

# 2017 DIA Guide to Processing Official Information Act Requests

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# Introduction

## Purpose of this document

**If you are not sure what constitutes an OIA request, or whether you have received one:** There is 1840 guidance available [here](#). You can also talk to your branch [key OIA contact](#), or email [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) and they will be happy to advise.

This guide is not intended to provide a beginner's introduction into what the Official Information Act is, but instead describes the processes and tools for managing departmental Official Information Act requests across the branches of the Department of Internal Affairs.

Although Ministerial OIAs are similar to departmental OIAs in most aspects of their processing, there are some key differences. If you receive a Ministerial OIA to process, your branch key OIA contact can advise you further on what you need to be aware of.

This guide should be read in conjunction with the Department's guidance about [requests for information under the Privacy Act 1993](#) and the Department's [protocols for managing personal information](#).

## Glossary

We've used a lot of terminology in this guide that has specific meaning when applied to OIAs. In some cases this includes terms that have specific legal definitions. To help with this we have created a glossary of OIA terms that can be found [here](#) (coming soon).

And one final note on terminology: where the guide talks about the OIA team, this refers to the Department's central OIA team in the Governance, Risk and Assurance team in the Strategy and Governance branch. This team can be contacted at: [oia@dia.govt.nz](mailto:oia@dia.govt.nz).

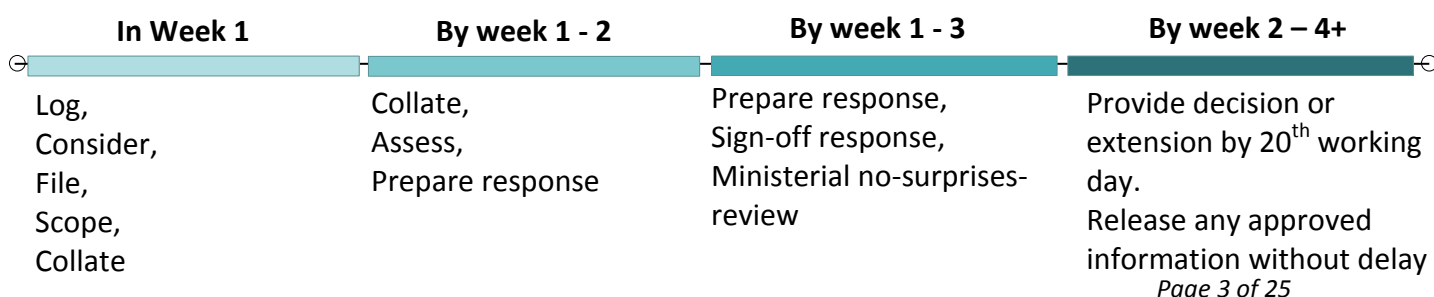
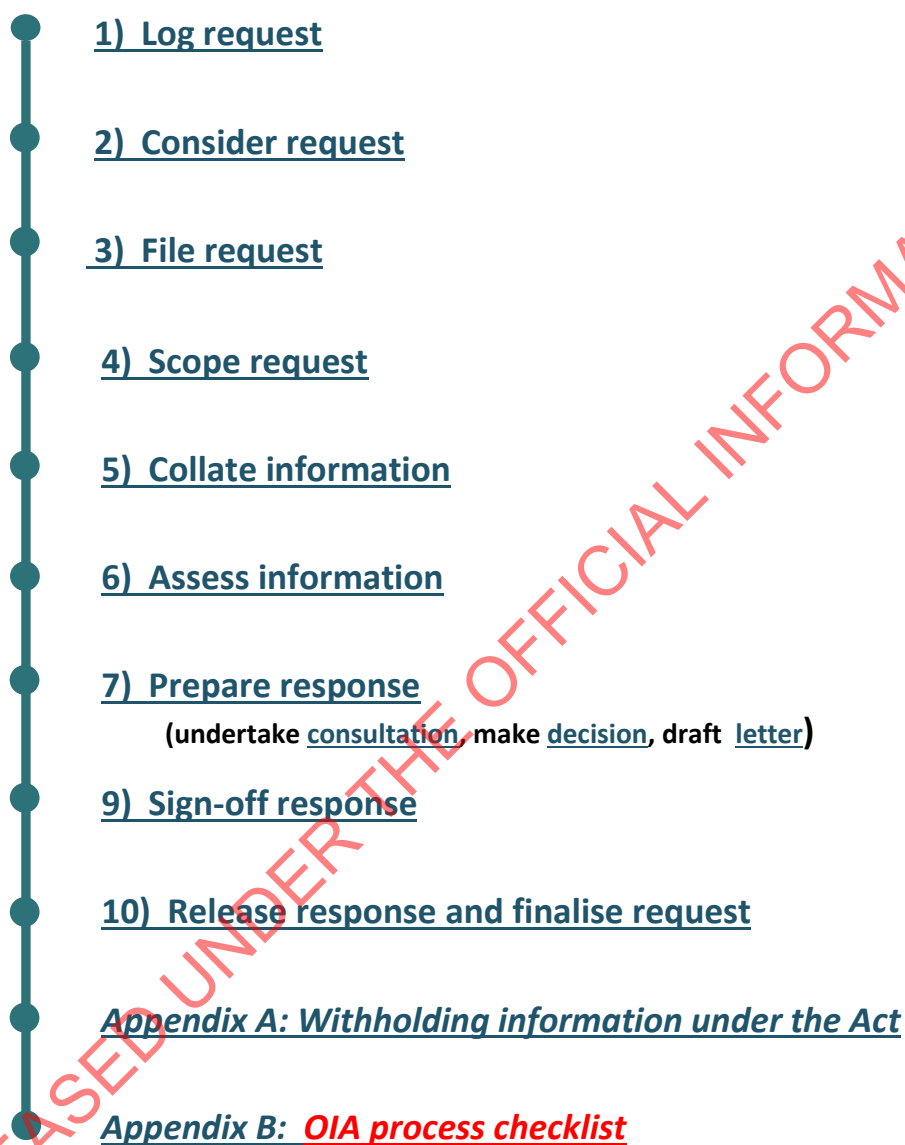
## Feedback and version control

This guide will be continuously updated to incorporate improvements in processes, business tools and supporting information. We encourage anyone reading this guide to provide feedback about possible improvements. Please send suggestions to [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz). The date of the last update of this document is recorded on the title page.

## The stages of processing an OIA request

When you receive and respond to an OIA request there are a number of distinct stages involved. Following a clear, step-by-step process, like the one in this guide, makes it much easier to manage your request and minimises risks, errors and the time taken to complete the request.

Each stage is shown at a high level below, and you can click on each stage to link through to the detailed guide on what you need to do at each point.



# 1 Logging the Request

All OIA requests that are received by DIA need to be logged in the Department’s central OIA register and are assigned a unique ID. This logging is necessary for both data management and legislative reporting.

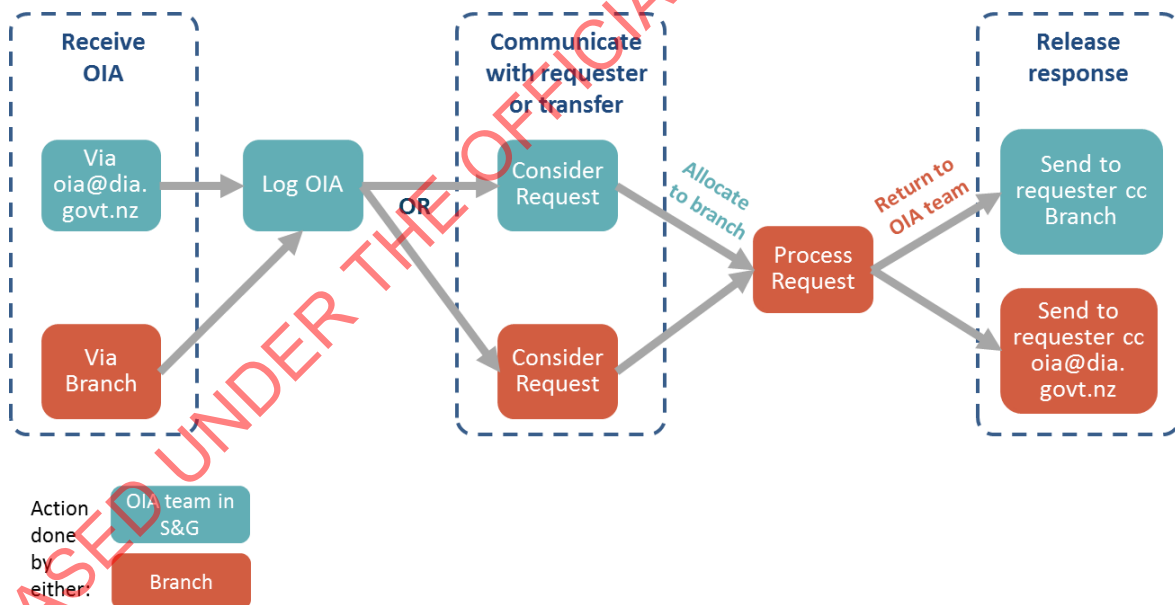
**If the request comes into the [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) inbox:** it will be logged automatically by the OIA team in S&G and they will complete the consideration.

**If you receive the request directly:** use [this template](#) to forward it to the [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) address so the OIA team can log it for you. They will then send you the OIA reference number for your filing and letters; and a link to the central OIA register so that you can proof the entry.

In this case, you can decide if you want the OIA team to do the request consideration and/or correspondence to go out through the [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) email address. (see the teal path in the image below).

If you prefer the correspondence with the requester to go out through a different email address, you will need to copy [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) into any emails you send out with formal letters, so that the OIA team can update the OIA register accordingly. (See orange path in the image below).

The different pathways are shown at a high level in the diagram below, and the activities associated with each step are explained more fully in the guide.



# 2 Considering the request

There are a number of things to think about as part of considering the request. These are explained below, along with the recommended or legislative timeframes you’ll need to keep to. The legislative timeframe for OIA requests (the OIA clock) starts on day one, which is the day after you have received the request. The OIA team will advise you of the date of the 20<sup>th</sup> working day when they send you the OIA reference number for the request.

## 2.1 Acknowledging the request *[within 48 hours of receiving the request]*

As a courtesy, DIA endeavours to send an email to each requester acknowledging receipt of their request for information **within 48 hours** of the request being received.

An acknowledgement email or letter should include:

- the date the request was received by DIA (if you have clarified or amended the request, note both the date originally received and the date it was amended)
- our OIA reference number (if you have it)
- the exact request phrasing of the request
- the date by which the Department's decision is due to the requester.

*Template acknowledgement letters/emails are available [here](#).*

## 2.2 Assess the requester's eligibility

Before you accept the request, assess whether the requester is eligible to make an OIA request. To be eligible, a requester must be:

- a person who is in New Zealand OR
- a New Zealand citizen or permanent resident anywhere in the world OR
- a corporate entity which is incorporated in New Zealand or which has a place of business in New Zealand

If you have concerns that a requester may not be eligible and are not sure how best to proceed, the OIA team can give good advice to help you determine eligibility.

Where a requester is not eligible to make an OIA request, you can consider the requester's circumstances and decide on a case-by-case basis whether to accept the request on behalf of the Department.

## 2.3 Assess Due Particularity *[by day 7]*

Next assess whether the request is specified with 'due particularity' – i.e. whether it is *clear and specific* enough for you to be able to identify the particular information the requester wants, without any inferences or guesswork.

If the request is unclear, **you need to contact the requester to clarify**. If you clarify by phone, remember to follow this up with a quick email or letter to confirm any amendments agreed upon (or include this in your email to acknowledge receipt of request).

If the request is amended or clarified with the agreement of the requester (for any reason) before day 7, the OIA clock restarts and you then have 20 days to respond from the day the request was clarified. If the requester does not get back to you to clarify the request, you'll need to continue processing the original request, so seek clarification **as early as possible**.

Note – due particularity has nothing to do with the *quantity* of information requested or any *anticipated difficulty* in providing, due particularity is just about whether you *understand clearly* what the requester is asking for.

## 2.4 Assess whether the request should be transferred *[by day 10]*

Assess whether the information requested is held by, or more closely related to the functions of, a different agency, Minister or local Authority.

If you are considering transfer, contact the agency, Minister's office or Local Authority and find out:

- whether they are the right agency/office to process the request
- whether you can transfer the request to them in full or in part (if they received the same request, there is no point in transferring your request to them)
- Whether DIA should transfer any information it holds to the other agency/office to include in their response

If there is an agreement to transfer the request - first send a letter to the requester advising them of the transfer of their request and giving them contact information for the agency who will manage their request. Then send a letter to the other agency confirming that the request is transferred to them and attach a copy of your letter to the requester.

If you are unsure about any part of the transfer, for example taking up contact with the other agency, deciding whether to transfer, or writing the transfer letter, the OIA team can give advice and help.

*Template transfer letters are available [here](#)*

Where the other agency is already processing the same request, consider contacting the requester and discussing the situation. This can often make it clear whether the request should be processed or withdrawn.

## 3 File the request

### 3.1 OIA request documentation in DMS or Cohesion

Each branch has a different filing location in DMS and Cohesion. Refer to the [key OIA contacts table](#) and speak with one of your branch contacts to confirm the OIA library your group uses.

When you receive a request, create a file folder in DMS or a [Document set](#) in Cohesion, titled:

<b>OIA201617</b>	<b>-0099</b>
Type and financial year	OIA ref number

You can also include other branch internal reference numbers or the requester name if you choose.

E.g. OIA201617-0099-RSOC1054-Smith.

Every document you save within the document set should be prefaced with the OIA reference number.

Although individuals and teams will vary in how they manage their OIA cases, generally your document set in DMS or Cohesion would function as your **case file** for the OIA. Your case file is the place you store all of the information related to a particular OIA request. You might also have a physical case file for the OIA, if a lot of the information you are working with in the OIA is in hardcopy format.

**By the completion of the OIA request, you should have recorded in your document set:**

1. Copy of the original OIA request
2. Copy of the email/letter sent acknowledging receipt of the OIA request, and documentation of any clarification/amendment of the request.
3. Clean copy of all information you collated within the scope of the request (this could be, for example, electronic files, scans of hardcopy documents; or emails/other evidence confirming no information was found.)
4. If information was withheld in the request and was redacted from documents, there should be a full mark-up copy filed, with all content able to be read, and each proposed redaction annotated with a reference to the part of the Act used e.g. s9(2)(a); and a full annotated release copy in which the redacted material is absent.
5. Copies of all correspondence with the requester, but particularly scans of all signed formal letters that were sent out in the request (for instance when transferring, extending the timeframe or delivering the decision).
6. Copy of a completed [sign-out sheet](#) for the request and a signed [cover-sheet](#) for the request. One or both of these should list any risks noted in the request.

### 3.2 Listing the request in the Ministerial Status Report

All OIA requests need to be listed in the OIA section of the weekly status report to the Minister of Internal Affairs. You may also need to include the request in the status reports to other Ministers, depending on the topic. Check with your branch key OIA contact about whether you should update the status report yourself or whether there is a person within your branch who is responsible for this.

If you need to update the status report yourself, the Ministerial Status Reports are found in DMS-Corporate under DIA-6070-3 under 'Updates to Ministers'. Email [IAstatusreport@dia.govt.nz](mailto:IAstatusreport@dia.govt.nz) to request editor access and/or to be added to the status report group email.

#### Checklist for Logging, Considering and Filing the request [by day 3]

- Request has been logged in Central OIA Register
- Request has been allocated to the person who will be processing the response
- Requester was assessed and deemed eligible to make a request
- Request was assessed for due particularity and clarification sought if needed
- Request was assessed for transfer and transfer was completed if required
- Requester has been sent an email acknowledging receipt of the request
- Created request folder/document set in DMS or Cohesion
- Request has been entered into the Ministerial Status Report

## 4 Scoping the request

Within the first five working days of receiving the request, and before you begin collating data; you'll need to scope the request. 'Scoping' means thinking through all of the issues and obstacles in the request, what information you need to gather, where the information is held, and deciding the best approach.

*You can find several scoping and planning templates [here](#).*

Where there are several information holders/stakeholders, **holding a scoping meeting** to discuss the request can make a big difference in how you decide to approach your response and can save you a lot of time and difficulty later. If a request is political or topical, large or complex, or in cases where you already believe you may need to withhold information, it can be a good idea to invite representatives from the OIA team, Legal Services and Comms to scoping meetings, as they may notice things you might not have thought about, giving you a chance to deal with these early.

### 4.1 Things to consider when scoping your request:

- **Identify what type of OIA request has been received**

It is good practice to identify what type of request has been received, specifically if a request is a section 22 request (relating to access to internal rules), or a section 23 request (relating to accessing the reasons for a decision affecting a person). There are specific provisions that apply to these particular types of requests.

- **Is the information publically available or generally available for purchase?**

Where the information is already (or very soon to be) publically available – you can [refuse the request under s18\(d\)](#) and refer the requester to the location of the information.

If the Information can be purchased from DIA by anyone, for example – a copy of a birth certificate, check with your branch Key Contact or the OIA team to see how your branch normally responds.

- **Check previously-released information**

Find out what the Department has previously released on the topic of your request in [OIA's, parliamentary questions and Select Committee evidence](#). Under Templates and Resources on the 1840 OIA Requests page Being inconsistent can put the Department's reputation at risk, and checking can often *save* you time if information on the same topic has been previously released.

- **Develop specific working definitions for any terms in the request**

You may be able to use definitions from past requests, or the definition may be interpretable from the context of what the requester has asked for. If unclear – contact the requester to clarify.

- **Identify who you will need to involve in processing, and who you will need to consult**

These could include information holders/owners, subject matter experts that will need to be involved in processing, and internal/external stakeholders who might have to be consulted or notified.



- **Identify where the information is located, how much there is likely to be, and how long it will take you to get/assess it**

Does the request require you to [create new information](#)? Are there any barriers to accessing the information, e.g. incompatible systems, delays or costs to DIA to retrieve the information? Is there likely to be a large quantity of information found, or are you going to have to search through a large quantity of information to find the information that the requester wants?

- **Identify any risks to be aware of with the type of information requested**

E.g. is there likely to be a lot of personal or commercially sensitive information included? Is release likely to pose a security risk, or prejudice the maintenance of the law?

- **Plan your timeline**

In setting out your [timeline](#), be realistic when you plan how long each processing stage is likely to take. Keep legislative and administrative deadlines in mind, and consider factors likely to impact how long you need for each stage (e.g. quantity, format, time period, location and complexity of data, and the number and availability of information holders / information owners and other stakeholders); don't forget to consider your own workload!

Remember also that the 20 day timeframe relates to notifying the requester of the Department's decision (or an extension of the timeframe, in accordance with the Act). You do not have to provide the information that you are releasing to the requester within that timeframe. You must however provide the information *without undue delay*, and you must advise the requester when they can expect to receive the information.

#### 4.2 A note on substantial collation and research (18A)

Once you have accurately scoped the request, you may find the request is for a significant volume of information, will take a long time to complete (in terms of processing time), or there are additional charges to the Department for retrieval of the information. If you are considering withholding information on the grounds of substantial collation and research ([s18\(f\)](#)) there are a number of things that you'll need to consider and we recommend that you talk to a key branch contact or the OIA team to work through these.

If you have established that substantial collation and research is a factor, you should consider contacting the requester to talk this through. Discuss the available options for managing the substantial collation and research, for example:

- **Amending the request scope**

If the requester agrees, you could (for example) reduce the time period or types of documents covered by the request, provide a list of the documents in scope for the requester to select from in their next request, or provide the information in a different format, e.g. summary or oral briefing

If you take steps to consult the requester within the first 7 working days you can treat any amended or clarified request you agree upon as a new request and restart the OIA clock. (See page 3 of [Ombudsman guidance](#))

- **Extending the timeframe for the request**

When setting your extension period, it is important to be realistic about how long processing will take. While you are still within the original 20 working day period, you can modify your

extension period, if you realise that it will not be long enough. However, you cannot modify the extension period, or re-extend the request once the extension has begun, and you are outside the original 20 day period.

As it is frustrating for the requester when the time they expect to receive the information keeps changing, it is best practice not to extend until you have made a *good faith* attempt to complete the request within 20 working days. Signal early to the requester that an extension is likely, but hold off on actually [extending your request timeframe](#) until the third or fourth week, by which point you should have a clear picture of how much additional time you are likely to need.

- **Fixing a charge to process the request within 20 working days**

[Talk to the OIA team](#) if you are considering charging, as it is not an appropriate option in all circumstances and requires a more extensive sign-off process. .

If the requester is not prepared to amend their request, and if extending or fixing a charge are not suitable options for managing the substantial collation, you can [refuse the request under s18\(f\)](#). It is strongly recommended that you discuss the request with the OIA team and the legal team if you are thinking about refusing the request on grounds of substantial collation.

**Template letter for extending the request timeframe or refusing the request available [here](#)**

#### Checklist for Scoping the request

- Checked whether information is publicly available / soon to be publicly available
- Checked whether information is publicly accessible via existing business processes
- Checked past releases on the same topic (OIAs, WPQs, Select committee)
- Identified the information holders, information owners and stakeholders
- Consulted with information holders on timeframe for collation
- identified any issues that could delay collation, assessment or consultation
- Identified indicative grounds for withholding or refusing and any matters of interpretation that may require legal advice
- Identified the format that the information (if released) is to be provided in
- Planned request timeline
- If substantial collation or research is necessary, contacted requester to discuss
- If refusing the request, considered seeking advice from legal services

## 5 Collate information

### 5.1 Identify information in scope

- 1) Arrange for search of all physical and electronic locations within DIA that you believe may hold information in scope. Your branch key contact and the OIA team can advise you on this.
- 2) If you are not certain you have captured all information in scope, consider sending a department-wide [email to all branches' BDS teams](#) to ask them to check for information.
- 3) Consider whether any external locations might hold information in scope e.g. other departments/agencies, commercial companies and contractors.
- 4) If the requester has asked for information that is held but has not yet been documented, create a document to record it; for example, the person who holds the information will need to type and print their recollection of the relevant policies, events, phone calls, meetings. Note that this documenting of information is not *creation of new information*. The information is already held by the Department in an intangible format
- 5) You aren't required to **create new information** in order to respond to an OIA request (e.g. to give an opinion, collect new data, or undertake new analysis/transformation of information) **however, you must consider whether it would be administratively unreasonable to refuse to do so**. E.g. the information would be created in the near future anyway, the information is of substantial public interest, closely tied with the functions of the organisation, or the work required to create the information is minimal.

*When contacting other branches, remember:*

- *Include a copy of the wording of the OIA request*
- *Include any working definitions and be clear about what information is included in the scope of the request and what is excluded*
- *State whether they should email you actual copies or just a list of the information identified*
- *State the date by which you expect the information/list or a 'Nil' response (be reasonable in setting the date)*

It's a good idea to keep a **list of locations you have searched**. If you need to replicate the response or if the requester complains to the Ombudsman, you can show that a reasonable effort was made to identify the requested information.

If there are a large number of documents in scope, consider keeping a **table/list of the documents**, to help you keep track of them and the action you are taking against each e.g. consultation, withholding, refusing. A document table is found on the back page of the [OIA coversheet](#).

### 5.2 Collect copies of the information in scope:

When you identify electronic or hardcopy documents you should make copies of these to add to your electronic document set and/or physical case file. (Note - it is risky to store original hardcopy documentation in your OIA case file, as it could be mistaken for copied documentation and redacted or released to the requester).

**If you redact electronically e.g. using Adobe Acrobat Pro XI, or another similar program:** you will need to take a scan of each hardcopy document identified, and save a copy of all electronic document files identified. (You can also combine all of these documents into one PDF in Adobe Acrobat Pro XI, which can help you better keep track of it. [Further instructions on how to do this](#))

**If you redact manually:** you will need to make three copies of each hardcopy document identified. You will also need to print out three copies of each electronic document identified. This is so that you are able to compile a clean-copy set, a mark-up set and a redacted set.

### 5.3 Issues that may come up during collation:

**Large volumes of information, or collating the information has a cost:** If the request is for a large quantity of information, or requires a search through a large quantity of information and you don't think you will be able to make a decision in the request within 20 working days, or retrieving the information will result in a substantial cost to the Department, see the notes on [Substantial Collation and Research](#) for options.

**You could not identify any information in scope:** If the information requested does not exist or cannot be found then the request should be refused under section [18\(e\)](#) of the Act. If the information is not held by the Department and there are no grounds for believing it to be held by another department then the request should be refused under section [18\(g\)](#) of the Act. You should also consider contacting the requester and discussing the situation. They may want to alter their request or may withdraw their request entirely.

If you discover relevant information after having refused the request under either of the above grounds, contact the OIA team to discuss the situation as soon as possible.

For more information about drafting an extension, charging or refusal letter see part 7.3 [Drafting](#).

#### Checklist for Collate information

- Sent all-of-Department information check request (if applicable)
- Requested copies/list of information from all internal information holders
- Requested copies/list of information from all external information holders (if applicable)
- Received and/or made copies of information in scope
- Compiled list of locations searched
- Compiled list of all information in scope
- Contacted requester to discuss amendment, extension, charging or refusal

## 6 Assess information

**Official Information must be made available unless there is good reason to withhold it**

**Consider the approach to withholding/releasing information in any previous related responses.**

The Department seeks to be as consistent as possible in its responses, both in order to avoid making self-contradictory public statements, and to ensure requesters are treated equally. If the Department has responded to the same or a similar OIA request in the past (particularly if this was recent), you would generally approach your current request in a way that is consistent with the previous request. If you are thinking of taking an approach that is very different to, or even contradictory to the previous request, it is a good idea to discuss the situation with your manager or the OIA team. They can help you identify whether you should get legal or media advice.

**Do you need subject matter experts (SMEs) to assess the material?**

In cases of specialised matters such as security risks, commercial sensitivity or investigations, you may need to have a SME assess the risks in releasing information. One option for managing this is to give the material to the SME for them to highlight points of concern, and then meet with them and a representative from Legal Services to go through each point and agree an approach to each.

**If you haven't worked with the OIA much yet, don't forget that there are people who can help you!**

There is a lot to be aware of in the OIA and there can be some pretty big consequences if we don't get it right – but others in your team, your branch key contact, or OIA team advisors are ready to discuss the request with you or peer review your assessment, so don't hesitate to approach them!

### 6.1 Doing the assessment:

Working in Adobe Acrobat professional	Working manually on hardcopy
<p>Ensure you have all of your documentation saved in a single PDF file.</p> <p>(<a href="#">How-to guide</a>)</p>	<p>You should have three complete sets of your compiled copied documents.</p> <ol style="list-style-type: none"> <li>1) The clean copy</li> <li>2) the mark-up copy</li> <li>3) the redaction copy.</li> </ol> <p>You will only need to work on the mark-up and redaction copies during the assessment.</p>
<p>Review the <a href="#">grounds for withholding/refusing in the Act</a> before you begin your assessment.</p>	
<p>Read through each line of your documentation carefully.</p>	
<p>As you go, electronically mark-up any information of concern (this should look like a red box around the information) and annotate each with the grounds you propose to withhold under.</p> <p>(<a href="#">How-to guide</a>)</p>	<p>As you go, highlight, underline, mark with a post-it or otherwise clearly indicate the information of concern and write the grounds you propose to withhold it under at the side.</p>
<p>If you have not worked with the Act for very long <a href="#">ask the OIA team for a peer review</a></p>	
<p>Review your mark-ups and if you are using Section 9 of the act undertake a <a href="#">public interest test</a> for each</p>	

If you are proposing to withhold any information or refuse part of the request, it is recommended that you complete this [template](#) and [Request a legal check](#)

Save or print out a copy of your mark-up document

Complete the redaction of the mark ups in Adobe (note – this cannot be reversed!) and print your redacted document onto watermarked 'release under the official information act' paper. Rescan the document to PDF

This is your Release Copy

Compare the mark-up copy with the redaction copy and (in the redaction copy) EITHER cover all information of concern with white redaction tape OR black-out all information of concern with wide black marker and a ruler.

*Note –keep using the same redaction method throughout the entire document.*

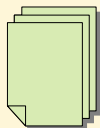
Wherever you redact material, place a marker by the side of the redaction and clearly annotate (at the bottom of the page) the grounds under the Act for the removal of the information. If there are multiple grounds on a single page, use numbers to denote different grounds.

When you have redacted and annotated, photocopy your redaction copy onto 'released under the Official information Act' watermarked paper and then scan it to PDF

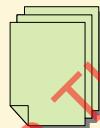
This is your Release Copy

*Remember to check that no part of your redacted information is visible on the release copy, if you have used marker to black-out*

You should now have:

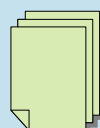


Mark-up file

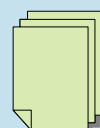


Release file

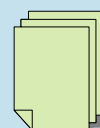
You should now have:



Clean hardcopy



Mark-up hardcopy



Release file

#### Checklist for Assess information

- Prepared files or hardcopy documentation for assessment
- Reviewed the withholding/refusal grounds in the Act if needed
- Reviewed each piece of information in scope carefully and assessed it for release
- Sought a peer review of assessment if needed
- If withholding information under section 9 of the Act – completed Public Interest Test
- If withholding or refusing any part of request – considered undertaking a legal check
- Prepared release copy of requested information (if applicable)

## 7 Prepare Response

Although Consultation, Decision and Drafting are discussed here individually – in practice, the stages of the process from assessment up to sign-off are fluid, and may occur in parallel. You might need to undertake consultation during any *or all* of these stages before you get the request into a finished state, ready for signoff.

### 7.1 Consultation

Consultation is about identifying and mitigating risk – e.g. information of concern, legal risk, reputational risk, and risk to uninformed stakeholders. There are three types of consultation:

- **Stakeholder consultation**  
to identify any remaining concerns and risks the people who own or work with the information might have with the proposed response or response approach, and decide whether to amend. Stakeholders may be internal or external to DIA. Not all stakeholders necessarily need to review or provide feedback; some may only need to receive notice of the response prior to release. Speak to your manager or talk with the OIA team if you have queries about consulting with stakeholders.
- **Legal consultation**  
to get an opinion on whether your decision to extend the timeframe, withhold information or refuse the request is in line with the Act; or to get advice on mitigating legal risk associated with releasing information - complete the [legal check template](#) and send to [legalservicesregulatory@dia.govt.nz](mailto:legalservicesregulatory@dia.govt.nz) )  
**It is advisable to do a legal check if you are planning to refuse the request or withhold information.**
- **Communications consultation**  
to assess whether the information being released, or the letter, poses a risk to the Department's reputation, and to put measures in place to mitigate this if so - complete the [Comms check template](#) and send to [Media@dia.govt.nz](mailto:Media@dia.govt.nz)  
**It is advisable to do a Comms check if your request is from the media, OR is about topical, controversial or newsworthy issues, OR spending.**

Some stakeholders are obvious, others are less so. Even if the request is focused on work your team does and information it owns, consultation with other affected business units or external parties may still be necessary in some cases. Talk to the OIA team or your branch key OIA contact if you are not sure whether you have included all the necessary people in your consultation.

If the information being released is low risk, does not include much information and involves only a few stakeholders, you may sometimes only need to circulate your draft response letter and release copy information to your stakeholders to ensure they are aware of it.

If the information is sensitive, complex, includes a large amount of information and/or many stakeholders, you *must* email your information or circulate hardcopy to the key stakeholders to review. Once they have had a reasonable period to review, set up a meeting with your stakeholders, including Legal and Comms, to go over everything together.

If your consultation is complex, consider also whether you need to [extend your response timeframe](#).

## 7.2 Make a decision

Making a decision in the request means deciding whether you will release to the requester the information they are requesting. You must make a decision for *each part* of their request. For example – they may have asked for information A in part one, information B in part two and information C in part three. It is important to make clear what your decision is for *each part*, although the information may actually be combined when it is provided. For each, you must decide whether to release the information in full, release some information and withhold other information, or refuse the part of the request.

## 7.3 Drafting the Letter

- All letters to the requester are written as if the person signing out the request is speaking on behalf of the Chief Executive of DIA, as the letter is a public statement from the Department and may be published in the media.
- All information given in the letter must be factually correct.
- The text formatting should be clear, the language easy to understand, free of spelling/grammar errors, and appropriate in tone. The [Style guide](#) can advise you on language, and formatting of paragraphs, lists, images, graphs and tables.
- There are [letter templates](#) available to help you. The templates have some required sections and some optional sections which you can modify/delete to suit your request circumstances.
- Remember – the templates are a guide - you can provide additional context information in your letter, if it will help the requester to better understand the reasons for your decision.

## 7.4 Types of letter:

### Decision letters

The decision letter is advising the requester of the Department's decision for the whole request. Make clear:

- What your decision is in respect of *each part* of the request; releasing all information, withholding some/all information, or refusing all/part of the request.
- What section of the Act you are withholding or refusing under (if applicable) and why this applies.
- Include a statement advising the requester of their right of complaint to the Ombudsman if they feel DIA has not acted fairly under the Act.

You do not have to include the information you are releasing with your response, but if you do not include it, you must advise the requester when and how you will be releasing it to them, and there should not be an unreasonable length of time between the response and the release.

### Extension of timeframe letters

You are able to extend the time available for response under one of two grounds:



- The request involves such a large amount of information (or a search through such a large amount of information) that completing the request within 20 days would unreasonably impact the Department's operations. [15A(1)(a)]
- You need to consult with people on your response, and this consultation cannot reasonably be completed within 20 working days (for example, due to the complexity, the number of stakeholders or their availability.) [15A(1)(b)]

You must communicate your extension to the requester within the original 20 working day period and cannot re-extend your request after the 20 working day period. (You can modify your extension period *during* the original 20 working days if necessary).

Include in your extension letter:

- the period of the extension (give the new due date)
- the grounds under the Act for the extension and why they apply
- A statement that the requester has a right to complain to the Ombudsman about the decision to extend the timeframe

The extension period has to be *reasonable and realistic*. It is a good idea to choose a comfortable period and advise the requester you will release the information as soon as possible, but no later than a specified date.

### Interim response letter

In a large or complex request, particularly if there are many parts, you may have an interim response. In this response you give your decision in relation to some parts of the request or some parts of the information, but extend the request in respect of others. It would normally be typical to release part of the information with the interim response.

Make clear what part of the request the decision applies to, and what part the extension applies to. You'll need to include all information that you would otherwise include in a response or an extension letter.

### Information release letter

This letter accompanies released information when this is not sent out together with the Decision letter.

#### Checklist for preparing response

- Identified stakeholders who need to be advised about the request *and/or* have the opportunity to consult on the response, *and/or* receive a copy of the final response prior to release
- Made a decision in respect of each part of the request
- Drafted a letter based on the templates available and verified that:
  - all required information (see section on drafting) is included
  - style and formatting is in line with DIA style guide
  - information is accurate and response is consistent with recent releases on same topic
- Completed Legal consultation if needed, and made any necessary amendments
- Completed Comms consultation if needed, and made any necessary amendments
- Completed all appropriate consultation with stakeholders

## 8 Sign-off Response

### 8.1 Getting sign-off on the response

Before you can release the response, you need to get it signed off by the people who own the information. The first thing to do is to put together an OIA response sign-off pack. This should include:

- [Departmental OIA cover sheet](#) or [Ministerial OIA cover sheet](#)
- [Signoff Sheet](#)
- Copy of original request
- Copy of response letter on letterhead, ready for signing
- [release copy](#) of documentation on 'released under the OIA' watermark paper
- [mark-up copy](#) of documentation
- (In some cases) other context information that is important to understanding the response (for example - a previous response on the same topic.)

Signoff can vary slightly from branch to branch, but in general it will include:

- Peer reviewer – reads the response and checks for spelling, grammar, formatting etc.
- Your manager
- General Manager/Director/Tier 3 manager of the group that owns the information (can be several)
- Deputy Chief Executive of the branch (if applicable for your branch)

When you have completed your sign-off sheet, scan it to PDF and save it with your request documentation in DMS/Cohesion.

### 8.2 No surprises notification

After you have the OIA pack signed off, you must send it to the relevant Minister's Office for review before you can send it out to the requester. This is to ensure that the Minister is aware of OIA responses going out from the department and has 'no surprises'. Generally, Ministers' offices require five working days to review a departmental OIA request. [How to send your pack through to the Minister's Office](#)

In the case of a Ministerial OIA request, you must send the OIA pack through to the Minister's office at least seven days prior to the response deadline, as further processing may be needed within the office. The Minister's office will send the response out to the requester directly and will notify you when it has been sent

This is also the time to send your final release letter and release documentation as FYI to your secondary stakeholders – who have not been involved in the processing of the request, but who may be impacted by the release.

## 9 Release response and close off request

When you have finished consultation and all necessary sign-off you can release the OIA response to the requester per their preferences.

If the response originally came in to the Department via DIA's OIA inbox, or if the OIA team have been managing correspondence with the requester – you must send out the response from the [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) inbox. The OIA team will then close off the request in the central OIA register.

If you have been corresponding directly with the requester via your personal or team email address, it's best to send the response the same way. Remember to copy [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) into the email, so that they can close off the request in the central OIA register.

If you are sending out the request in hardcopy format within New Zealand, use a postage-paid courier envelope, available from your Branch Development and Support team. If the amount of information you are sending is substantial, and cannot be sent over 5 courier envelopes, contact your Branch Development and Support team to arrange for other courier options. It is a good idea to discuss these with your manager.

**To finalise the request – you need to compile all the associated documentation and file it in your document set in DMS or Cohesion**

- Pull together all the email correspondence associated with the request (both within DIA and between DIA and the requester)
- Scan all documentation that you have in hardcopy to PDF.
- Consider any branch requirements for filing hardcopy.

### Checklist for sign-off, release response and close off request

- Completed Departmental/Ministerial cover sheet
- Put together [OIA pack](#) for signoff
- Signed off by peer reviewer, your manager, and any GM/Directors who own the release information
- Signed off by DCE (if applicable)
- The response letter has been signed by the main information owner or DCE
- Completed no-surprises notification for Minister's Offices and secondary stakeholders
- Sent copy of final response to all stakeholders (if needed)
- Completed Ministerial no-surprises review
- Sent response email to [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) and received copy of email sent to requester **OR**
- cc'd [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) into the response email I sent to requester
- Searched correspondence, electronic files and hardcopies associated with the request
- Filed all material related to the request in the request document set in DMS/Cohesion

## Appendix A: Withholding information and refusing requests under the Act

There are four main sections of the Act that are concerned with reasons not to release the requested information, or to refuse the request in whole or part. These are section 6, section 7, section 9 and section 18. Each of these sections are qualitatively different in terms of their application. Usually, you will be using section 18 and section 9.

### Section 18 Administrative reasons to refuse a request in whole or part

You can use more than one reason, but narrow it down to be accurate.

- 18(a)** by virtue of [section 6](#), [section 7](#) or [section 9](#) there is good reason for withholding the information  
*(if you are withholding all information in part of/the whole request, you can use this provision to refuse the request in whole or part. You must still cite the specific section 6, 7 or 9 withholding grounds you are relying on in respect of the requested information.)*
- 18(b)** by virtue of [section 10](#), the Department does not confirm or deny the existence or non-existence of the information requested  
*(it is recommended that you seek legal advice before using this provision)*
- 18(c)** the making available of the information requested would -  
(i) be contrary to the provisions of a specified enactment; or  
(ii) constitute contempt of court or of the House of Representatives  
*(you must cite the provisions of the specific enactment that apply. It is recommended to seek legal advice if you are thinking of using part ii of this provision)*
- 18(d)** the information requested is or will soon be publically available  
*(it is good practice to provide directions (and/or a link to) the location of the information)*
- 18(da)** the request is made by a defendant or a person acting on behalf of a defendant and is -  
(i) for information that could be sought by the defendant under the [Criminal Disclosure Act 2008](#); or  
(ii) for information that could be sought by the defendant under that Act and that has been disclosed to, or withheld from, the defendant under that Act  
*(it is recommended that you seek legal advice before using this provision)*
- 18(e)** the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found  
*(it is good practice to keep a record of your searches and attempts to locate the information, so that you can demonstrate you have made a reasonable effort, should this be needed in the event of a complaint)*

- 18(f)** the information requested cannot be made available without substantial collation and research  
*(see also section 18A, which requires that before you use this ground you must consider whether the request could be granted if a charge were fixed under section 15, or the request timeframe extended under section 15A)*
- 18(g)** the information requested is not held by the department or Minister of the Crown or organisation and the person dealing with the request has no grounds for believing that the information is either -  
(i) held by another department or Minister of the Crown or organisation, or by a local Authority; or  
(ii) connected more closely with the functions of another department or Minister of the Crown or organisation or of a local authority.  
*(Checking with other agencies can add strength to your decision if you are thinking of using this provision. If you would like help contacting the other agencies, speak to the OIA team)*
- 18(h)** the request is frivolous or vexatious or the information requested is trivial  
*(there is a high threshold in applying this provision. Talk to the OIA team if you are considering using it)*

## Section 9 grounds for withholding information in a request

To apply any withholding grounds under section 9 of the Act, you must undertake a Public Interest Test to decide whether the public interest in releasing the information outweighs the public interest in withholding it.

The core purpose of the Official Information Act is to ensure that official information is made available to members of the public, in order to serve the public interest. Section 9.1 makes specific reference to withholding information “only where the withholding is not outweighed by other considerations which render it desirable, in the public interest, to make the information available.” There are several types of public interest that emerge from releasing information, including (but not limited to):

1. Promoting the transparency and accountability of Ministers and the Public service
2. Informing and enabling public participation in the activity of government
3. Supporting the administration of justice and procedural fairness
4. Promoting public health, safety and the protection of the environment

### The Public Interest Test

1. Identify the sections of the Act you want to withhold the information and what the associated public interest in withholding is. (Remember - the Court of Appeal defines “would be likely” as “a serious or real and substantial risk to a protected interest, a risk that might well eventuate”. The negative impact of release must be *likely*, not simply *possible*.)
2. Identify any public interest considerations in favour of releasing the information.

3. Compare your reasons for 1 and 2 and decide whether the public interest is higher if the information is withheld or released.
4. If you are not certain where the balance of public interest lies, consider consulting with the OIA team, your branch key OIA contact, or a member of the Legal team.

The Ombudsman has produced [comprehensive guidance on the public interest test](#).

**Withholding of the information is necessary to:**

- 9(2)(a)** protect the privacy of natural persons, including that of deceased natural persons
- 9(2)(b)** protect information where the making available of the information -
  - (i) would reveal a trade secret OR
  - (ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information
- 9(2)(ba)** protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information -
  - (i) would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied
  - (ii) would be likely to damage the public interest
- 9(2)(c)** avoid prejudice to measures protecting the health and safety of members of the public
- 9(2)(d)** avoid prejudice to the substantial economic interests of New Zealand.
- 9(2)(e)** avoid prejudice to measures that prevent or mitigate material loss to members of the public
- 9(2)(f)** maintain the constitutional conventions for the time being which protect -
  - (i) the confidentiality of communications by or with the Sovereign or her representative
  - (ii) collective and individual ministerial responsibility
  - (iii) the political neutrality of officials
  - (iv) the confidentiality of in-confidence advice given by Ministers of the Crown and officials
- 9(2)(g)** maintain the effective conduct of public affairs through -
  - (i) the free and frank expression of opinions by or between or to ministers of the Crown or members of an organisation or officers and employees of any department or organisation in the course of their duty
  - (ii) the protection of such Ministers, members of organisation, officers, and employees from improper pressure or harassment
- 9(2)(h)** maintain legal professional privilege

- 9(2)(i) enable a Minister of the Crown or any department or organisation holding the information to carry out, without prejudice or disadvantage, commercial activities
- 9(2)(j) enable a Minister of the Crown or any department or organisation holding the information to carry out, without prejudice or disadvantage, negotiations (including commercial or industrial negotiations)
- 9(2)(k) prevent the disclosure or use of official information for improper gain or advantage

## Section 6: Conclusive grounds for withholding information

'Conclusive' means that the negative public interest impacts of releasing the information are so substantial as to outweigh any other public interest considerations in favour of releasing the information. This means that you do not need to undertake a public interest test. The threshold for applying section 6 and 7 withholding grounds is high and you must be able to demonstrate clearly how the release of the information would *be likely to* lead to the negative impact.

### Release would be likely to:

- 6A prejudice the security or defence or the international relations of New Zealand
- 6B prejudice the entrusting of information to the Government of New Zealand on a basis of confidence by
  - (i) the Government of any other country or any agency of such a Government; or
  - (ii) any international organisation
- 6C prejudice the maintenance of the law, including the prevention, detection or investigation of offences; and the right to a fair trial.
- 6D endanger the safety of any person
- 6E seriously damage the economy of New Zealand by disclosing prematurely decisions to change or continue government economic or financial policies relating to
  - (i) exchange rates or overseas exchange transactions
  - (ii) the regulation of banking or credit
  - (iii) taxation
  - (iv) the stability, control or adjustment of prices of goods and services, rents and other costs and rates of wages, salaries and other incomes.
  - (v) the borrowing of money by the Government of New Zealand
  - (vi) the entering into of overseas trade agreements

**If any of your information relates to the Cook Islands, Niue, Tokelau or the Ross dependency, see section 7 of the Act for special withholding grounds**

## Appendix B: Checklist for processing an OIA request

### Logging, Considering and Filing request

[by day 3]

- Request has been logged in Central OIA Register
- Request has been allocated to the person who will be processing the response
- Requester was assessed and deemed eligible to make a request
- Request was assessed for due particularity and clarification sought if needed
- Request was assessed for transfer and transfer was completed if required
- Requester has been sent an email acknowledging receipt of the request
- Created request folder/document set in DMS or Cohesion
- Request has been entered into the Ministerial Status Report

### Scoping

[in week 1]

- Checked whether information is publicly available / soon to be publicly available
- Checked whether information is publicly accessible via existing business processes
- Checked past releases on the same topic (OIAs, WPQs, Select committee)
- Identified the information holders, information owners and stakeholders
- Consulted with information holders on timeframe for collation
- Identified any issues that could delay collation, assessment or consultation
- Identified indicative grounds for withholding or refusing and any matters of interpretation that may require legal advice
- Identified the format that the information (if released) is to be provided in
- Planned request timeline
- If substantial collation or research is necessary, contacted requester to discuss
- If refusing the request, considered seeking advice from legal services

### Collation

[by week 1-2]

- Sent all-of-Department information check request (if applicable)
- Requested copies/list of information from all internal information holders
- Requested copies/list of information from all external information holders (if applicable)
- Received and/or made copies of information in scope
- Compiled list of locations searched
- Compiled list of all information in scope
- Contacted requester to discuss amendment, extension, charging or refusal

### Assessment

[by week 1-2]

- Prepared files or hardcopy documentation for assessment
- Reviewed the withholding/refusal grounds in the Act if needed
- Reviewed each piece of information in scope carefully and assessed it for release
- Sought a peer review of assessment if needed
- If withholding information under section 9 of the Act – completed Public Interest Test
- If withholding information or refusing any part of request – considered undertaking a legal check
- Prepared release copy of requested information (if applicable)



## Prepare Response

[by week 2-3]

- Identified stakeholders who need to be advised about the request *and/or* have the opportunity to consult on the response, *and/or* receive a copy of the final response prior to release
- Made a decision in respect of each part of the request
- Drafted a letter based on the templates available and verified that:
  - all required information (see section on drafting) is included
  - style and formatting is in line with DIA style guide
  - information is accurate and response is consistent with recent releases on the same topic
- Completed Legal consultation if needed, and made any necessary amendments
- Completed Comms consultation if needed, and made any necessary amendments
- Completed all appropriate consultation with stakeholders

## Signoff

[by week 2-3]

- Completed Departmental/Ministerial cover sheet
- Put together OIA pack for signoff
- Signed off by peer reviewer, your manager, any GM/Directors who own the information
- Signed off by DCE (if applicable)
- The response letter has been signed by the main information owner or DCE
- Completed no-surprises notification to Ministers' offices and secondary stakeholders

## Checklist for release response and close off request

[by week 3-4]

- The Ministerial no-surprises review period has finished OR the Minister's office has given the OK to release
- Sent response email to OIA@dia.govt.nz and received copy of email sent to requester **OR**
- copied OIA@dia.govt.nz into the response email I sent to requester
- Searched correspondence, electronic files and hardcopies associated with the request
- Filed all material related to the request in the request document set in DMS/Cohesion

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

### Key Ministerial OIA contacts:

<b>IA</b>	<b>MS</b>
Section 9(2)(a)	Section 9(2)(a)
<b>cc</b>	<b>cc</b>
Section 9(2)(a)	Section 9(2)(a)
<b>CVS</b>	<b>LG</b>
Section 9(2)(a)	Minister LG
	Section 9(2)(a)
	Associate Minister LG
	Section 9(2)(a)
<b>EC</b>	<b>RA</b>
Section 9(2)(a)	Section 9(2)(a)

### General M.O. OIA timeframe (working days)

Type of request	Request received	Sent to Dept by	Due to private sec by	Due to advisor/press sec by	To Minister by	Return to Branch by	Release by
<b>MINISTERIAL</b>	<b>Day 1</b>	<b>Day 2</b>	<b>Day 13</b>	<b>Day 16</b>	<b>Day 18</b>	<b>n/a</b>	<b>Day 20</b>
<b>DEPARTMENTAL</b>	<b>Day 1</b>	<b>n/a</b>	<b>Day 15</b>	<b>Day 17</b>	<b>Day 18</b>	<b>Day 19</b>	<b>Day 20</b>

The dates given above are the *latest* date by which each stage should have been reached. It is anticipated that DIA OIA practitioners and the M.O. will proceed through the stages as time-efficiently as possible. The time required to send documents through internal mail is not included in these timeframes.

### Late/urgent M.O. OIA timeframe

If you have exceeded the timeframes above, contact the relevant M.O. by phone to discuss your options. E.g. The M.O. may advise that they are prepared to process the request with urgency. Alternately, where the request includes a lot of material and has not been extended, you may be advised to extend for the purpose of consultation.

## Process for Ministerial OIA requests

1. Receive Ministerial OIA from M.O. Private Secretary, with due date to Minister's Office.
2. At least seven working days before the intended release date, send to the M.O. Private Sec:
  - **Completed Ministerial OIA cover sheet**  
including clear reference to any risks, their mitigations and any consultation undertaken; signed by the relevant manager and scanned to PDF
  - **Completed Ministerial Sign-off sheet**  
signed by the peer reviewer, their manager, the GM and DCE; and scanned to PDF
  - **Draft response letter**  
in editable word format
  - **Documentation Set**
    - Full set of release documents ready to be released; on OIA paper with redactions/removals made and annotated in accordance with the OIA
    - Full set of all relevant original documents, marked up with information proposed to be withheld and annotated in accordance with the OIA

**If the documentation is less than 100 pages:** you can send all of the above to the M.O. as email attachments (except for the M.O. CVS which requires all documentation in hardcopy). *Remember to clearly label the attachments!*

**If the documentation is more than 100 pages:** send all of the above in hardcopy format to the M.O. via internal mail

- [Ministers' Preferences](#)
- [Timetable for deliveries to Ministers' offices](#)
- Remember to print the hardcopy of the letter on the correct Minister's letterhead paper
- Include 2x copies of the OIA coversheet.
- After sending, email the M.O. to let them know when they can expect the OIA pack to arrive, and attach a soft copy of the letter and ministerial coversheet in case they need to revise the content.

3. The private sec reviews the OIA pack and provides it with any comments to the Advisor/Press sec
4. The Advisor/press sec will do a final review and will then provide the OIA pack to the Minister to sign out
5. Once approved by the Minister, the signed response and documents are returned to the private sec to date stamp, copy and release to requestor through the M.O. email/post channel.
6. The Private sec will email the Departmental OIA lead (ccing in [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz)) to advise that the OIA has been released.

## Process for Departmental OIA requests

1. Departments must consult with/FYI the M.O. on all OIA responses.
2. At least five working days before the intended release date, send to the M.O. Private Sec:
  - **Completed Departmental OIA cover sheet**  
including clear reference to any risks, their mitigations and any consultation undertaken; signed by the relevant manager and scanned to PDF
  - **Completed Sign-off sheet**  
signed by the peer reviewer, their manager, the GM and DCE; and scanned to PDF
  - **Copy of original OIA request received**  
include details of any re-scoping or amendments to the request.
  - **Draft response letter**  
final version, in editable word format
  - **Documentation Set**
    - Full set of release documents ready to be released; on OIA paper with redactions/removals made and annotated in accordance with the OIA
    - Full set of all relevant original documents, marked up with information proposed to be withheld and annotated in accordance with the OIA

**If the documentation is less than 100 pages:** you can send all of the above to the M.O. as email attachments (except for M.O. CVS which requires all documentation in hardcopy). *Remember to clearly label the attachments!*

**If the documentation is more than 100 pages:** send all of the above in hardcopy format to the M.O. via internal mail

- [Ministers' Preferences](#)
- [Timetable for deliveries to Ministers' offices](#)
- Remember to print the hardcopy of the letter on the correct Minister's letterhead paper
- Include 2x copies of the OIA coversheet.
- After sending, email the M.O. to let them know when they can expect the OIA pack to arrive, and attach a soft copy of the letter in case they need to revise the content.

3. On receiving material from the department the private sec reviews the proposed release documents and gives the OIA pack to the advisor/press sec, noting any concerns or comments.
4. The Advisor/Press sec does a final review and gives the briefing to the Minister to sight with any comments.
5. The private sec will email the department OIA lead (cc [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz)) to let them know they can release the response.

# OIA Style Guide Summary

This is a condensed guide that gives the DIA styles and formatting that apply when drafting OIA response letters. Refer to the corporate DIA [Style Guide](#) for more guidance.

## Formatting

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### Letter templates:

- Use the Templates available on the [OIA Templates and resources page on 1840](#)  
**OIA letter templates** – 1840 – Resources tab – Official Information Requests – Templates and resources
- Use the letter template directly from Word  
**Blank letter template** – Templates tab – Core templates – Correspondence (then choose a template)

### Paragraphs and spacing:

- Use single spaces between sentences. Don't use double spaces
- Adjust paragraph spacing or add lines to ensure that very short letters do not look squashed up at the top of the page
- Avoid a single line or word from appearing at the top of the next page. The *yours sincerely* and signature block should never be the only thing on a page

### Headings:

- Break up large blocks of text with headings for easier readability

### Numbered lists:

- Use numbered bullets for longer list so readers can more easily refer to specific items

### Tables:

- Introduce the reader to tables in the body of the letter
- Text should be left aligned, headings centred and figures right aligned
- If you are working with large figures, remove the last 3 zeroes and abbreviate them as (000) in the column heading
- Specify whether the figures are GST inclusive or GST exclusive
- Specify whether years are calendar or financial years
- Be consistent in your symbol use (eg, \$, &, #, %)

### Images/graphs

- Introduce the reader to images in the body of the letter
- Images should be centred on the page and captions should be below them

## Attached documentation

- Introduce attachments in the body of the letter as “I attach” or “I enclose”

## Language

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### Style:

- Write in plain English. It’s important to be understood by everyone
- Be concise
- Use short sentences with one idea per sentence
- Write in the active voice (I have decided, we have assessed) rather than the passive (it has been decided, an assessment was completed)
- Avoid slang, clichés, metaphors and Public Sector jargon, eg, AoG, appropriations, benefit realisation, business case
- If you need to use technical terms, then briefly explain them
- The first time you use an abbreviation, write it in full and include the abbreviation in brackets, eg, The Department of Internal Affairs (Department). After that you can use the abbreviation in the rest of the document
- Use italics for publication titles, Latin terms (if not in common use) and legal cases

### Dates:

- Dates should be in full day-month-year format (10 November 2016 not 10/11/16)
- Specify if calendar year or financial year

### Numbers:

- Write numbers zero to nine as words, and numbers 10 and up as numerals, *unless* they are the first word in a sentence
- Sections of Acts are always written with numerals
- Use commas in numbers larger than 1,000
- Abbreviate common metric units unless the measurements are inexact, eg, 1000km vs *several hundred* kilometres. Write less common metrics in full then abbreviate, eg, kilojoules (kj)
- Phone numbers are written with spaces only, eg, 04 664 9933 or 027 457 5676. To include country code use +64 4 664 9933 or +64 274 575676

### Referring to the Government, Public Service departments and Ministers in letters

- Capitalise *Government* if you’re talking about the current government (eg, the Government has decided...)  
Use lower case if you mean *government* in a general sense (eg, the government sector, problems of government)

- Don't capitalise *local government* unless the words form part of the name of a document or piece of legislation
- Capitalise *Public Service* but not *public sector*
- Use our name as the Department of Internal Affairs, then use the abbreviation "the Department"
- The acronym *DIA* and the term *Internal Affairs department*, are only used in internal or interagency communications
- Capitalise *Department* or *Ministry* when talking about particular Public Service agencies, but use lower case if talking about departments in the general sense, eg, All *Public Service departments are subject to*
- Minister is always capitalised but ministerial is not
- If you have to list ministers, order them by cabinet ranking rather than alphabetically. Cabinet ranks can be found [here](#)

### Official titles

Title	Refer to as	Begin letters with
Ministers	Hon Peter Dunne, MP	Dear Minister Dunne
Prime Minister	Rt Hon John Key	Dear Prime Minister
Governor-General	His/Her Excellency the Governor-General	Your Excellency
Knights	Sir Edmund Hillary	Dear Sir Edmund
Dames	Dame Augusta Wallace	Dear Dame Augusta
Ambassador	Your Excellency or Ambassador	Your Excellency or Dear Ambassador
Mayors	The Mayor of Auckland	Dear Mayor or Dear Len Brown ("Your Worship" is considered archaic and individual Mayors usually make it known how they wish to be styled)
High Court Judges	The Hon Justice Allen	Dear Judge or Dear Sir
	The Hon Justice Cartwright	Dear Judge or Dear Madam
Chief Justice	The Chief Justice, Dame Sian Elias	Dear Chief Justice
Councillors	Councillor John Pertwee	Dear Mr Pertwee

# Checklist for processing an OIA request

## Logging, Considering and Filing request

[by day 3]

- Request has been logged in Central OIA Register
- Request has been allocated to the person who will be processing the response
- Requester was assessed and deemed eligible to make a request
- Request was assessed for due particularity and clarification sought if needed
- Request was assessed for transfer and transfer was completed if required
- Requester has been sent an email acknowledging receipt of the request
- Created request folder/document set in DMS or Cohesion
- Request has been entered into the Ministerial Status Report

## Scoping

[in week 1]

- Checked whether information is publicly available / soon to be publicly available
- Checked whether information is publicly accessible via existing business processes
- Checked past releases on the same topic (OIAs, WPOs, Select committee)
- Identified the information holders, information owners and stakeholders
- Consulted with information holders on timeframe for collation
- Identified any issues that could delay collation, assessment or consultation
- Identified indicative grounds for withholding or refusing and any matters of interpretation that may require legal advice
- Identified the format that the information (if released) is to be provided in
- Planned request timeline
- If substantial collation or research is necessary, contacted requester to discuss
- If refusing the request, considered seeking advice from legal services

## Collation

[by week 1-2]

- Sent all-of-Department information check request (if applicable)
- Requested copies/list of information from all internal information holders
- Requested copies/list of information from all external information holders (if applicable)
- Received and/or made copies of information in scope
- Compiled list of locations searched
- Compiled list of all information in scope
- Contacted requester to discuss amendment, extension, charging or refusal (if applicable)

## Assessment

[by week 1-2]

- Prepared files or hardcopy documentation for assessment
- Reviewed the withholding/refusal grounds in the Act if needed
- Reviewed each piece of information in scope carefully and assessed it for release
- Sought a peer review of assessment if needed



- If withholding information under section 9 of the Act – completed Public Interest Test
- If withholding information or refusing any part of request – considered undertaking a legal check
- Prepared release copy of requested information (if applicable)

### Prepare Response

[by week 2-3]

- Identified stakeholders who need to be advised / have the opportunity to consult on the response / receive a copy of the final response prior to release
- Made a decision in respect of each part of the request
- Drafted a letter based on the templates available and verified that:
  - all required information (see section on drafting) is included
  - style and formatting is in line with DIA style guide
  - information is accurate and response is consistent with recent releases on same topic
- Completed Legal consultation if needed, and made any necessary amendments
- Completed Comms consultation if needed, and made any necessary amendments
- Completed all appropriate consultation with stakeholders

### Signoff

[by week 2-3]

- Completed Departmental/Ministerial cover sheet
- Put together OIA pack for signoff
- Signed off by peer reviewer, your manager, any GM/Directors who own the information
- Signed off by DCE (if applicable)
- The response letter has been signed by the main information owner or DCE
- Completed no-surprises notification to Ministers' offices and secondary stakeholders

### Checklist for release response and close off request

[by week 3-4]

- The Ministerial no-surprises review period has finished OR the Minister's office has confirmed the Minister has reviewed
- Sent response email to OIA@dia.govt.nz and received copy of email sent to requester
- OR**
- copied OIA@dia.govt.nz into the response email I sent to requester
- Searched correspondence, electronic files and hardcopies associated with the request
- Filed all material related to the request in the request document set in DMS/Cohesion

# Te kete tuarua

## Guidelines for official documents

### Contents

1. Public Service .....	2
2. What is Official Information? .....	3
3. Official Information Act requests (to Department or Minister).....	11
4. Privacy Act requests .....	40
5. Ministerial briefings .....	43
6. Cabinet papers.....	47
7. Ministerial speech notes.....	48
8. Ministerial correspondence .....	49
9. Parliamentary questions (oral or written).....	52
10. Responses to Select Committee examinations and inquiries.....	55
11. Meetings with Minister.....	57
12. Ministerial Status Reports .....	58
13. Chief Executive correspondence and meetings .....	61

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

## 1. Public Service

As public servants we should conform to certain standards of work and behaviour. Under the State Sector Act the State Services Commissioner has issued a code of conduct covering the minimum standards of integrity and conduct that are to apply in the Public Service, titled the New Zealand Public Service Code of Conduct. In addition the Department has its own additional [code of conduct](#). You should be familiar with both. You can access the complete New Zealand Public Sector Code of Conduct at: <http://www.ssc.govt.nz/display/document.asp?docid=3423>

*HR Information / The Way We Work / Codes of Conduct.*

The New Zealand Public Service Code of Conduct has three Principles, the essential points of which are set out below. For more information about each, including what might be expected of you in certain situations, you should consult the full text of the Code via the link above.

- **First Principle: Public servants should fulfil their lawful obligations to the Government with professionalism and integrity.**
- **Second Principle: Public servants should perform their official duties honestly, faithfully and efficiently, respecting the rights of the public and their colleagues.**
- **Third Principle: Public servants should not bring the Public Service into disrepute through their private activities.**

[Double click to return to Contents](#)

## 2. What is Official Information?

Official Information is any information held by a department, organisation or Minister of the Crown in their official capacity. It is defined in section 2 of the Official Information Act as:

“any information held by a Department.”

The Act then qualifies the definition in many ways, but the definition above is the essence of the full definition as it relates to the Department. You can view the full definition at:

<http://www.legislation.govt.nz/>

and a short explanation is provided in paragraph 8.20 of the Cabinet Manual. on this website ; [www.cabinetoffice.govt.nz](http://www.cabinetoffice.govt.nz) The government holds a large quantity of information of all kinds. All government information should be treated with care and protected from unauthorised release.

The Official Information Act is not framed in terms of documents but of information. Official information can include:

- personal information
- emails
- annotations on documents
- file notes
- meeting notes
- notes of telephone conversations.
- audio or video tapes
- information in officials' or Ministers' memories, and
- information generated within an organisation or obtained from outside sources.

Information is “held” if it is in the possession of a Minister, Department or organisation in paper or electronic form. It is also “held” if the Minister or an officer of the department or organisation has the information in his or her head.

Where a request under the Official Information Act is made of a Minister, the Minister is obliged to comply with the Act. Staff assisting a Minister can prepare a draft response for the Minister and need not ask the Minister whether he or she has any additional information in his/her head.

If staff believe that the Minister may hold additional information in his/her head, they should clarify the matter with the Minister. In general, it is reasonable for staff to prepare the answer on the basis of information held on files. If, when the Minister comes to sign out the reply, he or she remembers something else within the scope of the request but not in the files, he can add that information to the letter. Note, however, that while information in someone's head is within the scope of the Act, in practice it is very rarely considered.

Develop good email habits:

- use formal language as a matter of course
- make annotations and notes with the awareness that you are creating official information
- refer to people by their formal titles in emails
- use meaningful subject headings on emails
- limit the email to one topic ("round up" emails dealing with multiple subjects cause recordkeepers a lot of problems)
- when saving (for the permanent record) emails received from outside the department you must not alter the subject line as this is considered to be tampering with an original document. If the subject line is vague add the additional information to the title field of the metadata record. Save the email as a completed DMS document, not as a draft.

#### **“ ‘The Dominion’ test”**

All official information should be created with the awareness that it will one day be in the public domain. Would you be happy for what you have written by hand on a document or typed in an email to be published on the front page of tomorrow's Dominion Post?

Where government documents are sensitive, they may be given a security classification. Classified documents must be handled in accordance with their classification, subject to their release under the Official Information Act or under some other proper authority (see paragraph 8.34 of the Cabinet Manual at <http://www.cabinetoffice.govt.nz>)

#### **Record-keeping**

Good record-keeping is important for:

- institutional knowledge – records (including files) provide a record of government business and policy-making
- legal obligations – the Archives Act, the Privacy Act and the Official Information Act among many other acts and regulations require departments to keep complete, comprehensive, accurate and useable records. Poor record-keeping could hamper the Department's ability to respond to an Official Information Act request or to produce information required for a court case
- accountability to the public for the conduct of Departmental business
- efficiency – information is available to the right people when it is needed.

### Filing

The DMS libraries are the department's main official recordkeeping system. Documents to be retained on record that can be saved to the DMS, should be saved in this form.

Where it is necessary to retain documents in paper form (such as signed copies returned from Ministers' offices), you should file these in the appropriate folder (see 'Where to file').

### What to file

#### Emails:

- that document a business activity
- requesting or authorising expenditure
- requesting or authorising decisions
- notifying of changes of policy
- establishing guidelines or precedents
- evidence of consultation (internal or external) on policy document formal submissions
- a threaded conversation combining replies related to a specific piece of work.

#### Other documents

The Department is **not** obliged to retain both hard and electronic copies of documents. In general, DIA policy is to retain the "official" record in its original format.

Significant **drafts** of documents should be saved to the DMS. Significant drafts are:

- drafts circulated for consultation internally or externally
- drafts incorporating internal or external comments
- final versions
- any other drafts you feel are significant and should be retained.

You should file a copy (without deletions) of any documents released under the Official Information Act if those documents have had parts obscured or deleted for any reason prior to release.

### **What *not* to file**

Emails:

- that are non-work or personal messages
- arranging meetings
- making bookings
- notifying about seminars or workshops
- reminding to take action
- that are invitations
- providing contact details
- copying material sent from elsewhere and not intended to result in action within DIA
- duplicating other material
- involving publications and promotions from outside (unless justifying DIA purchase or action)
- that are list serve (topic-related email group) messages (unless posted on behalf of DIA)
- that are SPAM (unsolicited or junk mail).

Do not file other documents that are:

- duplicates (unless the original is lost)
- printouts of web pages that are not authored by DIA (unless their inclusion is critical for other papers to be understood)

- published items not published by DIA (unless their inclusion is critical for other papers to be understood). There can be a case for filing in the filing system the final version of a report or publication published by DIA.
- Post-it notes (yellow stickies). These are for temporary use only. They eventually lose their stickiness and should not be put on file. They may also damage the other papers in the file. If they contain information of value to the record they should be photocopied and the photocopy filed.
- File a copy of any documents released under the Official Information Act if those documents have had parts obscured or deleted for any reason under the Act.

### **Where to file**

The DMS is the Department's main record keeping system. Many (but not all) of the DMS file classifications have corresponding paper files. A blue icon beside the DMS file number indicates that a paper file exists as well.

There is a corporate-wide DMS "library" (database) in which official business information relating to the functions of the wider Department are stored, for example Corporate Planning and HR policies. In addition, each business group has at least one DMS library where information dedicated to the work of that Business Group is categorized. All Business Groups have some activities in common, for example people management, financial planning, relationship management and business group specific projects.

Where you file something depends on the activity you are doing. Remember that the best way to view DMS libraries is through "Folders" view which shows the basic structure of the library you are in.

When you want to file something, consider:

- what activity does the information I am creating relate to?
  - is it corporate level activity or specific to my business group?
  - this will tell you which library you need to be in.
- is this activity to do with running the business group?
  - if so, look in categories with numbers less than 1000 and click the twisty to find the sub-category
- Is this activity contributing to a business group project?



- if so, look for the project category and click the twisty to find the sub-category
- Is the activity about a corporate function or project?
  - if so, look for the appropriate category in the Corporate library.

If you have any difficulty deciding where to file something, ask the support staff in your business group, or your manager.

If you can't find the category you need, contact the records management team by sending an email with your needs to "Document & Records Management/DIA."

### **Publications**

If you are planning a publication, please contact The Information Centre which will arrange for the Department's legal requirements to be met. These include obtaining an ISBN or ISSN number and depositing copies at the National Library.

### **Document security and destruction**

"One person's trash is another person's treasure."

The Department has a responsibility to protect official information from unauthorised release. Treat all information as official information and make a habit of disposing of all work-related paper that is not part of the official record in the secure disposal bin on your floor (often blue). Do not destroy information that is part of the official record, as this would be in breach of sections 17 and 18 of the Public Records Act 2005. Note that neither the Official Information Act nor the Privacy Act override or supersede the Public Records Act.

One way to develop this habit is to set aside a place on or near your desk where you accumulate documents for confidential destruction and put them in the blue bin on your way out at the end of the day. When a bin is full, please advise the admin support staff who will arrange for the contents to be shredded on site by the document destruction contractor.

If you want an added level of security, for example when disposing of obviously confidential documents, you can put them directly into the shredder on your floor.

The waste paper basket under your desk is not a secure form of disposal and ideally should not be used for disposing of work-related paper.

### **Tidy workspace**

Having a tidy workspace helps us in protect official information. It means:

- making sure you have all the shelving, filing trays, folders and secure storage you need
- having an organised desk
- organising the papers on your desk so that someone else can continue your work if necessary in your absence
- clearing as much paper from your desk top as possible before leaving for the day
- before leaving for the day, ensuring that sensitive documents (including Cabinet papers) are not visible on your desk.

**Inappropriate conduct** [www.ssc.govt.nz](http://www.ssc.govt.nz) 'The Public Service and Official Information'

### **Use of Information for Gain**

Public servants must not improperly disclose or otherwise make use of official information for the gain or advantage of themselves or others. This elementary rule of conduct is supported by criminal sanctions. Under s105A of the Crimes Act every official is liable for imprisonment for a term of up to seven years who corruptly uses any information acquired in his or her official capacity to obtain directly or indirectly an advantage or a pecuniary gain for themselves or any other person.

This does not, of course, forbid every use of official information. If the information is already public (published reports, public registers), there is no corruption or impropriety in taking advantage of it. The disclosure of information in accordance with the Official Information Act is not merely *lawful but obligatory*. However, the integrity of public servants must be *apparent as well as actual*. So they may not use for gain or advantage information that would be made available if it were requested but in fact has not been released.

### **"Leaking"**

The Official Information Act 1982 is not a licence to "leak" information, or disclose information in an unauthorised way. "Leaking" cannot be condoned in any circumstances. Those who may be tempted to indulge in leaking official information to the media, opposition parties, or to others should be reminded of the *Public Service Code of Conduct* which provides (p.17) that:

*"It is unacceptable for public servants to make unauthorised use or disclosure of information to which they have had official access. Whatever their motives, such employees betray the trust put in them, and undermine the relationship that should exist between Ministers and the Public Service. Depending on the circumstances of the case, the unauthorised disclosure of information may lead to disciplinary action, including dismissal."*

The obligation not to use or disclose information to which they have had access in an authorised way, persists beyond the term of employment for a public servant. The obligation applies to former employees, i.e. those who have resigned or retired from the Public Service.

[Double click to return to contents](#)

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

### 3. Official Information Act requests (to Department or Minister)

#### Useful links

1. [“The Public Service and Official Information.”](#)

The State Services Commission has produced some comprehensive guidance relating to Official Information and requests under the Official Information Act, excerpts of which have been reproduced in these guidelines. The paper as a whole forms part of their guidance series “Principles, Conventions and Practice

2. [Section 8 of the Cabinet Manual: “Official Information: protection, availability and disclosure.”](#)

3. [Ombudsmen’s practice guidelines](#)

These guidelines have been developed to assist both holders of official information and requesters of such information. They are designed to provide an insight into the administration of the legislation as well as providing some guidance as to the current approach of the Ombudsmen to particular parts of the legislation.

The guidelines are very comprehensive, and are grouped under the following five headings:

- Part A: How the Official Information Legislation Works
- Part B: Reasons for Refusing Requests
- Part C: Other Important Provisions of the Legislation
- Part D: An Ombudsman’s Investigation
- Part E: Common Misconceptions

As a rule, use the internet links above or speak to the Department’s Legal Services team as your first ports of call for guidance on applying the Act. The Office of the Ombudsmen can provide general guidance on application of the Act, but is unable to provide specific advice on how to approach a particular issue because it may later be asked to investigate and review the matter.

#### Introduction

The [Official Information Act 1982 \(OIA\)](#) may be viewed as a radical and significant element of New Zealand’s constitution because it has radically changed the way public servants have had to think about the status of official information, the rights of individuals, and public servants’ place in the constitutional scheme of things.<sup>1</sup>

Requests under the OIA must be dealt with carefully, conscientiously, and in accordance with the law.<sup>2</sup>

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<sup>1</sup> [www.ssc.govt.nz](http://www.ssc.govt.nz) “The Public Service and Official Information.”

<sup>2</sup> Cabinet manual 8.23

### Principle of Availability<sup>3</sup>

The principle of availability underpins the whole Official Information Act (OIA). It is set out in [section 5](#) of the Act:

*"Principle of availability – The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that **the information shall be made available unless there is good reason for withholding it.**" (emphasis added)*

This principle should always be kept in mind when an agency is considering how best to respond to a request for official information.

### Purposes of the Act<sup>4</sup>

The guiding principle is reflected in the purposes of the OIA. [Section 4](#) of the OIA sets out the purposes that Parliament intended to be achieved in enacting the legislation. [Section 4](#) states:

*"Purposes - The purposes of this Act are, consistently with the principle of the Executive Government's responsibility to Parliament, -*

*(a) To increase progressively the availability of official information to the people of New Zealand in order-*

*(i) To enable their more effective participation in the making and administration of laws and policies; and*

*(ii) To promote the accountability of Ministers of the Crown and officials;*

*and thereby to enhance respect for the law and to promote the good government of New Zealand:*

*(b) To provide for proper access by each person to official information relating to that person:*

*(c) To protect official information to the extent consistent with the public interest and the preservation of personal privacy."*

When people request personal information the Department holds about themselves (that is, about the person making the request), it should be dealt with as a request under the Privacy Act.

Requests for any other personal information (from individuals about another person, or from corporate entities) are OIA requests.

<sup>3</sup> <http://legislation.knowledge-basket.co.nz/gpacts/actlists.html>

<sup>4</sup> <http://legislation.knowledge-basket.co.nz/gpacts/actlists.html>

### **Requirement to offer assistance**

[Section 13](#) of the Act requires Departments, Ministers and organisations to give “reasonable assistance” to those who:

- wish to make a request under the OIA
- in making a request, have not done so in accordance with [section 12](#), which specifies:
  - who can make requests
  - that requests must be specified with “due particularity” (should be clear and you should have an accurate idea of what is being requested)
  - that if the requester states that the request is urgent, they should give a reason
- have not made the request to the appropriate Department, Minister or organisation.

[Double click to return to Contents](#)

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

## Process for responding to OIA requests

On receiving the request, consider carefully:

- Who is the request addressed to?
- Exactly what has been requested?
- What information is covered by the request?
- What timeframe does the request cover?
- Do you need to clarify the request?
- Consider the public interest in the information.

### Develop strategy for response

**This stage should be completed within two days of receiving the request  
Only the strategy itself needs to be agreed at this stage**

- A. In consultation with your manager, consider whether to:
- transfer all or part of the request or
  - refuse all or part of the request or
  - extend the timeframe for reply
  - provide all or part of the information requested and in what form
  - get additional resources to assist you
  - charge for the supply of the information (see the Ministry of Justice website [www.justice.govt.nz](http://www.justice.govt.nz) for further information on charging).
- B. You may need to seek additional advice internally and/or externally in responding to the request (in consultation with your manager):
- Legal Services and/or
  - Finance and Performance
  - Effectiveness for Maori
  - Communications section and/or
  - other Business Groups [including recordkeeping if material is in old paper files which may be held offsite or at Archives NZ] and/or
  - your General Manager and/or
  - the Chief Executive and/or
  - the Minister's office.

Carry out the strategy agreed with your manager by:

- transferring the request: notify the requester within 10 working days (section 14)
- refusing the request: notify the requester within 20 working days (section 18)
- preparing the information for release within 20 working days (with extension of time limit if needed).

If releasing information:

- prepare the information for release, and in what form (keep copies of information released and file notes about information withheld)
- ensure that where comments/views of other departments, or details about an individual (such as travel details for former Prime Ministers), are involved the relevant consultation has taken place
- prepare the release letter to the requester
- prepare a briefing to Minister or Chief Executive to accompany the release
- consult internally and/or externally above regarding the release.

## Receiving the request

[Section 12](#) states that any of the persons or organisations mentioned “may request a Department or Minister of the Crown or organisation to make available to him or it any specified information.”

This means that:

- requesters *need not* mention the Official Information Act when making their request
- requests can arrive by letter, fax, email, phone call or verbally when face to face with the requester (make detailed file notes of any conversations with the requester)
- any Departmental staff member can receive a request in any of the forms mentioned above.

Requests should be considered an Official Information Act request and dealt with accordingly when they:

- mention the Official Information Act
- do not mention the Act but are otherwise significant (if in doubt, discuss with your manager)
- relate to a current political, media or otherwise sensitive issue
- are from the media (with the single exception of minor or routine media enquiries to the Communications section)
- are from an MP or a political party.

## Who is the request addressed to?

Requests can be made of Departments, Ministers of the Crown or organisations (what constitutes an organisation is set out in the definition of “organisation” at the beginning of the OIA). There are two main categories of requests:

- Departmental requests (addressed to the Department) and
- Ministerial requests (addressed to the Minister, but forwarded to the Department for response).

The differences between these two are shown in the table below.

[Double click to return to Contents](#)



	<b>Departmental OIA request</b>	<b>Ministerial OIA request</b>
<b>Addressed to:</b>	Department	Minister
<b>Time for preparing response</b>		Shorter due to: <ul style="list-style-type: none"> <li>• possible delays in transit from Minister's office</li> <li>• the need to allow <b>five working days</b> for Minister to consider information for release</li> </ul>
<b>Acknowledgement letter</b>	You need to send	Sent by Minister's office
<b>Consider transfer</b>	To Minister's office? (or other department or organisation?)	To Department? (or another department or organisation?)
<b>Briefing to:</b>	Chief Executive (via General Manager / General Manager	Minister
<b>Final decisions made by</b>	Chief Executive / General Manager	Minister
<b>Signout of response letter by:</b>	Chief Executive / General Manager	Minister

General Managers have the required level of delegated authority (from the Chief Executive) to sign out OIAs.

*OIAs should not be signed out by anyone other than a General Manager or Chief Executive.*

When a request for information is directed to a department, or Minister, there is an onus on the organization or person to direct the request to the agency most able to supply the information, or to respond to the request. Where two or more agencies hold pertinent information it is appropriate that there be cooperation between agencies. To avoid any suggestion of being unhelpful to the requester or of failing to respond "as soon as reasonably practicable," any coordination required should be carried out as soon as possible.<sup>5</sup>

<sup>5</sup> State Services Commission. "The Public Service and Official Information: Responding to requests for information."

### **Exactly what has been requested?**

Consider the request very carefully to determine exactly what has been requested. It may not be what you thought at first glance. If you are not clear about the request, seek your manager's opinion.

Carefully consider too the dates covered by the request. All information that exists at the date of the request is relevant to the request, unless the request specifies other dates. You may at your discretion release information that is dated after the request if you would like to be helpful to the requester.

### **Do you need to clarify the request?**

#### *Unclear requests*

Requests can sometimes be phrased in such a way that it is not clear exactly what is being requested.

If you are unclear as to what is being requested, it is possible, but not always advisable, to contact the requester directly to clarify the request. If the request is telephoned to you, be sure to make detailed file notes of the conversation and to confirm the request with the requester at the time, for example by reading back to them what they are requesting.

If the requester represents a political party or is from the media, check the Department's policy (on the intranet) as to who should communicate with such people: [Media Policy](#).

*Check with your manager before contacting the requester.* While phone calls may expose the Department to risks, they provide a way to clarify the request quickly. Seeking clarification in writing may take several days and may give the impression that you are reluctant to respond to the request. Seeking clarification by email may be a good balance.

#### *Requests that are too general*

Requests should be specified with "due particularity," (should specify particulars and not be too general) ([section 12](#)). You may need to consult your manager or others (such as Legal Services) to determine whether the request has been specified with sufficient particularity.

If you decide that the request has not been specified with sufficient particularity, you can refuse the request, or, in consultation with your manager, contact the requester to clarify the request. If you are considering refusing the request, you should remember that [section 13](#) of the OIA requires you “to give reasonable assistance” to requesters to assist them to make their request in accordance with the Act.

[Double click to return to Contents](#)

### **Requests from:**

#### **the media, MPs or parliamentary (that is, political party) research units**

##### *Consultation*

Such requests addressed to the Department should be notified to the Minister’s office and internally to the Communications section.

For significant releases, copies of the response letter and any information being released should also be provided to the Minister (in advance of the release to the requester). See the separate section [Consultation with Minister’s office](#).

##### *Transfer*

If the request is addressed to the Department and is from a Member of Parliament or a (political party’s) Parliamentary Research Unit, the State Services Commission offers the following guidelines:

on receiving such a request, the Commission always consults with the Minister’s Office and will often, as a consequence, transfer the request to the Minister.

The Cabinet Manual (paragraph 8.41) states that:

*A department should consult its Minister about any request for information that is sensitive or potentially controversial. It must then either make the decision itself or transfer the request to the Minister concerned. If, after consultation, the Minister takes the view that the information should not be released but the department believes it should, then transfer of the request to the Minister is the only way in which the department can meet its constitutional duty to follow ministerial direction and the obligation to comply with the Official Information Act 1982. (Note: under section 14 of the Act, a transfer must occur within 10 working days of receipt of the request.) The propriety of such a transfer is not subject to review by an Ombudsman under the Act. Each case of this kind needs to be carefully handled at a senior level within the department, including reference back to the Minister for further consideration if necessary.*

The principles underpinning this approach are:

- Ministerial responsibility – Ministers are responsible and politically accountable or answerable to parliament for the conduct of their departments in carrying out their functions
- Accountability – Chief Executives must, in return for their powers and autonomy, account to their Minister and through their responsible Minister to parliament, for the custodianship and management of public resources and the exercise of their powers.

The Department's policy regarding transfer of requests from the media, MPs or a political party research unit is to **always consult the Minister's office about such requests and to consider transfer the request to the Minister's office:**

- where the material for release is likely to be sensitive
- where the material could be subject to media interest or political debate
- where the topic of the request is in the public domain.

### **Develop a strategy for the response**

This step involves reaching an understanding of how you are going to respond to this request. As a guideline, you should develop a strategy within *two days* of receiving the request.

Developing the strategy for responding to the request should be done promptly because:

- if you decide to transfer the request, you have only 10 working days to do so from when the request was received by the Department. If the request was received in the Minister's office, check the date on which the request was received *there*. You have 10 working days from *that date* in which to arrange for the Minister to transfer the request. This is important as the request may have taken some days in transit.
- you may need to undertake extensive time-consuming consultation before you can formulate your strategy
- if you need to prepare information for release, this can be very time-consuming and should be started as soon as possible after receiving the request
- you may need to draw on additional resources to assist you in preparing the response if a large amount of material falls within the request, or if several requests arrive at once. Consult your manager about this.

Having developed a strategy for response you should have a clear idea of:

- exactly what has been requested
- exactly what official information the Department holds that falls within the request, or where and how to find such information
- how and when you are going to respond to the request

- whether you have varying responses for parts of the request. (For example, you may decide to transfer part of the request to the Minister's office, refuse part of it, and provide the information requested by another part.)
- what internal consultation is necessary about the request and the release of documents. As you assemble the documents for release, the inclusion of some documents may lead you to consult additional people
- any sensitivities or risks associated with the request (more issues may emerge as you gather the information for release).

### **External consultation about the request**

Although the Act does not directly require consultation with third parties upon a request for information, several provisions envisage and make provision for such consultation. In some circumstances, consultation is appropriate and desirable. It may clarify, for example, whether release of the information might prejudice commercial interests or dry up further information from the same source. Negatively, it may safeguard against an application for judicial review based on failure to hear a person affected.

Nonetheless, persons who supply information to departments, whether voluntarily or under a legal requirement, do not have a veto over its disclosure to others. Information supplied may be of a personal or confidential character, and thus have a measure of protection. This may be addressed in the particular statute requiring the information, such as the Inland Revenue legislation. However, the duty of confidentiality cannot be unilaterally imposed by the supplier. Nor does a contractual term override the provisions of the Official Information Act. The public interest may outweigh the interest of the individual.<sup>6</sup>

You should consult with your manager as to whom you should consult externally. The State Services Commission has developed some guidelines on whether and when it is appropriate to consult other departments or Ministers of the Crown about requests and the release of information. The guidelines further consider when and how to consult, and with whom to consult: [Release of Official Information – guidelines for cooperation.](#)

Keep file notes or emails recording all external consultations. These notes may be useful in the case of an Ombudsman's investigation into the Department's or the Minister's decisions to withhold information by providing an audit trail of how decisions were made.

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<sup>6</sup> State Services Commission. "The Public Service and Official Information: responding to requests for information."

If the information assembled that falls within the request originated in other departments, you should contact the person who wrote the document to:

- advise them the information falls within a request under the OIA
- advise them that you intend to release the information
- confirm that they do not consider the information should be withheld. If they want the information withheld, they must advise you of the grounds for this. You must be satisfied that those grounds are valid, as decisions as to withholding/releasing ultimately rest with the person who is releasing the information (the Department or a Minister the Department serves).

You should also contact other departments or Ministers if:

- they are the subject of information you intend to release
- the information you intend to release was prepared for them (such as a briefing prepared for a Minister who is not the Minister the request is addressed to).

#### *Consultation with Minister's office<sup>7</sup>*

For Departmental requests, you should consult with the relevant Minister's office if:

- the proposed release of information is likely to lead to public comment on a political issue. Such consultation gives a Minister an opportunity to comment on any political issues or matters relating to government management
- the request is from the Opposition, the Opposition Research Unit, recognised interest groups or the news media, especially where the information is particularly sensitive
- the subject matter is controversial and likely to lead to questions of Ministers
- facts, opinions or recommendations in the information for release are especially quotable or unexpected
- the information reveals important differences of opinion among Ministers or agencies, or between Ministers and agencies
- a request makes reference to ex-Prime Ministers or their spouses or widows, former Ministers and so on
- once you have assembled the information for release, it is obvious that the Minister should be involved. If in doubt, ask your manager.

[Double click to return to Contents](#)

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<sup>7</sup> [www.ssc.govt.nz](http://www.ssc.govt.nz) "The Public Service and Official Information – Appendix 2: Release of official information - guidelines for co-ordination"

### *After consultation*

The State Services Commission guidelines offer advice for the situation where, after consultation with the Minister's office or another department, agreement cannot be reached on whether to withhold or release information:

[Release of Official Information – guidelines for cooperation.](#)

When the Department would like to offer advice to a Minister regarding the merits of withholding or releasing of information, the Chief Executive, Legal Services and/or the Communications team should be involved in developing the advice, and possibly in offering it.

*If, after consultation, a Departmental request is transferred to the Minister's office, this must be done within 10 working days of it having been received in the Department. See the section called [Transferring requests](#).*

[Double click to return to Contents](#)

### **Internal consultation**

Internal consultation is necessary to ensure that any information released is accurate and that any potential risks related to the release or withholding of information have been identified and addressed.

Internal consultation may also be necessary to ensure you alert Business Groups to the fact that you are working on a request for which they may hold relevant information. If you suspect another Business Group may hold information relevant to your request, you can contact them directly or send a general email stating the topic of your request and asking them to identify whether or not they hold any information relevant to it.

Keep file notes and emails recording all internal consultations by filing them in association with the request they relate to. These notes may be useful in the case of an Ombudsman's investigation into the Department's or the Minister's decisions to withhold information by providing an audit trail of how decisions were made.

Whom you consult internally depends on the nature of the information that falls within the request and on what you are proposing to release. You should discuss your request with

your manager and decide together what internal consultation is necessary. Internal consultation may include:

- Legal Services
- the communications section
- Finance and Performance
- EfM (Effectiveness for Maori)
- other business groups
- recordkeeping staff if information is in old paper files which may be held offsite or at Archives NZ
- your general manager
- the Chief Executive
- the Minister's office

#### *Consulting Legal Services*

You should consult Legal Services if:

- the request involves interpretation of statutes or legislation
- the request involves contractual obligations
- there is a threat of litigation
- you are unsure whether you have grounds for withholding or deleting information (a document or part of a document)
- you think information to be released may involve legal issues for the Department

#### *Consulting Finance and Performance*

You should consult this section if the request or your release:

- quotes costs, figures, estimates or budget information
- has been considered by your Business Group Accountant
- if any previous answers to related requests have provided costs, figures or estimates.

#### *Consulting the Effectiveness for Maori section*

You should consult this section if the request or your release involves:

- Maori issues
- interpretation or application of Treaty of Waitangi principles.



### *Consulting the communications section*

You should normally consult the Communications team, particularly if any of the following apply:

- Your request relates to a topic currently in the media.
- Media attention might arise out of the release.
- Information in the release could be linked to another media issue.
- Your release includes sensitive information.
- You are unsure whether information you are proposing to release is sensitive or not.
- You are unsure whether there are sensitive issues or not.

The communications section will consider the information to be released and what action is appropriate. A [list of Communications Advisors](#), including those that deal with media queries, is on the intranet.

### *Internal consulting about generic risks*

Generic risks that might arise from a request or release include:

- political risks:
  - is this an issue currently in the political arena?
  - Is any reference being made to political party?
  - Could this release create political or media interest or reaction?
- free and frank consequence:
  - In responding accurately and completely, are there any surprises?
- current Departmental policy and/or practice:
  - are there any implications for current policy or practice?
- previous investigations:
  - have there been any previous internal or external investigations or audits of this area?
  - have there been any previous recommendations and agreed actions?
  - do any external agencies have a particular interest in or knowledge about this issue?
- sensitivity and confidentiality issues:
  - is any information for release sensitive, confidential or personal?
- consistency with previous requests:
  - has this or a similar request been made before? (if so, check for consistency)

- will this response conflict with previous responses?

If you answer “yes” to any of the questions about generic risks, you should consult first your manager, then:

- your general manager and/or
- an advisor to the Chief Executive and/or
- the Chief Executive and/or
- the Minister’s office.

### **Consulting with the Minister’s office**

This is discussed above:

[External consultation surrounding the release](#)

[Requests from the media, MPs or parliamentary research units](#)

[Double click to return to Contents](#)

### **Making a decision on the request**

[Section 15](#) requires Departments to, “as soon as reasonably practicable” and “no later than 20 working days after the day on which the request is received” by the Department:

- decide whether the request is to be granted and, if it is to be granted, in what manner and for what charge (if any); and
- give or post to the person who made the request notice of the decision on the request.”

In practice, requests tend to be simple/small or complex/large.

*For simple/small requests*

“developing a strategy for the response” will be much the same as “making a decision on the request.” This is because the appropriate response will be easily determined and easily communicated.

*For complex/large requests*

For complex/large requests “developing a strategy for the response” may be quite different from “making a decision on the request.”

This is because for large requests, “developing a strategy for the response” may be a relatively simple matter. Once the strategy is in place, the information for release can be compiled. Once it is compiled, a large or complex response may require many smaller decisions to be made as to whether to withhold some information in the form of whole (or parts of) documents. This is particularly common in requests relating to policy.

This decision-making process can be very time-consuming, and may involve extensive internal and external consultation. It is only when these many smaller decisions have been made that the decision (in terms of [section 15](#)) is complete and can be communicated to the requester. At this point, the information requested will be ready for release.

The point is sometimes made that [section 15](#) merely requires a decision to be made and communicated to the requester within 20 days, with the implication that the actual information can follow at a later date. However, for large/complex responses involving many small decisions, the decision and making the documents available occur roughly simultaneously.

The [section 15](#) concept of making a decision as distinct from making documents available is, however, useful for large/complex requests where a decision in principle has been made and can be communicated, but where the information is not yet ready for release. One example of this is when the requester is notified of an [extension](#) to the time limit for responding to the request.

### **Charging for information**

[Section 15](#) allows Departments to charge the requester for making information available. Note, however, that the requester is to be notified of the amount of the charge at the time the decision is communicated to them. It is possible to require that all or part of any charge (above a threshold of \$76) be paid in advance. [Guidelines for charging are published by the Ministry of Justice](#)

The charges are based on a “per page” charge for photocopying (20 cents per page after the first 20 pages) and per half hour of staff time (\$38 per half hour in excess of one hour) spent searching, collating and copying the material for release. These guidelines state that they “should be followed in all cases unless good reason exists for not doing so.”

However, Cabinet agreed<sup>8</sup> in March 2002 that it is now standard practice to waive charges for requests from both MPs and parliamentary research units.

The State Services Commission suggests<sup>9</sup> that:

*It was not intended that charging for access should infringe the principle of availability [of information]. Personal information must be provided free of charge, and the purpose of charging for other information is to take account of the reasonable costs of the labour and materials incurred by the Minister of the Crown or the organisation to whom the request was made. It is often possible to strike an appropriate charge with a requester, or to exclude unnecessary information by agreement, in order to meet a request. Every effort should be made to provide access at reasonable cost.*

In practice, Departments often choose not to charge for information on the basis that they wish to make information freely available, and that charging may be more trouble than it is worth.

Charging for official information is a matter of judgment. As a general rule, it is good public relations not to charge especially if the requester is genuine. But charging, or the threat of it, should be used for huge amounts of material especially if the requester is being unhelpful or antagonistic.

The Department of Internal Affairs generally chooses to waive any charges, but may on occasion enforce them.

### **Transferring the request**

[Section 14](#) relates to transfer of requests. Requests can be transferred if the information to which the request relates is:

- not held by the Department or Minister but is believed to be held by another Department, Minister or by a local authority
- believed to be more closely connected with the functions of another Department or Minister or by a local authority.

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<sup>8</sup> in response to an EXG paper: Revised Charging Guidelines for Official Information Act Requests [EXG (02) 7]

<sup>9</sup> State Services Commission. "The Public Service and Official Information: responding to requests for information."

The transfer must take place within 10 working days after the request was received by the person to whom it is addressed.

Before transferring a request to a Minister or another department, you should discuss the matter with the relevant officials in that Minister's office or department to establish that it is appropriate that they respond to the request.

The Cabinet Office offers the following advice on transferring requests:

*A department should consult its Minister if the request relates to Cabinet material, because this material relates to his or her activities as a Minister. A department should advise its Minister if it intends to release any information that is particularly sensitive or potentially controversial. The decision on how to respond to the request must nonetheless be made by the department, in accordance with the Official Information Act 1982.*

*On being consulted, the Minister may take the view that information, which the department considers should be released, should not be released. In such a case, transferring the request to the Minister may be an appropriate way forward, if the requirements of section 14 of the Official Information Act 1982 can be satisfied. Each case of this kind needs to be carefully handled at a senior level within the department, including reference back to the Minister for further consideration if necessary.<sup>10</sup>*

[Double click to return to Contents](#)

### Refusing the request

[Section 18](#) provides several reasons for refusing requests. You should check section 18 for the full list of reasons, details and correct wording. Reasons for refusal of requests include that:

- there is good reason for withholding the information
- the information requested will soon become publicly available
- the information does not exist or cannot be found
- [Official Information Act 1982](#) the information cannot be made available without substantial collation or research
- the request is frivolous or vexatious, or that the information requested is trivial.

If the Department does hold information that falls within the request, but grounds exist [\(in sections 6, 7 or 9\)](#) for withholding all of it, the request can be refused under [section 18 \(a\)](#).

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<sup>10</sup> Cabinet Manual 8.41-8.42

The Ombudsman has held that a request is frivolous or vexatious if the requester is patently abusing the rights granted by the Official Information Act 1982 rather than exercising them in a bona fide manner. (The most common example of this is where the information has already been supplied, and there is no additional information.) That is, the particular request must be frivolous or vexatious to be denied in terms of [sections 18\(h\), or 27\(1\)\(h\)](#). A request can also be refused under these provisions on the grounds that it is trivial. A refusal on the grounds of triviality may not be necessary if the requester is prepared to pay an appropriate fee for the reasonable time and trouble that might be taken to retrieve or collate information to meet the request. Adopting such a course may be an opportunity to demonstrate goodwill, and effective public relations.<sup>11</sup>

When refusing a request, [section 19](#) states that the reason for the refusal must be given, and, if the requester requests, the grounds in support of the reason. When refusing requests you should mention the relevant section of the Act.

When refusing a request, the requester must be informed of their right to complain under section 28(3) to an Ombudsman about the refusal.

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<sup>11</sup> State Services Commission. "The Public Service and Official Information: responding to requests for information."

## Extension of time limit

[Section 15A](#) allows you to notify the requester that you are extending the time limit for responding to their request in some circumstances. These are when:

- the request is for a large quantity of information **or** necessitates a search through a large quantity of information **and** meeting the original time limit would unreasonably interfere with the operations of the Department; **OR**
- Consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.

The extension must:

- “be for a reasonable period of time having regard to the circumstances”
- be notified to the requester within 20 working days of having received the request
- be communicated to the requester. The notice effecting the extension must:
  - specify the period for the extension
  - give the reasons for the extension
  - state that the requester has the right to complain to the Ombudsman about the extension
  - contain any other necessary information.

[Double click to return to Contents](#)

## Preparing the information for release, and in what form

This section sets out a process for assembling and preparing the information for release.

### 1. *The form in which you will release the information*

[Section 16 \(1\)](#) sets out various options for making information available to requesters. You should read these and consider which is appropriate. In many cases the wording of the request itself will lead you to choose a particular option.

[Section 16 \(2\)](#) states that in some circumstances you need not make the information available in the way preferred by the requester. You should read these and consider whether any applies. [Section 16 \(3\)](#) states that if under 16(2) you make the information available in an alternative way, you must inform the requester of your reasons.

### 2. *Identify and compile the information held relevant to the request.*

In the case of documents, the information should be assembled in the form of plain paper single sided A4 photocopies of the information for release. For releases involving large volumes of paper, assemble it in whatever way is useful for you, such as chronological order. (You need **not** number the documents. The OIA does not require documents for release to be stapled or assembled in any particular order.) Use paper clips for the photocopies instead of staples.

### 3. *Prepare the release letter to the requester*

Once you have compiled the information for release, you can begin to compile the response letter to the requester (use the OIA response template), and the briefing (see next section).

The person preparing the draft response should never additionally sign it out. Peer review is essential.

When preparing a large volume of documents for release, you may find it useful to note all information withheld or deleted in the letter to the requester as each decision to release or withhold is made, rather than when you have finished making the decisions.

### 4. *Prepare a memo or briefing to the signout person*

For Departmental OIAs, a memo should be prepared for the signout person. Ministerial OIAs will require a briefing to the Minister.

The briefing or memo should note:

- in general terms the nature of the information being released
- that all information deleted or withheld is noted in the attached letter to the requester
- any noteworthy information being released. Be careful to note such information in the briefing/memo in the same order as the information appears in the pile of release documents. When noting such documents, remember that what you write is itself official information and may later be released under the Official Information Act.
- any departments consulted in making decisions about releasing information
- any other relevant issues
- any risks associated with the release. Remember that your briefing/memo is itself official information and is likely to be released in the future. If in doubt about what to write, discuss with your manager.



If no noteworthy information is being released, the briefing/memo to the signout person should state this, to provide them with an added level of assurance.

As with the release letter, you may find it useful to note any significant information in the briefing at the time you consider each document, rather than later.

For Ministerial OIAs, the information for release, the briefing and the release letter must be provided to the Minister's office **five working days** prior to the release date to allow time for them to consider the material.

#### 5. *Withholding information*<sup>12</sup>

The purposes of the Act recognise that implicit in the application of the OIA there will often be a tension between:

- considerations favouring disclosure of information; and
- considerations favouring withholding information.

Considerations favouring withholding are set out in [sections 6, 7, 9 and 18](#) of the OIA.

These range from:

- reasons for refusal that relate to the administrative difficulty in complying with a request; to
- reasons for refusal based on the harm that may be caused by disclosure of the information at issue.

#### 6. *Making decisions about withholding or deleting information*

Consider each piece of information (document) for release in your pile. Amongst the pile or collection of information for release may be information that should be withheld.

Carry out any [internal](#) and/or [external consultation](#) (discussed above) planned with your manager about specific documents, or about the release in general. Though this consultation you can determine whether:

- any information should be withheld (or whether an entire document should be withheld) or deleted, and/or
- there is sensitive information among the documents for release.

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<sup>12</sup> [www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz)

[Sections 6 and 7](#) provide conclusive reasons for withholding information. In practice, however, the section 9 or “Other” reasons for withholding information are more commonly used and you should be familiar with them.

[Section 9](#) states that good reasons for withholding information exist unless “the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.”

In other words, if there is significant public interest in a piece of information or in a topic, this interest may override the reasons for withholding information. If you are in doubt about whether there is public interest or not, consult Legal Services.

One of the more commonly relied-on section 9 reasons for withholding information is s 9(2)(f)(iv) which allows for the withholding of information if it is necessary to “maintain the constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.”

If a response will require substantial collation or research, you should consider [section 18\(f\)](#) which allows a request to be refused if “the information cannot be made available without substantial collation or research.” If you are in doubt as to whether a response comes into this category, you should consult Legal Services.

[Sections 10, 18 and 52](#) also provide reasons for withholding information.

[Double click to return to Contents](#)

#### *7. Deleting personal names*

[Section 9\(a\)](#) states that information may be withheld (or deleted) “to protect the privacy of natural persons.”

However, the Ombudsmen have ruled that people working in the public sector should not remain anonymous. They have written that “as a general proposition, a person working in the public sector in direct or indirect contact with the public can assume that for reasons of accountability their name should be identified upon request.” The same is true of their designation and work contact details but not their salary and private contact details. This amounts to a situation (relevant to section 9) where the public interest in making such names available outweighs the right of people to remain anonymous.

The Ombudsmen have also said that there may be cases where relations with a member of the public are strained and therefore it may be necessary to withhold the name of the public servant so as to protect that person from improper pressure or harassment.

Further guidance about deleting personal names is available at:

<http://www.ombudsmen.parliament.nz/imagelibrary/100098.pdf>

Any individuals whose names are included in information to be released should be informed of this prior to the information being made public.

#### 8. *Requests for Cabinet papers*<sup>13</sup>

There is no exemption for any class of papers under the Act. Cabinet and Cabinet Committee papers and every request for Cabinet records must be considered on its merits against the criteria in the Act.

Departments or Ministers handling requests for the release of Cabinet or Cabinet committee papers or minutes of a current government must take the decision on release themselves, after consulting with other affected Ministers, departments and agencies. There is no longer any requirement to consult the Cabinet Office on the release of Cabinet documents, except in the case of Cabinet documents of a previous administration (see Cabinet Manual paragraphs 8.73 – 8.77). However, the Cabinet Office is available for general guidance if departments have queries about the process for releasing Cabinet papers or minutes.

The Cabinet Office no longer keeps a record of Cabinet papers and minutes that Ministers and departments have released publicly. Ministers and departments themselves are responsible for keeping a record of the Cabinet documents that they have made publicly available.

#### 9. *Requests for drafts*

The Ombudsmen have given the following guidance<sup>14</sup> about releasing drafts:

*“draft” documents are official information and can properly be the subject of requests under the OIA. The Act does not protect draft documents as a special exempt “class” or “category” or information...*

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<sup>13</sup> Cabinet Manual 8.30 – 8.33

<sup>14</sup> [Editorial in Ombudsmen Quarterly Review Vol 7 issue 4 December 2001](#)

*However, on the basis of our experience in reviews under the OIA, there is often good reason under the Act to refuse requests for draft documents. The difficulty in trying to apply any general rule on when drafts should or should not be disclosed is that request for "draft reports, correspondence or advice" can cover a wide array of different circumstances...*

*Often "draft" documents can be released without any detrimental impact on effective government or administration at all. However, if the end result of disclosure of drafts is to prejudice the quality of the reports or correspondence or advice being generated, then the wider public interest of effective government and administration would not be served.*

*In assessing whether there is any countervailing public interest in disclosure of draft documents, it must be remembered that decision-makers are accountable for the advice they act upon and not for early drafts generated in preparation of that advice they will often not have seen. Usually, it would only be in the circumstances where disclosure of drafts would reveal some impropriety in process or practice that the public interest in release would outweigh valid interests in protecting information under the Act. That is an assessment that can only be made in the circumstances of each particular case."*

For guidelines as to what drafts to keep on file, see the "What is official information?" section.

#### 10. Select Committee documents

Submissions to select committees are subject to the Standing Orders of the House of Representatives. Standing Order 224 states that:

- (1) a select committee may make a written submission to it available to the public at any time after receiving it.
- (2) A written submission (if not already made available) becomes available to the public on the committee hearing oral evidence from the witness who made the submission.

Standing Order 237 states that:

- (1) the proceedings of a select committee or a subcommittee other than during the hearing of evidence are not open to the public and remain strictly confidential to the committee until it reports to the House.
- (2) A report or a draft of the report of a select committee or a subcommittee is strictly confidential to the committee until it reports to the House.
- (3) Paragraphs (1) and (2) do not prevent-

- a) The disclosure, by the committee or by a member of the committee, of proceedings, a report or a draft report to a member of Parliament or to the Clerk or another officer of the House in the course of their duties.
- b) The disclosure of proceedings, a report or a draft report in accordance with Standing Orders.

Any information that has been submitted to a select committee is therefore confidential as above. To contravene Standing Orders would be in contempt of the House.

[Section 18\(c\)\(ii\)](#) of the Official Information Act states that a request may be refused if “the making available of the information requested would constitute contempt of Court or the House of Representatives.”

#### *11. Papers prepared under a previous administration*

There are particular conventions relating to treatment under the Official Information Act of papers prepared under a previous government. These are set out in paragraph 8.84 of [Section 8 of the Cabinet Manual](#).

#### *12. Practicalities of withholding or deleting information*

Any information deleted or withheld should be noted in the letter to the requester, quoting the number of the section under which the information is being withheld or deleted (see OIA release letter template).

[Section 19](#) does not require that each item being withheld be separately identified. It *does* require that we inform the requester why we are withholding information, and if they ask, we must inform them of our grounds for withholding. However, in the interests of being helpful to requesters it is a good idea to be specific about what is being withheld, if we can do so without prejudicing the interest we are protecting. Detailing the item(s) being withheld may also help the requester to understand why we are withholding the information.

You must retain a copy of the document being withheld or deleted. In the case of deletions, *you must retain a copy of the document without deletions*. This is because:

- the person signing out the response may wish to see what information is being withheld via deletion
- in the case of an appeal to the Ombudsman about the decision to delete the information, you may have to provide to the Ombudsman a copy of the information that was deleted, and
- you may need to release the information to the requester later.

After making a deletion, take a photocopy of the page with the deletion and *add the photocopy to the documents for release*. Add a plastic *tag* to the document so the person signing out the letter can locate it if they want to see it.

On completing a large request, you will probably have a small pile of documents that have been withheld, that contain information withheld via deletions, and that are originals without deletions. Retain these on file for future reference.

Any noteworthy or sensitive documents being released should be *tagged* so the signout person can locate and consider them.

### *13. Photocopying*

When you have finished making decisions about withholding information, you will have a pile of documents ready for release, possibly including some tagged documents signaling to the signout person that the document has a deletion or is noteworthy.

This pile is then photocopied to create a set of documents for release. Special paper is available for this, watermarked with “released under the Official Information Act” and known as “OIA paper.” Use of this paper indicates to anyone who sees it that the information was released in an authorized fashion. Its use protects you, the Department, the Minister and the requester of the information.

However there may be instances where its use is not necessary or appropriate. For example, you should not use it if the information for release is:

- already publicly available, such as on the Department’s website
- in response to a routine request that does not mention the OIA, such as a request for a discussion document.

[Double click to return to Contents](#)

## Releasing information

You should assemble ready for signout;

- the release documents (on OIA paper) (see separate section on [preparing the information for release](#))
- a duplicate set of release documents for the signout person to consider with some **tagged** to signal that the document has a deletion or is noteworthy
- the [release letter](#) to the requester which notes all withholdings and deletions (plus copy for signout person) and
- a [briefing about the release](#) to the signout person noting any significant documents.

You should retain on file:

- complete copies (without deletions) of all information withheld or released with deletions, and
- copies of all information given to requester (that is, photocopies of the OIA paper release)
- copies of the original request, the release letter and the release briefing.

The Minister's office should be advised well in advance of any OIA release. If the information for release is significant, you should provide the Minister's office with copies of the information for release and the release letter, allowing some time (some days for large releases) to consider it. This is consistent with advising the Minister on a "no surprises" basis. It is possible that the Minister's office may disagree with your decisions to release or withhold – if this happens, discuss with your manager.

### **Ombudsman review of decisions to withhold information**<sup>15</sup>

Anyone who has requested information can ask an Ombudsman to review a decision by a Department to refuse to supply (by refusal, withholding or deletion) any information requested. The procedures for reviews are set out in [Part 5](#) of the Act.

The Ombudsmen have extensive powers to request information for the purposes of the review. When an Ombudsman undertakes a review, the Department must cooperate fully. An Ombudsman will not be content to accept superficial assertions or the use of a blanket provision such as "free and frank discussion" to justify non-release of information. A department or Minister will be expected to provide a detailed justification in each case, and should use the review as an opportunity to outline the real concerns about the request.

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<sup>15</sup> Cabinet Manual 8.45 – 8.47

Ombudsmen and their staff are required to maintain secrecy of all information provided to them. If the Ombudsman's finding is that the information should be released, the material will be returned to the Minister or department concerned for them to take the appropriate action.

[Double click to return to Contents](#)

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Home › Resources › Official Information Act Requests › The OIA and Frequently Asked Questions

# The OIA and Frequently Asked Questions

View

Edit

Here you can read about the Official Information Act and what to do if you receive an OIA request

## Navigation

- Glossary of OIA terms (**coming soon**)
- [The OIA](#)
- [Is this an OIA request? What should I do if it is?](#)
- [How long do I have?](#)
- [Who can make an OIA request?](#)
- [What is Official Information?](#)
- [What is NOT Official Information?](#)
- [Requests for personal information about individuals](#)
- [Logging a request in the OIA register](#)
- [Filing your request documentation](#)
- [OIA processing Guides](#)

## The OIA

### **What is the OIA?**

The [Official Information Act](#) is one of the cornerstone pieces of legislation for public accountability and transparency. It lets people request information held by Ministers and public sector agencies. It tells us how to respond to information requests, and provides requesters with the right to complain to an independent authority – [the Ombudsman](#) - if they believe that an agency has not responded appropriately.

The central purpose of the OIA is to give New Zealanders access to Official information:

- so they can more effectively participate in the making and administration of laws and policies;
- to promote the accountability of Ministers and officials, and so enhance respect for the law and promote the good

government of New Zealand.

- to let people access official information relating to them
- to protect official information to the extent consistent with the public interest and the preservation of personal privacy.

#### Agencies and bodies subject to the OIA include:

- Ministers of the Crown
- government departments and organisations
- Crown entities and some state owned enterprises
- District Health Boards
- universities, polytechnics, colleges of education, wananga and other tertiary institutions (but not private training establishments)
- boards of trustees of state schools (but not private or charter schools)

The [Local Government Official Information and Meetings Act 1987](#) (LGOIMA) is the equivalent of the Official Information Act for Local Government Agencies.

[Back to Navigation](#)

#### Is this an OIA request - and what should I do if it is?

Any oral or written request for information held by the Department is technically an OIA request. People do not need to mention the Act in their request and can make their request to anyone in the agency.

**If you are not sure whether the request you have received should be treated as an OIA, talk to your manager or one of the [OIA experts](#) around the Department.**

#### You should treat an information request as a formal OIA request if:

- the request directly mentions the OIA
- OR the request is likely to require a significant amount of collation and assessment of information to be able to answer it
- OR the information crosses/impacts several branches, and consultation is likely to be needed to be able to answer it
- OR the request is about an issue that is sensitive, political or topical and consultation might be needed to answer it.

Requests for information that is already available on the Department's website or any other publicly accessible location do not need to go through a formal OIA process. Simply direct the requester to the location of the information. If there is normally a fee associated with accessing the information, for example requesting a copy of a Birth Certificate, check with your [branch key OIA contact](#) about how your branch manages these requests.

#### If you know you have received an OIA request:

- 1. Notify:** If you have received a request directly from the requester, tell your manager/supervisor and your Branch Support and Development (BDS) team that you have received the request.
- 2. Report:** Forward the request to the S&G OIA team via their inbox [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz). They will log the request in the system and help you work out whether you are the person who should be responding to the request.
- 3. Seek guidance:** If you have been told that you will be leading the response, and you do not regularly respond to OIA requests, or if you simply feel unsure about how best to proceed with a particular request; it is recommended that you contact one of the many OIA specialists across the department and review the [DIA OIA guide](#).

OIA responses are subject to specific legislative requirements which you need to be aware of when responding. There can be legal, financial or security impacts for stakeholders, or for the Department as a whole if we don't get the response right.

Check the [key OIA contact table](#) to find the person best suited to help you.

[Back to Navigation](#)

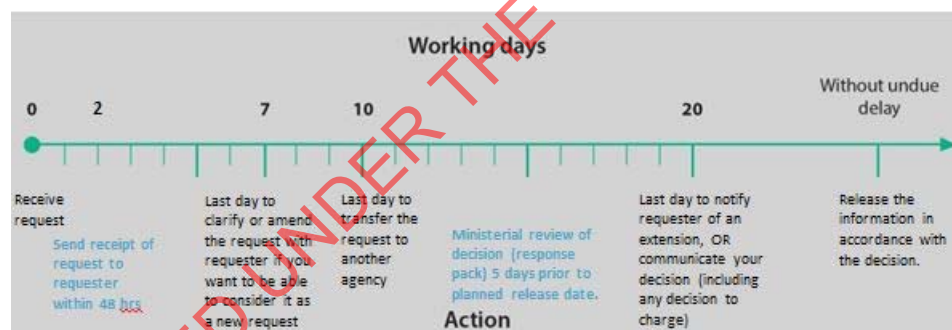
### How long do I have?

From the day an OIA request is received, you have a **maximum of 20 working days** to either notify the requester of an extension to the request timeframe, or provide the Department's decision to the requester.

**The 20th working day is not your target response day. You must provide your response as soon as possible.**

You can calculate how long you have in your request using the OIA calculator on the [Ombudsman's website](#). Scroll down to find the calculator on the left hand side of the page.

There are several other legislative deadlines (black) and internal timeframes (blue) to be aware of within the 20 day period, which are given in the table below.



[Back to Navigation](#)

### Who can make an OIA request?

To be eligible to make a request under the Official Information Act, a requester must be:

- a person who is in New Zealand
- OR a New Zealand citizen or permanent resident anywhere in the world
- OR a corporate entity which is incorporated in New Zealand or which has a place of business in New Zealand.

Where a requester is not eligible to make an OIA request, we may still decide on a case-by-case basis to accept the request on behalf of the Department.

[Back to Navigation](#)

### What is Official Information?

Official information means information held by an agency for the purpose of undertaking its functions, such as:

- emails/letters, briefings, memos, and documents which set out the policies, principles, rules or guidelines for decision making by an agency
- draft documents, file notes, meeting notes or minutes, annotations on documents, notes of phone conversations
- non-written material, such as images or audio/video recordings, or material stored on or generated by computers, including databases
- information known to an agency, but which has not yet been recorded in writing or otherwise, including recollections and other information stored in officials or Minister's memories
- the reasons for any decisions which have been made about a specific person or issue
- information held by an agency which has been provided by outside sources, including other agencies or corporate entities.
- information held by an independent contractor or private individual, regarding work carried out on the Agency's behalf or in contract with the Agency.
- information held by unincorporated bodies set up by an agency to assist, advise, or perform functions connected with any Agency E.g. boards and committees.

It doesn't matter whether the information originated within the agency, or where it might be physically located.

[Back to Navigation](#)

### What is NOT Official Information?

Official information does not include:

- collections material e.g. from libraries, museums or exhibitions
- information held by an agency for the purpose of safe custody, on behalf of a person or entity which is not subject to the OIA
- information held by Public Trustees or Maori Trustees in their capacity as a trustee

- evidence or submissions to Royal Commissions or Commissions of Inquiry
- inquiry evidence or submissions subject to an order forbidding publication and documents related to the internal deliberations of an inquiry
- any correspondence between an agency and the Ombudsman or Privacy Commissioner in relation to an investigation
- victim impact statements
- evidence, submissions or information given or made to the Judicial Conduct Commissioner, a Judicial Conduct Panel or the Judicial Complaints Lay Observer
- information held by employees of an Agency or Ministers of the Crown in their private capacity, their capacity as an electorate MP, or as a political party member. (This information can however become official information if it is used for official departmental or ministerial purposes).

[Back to Navigation](#)

### **Requests for personal information about individuals**

Personal information means information about an individual person, including deceased individuals. It could include, for example, contact details, public records, correspondence records, or any other information not publically known about the person's circumstances.

Under [the Privacy Act 1993](#) people have the right to access personal information about themselves held by agencies. They can do this themselves, or by authorising another person to make the request on their behalf. This representative must provide written evidence of the authorisation.

It may not always be clear whether information requests should be considered under the OIA or the Privacy Act, as documents about the requester could also contain other official information.

If any part of a request is for personal information about the requester or another individual, forward the request to [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) and [privacy@dia.govt.nz](mailto:privacy@dia.govt.nz). You can also find [more information about Privacy Act requests](#) on 1840.

[Back to Navigation](#)

### **Logging requests in the OIA register**

Governance, Risk and Assurance (GR&A) in the Strategy and Governance branch operate the Department's OIA email inbox [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz), and [OIA register](#). If you receive a request directly, you must forward it to the team for logging. They will send you back the OIA reference number that you should use on your letters to the requester. For more information about administration of OIA requests, contact GR&A at [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz)

[Back to Navigation](#)

### **Filing OIA request documentation**

#### **Filing documentation in DMS/Cohesion**

Until DIA has completed the transition to Cohesion, each branch has a different filing practice. Refer to the key OIA contacts sheet and speak with one of your branch contacts to confirm the OIA library your group uses.

All DMS request folders or [Cohesion document sets](#) should be titled using the formula below

[OIA201617-0099](#)

OIA / Financial year /OIA reference number /

You may also include other internal branch reference numbers or the requester name if you choose. e.g. OIA201617-0104-RSOC1054-Smith

The title of each document you save within the folder or document set should be prefaced with the OIA reference number.

[Back to navigation](#)

### [OIA guides](#)

The guides below provide further information about OIA requests and how to respond to them. You may like to familiarise yourself with some of them before contacting an OIA specialist

- [2017 DIA OIA Processing Guide](#)
- [Introduction to Official Information Act Requests and Responses](#)
- [Processing a basic Official Information Act Request](#)
- [The OIA for Ministers and Agencies](#)
- [Te Kete Tuarua: Guidelines for Official Documents](#)

### **Feedback and Bugfixes**

If you have any feedback or suggestions, if there's something you'd like to see added here, or if you notice any link that does not work

Email us at [OIA@dia.govt.nz](mailto:OIA@dia.govt.nz) and include 'feedback on 1840 pages' in the subject line.

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