

Standard Operating Procedure: Classification Process

Digital Safety

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Guide: Classification Request

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Document Approval

Approved By	Signature	Date
John Michael		15/02/2021

Overview

Guide: Classification Request

The Films, Videos and Publications Classifications Act 1993 (FVPCA) provides the legal framework for New Zealand's classification system. The purpose of the classification system is to prevent harm to the New Zealand public by restricting the availability of publications containing harmful material.

DIA, Police, Customs and NZ Courts can submit publications for classification and have an automatic right of submission.

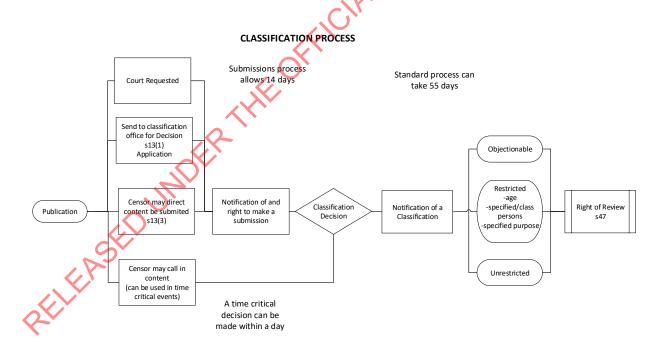
As part of the classification process, the Office of Film and Literature Classification (OFLC) can receive submissions regarding the specific publications from interested parties.

DIA can make submissions on a given publication and are notified by OFLC of publications in which it can make a submission.

Once a decision is made, a copy of the decision is provided to the submitter and DIA and added to a Public register maintained by OFLC.

Following a decision relevant parties have an opportunity to either:

- Request a review of the decision; or
- Apply for a re-classification after a period of time



Staff safety statement – this process involves viewing harmful material.

Guide: Classification Request

Purpose

The purpose of this SoP is to outlines the standard operating procedures for the Digital Safety Team to complete the following tasks:

- Requesting/Submitting a Publication for Classification
- Making a Submission of a publication submitted by another party
- Receiving a classification decision
- Review/Challenging a decision

This SoP will cover the process for both DVE and DCE.

Legislation

The classification process is covered in Part 3 of the FVPCA.

The definition of what a publication is described in Section 2 of the Act.

The definition of objectionable is covered in detail in section 3 of the Act.

A publication can be objectionable if it "describes, depicts, expresses, or otherwise deals with" matters such as sex, horror, crime, cruelty or violence and if its unrestricted availability would be harmful to society.

DIA can submit a publication to the OFLC under section 13(1)(b) or the Chief Censor may direct DIA officials to obtain copy of a specific publication and submit it for examination under section 13(3). Other agencies that are able to submit a publication for classification are Police and Customs.

Court may also refer a dispute about whether a publication is objectionable to the Classification Office under section 29(1), where the publication has not yet been considered and a defendant disputes that a publication is objectionable.

An amendment bill is currently being considered in Parliament to make changes to this Act which includes the ability to request an interim assessment; making live streaming illegal; and take down notices.

Scope

The scope of this process covers the full classification process. The process is triggered as required when there is a need for a classification decision or DIA receives a notification of the right to make a submission. The process is complete once a decision has been received.

OFLC have advised that the full classification process may take up to 55 days, which includes the submission process.

OFLC may consider an urgent classification which involves the Chief Censor "calling in content" and can lead to a decision within hours or days. The urgent process does not include a submissions process.

Any classification decision can be reviewed within 20 working days of the decision. An application can be made for re-consideration of a decision after 3 years.

The process to deal with reviewing a decision or reclassification will be dealt with on a case by case basis.

Responsibilities

OFLC are responsible for the classification process.

The Secretary for Internal Affairs is responsible for making a request for a classification under section 13(1). These powers are delegated to Digital Safety and Inspectors of Publications, acting on behalf of the Secretary.

Decisions on whether to submit a publication for classification must be signed off by a member of the Digital Safety (DS) Management Team.

Submissions can be completed by an assigned staff member but will be signed off by a Manager.

Risk and Safety

Harmful content affects people in different ways. When reviewing harmful content, be mindful of the people around and check people are comfortable or prepared to view or be exposed to the content.

Definitions and Abbreviations

The following table contains a list of frequently used terms and abbreviations in this document.

Term	Definition	
Objectionable	The definition of objectionable is covered in section 3 of the FVPA and described in the below section of legislation	
Publication	Section 2 of FVPCA - publication means—	
ELET	(a) any film, book, sound recording, picture, newspaper, photograph, photographic negative, photographic plate, or photographic slide:	
*	(b) any print or writing:	
	(c) a paper or other thing that has printed or impressed upon it, or otherwise shown upon it, 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words:	
	(d) a thing (including, but not limited to, a disc, or an electronic or computer file) on which is recorded or stored information that, by the use of a computer or other electronic device, is capable of being reproduced or	
	shown as 1 or more (or a combination of 1 or more) images, representations, signs, statements, or words	

Guide:	Classification	Request
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OFLC	Office of Film & Literature Classification. Can also be referred to as the Classification Office	
FVPCA	Films, Videos and Publications Classifications Act 1993	
DS	Digital Safety	
DVE	Digital Violent Extremism	
DCE	Digital Child Exploitation	
Inspector of Publications	A person appointed as an Inspector of Publications under s 103 FVCPA by the secretary of DIA or a Constable of Police can also be deemed an Inspector for the purposes of the FVCPA	

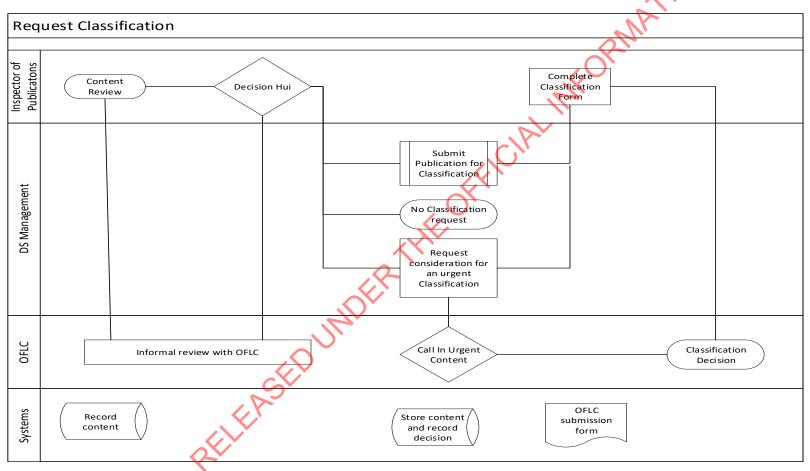
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Guide: Classification Request UNCLASSIFIED

Request Classification

The request classification process will often run alongside other processes that relate to what, if any action can be taken if the content/publication is harmful or viral.

Process Flow



Procedure

The decision whether to request a classification will be considered against the need for an official classification, the prevalence of the publication and the likelihood the publication is objectionable.

Only Staff with Delegations as "inspector of publications" can make a submission for a classification

Activity (what)	Business Rules (Why)	Description (How)	
1.1 Review Content Review Content and organise a Decision Hui	Review content to see if meets criteria in FVPCA and if it is likely objectionable DVE- all content will be reviewed to decide if a classification should be sought. This is to build up a bank of OFLC decisions	Once content has been identified: 1. Review content to decide if it meets the criteria for the FVPCA 2. Check that it has not already been identified for a classification For DCET, this can be checked using the DCE National image database. For CVE, this is likely to be an informal discussion with others in the team or a review of previous decisions if no system is set up 3. Discuss with Manager whether to contact OFLC and organise a Decision Hui 4. Set up a Decision Hui. This should include a range of team members and at least one manager. Practice Note Depending on how quickly the content is moving and nature of the content, this could be an informal set up of a Hui (i.e. a huddle around someone's desk) or a formal meeting	
1.2 Informal Review with OFLC Seek OFLC view on Content	Linking in OFLC early can help better understand if a publication is likely objectionable Staff with Delegations as "inspector of publications"	Any staff member with Delegations can contact OFLC to: 1. Check whether they are aware of the content 2. Discuss if content may meet the criteria for objectionable 3. If advice from OFLC is that publication is unlikely to be objectionable, process is concluded. Note: For DVE – continue to the Decision Hui	

Activity (what)	Business Rules (Why)	Description (How)
2. Decision Hui	Is a classification decision required?	Convene a Decision Hui: 1. Review content and decide if it is likely to be objectionable
Content reviewed to decide whether classification should be sought	OFLC capacity is limited and decisions can take up to 55 working days Decisions for classification requests need to be somewhat strategic and well-thought or in response to an urgent situation	 Discuss if a classification request is required Decide what type of classification request will be made. Note: A Manager will be responsible for the decision Assign a person responsible for the request Practice Note: The manager responsible for the decision must attend the Decision Hui DVE - Err on side of seeking decision for content that is both likely to be objectionable and unlikely to be objectionable
2.1 Submit Publication for classification	tion for Submission information must include all relevant information to enable OFLC to make a decision Staff with Delegations as "inspector of publications" can make a submission for a classification. OFLC will need enough information to help make a decision about whe content should be classified as Objectionable. The assigned staff member will work with the manager to collate the insupport classification submission form	
	EASED UNDER	1. Collate the following Information: a. A copy of the content and a description of where it was found b. Provide context of the content including the intent of the publication, where it may have come from, what it is about, who posted it, why we think it meets objectionable c. Outline the spread of the content and what different platforms it was visible on d. If multiple items of content, a representative sample can be submitted e. Any translation that is required as part of the content
		2. Draft the submission form

Guide: Classification Request

Activity (what)	Business Rules (Why)	Description (How)
		Practice Note: Each submission will be different, it is worth consulting with OFLC as to the level of detail they need. Sometimes there maybe a need to request multiple items are classified to get a range of decisions on where the objectionable line is within a grouping of content
2.2 Request Consideration for an Urgent Classification	Only the Chief Censor can decide to call in a publication for an urgent classification	If it is considered there is a risk that the content could go viral and there is an URGENT element to the need for a classification, the Director, Deputy Director or their Delegate would contact the Chief Censor or Deputy Chief Censor and discuss whether they would consider to "call in" the content for an Urgent Classification.
	DIA can ask for it to be considered if the nature of content has potential to go viral	The Chief Censor will need DIA to provide information regarding the need for urgency and details of the widespread dissemination of the content; a copy of the content
	DERTHE	Practice Note: In the case of a crisis, it may also be the Crisis Manager that contacts the Chief Censor. The Chief Censor may decide to call in content without any consultation with DIA
3.0 Decision to Call in Content for Classification	10 JE	If the Chief Censor decides to call in the publication for classification, they will complete the decision process.

classification (2.1)

If it is decided not to call in the publication, DIA will 'submit' the publication for

Activity (what)	Business Rules (Why)	Description (How)
3.1 Complete Classification Form	Manager is responsible for signing and lodging the submission	The manager: - Completes form - Transports form and images to OFLC Practice Note: • Currently submissions are physically transported to OFLC. In the future this maybe done by way of File Transfer • DIA may be called in by OFLC for consultation to answer further questions or provide context

Submissions

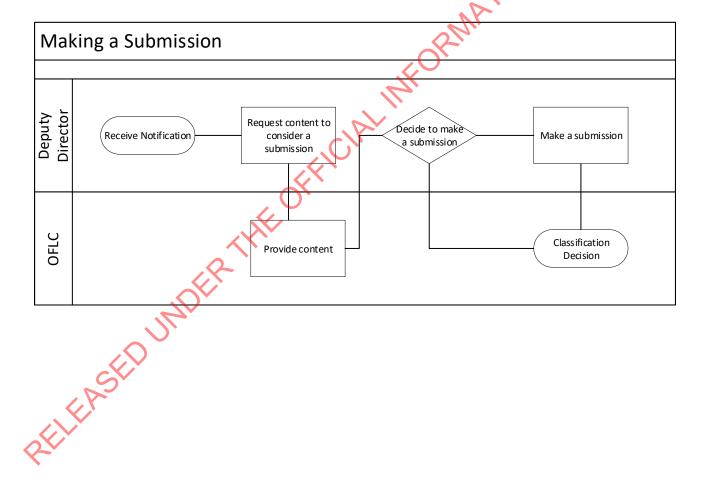
As part of the classification process, the Secretary may make a written submission of any publication submitted to OFLC (s20 FVPCA).

DIA will be notified by OFLC when a classification is being considered. For DIA to decide to make a submission, it will be necessary to ask for more information about the content or to view the content.

Notification of a submission is currently managed by the Deputy Director.

The Deputy Director or their delegate will review the notification and will request a viewing of the content to decide whether to make a submission.

A submission must be made in writing and within the timeframe advised by OFLC



Notification of a Decision

When OFLC have made a decision on a publication, they must notify the submitter and will advise DIA.

All Decisions are currently sent through to the Deputy Director.

For Decisions regarding:

- DCE DIA will obtain copies of the content and will link the content and the decision in the DCE National image database.
- CVE- Save documents into the OFLC Decisions folder in Cohesion within document sets by Year

Summary of Decisions are also added to the Decision Register maintained by OFLC. These can be found

https://register.classificationoffice.govt.nz/Pages/Screens/DDA/WarningPage.aspx

Right of Review

The owner, maker, publisher, distributor or whoever submitted the publication for classification has an automatic right of appeal on Classification Office decisions and can apply for a review by the Film and Literature Board of Review. The application period is limited to 30 working days from the date on which the decision was registered.

The Film and Literature Board of Review is administered by DIA. Information about this process can be found https://www.dia.govt.nz/diawebsite.nsf/wpg URL/Agency-Film-and-Literature-Board-of-Review-Index OpenDocument

Reconsiderations

A person charged with an offence can request that a classification decision be reconsidered after one year. Classification Office or Board of Review decisions are regarded as conclusive evidence.

After a year has elapsed, a court, at the request of a person charged with an offence under the Classification Act, can refer a decision to the Classification Office for reconsideration, or to the Film and Literature Board of Review where it is a decision of the Board's.

Other parties involved (the owner, maker, publisher or authorised distributor) can submit a publication for reconsideration after three or more years. More information can be found on the OFLC website; https://www.classificationoffice.govt.nz/

Additional information

The following documents provide additional information:

- https://www.classificationoffice.govt.nz/officials/information-for-internal-affairsofficials/
- The classification submission form can also be found at the above link
- DS Wellbeing policy (once completed)
- Classification Office Decision Register https://register.classificationoffice.govt.nz/Pages/Screens/DDA/WarningPage aspx

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Procedure: Managing Content Translation



	a).
Date approved	13 April 2021
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Business	John Michael, Deputy Director Digital Safety
Cohesion	https://dia.cohesion.net.nz/sites/RGL/DSAF/DV/_layouts/15/WopiFrame.
link	aspx?sourcedoc={8D229D06-48B8-4542-9F26- DBB85956DA39}&file=SoP%20Manage%20Content%20Translation%20DR AFT.docx&action=default

Revision History

Version	Date	Author	Description of changes
0.1	30/11/2020	Veronica	First draft
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0.3	07/04/2021	Campbell	Third draft

Document Approval

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Overview

From time to time content may include non-English language which may require a translation to provide a full understanding of the content and its intent.

Translation Services is a business group within DIA that provides translation services across DIA, and other government agencies, translating material from/to languages other than English. Digital Safety (DS) can use TS to have potentially harmful content translated on a case by case basis.

A pool of suitable translators within TS will be approved to work on content referred by DS.

Not all language will require formal translation. This SOP will cover when to get a formal translation.

This process potentially involves viewing harmful material. DIA has obligations to provide a safe environment for its safe and contactors and our wellness policy addresses these issues.

Purpose

The SOP provides guidance on steps to be taken where non-English language translations may be needed of content to aid investigations, classifications and prosecution Legislation

The following legislation should be considered when managing translating content;

- Films, Videos, Publications and Classifications Act 1993 Films, Videos, Publications and Classifications Act 1993 sets out the rules arounds the definition is of objectionable publication.
- Section 13(4) and (5) affords certain persons protection for viewing objectionable content if they are acting in an official capacity
- Privacy Act 2020 has 13 privacy principles that govern how you should collect, handle and use personal information.

Scope

This SOP covers:

- How to translate content
- When to get a formal translation
- The process to gain a formal translation

Translations will be required on an ad hoc basis depending on the content and what outcome is required.

Responsibilities

DS management will need to approve any request for formal translation support, as this will incur a cost. Indicative fee schedule for TS support attached at Annex A

Some members of the DS Team can provide a working interpretation of some languages. A spreadsheet of DS staff with non-English language skills is located at; https://dia.cohesion.net.nz/ds-staff-language-skills

Manager DVE is responsible for managing the list of languages that can be covered within the DS Group.

Manager DVE is responsible for approving translation requests to TS.

TS is responsible for updating and maintaining the list of cleared and specialist translators found at; https://dia.cohesion.net.nz/TS-cleared and specialist translators

Risk and Safety

The DS Wellbeing Policy should be read in conjunction with this SoP.

Sharing harmful content with anyone must always involve consideration whether it is necessary to share and what action dan be taken to reduce the impact of the content on others.

Before sharing content, staff will need to consider:

- Has the content already been deemed objectionable and therefore illegal?
- Is all the content required for the translation?
- Will the language itself be enough to support the translation?
- Can the content be summarised rather than shared in its raw and more harmful form?
- Can any harmful elements be hidden? E.g. blur images or only share audio rather than the image.

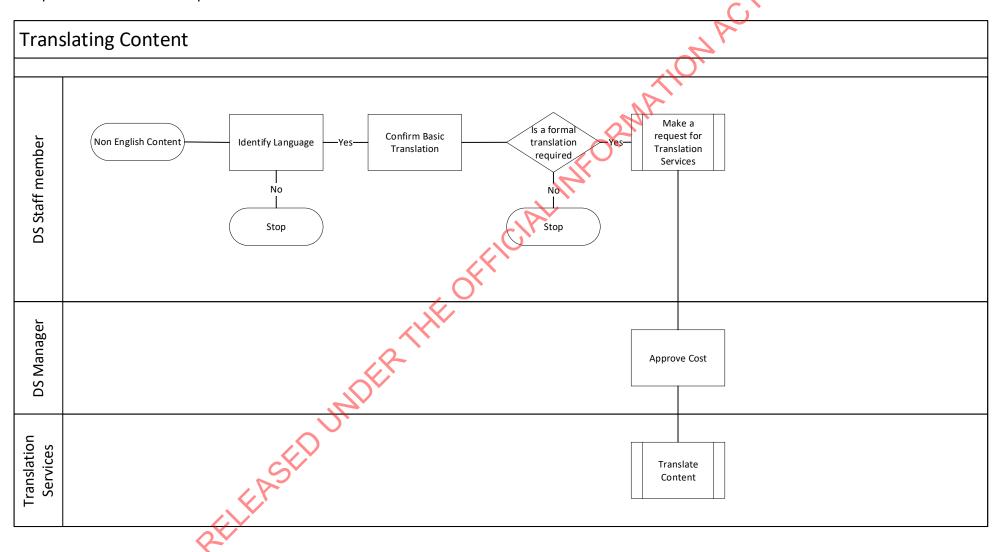
The Manager DVE or delegate responsible for TS relationship will meet with Translation Services Manager every 3-6 months to review process and debrief any translations that have occurred within the period.

TS Support Request Template

The Template to request translation support from TS is located at: Translation Services Request for Support

Translating Content - Process Flow

This process flow shows the process to translate content.



Translating content - Procedure

This process starts when content is identified having non-English content.

Activity (what)	Business Rules (Why)	Description (How)
1.1 Identify Language		When content is identified that is non-English, the first step is to identify the language. This is usually done through a language translation tool / application or available skilled staff in DS. Microsoft or Google Translation will be adequate at this stage. Identify the language and gain a basic translation of key words, title etc If the translation is of no consequence to the content, then no further translation is required, and process stops. If the basic translation is deemed relevant to the content, then progress.

1.2	Confirming	The language and basic translation should be confirmed using a member of the DS team if the language is known within the team,		
Confirm	the basic	or using a second translation tool or application in addition to the primary tool / application used.		
Basic Translation	translation will provide an indication as to	A list of DS staff with language capabilities is found here: https://dia.cohesion.net.nz/ds-staff-language-skills		
	requirements for further	If using a team member to check a translation, only provide the necessary details and ensure that all risk around the content are managed.		
	translation support	The basic translation will be added to the case file.		
		If the content is complex (e.g. verbal chanting / singing) and a basic translation is not possible, discuss with Manager and go to the		
		next step.		
		If a formal translation is not required, the process will stop.		
		The case file will be updated with the decision not to progress with a translation.		
1.3 Is a	A formal	If formal translation is required, the content needs to be reviewed to decide what will be sent for translation. A list of TS cleared		
formal	translation is	and specialist staff can be used to identify specific translator for request. It can be found here: https://dia.cohesion.net.nz/TS-		
translation	only required	<u>cleared and specialist translators</u>		
required?	if the content			
	is being			
	referred for			
	classification			
	or is required			
	as evidence			

2.0 Request a	A request for translation	A template for requesting a formal translation can be found here: <u>Translation Services Request for Support</u>
translation	will need a manager's sign off as it will incur a cost Only send the amount of information required for the translation	 Content for translation will need to consider what information is required for translation summary of context and language all necessary information for a translation mask any harm where possible, if all the content is required to support the translation. Advise Classification Office if harmful imagery is part of content being sent (complete relevant box in translation request template)
2.1 Translation received	This will take approximately 3-5 business days, but can be expedited as a priority turn-around through direct engagement with Manager TS	Once received, the formal translation will need to be added to the case file, and progressed for whatever purpose the translation was required (e.g.: classification)

Appendix A - Translation Services Fee Schedule

This is an indicative guide to costs (correct as at 29 March 2021). Translations are charged per 100 words and per hour. There may be extra charges for prioritisation or unique formatting, while there may be cost savings due to multiple similar translations or being able to leverage off previous translations.

Tier	Charge (per 100 words)	Languages	Hourly rate (includes layout in InDesign, formatting in Word, additional proofreads)
Tier 1	\$46	Chinese (Simplified, Traditional), Danish, Dutch, French, German, Italian, Japanese, Korean, Portuguese, Romanian, Russian, Spanish	\$119 + GST
Tier 2	\$49	Afrikaans, Arabic, Belarusian, Bosnian, Catalan, Croatian, Czech, Dari, Estonian, Finnish, Georgian, Greek, Gujarati, Hebrew, Hindi, Hungarian, Indonesian, Khmer, Latvian, Lithuanian, Malaysian, Norwegian, Persian, Polish, Punjabi, Samoan, Serbian, Slovak, Slovene, Swedish, Tagalog, Tongan, Turkish, Ukrainian, Urdu, Vietnamese	\$119 + GST
Tier 3	\$53 JWD	Albanian, Amharic, Armenian, Assyrian, Basque, Bengali, Bislama, Burmese, Cook Island Maori, Fijian, Fijian Hindi, Hazaragi, Irish, Kazakh, Kurdish, Lao, Latin, Macedonian, Malagasy, Malayalam, Maltese, Maori, Marathi, Mongolian, Nepali, Niuean, Oromo, Pashto, Sinhalese, Somali, Swahili, Tamil, Telugu, Thai, Tigrinya, Tokelau, Tuvalu, Uzbek	\$119 + GST
Tier 4	\$60	Azeri, Bari (Sudan), Cebuano, Chin (Hakha), Chin (Tedim), Dinka, Divehi (Maldivian), Dzongkha, Hmong, Igbo, Ilocano, Kannada, Karen, Karenni, Kiribati, Khosa, Kikuyu, Kinyamulenge, Kinyarwanda, Kirundi, Luhya, Luo, Nauruan, Palauan, Pijin, Rotuman, Sanskrit, Sindhi, Tahitian, Taita, Tetum, Tok Pisin, Yoruba	\$119 + GST



Guide: Digital Safety Accessing Legal Services

Date approved	18/02/2021
Review date	6 months from Approved Date
Business owner	John Michael, Deputy Director Digital Safety
Cohesion link	https://dia.cohesion.net.nz/Sites/RGL/DSAF/DV/ layouts/15/DocIdRedir.aspx?ID=FZVS\$5NRNZNU-215391180-17

Overview

This guide outlines how to access DIA legal services. Legal Services have a page on 1840 which outlines the types of services they provide, some helpful links and how to engage them.

http://1840.dia.govt.nz/groups/organisational-strategy-and-performance/legal

Legal Services have lawyers with different areas of expertise. Allocation of a query will depend on what type advice or help is needed.

Legal Services should be engaged when dealing with:

- Commercial and contact matters
- Information sharing agreements and MOU's
- Complex operational matters requiring legal advice
- Case management and prosecutions
- Legal Opinions
- External lawyers or needed to engagement external lawyers
- Complex OIA or Privacy requests
- Legislation enquiries

Requests for LEGAL OPINIONS/ADVICE

For requests for Legal advice or opinions, these need to be directed through a manager before going to Legal.

There is a standard set of information they will require. In order that your legal request is turned around quickly, please ensure that all of the relevant information is provided. This does not mean sending the full file. Discretion is to be exercised.

Cohesion reference:

https://dia.cohesion.net.nz/Sites/RGL/DSAF/DV/ layouts/15/DocIdRedir.aspx?ID=FZVS55NRNZNU-215391180-

The request is emailed through to a central email box and is assigned based on the type of request and capacity. A sample of the type of information needed is include in the sample request for Legal services attached to this guide.

http://1840.dia.govt.nz/groups/organisational-strategy-and-performance/legal#how2

Legal Advice related to Case Management and Prosecutions

For legal advice related to a case or prosecutions, there are specific lawyers that will work on DS matters. These are currently:

- Tamsyn Badland for DCE
- Vatau Sagaga for DCE
- Alice Liddell for DCE

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- Vicki Scott (Team Manager) for all prosecutions

All requests for legal work must be sent through the email inbox. This is to enable Legal Service to manage their caseloads and ensure the must appropriate lawyer is assigned to the case.

All new requests or legal services needs to be discussed with a manager in the first instance, and then sent through to the legal services inbox. Legal will expect that discussions have taken place and that all/any possible answers and scenarios have been tested.

Case management queries where a lawyer is already involved on the file can be sent directly to the lawyer. Any query where there is no lawyer assigned then the form can be used and sent to the inbox.

A request for a prosecution review does not usually require a form as it I quite clear what is sought. What does happen is we would have a heads up from the manager to say there are files on their way. The request is still sent to the main inbox.

SAMPLE of a Request

Request for Legal Services

Date	10 November 2020	Contact Name	
Contact email address		Branch	PRC
Business Group	Regulatory Services	Team	
Responsibility Code			on A
Contact phone number		Requested Deadline Date Reasons for urgency if applicable)	A
Issue / Case	EFICIA		
Relevant legislation/policy	THE O'		
Advice being sought?	NDER		
Reason for request)		
Who will use advice?			
Impact on other parts of DIA?			
Previous legal advice on this issue?		Who from? When?	

Any other	
comments /	
instructions?	

Please send the completed form, with any supporting documentation to: <u>LegalServicesRegulatory@dia.govt.nz</u>

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