating to your approach to OIA and PA requests*

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Please explain:

- 2. Structures in your organisation dedicated to OIA and PA requests. For example, do you have a team dedicated to these functions? Do you have staff in other roles who are routinely brought in to carry out these functions?*
- 3. In either case, please provide the number of FTE dedicated to OIA and PA functions*
- 4. Please explain how you maintain effective oversight of these functions*
- 5. Please explain what external organisations carry out oversight of these functions. For example, do you have an independent body carry out audits to ensure that the staff tasked with these functions are carrying them out in accordance with the law.*

For clarity, your questions are addressed in turn below. However, first please note the following information.

The Ministry regularly reports to the State Services Commission (SSC) regarding its Official Information Act (OIA) statistics. This information is published by the SSC on its website here: <https://ssc.govt.nz/resources/official-information-statistics/>.

The Office of the Ombudsman also publishes on its website statistics about the complaints received about the Ministry and the resolutions of those complaints. This information is available here: www.ombudsman.parliament.nz/resources/oia-complaints-received-resolutions-july-2016-june-2019 and here: www.ombudsman.parliament.nz/news/latest-oia-and-first-set-lqoima-data-released-ombudsman.

The Ministry responds to a wide range of OIA requests. You may be interested to know that the Ministry publishes many of these OIA responses on its website here: msd.govt.nz/about-msd-and-our-work/publications-resources/official-information-responses/responses-to-official-information-act-requests.html.

Throughout your request, you ask for a large number of statistics that are not readily available and are not included in the above reporting.

The Ministry is unable to provide you with this information as it is held in the files for each individual OIA request, and the requestor's file in the case of Privacy Act requests. In order to provide you with this information, Ministry staff would have to manually review thousands of files, and, for some of your questions, review the response sent for each. As such, a large number of your requests for statistics are refused under section 18(f) of the OIA.

It has been considered whether the Ministry would be able to respond to your requests given extra time, or the ability to charge for the information requested. It has been concluded that in either case, the Ministry's ability to undertake its work would still be prejudiced.

The reporting that is publicly available through the websites of the SSC and the Office of the Ombudsman addresses the public interest in the transparency and accountability of the Ministry in relation to its responses to OIA requests and complaints about these requests. As such, the greater public interest is in the effective and efficient administration of the public service.

Part 1, questions 1 to 5, 11, and 12

Privacy Act requests

The Ministry has an Information Privacy and Sharing team who provide advice on the collection, handling, use and disclosure of personal information to the rest of the Ministry. They answer queries about what information should be provided in response to requests by people to access personal information. They also provide advice on the management of privacy breaches, including where a request to access personal information has not been appropriately fulfilled.

The Ministry does not have a dedicated Privacy Act request team. Nor does the Ministry maintain a register of requests in relation to Privacy Act requests. Privacy Act requests are frequently made by clients during their interactions with client-facing staff throughout the country and they are most frequently responded to by the clients' local service centres; often immediately.

Notes regarding Privacy Act requests are held on individual client files. In order to provide you with statistics about Privacy Act requests, the Ministry would have to review every client file from the past three years to determine whether a Privacy Act request had been received in relation to that client. As such, your requests regarding Privacy Act statistics are refused under section 18(f) of the OIA.

Official Information Act requests

1. Requests received

The requested information is published on the State Services Commission's website.

2. Requests acknowledged within 20 working days

The Ministry endeavours to acknowledge all requests received within two working days of receipt. However, this part of your request is refused under section 18(f) of the OIA as the information requested is held within the individual request files and substantial manual collation would be required to provide this information.

3. Requests in which the requested information or decision to decline was provided within 20 working days

Requests that have received a response outside of the original 20 working days are not necessarily overdue; due to the nature of requests received by the Ministry a significant proportion of requests require an extension of the timeframe to respond or a notification of decision prior to the response being delivered. Where an extension has been sought or a decision about the request communicated, legislative timeframes have been met.

Please refer to **Table One** below which shows the number of requests which were responded to after 20 working days. The statistics published by the SSC include whether OIA requests were completed within the legislative timeframe.

- 4. (a). Requests in which the information was provided, declined or provided in part (obviously separate figures).*
- 4. (b). In the case of declines or partials please identify the sections of each act relied upon to decline in whole or in part*

This part of your request is refused under section 18(f) of the OIA as the information requested is held in the individual responses and each response would have to be reviewed in order to provide this information.

- 5. Requests that took more than three months to either fulfill or decline in whole or in part and the reason for the refusal and for the delay for each one*

Please refer to **Table One** below for the number of OIA requests that took longer than three months to respond to.

In order to determine the reason for the refusal and for time taken to respond, each individual response file and the response itself would have to be reviewed. As such, this part of your request is refused under section 18(f) of the OIA.

Please note that response can take longer than three months to respond to owing to the complexity of the subject matter and the breadth and depth of information requested. The time to respond to the request can be extended and the requestor is kept updated about when they can expect to receive the information.

- 11. Please also provide the numbers of both OIA and PA requests that at the time of this request, had been received by yourselves more than three months ago and that remain outstanding.*

Of the 42 requests in 2019 which have taken three months or longer to respond to, 11 had not yet had a response sent as at 13 December 2019.

- 12. Please provide a detailed an explanation for the length of time for each case.*

The Ministry does not record detailed explanations about the length of time that it takes to respond to OIA requests. Extended periods of time may be required in order to consult with other business units within the Ministry and/or external stakeholders or to collate and prepare substantial amounts of information for release.

In order to provide explanations for the length of time it takes to respond to requests, the request file would have to be analysed by an advisor and reasons for the length of time taken extrapolated from the information in the file. This would amount to the creation of information. As such, your request for this information is refused under section 18(g) of the OIA as the information you have requested is not held by the Ministry and there are no grounds to believe that the information is held by another department or Minister of the Crown or organisation.

Table one: The number of requests made in the 2016 to 2019 Calendar years in which a response was sent 20 working days and, as a subset of this, three months after the request was made.

Time between receipt of request and response being sent	Calendar year			
	2016	2017	2018	2019
20 or more working days	201	330	231	265
Three months or longer (as a subset of the above)	48	76	32	42

Part 1, questions 6 to 10

6. *Requests that were declined in whole or in part that were escalated to either the ombudsman or privacy commission.*

A requestor can escalate their request to the Ombudsman or Privacy Commissioner at any point. The Ministry does not have visibility of this and only becomes aware of the Ombudsman's or the Privacy Commissioner's involvement if the respective body notifies the Ministry of a complaint or investigation. As such, your request for this information is refused under section 18(g) of the OIA as the information you have requested is not held by the Ministry and there are no grounds to believe that the information is held by another department or Minister of the Crown or organisation.

In the case of instances that were escalated to either privacy commission or ombudsman, please provide the numbers for:

7. *Cases in which the matter was found in favour of the applicant's position*
 8. *Cases that were found in favour of your position.*

As noted previously, published statistics about complaints received about the Ministry and the resolutions of those complaints are published by the Ombudsman.

9. *Please provide the number of instances in which rulings have gone against you and you have arrived at a monetary supplement with the applicant.*
 10. *Please provide the total figure for each year that you paid out in these settlements.*

There have been no instances in which the Ministry has arrived at a monetary supplement with an applicant where the ruling of either the Ombudsman or the Privacy Commissioner has found against the Ministry. As such, the total figure paid out is \$0.

Part 2

1. *Any manuals, policy or process documents that you have relating to your approach to OIA and PA requests*

The Ministry's website provides advice and guidelines about the OIA process here: www.msd.govt.nz/about-msd-and-our-work/publications-resources/official-information-responses/index.html.

The Ministry's intranet contains guidance which is available to all Ministry staff regarding the release of information under the OIA and Privacy Act. Please find enclosed a copy of the intranet page titled '*Releasing information under the Official Information Act or Privacy Act*', dated 13 August 2018.

Official information Act

The Ministry primarily utilises the Office of the Ombudsman's online resources and guides when responding to OIA requests. These are available at the following web-link: www.ombudsman.parliament.nz/resources.

In the interests of transparency, the following documents are enclosed, however please note that these documents are out of date and do not reflect the team's current practices:

- MaES Process Manual
- OIA Training Manual 2016
- OIA Training: Understanding OIAs

Of particular note, the Ministry has aligned its process of Ministerial consultation and notification regarding OIA requests and responses with the Ombudsman's guidance available from the following web-link: www.ombudsman.parliament.nz/resources/dealing-oia-requests-involving-ministers-guide-transfer-consultation-and-notification.

The Ministry's Ministerial and Executive Services (MaES) also carries out functions that do not relate to the processing of Official Information and Privacy Act requests. Areas of the MaES Process Manual that relate to these functions have not been included in the information enclosed.

Please note that contact details of some business units have been withheld under section 9(2)(k) of the Act in order to reduce the possibility of staff being exposed to phishing and other scams. This is because information released under the Act may end up in the public domain, for example, on websites including the Ministry's own website.

Privacy Act

The Ministry's guideline for staff about processing Privacy Act requests titled, '*Access requests for personal information – Guidance material for Ministry staff*', dated May 2018 is enclosed. The Ministry also utilises the Privacy Commissioner's web resources to ensure compliance with the Privacy Act: www.privacy.org.nz/privacy-for-agencies/privacy-resources-for-agencies/

You may be interested to know that the Ministry also advises its clients about their rights to accessing their personal information and how the Ministry treats that information. This guidance is available from the Ministry's website here: <https://www.workandincome.govt.nz/about-work-and-income/privacy-notice/index.html>.

Please explain:

2. *Structures in your organisation dedicated to OIA and PA requests. For example, do you have a team dedicated to these functions? Do you have staff in other roles who are routinely brought in to carry out these functions?*
3. *In either case, please provide the number of FTE dedicated to OIA and PA functions*

Official Information Act

MaES is responsible for, amongst other things, the processing of information requests from across a wide range of sources. The Official and Parliamentary Information team (OPI) is dedicated to responding to OIA requests. The OPI team's Full time Equivalent (FTE) count is noted in the table below:

Financial Year	FTE
2018/19	7
2017/18	6
2016/17	9

Note:

- The total FTE represents the total number of full time equivalent employees, taking into consideration the percentage of part time employees' work. Employees who were internally seconded are excluded from the data.

OPI staff coordinate the responses to OIAs and provide expert advice on the legislative requirements. They are assisted by people across the Ministry who are identified as expert advisors on information in their specific area.

From time to time, staff within the wider MaES group are reallocated to OPI in order to meet pressures from an increased volume of work.

The Ministry's Public Affairs team acts as a first point of contact for all media and respond directly to a large number of OIA requests. However, they are not 'dedicated to OIA functions', and as such have not been included in the FTE count provided above.

Privacy Act

As noted previously, requests for information under the Privacy Act are not managed centrally. Privacy Act requests are frequently made by clients during their interactions with client-facing staff throughout the country and they are most frequently responded to by the clients' local service centres.

The Ministry's Information Sharing and Resourcing team, under which the Privacy Officer sits, provides a range of resources which staff can access to help them discharge their responsibilities under the Privacy Act and still provide a client focussed approach in managing those requests.

4. *Please explain how you maintain effective oversight of these functions*
5. *Please explain what external organisations carry out oversight of these functions. For example, do you have an independent body carry out audits*

to ensure that the staff tasked with these functions are carrying them out in accordance with the law.

Oversight of OIA requests is ensured through specified references in performance agreements for every Ministry Deputy Chief Executive to ensure their business groups discharge their responsibilities under the Act.

In addition to this, all Ministry staff are bound by the State Services Commission's Code of Conduct, a set of guidelines around expectations of integrity and conduct of every person employed the public sector. These guidelines are available here: ssc.govt.nz/resources/code-guidance-stateservants/.

The Ministry does not use any external organisations to oversee any of its OIA or Privacy Act request processes. This includes the use of independent entities to to conduct audits related to the Ministry's handling of all OIA requests.

Indirectly, the Ombudsman and the Privacy Commissioner provide oversight through their handling of complaints and investigations of the administrative conduct of public sector agencies like the Ministry of Social Development.

You may be interested in the investigation into Official Information Act practices in 2015 by prior Chief Ombudsman Dame Beverley Wakem. The report following this investigation titled, *'Not a game of Hide and Seek: Report on an investigation into the practices adopted by central government agencies for the purpose of compliance with the Official Information Act 1982'* is available from the following web-link: www.ombudsman.parliament.nz/resources/oia-report-not-game-hide-and-seek.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely



Nadine Kilmister
Deputy Chief Executive, Organisational Assurance and Communication