



17 March 2020

Ref: DOIA 1920-0959

K Lambert

Email: fyi-request-11876-322d2dae@requests.fyi.org.nz

Dear K Lambert

Thank you for your email dated 12 December 2019 to the Ministry of Business, Innovation and Employment requesting, under the Official Information Act 1982 (the OIA), 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. Requests in which the information was provided, declined or provided in part (obviously separate figures). 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 fulfil 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*
- 7. In the case of instances that were escalated to either privacy commission or ombudsman, please provide the numbers for:*
 - a. Cases in which the matter was found in favour of the applicant's position -Cases that were found in favour of your position*
 - b. Please provide the number of instances in which rulings have gone against you and you have arrived at a monetary supplement with the applicant.*
 - c. Please provide the total figure for each year that you paid out in these settlements.*
- 8. 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. 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:

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

Please explain:

10. *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?*

In either case, please provide the number of FTE dedicated to OIA and PA functions -Please explain how you maintain effective oversight of these functions

11. *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.*

Questions have been numbered for ease of reference. Please note that data is correct as at 12 December 2019 unless otherwise specified.

Part 1: Statistics

Please provide for each of the OIA and PA the numbers of the following:

1. Requests received

Statistics on OIA requests can be found on the State Services Commission's (SSC) website as follows: www.ssc.govt.nz/official-information-statistics. The SSC publishes OIA statistics covering Crown entities and government departments subject to the OIA every six months. Please note that OIA requests completed is the same data as OIA requests received.

There is also information which relates to your questions in MBIE's Annual Reviews. You can find these on the Parliament website:

- 2017/18 – question 55 (page 33) at: [Annual Review 2017/18](#)
- 2016/17 – question 50 (page 44) at: [Annual Review 2016/17](#)
- 2015/16 – question 50 (page 35) at: [Annual Review 2015/16](#)
- 2014/15 – question 52 (page 79) at: [Annual Review 2014/15](#).

The Select Committee Hearing during which MBIE Annual Review 18/19 is to be reviewed takes place on 12 March 2020. After that time, the Annual Review will be made publicly available.

We are therefore refusing this part of your request under section 18(d) of the OIA, as the information is publicly available.

Privacy Act 1993 (PA) requests touch every part of MBIE's business and are often responded to as part of a branch's 'business as usual' work. Therefore they are not necessarily logged with a specific tracking number and there is no centralised PA request tracking at MBIE. Information requests made to MBIE under the PA will generally be handled by the branch that holds the requested information. As such, various branches across MBIE respond directly to PA requests that have to do with their core business, including Immigration New Zealand (INZ) and Ministerial Services.

Moreover, in some cases there can be elements of a PA request that are made within an OIA request, and the default approach at MBIE is to respond under both Acts using a centralised OIA tracking number. As such, there is no easy way of tracking which requests were responded to under both Acts.

Therefore, we are refusing your request for the total number of PA requests received by MBIE over the period 2016 to 2019 under section 18(f) of the OIA, as the information requested cannot be made

available without substantial collation or research. However, please find below information from two areas of MBIE that do centrally record this data as an indication.

Ministerial Services Team

MBIE’s dedicated Ministerial Services Team generally only answers PA requests for information that falls within the Market Services branch, such as that which is held by Tenancy Services or Employment Services.

	2017	2018	2019
Privacy Act requests received/completed by Ministerial Services Team	53 requests received since 11/2/2017	100	98

Immigration New Zealand Privacy Team

MBIE’s INZ branch has a dedicated Privacy Team within Visa Services. The table below sets out the information requests by that this Team have received over the requested time period. Please note, in some cases the request for information resulted in a response under the OIA.

Calendar Year	2016	2017	2018	2019
Number of PAs received by INZ Privacy Team	16,591	19,731	22,647	21,526

2. Requests acknowledged within 20 working days

It is standard practice and policy for all Departmental Official Information Act requests to be acknowledged by MBIE as soon as practicably possible, but certainly within three working days of receipt, and well within the 20 working days.

For information regarding the number of OIA requests, please see the data referenced on the SSC website.

PA requests are responded to on a case-by-case basis, and are managed in varying ways across MBIE. In all cases, each team aims to acknowledge and respond to each request within the 20 working days subject to the PA requirements. This part of your request is refused under section 18(f) of the OIA, as the information requested cannot be made available without substantial collation or research.

Moreover, as per our response to Question 1, PA requests that are treated as ‘business as usual’ are not logged to be able to produce the statistics you request. Therefore, this part of your request is refused under section 18(f) of the OIA, as the information requested cannot be made available without substantial collation or research.

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

This information, as it relates to OIA requests, can be found in MBIE’s Annual Reviews, as per our response to Question 1. This part of your request is refused under section 18(d) of the OIA, as the information is publicly available.

As noted in Question 2, PA requests are responded to on a case-by-case basis and are managed in varying ways across MBIE. This part of your request is refused under section 18(f) of the OIA, as the

information requested cannot be made available without substantial collation or research. However, please find below information from INZ, who centrally record this data, as an indication.

INZ Privacy Team

Between FY2016 - FY2019, 89.1 per cent of information requests received by the INZ Privacy Team (which include predominately PA requests and a small percentage of OIA requests) were responded to within 20 working days of receipt. 10.9 per cent of requests were processed over 20 working days.

Since August 2019, the number of requests responded to over 20 working days after receipt has never exceeded three per cent.

Volume of Info Requests	FY					
	2015/16	2016/17	2017/18	2018/19	Totals	%
1. 0-10 Working Days	10,031	8,728	15059	11807	45625	60.7%
2. 11-20 Working Days	4,074	4,485	4174	8631	21364	28.4%
3. Over 20 Working Days	342	4,095	1303	2376	8166	10.9%
Totals	14,447	17,308	20536	22814	75105	100%

(NB: a very small percentage of this data may overlap with the overall MBIE OIA statistical reporting).

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

In order to collate this information, MBIE would need to individually review each OIA and PA response. As such, this part of your request is refused under section 18(f) of the OIA, as that the information requested cannot be made available without substantial collation or research.

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

Please find below a response to your question as at 9 March 2020:

Financial Year	Number of requests	Reason for extended timeframe
2016	2	One request was for a large quantity of information and one request required consultations
2017	7	Two requests required consultation and were for a large quantity of information and five requests required consultations
2018	4	Three requests required consultations and one request was not correctly identified as an OIA
2018/2019	2	One request required consultation and one request was for a large quantity of information
2019/2020	4	Three requests required consultations and one request was for a large quantity of information
Grand Total	18	

PA requests are responded to on-a-case by case basis and are managed in varying ways across MBIE. This part of your request is refused under section 18(f) of the OIA, as the information requested cannot

be made available without substantial collation or research. However, please find below information from one area of MBIE that centrally records this data, as an indication.

Ministerial Services Team

In the 2017 calendar year, there was one PA that took longer than three months to respond to. In the 2018 calendar year, there were three PAs that took longer than three months and in 2019, there were none.

- 6. **Requests that were declined in whole or in part that were escalated to either the ombudsman or privacy commission**
- 7. **In the case of instances that were escalated to either privacy commission or ombudsman, please provide the numbers for:**
 - a) **Cases in which the matter was found in favour of the applicant's position**
 - b) **Cases that were found in favour of your position**

MBIE does not hold information in scope of your Questions 6 and 7. MBIE is only notified of a complaint to either the Ombudsman or Privacy Commissioner if either office accepts the complaint and determines that it will conduct an inquiry or investigation. Therefore I am refusing your request under section 18(g) of the OIA, as the information is not held by the department.

Nevertheless, please see any relevant data referenced on the SSC website or in MBIE's Annual Review in relation to OIA and PA complaints that MBIE is aware of, including in our response to Q.58 in the 18/19 Annual Review as follows:

Question 58: *How many complaints were received under the Privacy Act or Official Information Act during 2017/18 broken down by whether it has been upheld, dismissed, or still under investigation? How does this compare to each of the previous four financial years?*

The number of complaints received by the Office of the Ombudsman (OOTO) and the Office of the Privacy Commissioner (OPC) that the Ministry was notified of are shown in the table below.

	2013/14	2014/15	2015/16	2016/17	2017/18
Data from Office of the Ombudsman	56	57	37	61*	84**
Data from Privacy Commissioner	44	32	34	30	34

*Five OIA complaints upheld
 **Four OIA complaints upheld

The OOTO also publishes data on OIA complaints against Ministers and agencies on a six-monthly basis. The data is available here in spreadsheet format: www.ombudsman.parliament.nz/resources-and-publications/oia-complaints-data.

For general information on complaints made to the Privacy Commissioner, please refer to the Office's Annual Reports available on their website: <https://privacy.org.nz/news-and-publications/corporate-reports/>.

MBIE's Privacy Team

The Privacy Team provides guidance, training, advice and support to help MBIE meet its obligations under the PA, and to increase MBIE's privacy maturity (the extent to which our policies, processes and practices are in line with privacy best practice). Improvement activities are currently carried out under the 2019-20 Privacy Programme Work plan. Complaints notified by the OPC are referred to the Privacy Team to oversee MBIE's response, in order to maintain the policy relationship between the Privacy Team and the OPC.

c) Please provide the number of instances in which rulings have gone against you and you have arrived at a monetary supplement with the applicant.

d) Please provide the total figure for each year that you paid out in these settlements.

For OIAs, this information is refused under section 18(e) of the OIA as the information does not exist. The OIA does not provide for the award of monetary settlements.

To the best of our knowledge, there have been no rulings made by the Privacy Commissioner, following a complaint about a response that MBIE provided to a requestor under the PA that resulted in a monetary settlement.

8. 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. Please provide a detailed explanation for the length of time for each case.

As at 9 March 2020, there were four OIAs that were received more than three months ago that remain outstanding. Two of these were delayed due to consultations and two were delayed because the request was for a large amount of information.

With respect to PA requests, please refer to our response to the above response in Question 2.

Part 2: Policy, procedure, practice and personnel

9. Please provide copies of the following documents:

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

MBIE follows advice provided on the OOTO and OPC websites. MBIE also adheres to the following policies and procedures to manage OIA requests. The documents are annexed to this response:

- OIA Requests Policy – August 2017
- MBIE OIA Procedures - October 2019
- INZ also references A7 and A8 of its Operations Manual for PA and OIA requests, which can be accessed at: www.immigration.govt.nz/opsmanual/#35439.htm

In the case of PA requests, MBIE adheres to the following policy and processes, and has provided detailed information on MBIE's intranet to staff on managing privacy and responding to personal information requests:

- Privacy Policy, November 2018, Version 2.3
- Respond to personal information request.

10. Please explain:

- **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?**
- **In either case, please provide the number of FTE dedicated to OIA and PA functions**
- **Please explain how you maintain effective oversight of these functions**

Ministerial Services (MBIE's centralised branch – Wellington-based)

Please refer to the response to Q.55 in the 17/18 FY Annual Review with respect to this question, which has been provided below:

Question 55: *In 2017/18, did your department, agency or organisation have an internal group of staff whose primary role was to support the Minister or their Office by processing information requests such as Parliamentary questions, Official Information Act requests, and ministerial correspondence; if so, what is the name of that group, how many staff were in the group, what was the cost of this, and where were they located? What were these numbers for each of the previous four financial years?*

MBIE has a Ministerial Services Team based in Wellington that [at that time] had 22 FTE equivalent staff. This team has been in existence since 1 July 2015, and the number of permanent staff positions has not changed since then.

The 18/19 FY figures are soon to be released in MBIE's Annual Review. In the interim, we can confirm that there are 27 Full Time Equivalent staff as at 30 June 2019.

The Ministerial Services Team logs, assigns and tracks all official information requests received by MBIE in the case of OIAs, and, in the case of PA requests for the Market Services Branch (e.g. Tenancy and Employment Services) and sometimes for the Corporate Branch. The team provides the responses to a large number of requests (over 50% of MBIE's "Departmental" OIAs, as well as processing OIAs and correspondence for MBIE's Ministers). The team also coordinates MBIE's Cabinet paper proactive release programme and provides support on OIA best practice and Parliamentary processes MBIE-wide.

Moreover, the Ministerial Services Team monitors all OIAs (as well as Written Parliamentary Questions and Ministerial Correspondence) across MBIE, reports all OIA statistics to the SSC, and monitors adherence to the OIA across MBIE.

The level of involvement of any MBIE branch in responding to requests for information is dependent on a number of factors, such as whether the branch in question has its own dedicated resource to respond to requests, uses the centralised Ministerial Services Team resource, or requests advice and support from the Privacy Team.

MBIE administered 14 portfolios and provided support to Ministers across four other portfolios in 2018/19.

Those branches that respond to their own information requests (i.e. they have not signed up to the centralised MBIE Ministerial Servicing model) have staff in other roles, who are routinely brought in to carry out these functions. The exception is the INZ Privacy team, as detailed below.

INZ Privacy Team


There are currently 13 Privacy Officers in the INZ Privacy Team, located at Manukau, who respond to requests for information. Requests for information are monitored on a daily basis by the Manager.

- 11. 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.**

Effective oversight of these functions is managed by the OOTO, the OPC and the SSC.

I trust you find the information helpful. You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely



Emma Drysdale
Manager Ministerial Services
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