



Te Kawa Mataaho

Public Service Commission

10 February 2023

fyi-request-21462-84c73457@requests.fyi.org.nz

Dear Requester,

Official Information Request Our Ref: OIA 2022-0208

I refer to your official information request that the Ministry of Justice transferred to the Public Service Commission Te Kawa Mataaho (the Commission) on 23 December 2022 for:

- “In referencing the statutory definition of 'official information' as to what constitutes a request for official information under the Act, please make available any information regarding the procedure by which a Public Service Agency may determinedly downgrade the status of a specified and formal 'official information request' to be thereafter deemed a 'business enquiry'. If there exists no such process, please provide information on the powers of Public Service Agencies authorising them to do so.*
- Please clarify, where an information request is specified with due particularity, whether the information sought may include a question on the nature of that information e.g. the information being intellectual property provided to Public Service Agencies and held thereby.*
- In assessing a request, what powers may Public Service Agencies exercise, after responding to a requestor without a direct answer, to make a determination to inform a requestor that they will not correspond further on a given matter?*
- Are Public Service Agencies authorised, after responding without a direct answer, to make a determination to inform a requestor that they will not correspond further on a given matter without good reason?*
- What action may be taken if a Public Service Agency does not understand a request and does not ask a requestor to clarify the information a requestor wants to receive?*
- If there is a privacy interest concerning a request for information, and a requestor specifically states that the request is a 'privacy request' concerning personal information, what powers may Public Service Agencies exercise to make a determination to inform a requestor that the request will be responded to as either an 'official information request' or a 'business enquiry'?*

Our Response

In response to your request for any information “*regarding the procedure by which a Public Service Agency may determinedly downgrade the status of a specified and formal 'official information request' to be thereafter deemed a 'business enquiry'*” there is no such procedure. I therefore refuse your request under section 18(e) of the OIA on the grounds the information does not exist.

Official information is any information held by an agency subject to The [Official Information Act 1982](#) (OIA). A request can be made in any form and communicated by any means. It does not need to refer to the OIA.

Any request for official information that is received by Public Service agencies must be processed in accordance with the requirements set out in the OIA, including the timeframe for making and communicating a response, and providing requestors with a right to complaint to the Ombudsman. The process for a response under the OIA may differ depending on the nature of the request.

Ombudsman Guidance that is publicly available

The remainder of your queries relate to the processing of OIA requests by agencies and are not requests for official information.

It is the role of the Ombudsman to handle complaints about and investigate the administrative conduct of public sector agencies, including official information requests.

If an agency has provided you with a response to an OIA request that you are unhappy with, you can complain to the Ombudsman who can look at:

- refusals (including deletions)
- delays and extensions of time to reply
- charges for providing the information
- the way in which information was provided, especially if you asked for it in a particular way
- conditions or restrictions on how you got the information or what you can do with it.

The Ombudsman doesn't release official information. If they investigate and decide the agency should have released some or all of the information you asked for and the agency agrees, the agency will provide the information.

Outlined in the table below is guidance issued by the Ombudsman's for Minister's and government agencies for how to process Official Information Act (OIA) requests, specific to the questions you have outlined in your request. To assist, we have provided links and the page number of the documents for the guidance that is most relevant to each of your questions.

Other OIA guidance is also publicly available on the Ombudsman's website at the following link: [Resources and publications | Ombudsman New Zealand](#)

OIA Request	Guidance	Page Number
Question 1	Making official information requests - A guide for requesters.pdf (ombudsman.parliament.nz)	All
Questions 1 and 2	https://www.ombudsman.parliament.nz/sites/default/files/2022-07/The%20OIA%20for%20agencies%20August%202019%20%281%29.pdf	Page 6, 13

Question 4	https://www.ombudsman.parliament.nz/sites/default/files/2022-06/Frivolous%2C%20vexatious%20or%20trivial%20August%202019.pdf	All
Question 5	https://www.ombudsman.parliament.nz/sites/default/files/2022-07/The%20OIA%20for%20agencies%20August%202019%20%281%29.pdf	Page 13
Question 6	https://www.ombudsman.parliament.nz/sites/default/files/2022-07/The%20OIA%20for%20agencies%20August%202019%20%281%29.pdf	Page 10

If you wish to discuss this decision with us, please feel free to contact Ministerial.Services@publicservice.govt.nz.

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.

Please note that we intend to publish this letter (with your personal details removed) on the Te Kawa Mataaho Public Service Commission's website.

Yours sincerely



Nicky Dirks
Manager – Ministerial and Executive Services
Te Kawa Mataaho Public Service Commission