

Respond to personal information request

Overview

A personal information request, (also known as a Privacy Act request), is a query from a person asking for information about themselves that is held by an organisation.

Note: The person requesting information does not need to reference the Privacy Act in their request.

This process sets out how to respond to a personal information request, outlining the roles and responsibilities, and providing guidance about what to consider at each step of the process.

Background

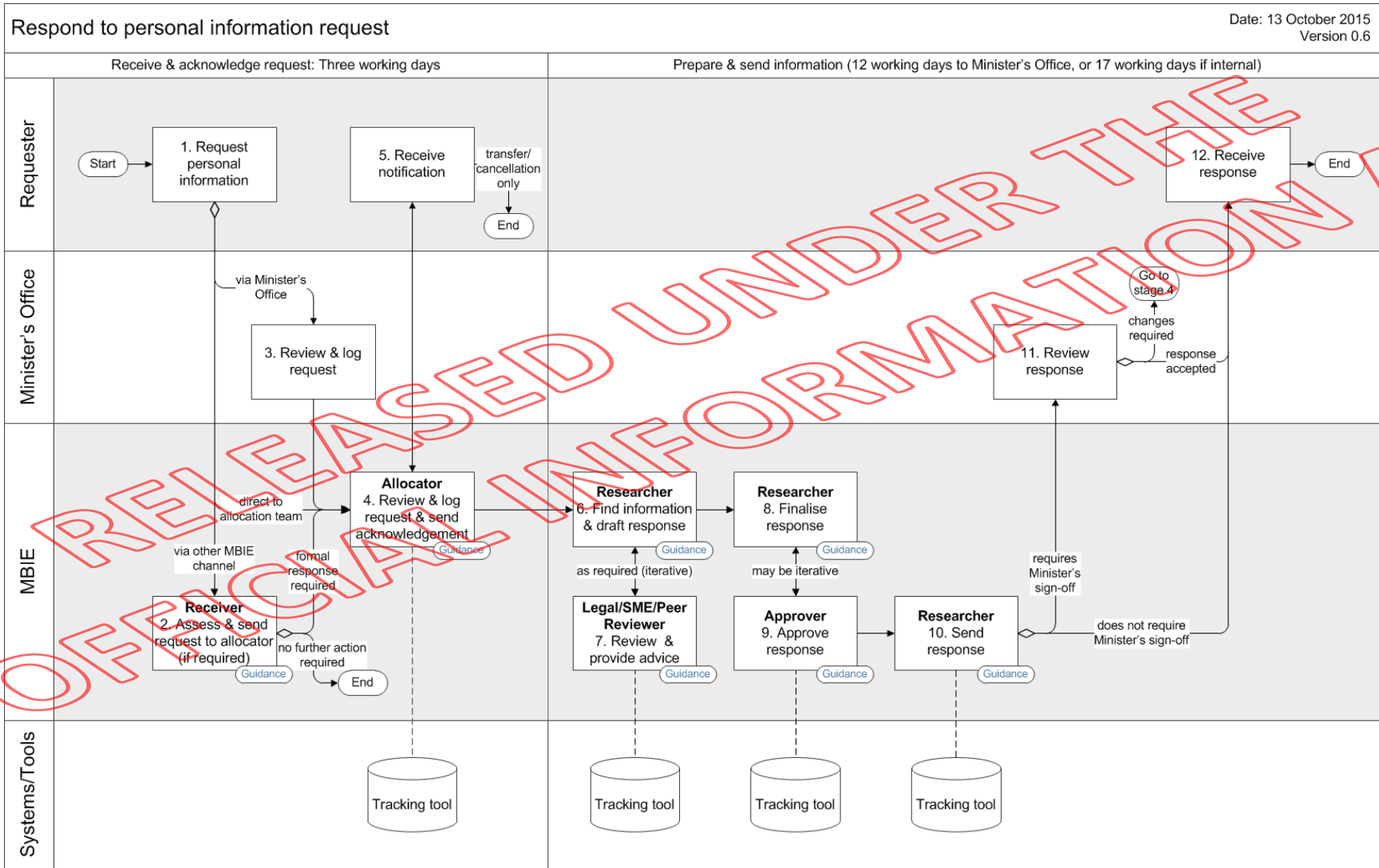
The purpose of the Privacy Act 1993 is to promote and protect personal privacy. The Act imposes rules on the ways that agencies collect, store, use, and disclose personal information. It also gives people a legal right to have access to information about themselves, and a right to request correction of any incorrect or misleading personal information.

Roles and responsibilities

The process is intended to highlight the best practice process for all staff and contractors working at MBIE. As there are numerous job titles, this process uses generic role names to make it easy to follow.

Role	Responsibilities
Receiver	<ul style="list-style-type: none">• Answer any immediate requests• Pass on formal personal information requests to the allocator
Allocator	<ul style="list-style-type: none">• Review and log request in tracking tool• Conduct initial request analysis• Assign request to appropriate researcher• Send acknowledgement to requester
Researcher	<ul style="list-style-type: none">• Identify information relevant to the person's request• Review collated information to confirm it is appropriate to send• Organise appropriate SME, Legal and peer review and approval• Send response
Subject matter expert (SME)	<ul style="list-style-type: none">• Assist the researcher finding information relevant to the request• Ensure information to be sent to person is factual, complete and appropriate for the individual
Legal	<ul style="list-style-type: none">• Confirm that appropriate information is sent and/or withheld
Peer reviewer	<ul style="list-style-type: none">• Check that the response is appropriately worded, with correct punctuation, grammar and formatting.
Approver	<ul style="list-style-type: none">• Confirm the response is appropriate

Process map



Business rules

These are the business rules that apply across all of MBIE.

Please note that additional business rules or procedural steps may be developed by individual business units.

Specific Immigration NZ step-by-step instructions, business rules and practices can be found in the INZ Toolkit.

#	Description
1	Requests for personal information must be responded to within 20 working days (this is a legislative requirement).
2	Individuals are entitled to access and request correction to their personal information held by MBIE, with some withholding criteria. Note: More information about withholding information can be found in the <i>Operational policy</i> .
3	Staff members who receive a request for personal information must take all reasonable steps to assist the requester – including finding the appropriate person to respond if they are unable to help.
4	When a response is not provided within 20 working days, the responsible MBIE staff member must report this as a privacy breach, unless an extension has been granted. Note: If an extension is granted yet the timeframe still not met, this must also be reported as a breach.
5	Requests by an individual for both personal information and official information will be responded to in a single response.
6	Where a MBIE-wide response is required, Ministerial Services will be responsible for researching and coordinating a response following this <i>Respond to personal information request</i> process.
7	When an individual requests personal information and: <ul style="list-style-type: none">• the information is easily accessed, and• it is part of the staff member's business as usual role to disclose the information (either verbally or by sending information without collation or redaction) the staff member does not need to follow this documented <i>Respond to personal information request</i> process. They do, however, need to follow the standard business rules that normally apply to their job.
8	Requests for information that require document or information collation must follow this <i>Respond to personal information request</i> process.

Assess and send request to allocator

Guidance

When to use

Use this guidance to determine if a written personal information request response is required when an individual requests personal information via one of the following mediums:

- phone
- face-to-face
- mail
- a generic MBIE email address.

Role responsible

Receiver

Steps

#	Instructions								
1	<p>How have you received this request?</p> <table border="1"> <thead> <tr> <th>If via...</th> <th>then...</th> </tr> </thead> <tbody> <tr> <td>the contact centre</td> <td> <ul style="list-style-type: none"> • verify the person's identity following current best practices • go to the next step. </td> </tr> <tr> <td> <ul style="list-style-type: none"> • a face-to-face interaction (e.g. at a reception desk) or • a phone call, but you are not a trained contact centre staff member </td> <td> <ul style="list-style-type: none"> • attempt to verify the person's identity (ask to see photo ID or cross-reference information already held about the person – if possible) • record details of the request, explain that you will pass this on to a team member who can help, and that they will respond as soon as possible within 20 working days • go to step 3. </td> </tr> <tr> <td>post or email</td> <td>go to step 3.</td> </tr> </tbody> </table>	If via...	then...	the contact centre	<ul style="list-style-type: none"> • verify the person's identity following current best practices • go to the next step. 	<ul style="list-style-type: none"> • a face-to-face interaction (e.g. at a reception desk) or • a phone call, but you are not a trained contact centre staff member 	<ul style="list-style-type: none"> • attempt to verify the person's identity (ask to see photo ID or cross-reference information already held about the person – if possible) • record details of the request, explain that you will pass this on to a team member who can help, and that they will respond as soon as possible within 20 working days • go to step 3. 	post or email	go to step 3.
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3	<p>Send the request details to the allocator:</p> <ul style="list-style-type: none"> • in Ministerial Services, at: ministerial.services@mbie.govt.nz • in Immigration NZ, at either: <ul style="list-style-type: none"> • AkiOIA@mbie.govt.nz (for requests made in the North Island) • INZ.ChristchurchInformationRequests@mbie.govt.nz (for requests made in the South Island). 						

Next steps

The allocator will allocate this task to the appropriate team to respond to the requester. See guidance: *Review and log request, and send acknowledgement.*

Review and log request, and send acknowledgement

Guidance

When to use

Use this guidance to determine if a personal information response is required, and if so, to allocate to the appropriate person within MBIE, when:

- you receive a request for personal information:
 - from an individual direct to you
 - via the Minister's Office
 - via another MBIE channel (e.g. the call centre or a generic email address)
- a researcher returns an allocated request to you as they are not the correct team to respond to the request
- the Minister's Office returns a response to the Ministry requesting updates.

Role responsible

Allocator

Systems/Tools

Privacy tracking tool

Steps

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6	Enter the request as either a PIR or combined PIR/OIA in your Privacy Tracking Tool, and save the request in the new folder.								

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7	<p>Prepare the appropriate acknowledgement letter.</p> <p>Notes:</p> <ul style="list-style-type: none"> • If MBIE does not hold the requested information, best efforts must be made to transfer to the correct agency. • MBIE may hold some of the requested information. In this situation, transfer the part of the request to the appropriate other agency, and continue with this process. <table border="1"> <thead> <tr> <th>If the request...</th> <th>then...</th> </tr> </thead> <tbody> <tr> <td>will be answered by MBIE (either in full or in part)</td> <td> <ul style="list-style-type: none"> • prepare and send acceptance letter • update tracking tool • go to the next step. </td> </tr> <tr> <td>will be transferred to another agency</td> <td> <ul style="list-style-type: none"> • prepare and send transfer letters • update tracking tool • this process ends. </td> </tr> <tr> <td> is being declined due to: <ul style="list-style-type: none"> • the requester not being entitled to the information • insufficient authorisation in request • MBIE not holding the information </td> <td> <ul style="list-style-type: none"> • prepare and send decline letter, outlining reasons for declining • advise, where appropriate, issues with request, and request resubmission with criteria met • update tracking tool • this process ends. </td> </tr> </tbody> </table>	If the request...	then...	will be answered by MBIE (either in full or in part)	<ul style="list-style-type: none"> • prepare and send acceptance letter • update tracking tool • go to the next step. 	will be transferred to another agency	<ul style="list-style-type: none"> • prepare and send transfer letters • update tracking tool • this process ends. 	is being declined due to: <ul style="list-style-type: none"> • the requester not being entitled to the information • insufficient authorisation in request • MBIE not holding the information 	<ul style="list-style-type: none"> • prepare and send decline letter, outlining reasons for declining • advise, where appropriate, issues with request, and request resubmission with criteria met • update tracking tool • this process ends.
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8	Send request to researcher who will identify all the information and prepare the response.								

Next steps

The researcher will identify the personal information requested and prepare a draft response. See guidance: *Find information and draft response*.

Find information and draft response

Guidance

When to use

Use this guidance when you receive a personal information request via the MBIE allocator to:

- review the request
- gather the information required
- draft a response
- organise the appropriate review (legal, subject matter expert/s and peer review – as required).

Role responsible

Researcher

Before you begin

Ensure you have the original request.

Steps

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1	Review the request. If you are uncertain about what the requester is asking for, contact them directly and request they clarify what they are asking for.						
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7	<p>Update response (as required).</p> <table border="1"> <thead> <tr> <th>If you...</th> <th>then...</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> have received legal advice, and / or wish to discuss any aspect of the request with Legal </td> <td> <ul style="list-style-type: none"> send the draft to Legal for review once they provide feedback, update the tracker and go to the next step. </td> </tr> <tr> <td>do not require legal feedback</td> <td>go to the next step.</td> </tr> </tbody> </table>	If you...	then...	<ul style="list-style-type: none"> have received legal advice, and / or wish to discuss any aspect of the request with Legal 	<ul style="list-style-type: none"> send the draft to Legal for review once they provide feedback, update the tracker and go to the next step. 	do not require legal feedback	go to the next step.
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do not require legal feedback	go to the next step.						

#	Instructions
8	Update response (as required). Send to a colleague for peer review. Once they provide feedback, update the tracker.

Next steps

Prepare the letter for manager approval. See guidance: *Finalise response*.

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Review response and provide advice

Guidance

When to use

Use this guidance when you receive a request from a researcher asking for assistance with a personal information request.

Role responsible

- Subject matter expert (business review)
- Legal adviser (legal review)
- Peer reviewer (sense check review)

Before you begin

Ensure you have the following:

- the original request
- the collated file of information (if appropriate)
- the draft response with information to be withheld marked up, stating refusal grounds.

Steps

#	Instructions								
1	<p>Follow the steps required for your role.</p> <table border="1"> <thead> <tr> <th>If you are a...</th> <th>then...</th> </tr> </thead> <tbody> <tr> <td>subject matter expert</td> <td>go to the next step.</td> </tr> <tr> <td>legal adviser</td> <td>go to step 3.</td> </tr> <tr> <td>peer reviewer</td> <td>go to step 4.</td> </tr> </tbody> </table>	If you are a...	then...	subject matter expert	go to the next step.	legal adviser	go to step 3.	peer reviewer	go to step 4.
If you are a...	then...								
subject matter expert	go to the next step.								
legal adviser	go to step 3.								
peer reviewer	go to step 4.								
2	<p>Subject matter expert actions:</p> <ul style="list-style-type: none"> • Make sure the researcher has understood what the requester has asked for. • Check that the information provided is complete. • Assess the risk of releasing the information – should anything be withheld? • Send your feedback to the researcher. • This guidance ends. 								
3	<p>Legal adviser actions:</p> <ul style="list-style-type: none"> • Review response and information file, as appropriate. • Assess the risk of releasing the information – should anything be withheld? • Send your feedback to the researcher. • This guidance ends. 								
4	<p>Peer reviewer actions:</p> <ul style="list-style-type: none"> • Check that the response answers the question, or provides adequate reasons for why MBIE cannot meet the request. • Check that the response reads well – i.e. the grammar and punctuation are correct. • Check that any withheld information has been properly marked and removed. • Send your feedback to the researcher. • This guidance ends. 								

Next steps

The researcher will update the response with your feedback. See guidance: *Find information and draft response*.

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Finalise response

Guidance

When to use

Use these guidelines when you need to prepare the final response for the approver, once it has been reviewed by a peer reviewer.

Role responsible

Researcher

Steps

#	Instructions
1	Make any final changes to the document.
2	Send the response to the approver (this will normally be your manager). Request that they respond in a timely manner so that the response can be sent to the requester within the 20-working day timeframe.
3	Update the tracking tool with your actions.

Next steps

The approver will review and approve the response. See guidance: *Approve response*.

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Approve response

Guidance

When to use

Use this guidance to review a response to a personal information request and approve that it be sent to the requester.

Role responsible

Approver

Before you begin

Ensure you have the following:

- the original request
- the collated file of information (if appropriate)
- the draft response with information to be withheld marked up, stating refusal grounds
- any legal or SME comments/advice (if provided).

Steps

#	Instructions						
1	Read the original request and review the draft response.						
	<table border="1"><thead><tr><th>If the response is...</th><th>then...</th></tr></thead><tbody><tr><td>appropriate</td><td>go to the next step.</td></tr><tr><td>not appropriate</td><td><ul style="list-style-type: none">• return the draft to the researcher, and provide feedback about what is required• this guidance ends.</td></tr></tbody></table>	If the response is...	then...	appropriate	go to the next step.	not appropriate	<ul style="list-style-type: none">• return the draft to the researcher, and provide feedback about what is required• this guidance ends.
	If the response is...	then...					
appropriate	go to the next step.						
not appropriate	<ul style="list-style-type: none">• return the draft to the researcher, and provide feedback about what is required• this guidance ends.						
2	Sign the response and advise the researcher.						

Next steps

The researcher will prepare the final response to be sent to the requester. See guidance: *Send response*.

Send response

Guidance

When to use

Use this guidance to prepare the response to send to the requester once it has been approved by the appropriate manager.

Role responsible

Researcher

Steps

#	Instructions
1	Scan the signed document and save in MAKO.
2	Send the response to the requester, or if the initial request was via the Minister's Office, back to the Office.
3	Update the tracking tool.

Next steps

This process ends.

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Personal information requests: Operational policy

Operational policy

Overview

This operational policy aims to support the *Respond to personal information* request process. It provides extra guidance in order to assist process users make informed decisions about how to respond to personal information requests.

Please note that branches and are welcome to add their own operational policy and business rules relevant to how their business operates.

Sections

- Personal information definition
- Personal information request vs. Official Information Act request
- Response timeframes
- Authorised persons
- Refusing requests

Personal information definition

A personal information request, (also known as a Privacy Act request), is a query from a person asking for information about themselves that is held by an organisation.

Personal information request vs. Official Information Act request

The Privacy Act 1993 (PA) aims to protect information about individuals, whereas the Official Information Act 1982 (OIA) aims to ensure transparency of State sector information, and Minister and government official accountability of to the people of New Zealand.

A request from a natural person (an individual) asking for information about themselves is a personal information request. A request from an individual asking for any official information – including information about companies, body corporates etc., is an OIA request.

Sometimes requests can be made asking for information under one or both of the Acts, but this is not definitive – it is MBIE's responsibility to decide which Act/s is applicable, and to respond appropriately.

Example request	Apply
Individual asks for their immigration file to check status	PA
Lawyer acting as nominated person on behalf of individual asks for Tenancy Tribunal information about individual	PA
Individual asks for information about their business	OIA
Individual asks for information about another individual	OIA
Individual asks for their job application details, and copies of HR policies to determine why they were unsuccessful in job application	Combination: Applicant file – PA HR policies – OIA

Response timeframes

The general statutory obligation is to answer all requests 'as soon as reasonably practicable', but within no more than 20 working days of receiving the request. A working day is any day that is not a Saturday, a Sunday, a public holiday, or a day between 25 December and 15 January inclusive.

The Ombudsman's website has a response calculator (<http://www.ombudsman.parliament.nz/>) on the homepage which determines 20 working days, taking into account public holidays.

Important:

- Regional Anniversary Day holidays are not standard public holidays, so must still be counted.
- If a request has been made orally, then later confirmed in writing, you must count the working days from the date of the oral request, not from the receipt of the written confirmation.
- Should the response require a Minister's approval, the completed response is due at the Minister's Office within 15 working days.

Extensions

Under section 41, the 20 working day time limit for responding to a request may be extended if:

- the request is for a large quantity of information, or a large quantity of information must be searched, and meeting the original time limit would unreasonably interfere with other work, or
- any consultations (with external agencies or a Minister) necessary to make a decision on the request cannot reasonably be made within the original time limit.

If you are going to need more time and have to extend the timeframe, the PA gives 20 working days to notify the requester of the extension of and the new timeframe. However, wherever possible, extensions should be considered in the first three working days. This will not always be possible, as the volume of information covered by the request is revealed outside the three working days, or when in the course of processing the request, the need for wider consultation is identified.

Make sure that the extension will allow you sufficient time to collate the information and undertake all necessary consultation. You cannot further extend a time limit if you have already extended it.

Transfers

If you are transferring the request to another agency or to a Minister, the statutory requirement is to do this within 10 working days of receiving the request. However, wherever possible, transfers should be made within three working days, to allow the requester to receive their information in a timely manner.

If you receive a request that is transferred from another agency or a Minister you have a maximum of 20 working days (from when this Department receives the request on transfer) to respond.

Authorised persons

Where another person makes a request on behalf of an individual (e.g. a lawyer, representative, advocate, consultant, family member), you will need to ensure that the individual has authorised this person to obtain the information. Written notice of this authorisation (e.g. letter or consent form) is preferable, however, there may be other grounds to rely on, e.g. verbal confirmation from the individual before processing the request. You must follow any particular business rules your group has around disclosure to authorised persons.

The extent of the authorisation should be checked to ensure the information requested is within the scope of the authority provided by the individual.

Refusing requests

The PA provides individuals with a legal right of access to information about them (section 6, principle 6). Where an individual requests their personal information, MBIE may only withhold that information under a ground specified in the Privacy Act, unless another Act prohibits release of the information.

Sections 27, 28 and 29 set out the reasons that are available for refusing a privacy request. The exercise of deciding whether withholding reasons apply involves considering what prejudice or harm would result if the information were released and then how that prejudice or harm is prevented by any particular withholding provision.

Section 27 (security, defence, international relations) deals with a series of reasons that will apply if the predicted harm 'would be likely' to arise. They include:

- prejudice the security or defence of New Zealand or the international relations of the Government of New Zealand
- prejudice the maintenance of the law, including the prevention, investigation and detection of offences and the right to a fair trial
- endanger the safety of any individual.

Section 28 (Trade secrets) requires that withholding the information is necessary to protect information where making the information available would:

- disclose a trade secret, or
- be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information, where the need to withhold the information is not outweighed by a public interest in the release of the information (what is in the public interest are things that promote the overall public good).

Section 29 (other reasons) sets out further grounds for refusal, including that the information:

- could result in the unwarranted disclosure of the affairs of another individual
- is evaluative material (e.g., reference checks)
- relates to the physical or mental health of an individual, where if provided to the individual could prejudice their health
- could prejudice the safe custody or rehabilitation of an individual (in custody or convicted)
- is contrary to the interests of the person (where the requester is under 16)
- could breach legal professional privilege
- is trivial, or the request is frivolous or vexatious
- is not readily retrievable (not merely that it is taking a long time – in that situation you should seek an extension)
- does not exist and cannot be found
- is not held by the agency and MBIE does not know who does hold it.

In addition, **section 32** allows an agency to neither confirm nor deny the existence or non-existence of the information requested. This reason is used extremely rarely and would need senior level approval before being relied on.