



01 AUG 2017

Ben
fyi-request-6052-0597b5be@requests.fyi.org.nz

Dear Ben

On 23 June 2017, you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

- *Copies of the current policy, procedure, manual or other process document that records the Ministry's process or processes for handling and deciding requests under the OIA;*
- *Any diagram or flowchart of the Ministry's process or processes (if any have been created);*
- *Copies of any template response letters that form part of the Ministry's process or processes (if any have been created).*

The Ministry takes its obligations under the Official Information Act 1982 (the Act) very seriously, and is constantly working to ensure the highest possible level of performance in this area. Our responsibilities under the Act are included in the Ministry's Code of Conduct that all Ministry staff sign. The Act reflects the democratic principles of New Zealand government. I have enclosed a copy of the Ministry's Code of Conduct for your reference.

The Ministry has a centralised unit for responding to requests for information where the information requested cannot be made readily available. During 2016, the Ministry responded to more than 600 Official Information Act requests.

Please find enclosed copies of the following documents and process manuals you have requested:

1. *'OIA Report CE template'*
2. *'OIA Response Draft CE template'*
3. *'Extension Letter template'*
4. *'OIA Risk Assessment template'*
5. *'Ministerial and Executive Services Official Information Act 1982 Workbook'*
6. *'Ministerial and Executive Services Process Manual'*
7. *'Responding to Official Information Act requests'*

Documents one to four, named above, are templates used when writing a response to a request made under the Act. Routinely for each response, an *'OIA Report CE template'* is used to structure the contents of the report provided to the Chief Executive or appropriate Minister. Please note the names in Documents one and two indicate the abbreviation *'CE'* however the CE has delegated the appropriate DCE to sign this on their behalf. The document *'OIA Response Draft CE template'* is used for consistency when responding to a requestor. The document *'OIA Risk Assessment*

template is used for the release of documents as opposed to data. The relevant business units that have provided information will complete this assessment, and identify any risks relative to responding to this OIA request, such as identifying where considerations need to be given for withholding information.

The *'Ministerial and Executive Services Official Information Act 1982 Workbook'* is provided to Ministry staff to explain and detail the process of an OIA request. The document includes templates used, and training exercises related to withholding provisions. Please note, pages 23-34 are superseded by the documents titled *'OIA Report CE template'* and *'OIA Risk Assessment template,'* as the information contained within these page numbers is no longer applicable.

The document *'Responding to Official Information Act requests'* details the step by step process of responding to an OIA request, and is available to all Ministry staff on the Ministry's intranet.

Ministerial and Executive Services also manages and prepares responses to Ombudsmen investigations into decisions made under the Official Information Act 1982 and the Ombudsmen Act 1975. Documents relating to complaints to the Ombudsman are not included in this response as they are out of scope. More information about complaints to the Ombudsman can be found at www.ombudsman.govt.nz.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding the Ministry's process in responding to an Official Information Act request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely



Merv Dacre
Deputy Chief Executive



Report

Date: 14 July 2017

Security Level: In Confidence

To: Deputy Chief Executive

Official Information Act Request: Requestor - Title

Recommended actions

It is recommended that you:

- 1 **Note** the contents of this report. Agree / Disagree
- 2 **Sign** the attached letter to name. Agree / Disagree
- 3 **Note** that the response letter will be published on the Ministry of Social Development website. Agree / Disagree

Elisabeth Brunt
General Manager
Ministerial and Executive Services

Date

Deputy Chief Executive
Business area

Date

Due Date

- 1 *Has the time required to make a decision been extended? A decision is due to the requestor on or before due date.*
- 2 *Has a decision been conveyed to the requestor? A copy of this email is attached for your reference.*

Background

- 3 *Provide background information on the requestor, who they are, any previous and/or current requests.*
- 4 *Provide any information that led to this request being made (e.g. this request was made as a result of a press release on the number of people in receipt of the Unemployment Benefit in Invercargill).*
- 5 *Provide information on similar previous requests and the consequence of their release, (e.g. the last quarterly report was released to (previous requestor) this resulted in articles in a number of publications, these are attached and tagged for your reference).*

Suggested Response

- 6 *This section provides an opportunity to expand upon the information provided in the response. **Do not repeat what is in the letter.***
- 7 *Is there an 'angle' to this response? What is it? Why have we taken it? How was this decision made? What tone has been used and why? Are there any figures that stand out?*
- 8 *Are we providing more information than was asked for? Why? (Be specific)*
- 9 *If any information is being withheld, the weighting of public interest versus the provisions that the information is withheld under need to be summarised. This should reflect the decisions made in the 'Record of Decision' section.*

Risks and Issues

- 10 *This response is of XYZ risk.*
- 11 *Please list all risks relevant to the response (if appropriate, you may wish to summarise the full Risk Assessment completed in consultation with the business unit that provided the information). You should be considering trends, information already in the public domain, report back dates and future work plans. This should be formatted as follows:*

12 **Risk**

The response shows that... this is a risk because...

Mitigation

The Ministry has taken proactive steps to...

13 Risk

- 14 *The signed response will be published on the Ministry's website. This may create additional comment from others who view the response. This is regarded as high/medium/low risk because...*
- 15 A full risk assessment has been completed by Business Unit name and approves the enclosed documents for proactive release. The risk assessment is attached for your reference.

Consultation

- 16 XYZ has been involved in this response, from compiling the relevant information to consulting on risks and the proposed response.
- 17 The Minister's Office has been provided with the response as part of the Ministry's "no surprises" approach.
- 18 A sign-off sheet is attached and tagged in the file.

File Reference: **OIA/**

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Record of Decision

Has the requestor sought urgency?

No.

Can the information be identified? Can it be found? What do we think the requestor is asking for?

Will answering the request require substantial collation and research?

**What are the countervailing reasons to withhold the information?
How do the Public Interest and the reasons to withhold weigh up?**

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Sign Off Sheet

Quality Assurance Name: Date:	s 9(2)(a) OIA Manager, MaES Date:
The response meets the criteria set out on the QA Sheet	The response is in accordance with the requirements of the Act, addresses the scope of the request, is of good general quality, and has been properly consulted on.

Communications (if app) Name: Date:	Elisabeth Brunt General Manager, MaES Date:
<input type="checkbox"/> No media strategy is required <input type="checkbox"/> A media strategy is attached, or noted below	The response addresses the scope of the request, is, of good quality and has been completed in accordance with the provisions of the Official Information Act.

Business Unit One:

General Manager Name: Date:	Deputy Chief Executive Name: Date:
All information within the scope of this official information request has been identified by my business unit, provided to OPI, properly documented in this response, approved for release to the requestor and on the Ministry's website, or withholding in part or in full, and is factually correct.	

Business Unit Two:

General Manager Name: Date:	Deputy Chief Executive Name: Date:
All information within the scope of this official information request has been identified by my business unit, provided to OPI, properly documented in this response, approved for release to the requestor and on the Ministry's website, or withholding in part or in full, and is factually correct.	

Comments / Caveats:

Document Table

The following documentation has been scoped and identified in consultation with...

* If no documentation is to be released, please note under this section: "No documents fall within the scope of this request".

No.	Date	Title	Decision	OIA Section(s)	Previously Released?
1.	Insert date	Insert title (please specify the type of document e.g. <i>email, Report to the Minister, Cabinet paper [provide a relevant reference number]</i>)	Specify whether the document is to be released in: full, in part, or withheld in full	If withholding, please insert relevant withholding provisions	Please state Yes / No and provide OIA file number, name of requestor
2.					

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Official Parliamentary Team – Checklists

Chief Executive's Response

Report tagged to file	
Original request placed directly behind report to Chief Executive and tagged with a yellow "letter to CE" tag	
Response and any information proposed for release is placed in a coloured plastic file	
All documentation proposed for release is marked with the 'Released Under the Official Information Act' stamp	
All documentation proposed to be withheld is printed on pink paper	
Duplicate set of documents recommended for release (that have not previously been released) is to be retained by OPI for filing	

Minister's Response

ITEM ONE: Response placed in plastic coloured file, please check that correct letterhead has been used	
ITEM TWO: All documentation proposed for release is marked with the 'Released Under the Official Information Act' stamp AND all documentation proposed to be withheld is printed on grey paper	
ITEM THREE: Report coversheet is printed on grey paper. The coversheet and the report to Minister is clipped together and placed behind draft response in plastic coloured file. The sign off sheet onwards is pinned to the physical red file.	
ITEM FOUR: The document table is completed and pinned to the file.	
ITEM FIVE: The original request is placed directly behind report to the Minister and tagged with a orange 'letter to Minister' tag	
ITEM SIX: A set of original documents recommended to be withheld is placed in a marked envelope	
<p><i>Please duplicate a set of the first five items for the Minister's office and stamp</i></p> <p style="text-align: center;">MINISTER'S FILE COPY</p>	
<p><i>Duplicate set of documents recommended for release (that have not previously been released) is to be retained by OPI for filing</i></p>	

Official Parliamentary Team – Peer Review

I have consulted the Official and Parliamentary Team Quality Assurance checklist and am confident that the response and the report are of a high standard and in accordance with the Official Information Act 1982.

Name

Ministerial and Executive Services Advisor
Official and Parliamentary Information Team

Date

Comments:

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Mr / Ms Name of Requestor
Address 1
Address 2
ADDRESS 3 POSTCODE

Dear Mr / Ms Requestor Last Name

On *date* you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government.
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public shortly. The Ministry will do this by publishing this letter and attachments (*only if relevant*) on the Ministry of Social Development's website. Your personal details will be deleted and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

(Name)
Deputy Chief Executive

Mr / Ms Name of Requestor
Address 1
Address 2
ADDRESS 3 POSTCODE

Dear Mr / Ms Requestor Last Name

On *date* you emailed the Ministry requesting, under the Official Information Act 1982, the following information:

This letter is to advise you that the Ministry has received your request, however requires more time to respond to this request. In accordance with section 15(1) and 15A of the Official Information Act, the Ministry's decision will be with you no later than *date*.

The reason for the extension is that...

...your request is for a large quantity of information and it will take longer than the 20 working day time limit to collate the material you have requested and assess whether any interest might be prejudiced by its release. [Please explain in the Extension Memo why the request would unreasonably interfere with the operations of the Ministry]

OR

...the Ministry/ I need(s) further time to consult with other parties on the release of the information you have requested. These other parties may be affected by the release of the information and I need to provide them with an opportunity to identify any prejudice that might arise from its release before I make a final decision. [Please explain in the Extension Memo who needs to be consulted and why]

OR

The reason for the extension is that 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.

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

If you wish to discuss any aspect of your request with us, including this decision, please feel free to contact OIA_Requests@msd.govt.nz

I will respond to you sooner if I am able to.

Yours sincerely

Elisabeth Brunt
General Manager Ministerial and Executive Services

OR

Hon Anne Tolley
Minister for Social Development

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memo

To: *Co-ordinator name, business unit*
From: *Advisor name, Official and Parliamentary Information*
Date: *Date*
Security level: Sensitive

OIA Request: *Name - Subject*

We have received an Official Information request from name of requestor. Please provide me with a completed risk assessment for this request, as outlined below.

Please sign and return the attached memo with the completed risk assessment no later than **date**.

Please take time to consider the following questions before addressing this request:

- **Are you clear about what is being requested and is it reasonable?**
- **How much time will you need to collate the information?**
- **Do any other areas of the Ministry or any other Departments hold information on this topic?**
- **Are Cabinet documents involved in the scope of the request? If so, the request may need to be transferred to the Minister's office.**

Your MaES Advisor will discuss the scope of your request with you and clarify any questions you may have. Together with your MaES Advisor you will agree on what information will be included in the response.

If you have questions about completing the risk assessment, or require assistance to deal with this request, please contact me on number. Thank you.

Regards

Official and Parliamentary Information

File ref: **[OIA/]**

Background Information

- 1 *Provide background information on the requestor, who they are, any previous and/or current requests.*
- 2 *Details of request*
- 3 *Provide any information that led to this request being made eg this request was made as a result of the recent announcement of the shoelace initiative*
- 4 *Provide information on similar previous requests, and the consequence of their release, e.g. the last quarterly report was released to XX this resulted in articles in a number of publications, these are attached and tagged for your reference*

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List of Information Relevant to Request

- Please provide a full list of all documents which fall within the scope of the request regardless of whether they are to be released or not.
- Clearly mark with post-it flags any sections of the information you consider contain risks. Also clearly identify information that you want withheld.
- Follow the format in the following table:

Date	Title	Already released? (where? To whom?)	Should it be released? (full, partial, withhold)

Attach unmarked full paper copies of each document identified in this list.

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Risk Assessment

- Your risk assessment must cover each of the documents you have listed above that were prepared, or contributed to, by the Ministry.
- If appropriate, you may wish to fill this part in separately for each of the documents you have compiled in response to the request.

- 1 *Is the information already publicly available? If so, where or to whom has this been made available? If applicable, provide MAES with a copy of the risk assessment that was completed at the time the document was published.*
- 2 *What story does the information tell?*
- 3 *What risks are associated with making this information public?*
- 4 *Does the information tell the whole story? If not, what information could we provide to clarify the situation?*
- 5 *Does the information contain any report-back dates or references to other reports, work areas, evaluation, or outcomes?*
- 6 *Were the report back dates met? What resulted from this further work? Is this covered within the scope of the request?*
- 7 *Do you think there is any information that should be withheld? Tell us why you think it should not be released. (see notes in appendix 1 for factors to be considered when withholding information)*
- 8 *Is there any other information that could be provided in the spirit of being helpful, or to help the requestor understand the information we have provided them?*

APPENDIX 1 - Important notes about withholding information

When considering withholding all or part of the information that is requested you **must have legitimate grounds under the Official Information Act** for doing so.

You can discuss this with MaES, however take into account the following:

- Will releasing the information affect the people who provided the advice?
- Will it affect the provision of similar advice in the future?
- Is there any personal information included in the document? Are there any references to staff members, clients and other people?
- Have final decisions been reached with regard to the work areas that the information refers to? If not, is a release likely to affect the ability of Ministers to reach final decisions effectively?
- Is any of the information commercially sensitive?
- Does any of the information involve provision of legal advice?

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memo

To: insert MaES Adviser name
From: insert GM name
Date: Date
Security level: Sensitive

OIA Request: Name - Subject

I confirm the accuracy of the attached risk analysis provided for this OIA request. I have identified any possible risks around release of this information and provided options for mitigating these risks (where possible).

These risks are detailed in the attached table. I have also consulted with other parties about the release of this information, if appropriate. I am aware that upon release of this information to the requestor, the information will also then be proactively released on the Ministry's website.

If there are any additional matters that need to be considered as risks, or ought to be considered at the time this information is being released, I will advise MaES immediately.

[insert GM name]

Date

[Insert GM title]

Approved

Not Approved

File ref: **[OIA/]**

OFFICIAL INFORMATION ACT 1982

WORKBOOK

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OFFICIAL INFORMATION ACT



Spirit of the Act



The Official Information Act 1982 (OIA) reflects the democratic principles of New Zealand government. It replaced the Official Secrets Act 1951. The passing of this Act in 1982 set New Zealand ahead of other democracies such as Canada, Australia, the United States and Britain.

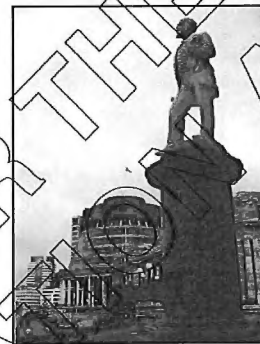
The Act promotes four key principles:

Participation

Accountability

Transparency

Good Governance



The long title of the Act states that it is:

“an Act to make official information more freely available, to provide for proper access by each person to official information relating to that person, to protect official information to the extent consistent with the public interest and the preservation of personal privacy, to establish procedures for the achievement of those purposes, and to repeal the Official Secrets Act 1951”.

The Act is based on the Principle of Availability. That is, it was designed to progressively increase the availability of official information to the people of New Zealand over time, and to:

- encourage citizens to participate in the making of laws and policies – through increasing their interest and understanding
- promote the accountability of Ministers of the Crown and government officials, and thereby enhance the respect for the law and good government in New Zealand
- protect official information to the extent consistent with both the public interest and personal privacy e.g. an individual client's income details often would not be disclosed because the public interest does not outweigh the privacy issue.

In keeping with the spirit of the Act, the information requested shall be made available unless there is good reason for it to be withheld

Definition of 'information' under the OIA



Official information is any information that is held by a government department or a Minister of the Crown in his or her official capacity, on any subject. It applies to all organisations that are subject to either the OIA or the Local Government Official Information and Meetings Act 1987.

For the Ministry, official information means:

- emails
- electronic documents
- reports
- documents from other organisations
- handwritten and Post-it notes
- internal memos
- financial information
- information stored in your head
- draft documents.



The Ombudsmen are appointed by the New Zealand Parliament. Their primary purpose is to inquire into complaints raised against New Zealand central, regional and local government organisations or agencies. They are independent review authorities and are accountable to Parliament, not the Government of the day. The Office of the Ombudsman is further explained later in this workbook.

The current Ombudsmen have said the definition of official information extends to the knowledge of a fact or a state of affairs held by government officers in their official capacity.

Even if such information has not been written down, it does not mean it does not exist or that it is not "held" for the purposes of the Act.

Privacy Act 1993



Requests for personal information are covered by the Privacy Act 1993

Often these requests involve a client asking for a copy of their personal file or some information held about them by a ministry or department. If they are not provided with the information that they have requested, they may complain to the Privacy Commissioner.

Who makes requests and what do they look like?



Anyone can make a request for information, providing they are a New Zealand citizen, New Zealand Resident or they are simply living in New Zealand. A request may be made verbally or in writing and may not make specific reference to the OIA.

However, to ensure that requests are clear and specific, Ministerial and Executive Services (MaES) asks for a request to be in writing, to which we respond with an acknowledgement letter. This helps to clarify what is being asked for.

Any person in New Zealand can make a request for official information.

An OIA request does not have to:

- be in writing
- be worded in a particular way
- refer to the OIA.

A request must be made "with due particularity", i.e. it must be clear and specific.

Requests can be made to:

- Ministers of the Crown acting in their official capacity
- government departments
- other organisations as specified in the Act including Public Trust, Armed Forces Canteen Council and Winston Churchill Memorial Trust Board
- Local Authorities.

Examples:

The Minister for Social Development and Employment receives a letter requesting "... all evaluation reports pertaining to the Socialising Programme."

- **Is this a request under the OIA?** **Yes/No**

The Chief Executive is asked by Mr Sensible at a conference for "... everything you've got about me".

- **Is this a request under the OIA?** **Yes/No**

A Child, Youth and Family social worker is asked by a parent for all information received by CYF that her child was being neglected.

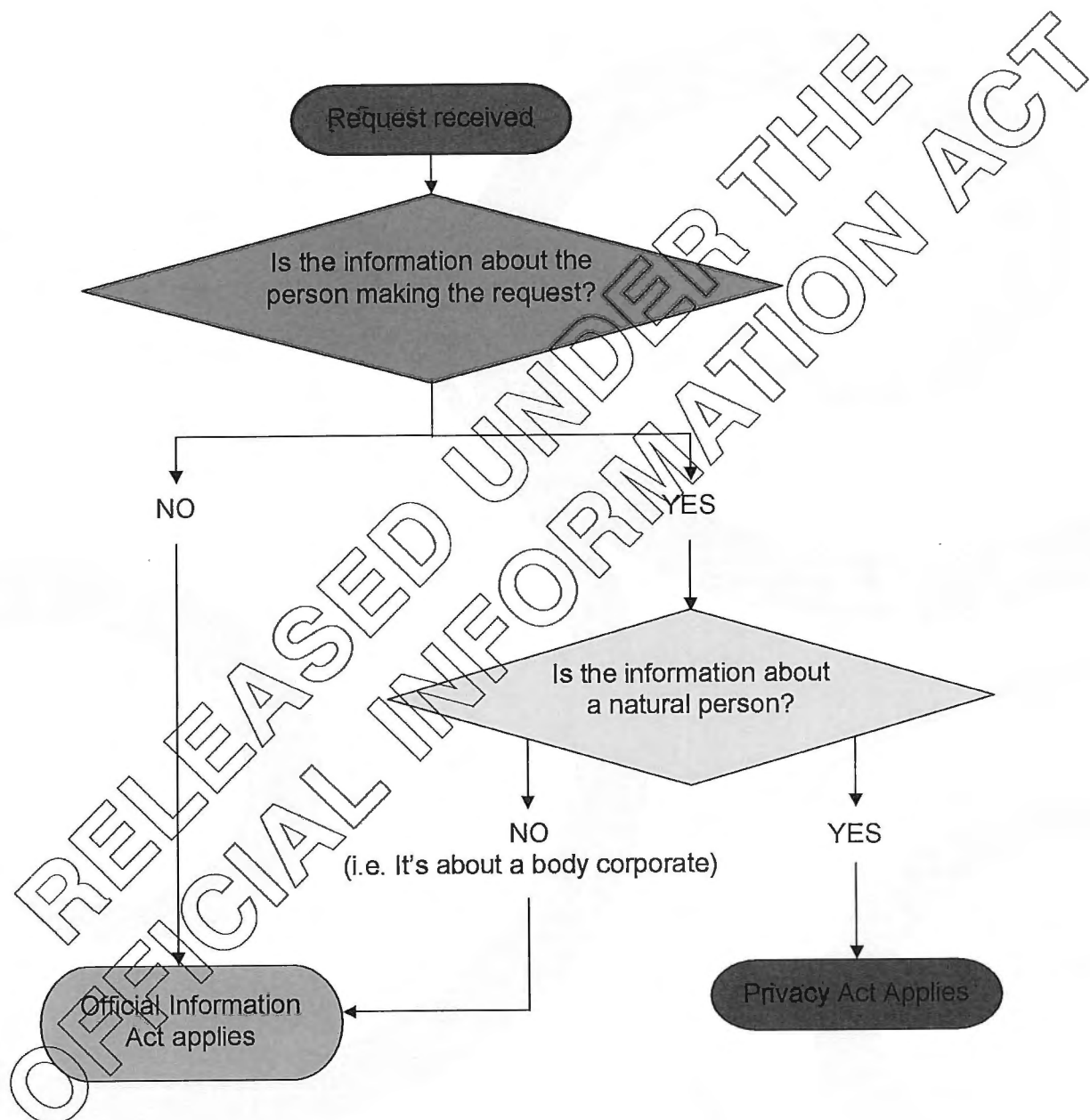
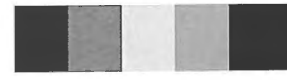
- **Is this a request under the OIA?** **Yes/No**

Our Call Centre receives a telephone call from Miss Law Student who asks for "... everything you've got about student loans."

- **Is this a request under the OIA?** **Yes/No**
- **Has it been made with 'due particularity'?** **Yes/No**

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Privacy Act or Official Information Act?



Administration of the Request



MaES co-ordinates the OIA response.

Prompt action is essential to meet operational requirements, because a response must be provided to the requestor within 20 working days.

You will be required to:

- identify, locate, and provide MaES with the information in timeframe provided (usually about nine working days)
- complete a risk assessment within the same timeframe
- work with MaES to refine the request if necessary.

MaES will co-ordinate with:

- Legal
- Communications
- Parliamentary Offices
- other Ministries.

Timeframe

Requests should be answered as soon as practicable. Legally we have 20 working days to respond to a request, taken from the date that the request is received. However, due to our thorough peer review and sign-off process (sometimes up to ten people read the file), you are usually asked to provide the information sooner than that. As the person who understands the content of the information, MaES relies on you for advice and guidance.

In addition to the response, a report to the Chief Executive or Minister will be produced by MaES which will include your contribution and identified issues.

Urgency

A requestor can ask that their request be treated as urgent. Under the Act it is necessary that the requestor states the reasons for urgency. With an urgent request, 20 working days is still the legal requirement but all efforts should be made to respond earlier.

Possible Actions



There are options available to the Ministry that need to be considered early on, once the request has been analysed.

- **Extensions:** requestors must be notified within 20 working days of the letter being received however, you may extend for “a reasonable period of time having regard to the circumstances”.
- **Transfers:** must be made with 10 days and the requestor must be notified of the transfer.

If the Ministry gets a request that is more closely connected to the functions of another agency, we have ten working days to transfer it to that other agency. It might be appropriate to split the request and only transfer a section of it. Transfers are made under section 14 of the Act and must occur within ten days of the letter being received. If a Minister receives a request that is more closely aligned with the operational activities of the ministry, it is likely that the request will be transferred to the Chief Executive.

Extending the time limit for answering a request is possible if the process of meeting the request would unreasonably interfere with the daily operations of the Ministry. For example, if the request is for a large number of documents or requires a lengthy consultation period to establish if any parties would be prejudiced by its release, then an extension may be appropriate. We must specify the length of the extension to the requestor and let them know that they have the right to complain to the Ombudsman about the extension.

Discuss the options available to you with an OIA advisor at MaES. There are procedural requirements we must follow if exercising either of these options. Most importantly, ensure that there is written documentation of the decision.

Draft Documents



Draft documents are not specifically protected by the OIA as such and can be considered official information like any other document. You need to ask yourself:

"whether releasing a draft would prejudice an interest that is protected under the Act *and* whether there is a public interest in disclosing the information that would outweigh withholding it."

A situation where the public interest may outweigh other considerations would be when a draft reveals that something improper has taken place during a practice or process.

It is also worth bearing in mind that decision-makers are only accountable for the advice they actually act on. They are not responsible for early drafts that were generated in the preparation of advice and that they may not have even seen. This would be clearly explained to the requestor in the body of the response letter.



Good Reasons to Withhold or Refuse

Information must be made available unless there is a good reason, under the Act, for withholding it

In keeping with the spirit of the Act, we try to be helpful and provide as much of the information requested as we can. However, if there are obvious reasons for refusing a request then we do so. Withholding information is a balancing act, as the majority of information withheld by the Ministry is done so under section 9 of the Act. In these instances the public interest must be considered to see if it outweighs the decision to withhold.

Common reasons for refusing a request

Some common reasons for refusing a request are:

- the information does not exist or cannot be found
- the information is, or will soon be, publicly available
- the information cannot be made available without substantial collation or research.

Note that there is a high threshold to meet if a request is going to be refused on the grounds of substantial collation or research. We must consider whether charging or extending our time limit might be appropriate in the circumstances. It is also possible to release summaries of information or split a request into two or more, if this would help in responding to the request.

Common reasons for withholding information

Some common grounds for withholding information are:

- to protect the privacy of individuals
- to maintain legal professional privilege (that is, information that is subject to lawyer/client confidentiality)
- to protect the free and frank expressions of opinions by, or between, Ministers and officials
- that releasing the information would unreasonably prejudice the commercial position of the person who supplied, or who is the subject, of that information
- that releasing the information would prejudice the supply of similar information. It is in the public interest that the information continue to be supplied (for example, complaints from the public)
- to maintain constitutional conventions (which protect confidentiality of communications. e.g. in some cases the release of advice may mean that Ministers are unable to make effective decisions)
- that releasing the information would prejudice the security or economy of New Zealand.

Personal Privacy vs Public Interest



Will releasing the information better serve public interest or privacy considerations?

The balance between personal privacy and a legitimate public interest needs to be carefully weighed up. However, if the two interests are determined to be equal, then the information at issue will be withheld.



When considering the public interest, a distinction must be drawn between matters that are of legitimate concern to the public and those that are merely interesting on a human level.

Privacy issues must be considered even if the person in question is dead. It is common practice that the names and details of staff (minor officials) are withheld from documents as there is no public interest in their identity. However, there is a public interest in the accountability of more senior staff such as the Chief Executive.

There are cases where information would reveal something about an identifiable individual but there is no reason to withhold it, for example:

- when that individual consents to disclosure
- when the information is already publicly available
- when it is about an individual, but is of a nature that no protection of privacy is required.

Case Studies



Case One

Ms Curious requests, under the Official Information Act 1982,

"the individual salaries of all Managers currently employed by the Ministry".

While some individual Managers at the Ministry may not wish their salaries to become public knowledge, when it comes to information about employees at a public sector agency, greater weight may be given to the accountability of activities than is given to individual privacy. However, in this case, a compromise might be reached, in which salary bands are released to Ms Curious, rather than individual salary figures.

Note that the salaries of Chief Executives and other Heads of public sector agencies are usually released as a matter of course, and are often publicly available through State Services Commission's annual reports anyway.

Case Two

Mr Annoyed discloses details to the Ministry about a charity trust he believes to be acting fraudulently. After the charity is questioned about this matter, the charity's Director requests, under the Official Information Act, that the Ministry provide her with *"details of the complaint and the full name and address of the person who made the original complaint"*.

EXERCISE

First consider:

- the information requested and what it might reveal about the person
- the circumstances in which the information came to be held by the agency
- whether the person to whom the information relates would consent to its disclosure
- the extent to which the information is already in the public domain.

1. Is the privacy interest such that it is necessary to withhold some or all information to protect the privacy of the person to whom it relates?

2. Identify any considerations favouring disclosure of the information.

3. Is there a public interest in disclosure of the specific information requested?

4. Consider whether, in the circumstances of the particular case, the public interest in disclosing the information, in whole or in part, outweighs the need to withhold the information to protect personal privacy.

OFFICIAL INFORMATION ACT
RELEASÉ UNDER THE ACT

What would MaES have done?

MaES would not have released Mr Annoyed's name and address to the Director, pursuant to section 9(2)(a) of the Official Information Act, in order to protect his personal privacy.

Further, section 9(2)(ba)(i) of the Act might have been invoked too, on the grounds that to release Mr Annoyed's name *would be likely to prejudice the supply of similar information ... and it is in the public interest that this kind of information continue to be supplied.* In fact, in this case it is in the public interest NOT to give the information to the requestor. Were the Ministry to release the details of those who make allegations into the public domain, it is not likely that people would continue to provide the Ministry with this information for fear of repercussions.

In these circumstances, the reasons for withholding the information clearly outweigh any public interest there is in releasing the information.

However, MaES would release a summary of the accusations outlined in Mr Annoyed's complaint, so long as the summary contained no identifying characteristics that could match the complaint with the complainant, Mr Annoyed.



Exercises



The following examples highlight when we should and shouldn't withhold information. It is important to have a reasoned argument that supports the withholding of any information. It is also important to consider if there is public interest in releasing the information in each case.

Exercise 1

Emma Page, a journalist from The Oamaru Times has submitted a request for "details about all recipients of Disability Allowance in Oamaru, including their reason for receiving it, how long they have received it for and the Service Centre Manager's name".

The following information has been provided by the Oamaru Service Centre.

What would you release to Emma Page?

Table 1: Statistical information on disability allowance recipients in Oamaru

Name	Identified Disability	Benefit	Duration	Service Centre Manager
Mary Jones	Deaf	DA	3 years	Seamus O'Toole
Bruce Burgher	Quadriplegia	IB/DA	1 year	Seamus O'Toole
Matthew McDonald	Bad back	DA	9 months	Seamus O'Toole
David Brown	Depression	DA	6 months	Seamus O'Toole

In Oamaru there are:

- approximately 70 deaf people
- 3 people confined to a wheelchair
- 150 David Browns

Exercise 2

Company A has requested *"all information the Ministry holds about Company B"*.

The following information has been identified as falling within the scope of the request. What aspects of this information would you release to Company A?

Memo

By: Chan Tripp of Legal Services National Office

To: Contracts team

Date: 18 August 2005

RE: Negotiations with Company B

In regards to your specific questions on whether the Ministry should enter into an agreement with "Company B".

It is my opinion that we should enter into an agreement with this company.

This company's offer of \$12 million is extremely competitive. In fact, it is the best deal that could ever be offered. I don't know how they can even do this for this price!

As the Ministry is still in negotiations with this company, please keep this figure confidential.

While I think this company is great, I met the boss the other night and he is a real tosspot.

Exercise 3

The Associate Minister for Social Development and Employment received a request for:

"...all information prepared by her office or Department regarding advice on youth justice options for young offenders."

The request specifically referred to five documents that were listed in a written parliamentary question.

The requester has also stated:

"Please take this request to include, but not be limited to, Cabinet and Cabinet Committee papers and minutes, reports, oral and written advice, aide memoirs, briefings, memoranda, and correspondence (including emails) that may be caught by the wording."

At this stage, work on some specific youth justice options has been underway for three years, with a number of extensions for final recommendations. No final decisions have been reached, though some decisions have been made by the Minister regarding consultation to be undertaken, aligning the final report with other work and the funding required.

A very large body of work is identified as within scope. Some of these documents contain information on other work. Some contain specific details of the consultation process. Other documents contain information on possible recommendations, including potential costs of policy changes.

What would actions would you take and what would you release?

Exercise 4

Journalist Betty Fire has asked for the "names of all contractors and consultants engaged by the Ministry since January 2005, the costs to the Ministry incurred by their appointments, and the duration of those appointments". The following information has been identified as falling within the scope of her request:

Consultants engaged by MSD since January 2005:

Name	Duration	Budgeted and / or actual Cost	Titles and dates of reports
Jane Doe Consultants	3 Jan 2005 - 2 Mar 2005	\$17,500	Review of Services
High Flyers Limited	5 Feb 2005 - 9 Feb 2005	\$2,000	Change management facilitation
The Huckleberry Finns	2 Jul 2005 - 6 Aug 2005	\$6,000	Public Relations 2005
Anna Kavan	2 Sep 2005 - 9 Sep 2005	\$5,000	Capability Plan 2005

Issues Management



As you are the people “in the know”, it’s important you have the opportunity to highlight potential issues and how these issues might be mitigated. You will always be asked to complete a template that makes an assessment of the material your business unit provides to MaES. A copy of the template has been attached for your information.

The purpose of the assessment is to:

- show that the Ministry has met legislative requirements, e.g. show that all relevant information has been identified
- list what is being released
- identify issues and mitigations for each of the documents that are being released
- provide contextual information for the response
- provide background information on the request.

The template should be signed-off by your General Manager and will then be attached to the file which the CE or Minister will sign-off.

Questions to assist identifying risks:	Suggestions to mitigate issues
<ul style="list-style-type: none">• If you could tell the CE anything about the response, what would it be?• What data/ideas/projects are not already in the public arena?• What is likely to be newsworthy?• What could be read into the response?• If information is being withheld, what does the withholding imply?• If data is being released, what trends/story does it show?• Is the requestor likely to come back with further requests?	<ul style="list-style-type: none">• Provide context in the response letter – clarifying points of note.• Provide a full answer, provide information over and above what is requested if it explains and is useful background to the information requested.• If information is being withheld – give a full explanation of why and note that the public interest in release does not outweigh the reasons for withholding.• Provide an open and friendly response.• Ensure that all relevant parts of the Ministry are aware of what is being released.

Report to Chief Executive or Minister



An OIA advisor from MaES will draft a report to the Chief Executive or Minister, using the information you have provided in the assessment. A copy of an OIA report template has been included in this workbook for your information.

The purpose of the OIA report is to succinctly provide the Chief Executive or Minister with:

- why the request has been made
- background to the draft response, i.e. the "full picture"
- an understanding of what is proposed for release
- an understanding of what is proposed to be withheld, and reasons why
- any issues associated with the response and release of information
- an assurance that issues are being mitigated where possible
- an assurance that all relevant parties have been consulted with during the process
- evidence that legislative requirements have been met.

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Office of the Ombudsmen



Ombudsmen are appointed by Parliament but they are independent of the Government of the day. They impartially investigate complaints, including responses to Official Information Act requests that requestors are unhappy with.

The term 'Ombudsman' is taken from the Swedish/Norse word 'ombodhsmadr', which literally means "a grievance person". There are currently three Ombudsmen in New Zealand. One is a woman.

The types of decisions an Ombudsman can investigate are:

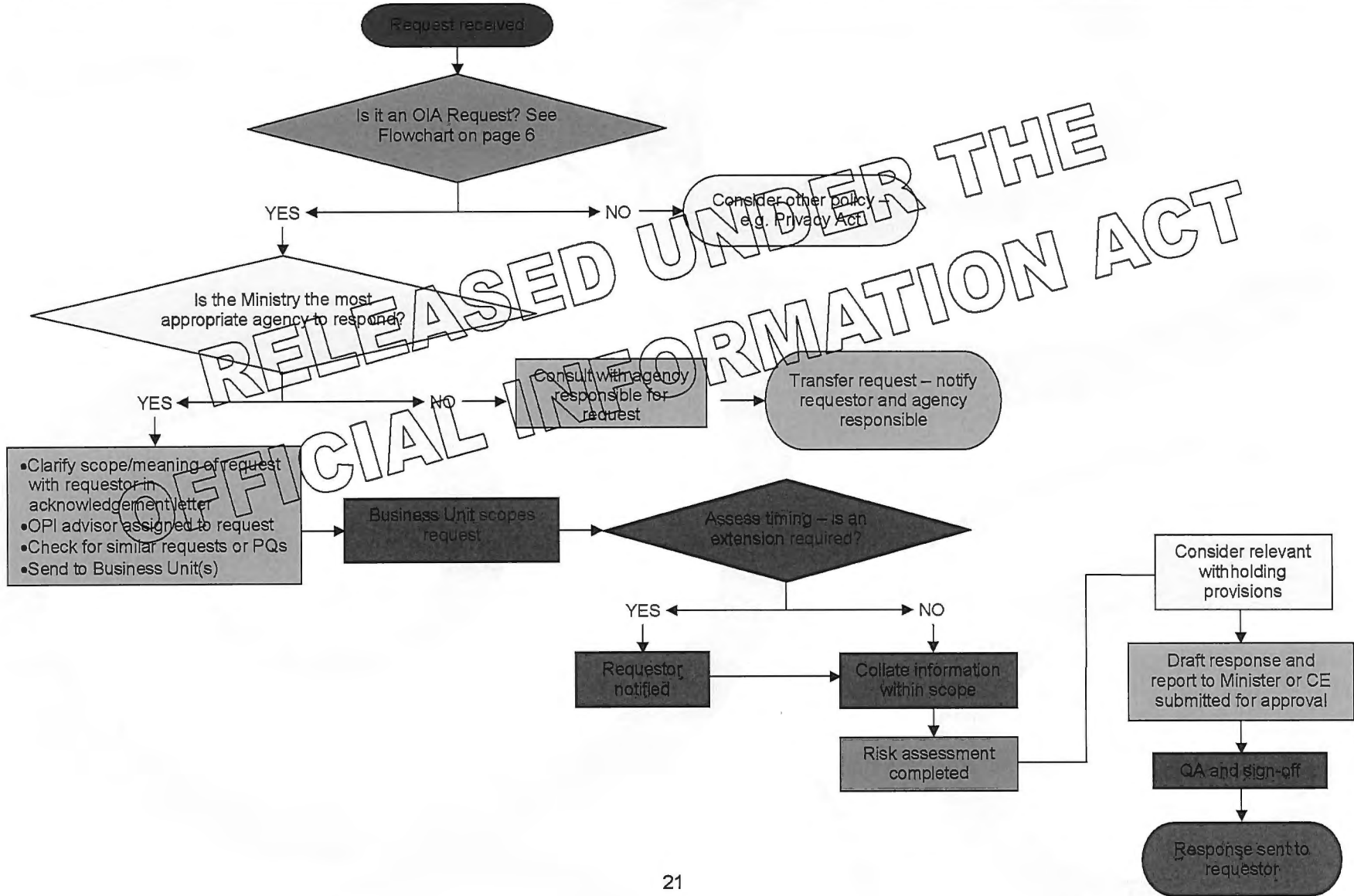
- a refusal to provide the information requested
- a delay in responding to a request for information
- an extension of time limits for a reply to a request
- deletion of part(s) of the information requested
- a release of information on conditions
- a release of information in a manner other than that requested
- an inadequate statement of reasons for a decision or recommendation affecting the requestor.

An investigation enables an Ombudsman to express an independent view as to whether or not a decision was made in accordance with the requirements of the Act. The Ministry may decide to release the information to a requestor during the course of an investigation.

Where information has not been released and an Ombudsman thinks it should have been, the Ombudsman may recommend that it be released. Generally an Ombudsman's ruling becomes binding on the 21st day after it has been made, unless there has been an Order in Council from Cabinet against it. A recommendation to a Minister of the Crown or to a central government department or organisation may only be overcome by Order in Council.

We must respond to an Ombudsman Review as soon as possible and no later than 20 working days. It is important the Ministry co-operates fully with the Ombudsman and provides a comprehensive response.

OIA Process



Appendices



- Report to CE/Minister Template
- Assessment Tool Template
- Editorials by the Ombudsman

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Universal OIA Report Template



MINISTRY OF
SOCIAL DEVELOPMENT
Te Manatū Whakahiato Ora

Date: DD Month YYYY

Security Level: In Confidence

Report to: (*Minister for Social Development and Employment/Chief Executive*)

OFFICIAL INFORMATION ACT REQUEST: NAME - SUBJECT

Recommended Actions

We recommend that you:

- 1 **note** the contents of this report
- 2 **sign** the attached letter to *name*

AGREE / DISAGREE

Jacki Couchman		
General Manager		Date
Ministerial and Executive Services		

Hon David Benson-Pope		
Minister for Social Development and Employment		Date

or

Peter Hughes		
Chief Executive		Date

Due Date

- 1 A response is due to the requestor on or before <due date>.

Background

- 2 *Provide background information on the requestor, who they are, any previous and/or current requests.*
- 3 *Provide any information that led to this request being made eg this request was made as a result of the recent announcement of the shoelace initiative*
- 4 *Provide information on similar previous requests, and the consequence of their release, e.g. the last quarterly report was released to XX this resulted in articles in a number of publications, these are attached and tagged for your reference*

Suggested Response

- 5 *This section provides an opportunity to expand upon the information provided in the response. **Do not repeat what is in the letter.***
- 6 *Is there an 'angle' to this response? What is it? Why have we taken it? How was this decision made? What tone has been used and why? Are there any figures that stand out?*
- 7 *Anticipate concerns signers may have. For example, are we mentioning new information? If so, have we ensured future work is on track?*
- 8 *Are we providing more information than was asked for? Why? (Be specific)*
- 9 *If any information is being withheld, the weighting of public interest versus the provisions that the information is withheld under need to be summarised. This should reflect the decisions made in the 'Record of Decision' section.*

Risks and Issues

- 10 *This section is a summary of the full Risk Assessment completed in consultation with the unit that provided the information for response. This should be formatted as below, in order for us to assure the person signing that we have addressed the issues identified.*
- 11 *Include information on report back dates/ future work here.*
- 12 *A full risk assessment is in the file and tagged for reference.*

Consultation

- 13 *Advise what areas of the Ministry or other parties have been involved in this response, from compiling the relevant information to consulting on risks and responses*
- 14 *Advise if the Minister's Office has been provided with the response as part of the Ministry's "no surprises" approach.*
- 15 *A sign-off sheet is attached and tagged in the file.*

Assessment Template



MINISTRY OF
SOCIAL DEVELOPMENT
Te Manatū Whakahiato Ora

To	<i>[Insert General Manager or co-ordinator name]</i>	Date	
From			
Security Level	Sensitive		

OIA REQUEST (SUBJECT OF REQUEST)

We have received an Official Information request from XXXXXX. Could you please provide me with a completed risk assessment for this request, as outlined below. I require this no later than XXXX.

If you have questions about completing the risk assessment, or require assistance to deal with this request, please contact me on xxx. Thank you.

Regards

Official and Parliamentary Information

1 Scope

Information about the requestor:

<i>Requestor:</i>	[MAES to complete]
<i>What MAES knows about them:</i>	[MAES to complete]
<i>Information we have previously provided to this person:</i>	[MAES to complete]
<i>Information sought is:</i>	[MAES to complete]

Factors that you must consider when assessing the OIA you have received:

<p>Are you clear about what is being requested and is it reasonable?</p>	<p>If the request is too broad i.e. covers a large number of documents or you are not clear about what the requestor wants, tell MAES as we can contact requestor to narrow the request or clarify their requirements. If the requestor does not want to narrow their request you will need to assess the cost of answering it. Please see note (2) below.</p>
<p>Do you or someone in your team have this information?</p>	<p>If you don't have the information – return this to MAES immediately and tell us who you think might have it</p>
<p>How much time will you need to collate the information?</p>	<p>Consider how much information there is and how accessible it is. If you are not going to be able to meet the deadline that MAES have set above contact us immediately and tell us how long you will need.</p>
<p>Do any other areas of the Ministry hold information on this topic?</p>	<p>Tell MAES straight away so that we can ask them to provide the information.</p>
<p>Were any other agencies involved in developing the information?</p>	<p>MAES need to know this so that we can ensure that they are consulted before information is released. We can also check to see whether they have received a similar request.</p>

IMPORTANT NOTES:

- (1) If **Cabinet documents** (i.e. Cabinet Reports, Cabinet Minutes, Cabinet Papers) are involved in the scope of the request **contact your MAES Advisor immediately** as this request may have to be transferred to the Minister's Office. A transfer must occur by **[insert date]**.
- (2) Will this involve substantial staff resources and time to research and collate the information, and complete a risk analysis? If so, estimate the number of staff hours, cost of labour, cost of photocopying and any other expenses involved. Provide this estimate to your MAES Advisor immediately.
- (3) Your MAES Advisor will discuss the scope of your request with you and clarify any questions you may have. Together with your MAES Adviser you will agree on what information will be included in the response.

2 List Information Relevant to Request

Provide a full list of all documents which fall within the scope of the request regardless of whether they are to be released or not. Follow the format in the following table:

Date	Title	Reference	Location	Already released?	To be released? (full, partial, withhold)
18/2/2004	Lower North Island Flood Relief	[POL Min (04) 2/11]	Information Services	Yes – MSD website	Yes – release in full

(tab for more lines)

Attach unmarked full paper copies of each document identified in this list.

3 Risk Assessment

You must complete a **risk assessment** for **each of the documents** you have compiled in response to the request. Your risk assessment must cover the papers you have listed that were prepared, or contributed to, by MSD.

The following is the minimum that we require you to cover when completing the risk assessment:

<p>Is the information already publicly available? If so, where or to whom has this been made available?</p>	<p>(provide MAES with a copy of the risk assessment that was completed at the time the document was published)</p>
<p>What story does the information tell?</p>	
<p>What risks are associated with making this information public?</p>	
<p>What is the requestor likely to use the information for?</p>	<p>(think about who the requestor is, are they personally involved, is it a story with significant public interest?)</p>

<p>Does the information tell the whole story? If not, what information could we provide to clarify the situation?</p>	
<p>Does the information contain any report-back dates or references to other reports, work areas, evaluation, or outcomes?</p>	<p>(Were the report back dates met? What resulted from this further work? Is this covered within the scope of the request?)</p>
<p>Is there any information that should be withheld? Tell us why you think it should not be released?</p>	<p>(see notes below for factors to be considered when withholding information)</p>

IMPORTANT NOTE:

When considering withholding all or part of the information that is requested you must have legitimate grounds under the Official Information Act for doing so. You can discuss this with MAES, however take into account the following:

- Will releasing the information affect the people who provided the advice? Will it affect the provision of similar advice in the future?
- is there any personal information included in the document? Are there any references to staff members, clients and other people?
- have final decisions been reached with regard to the work areas that the information refers to? If not, is a release likely to affect the ability of Ministers to reach final decisions effectively?
- is any of the information commercially sensitive?
- does any of the information involve provision of legal advice?

4 Context

Contextual information is important because it allows the requester to understand the information we have provided to them. It gives MSD the opportunity to provide our side of the story.

<i>Is there any other information that could be provided in the spirit of being helpful?</i>	
<i>Is there any information that may be relevant to the requester's general line of enquiry even if outside of the scope of the request?</i>	

5 Providing the Information to MAES

- Clearly mark with post-it flags any sections of the information you consider contain risks. Also clearly identify information that you want withheld.
- Sign the attached memo.

File ref: [OIA/ or M/]

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To	[insert MAES Adviser name]	Date	
From	[insert GM name]		
Security Level	SENSITIVE		

[INSERT OIA SUBJECT]

I confirm the accuracy of the attached risk analysis provided for this OIA request. I have identified any possible risks around release of this information and provided options for mitigating these risks (where possible).

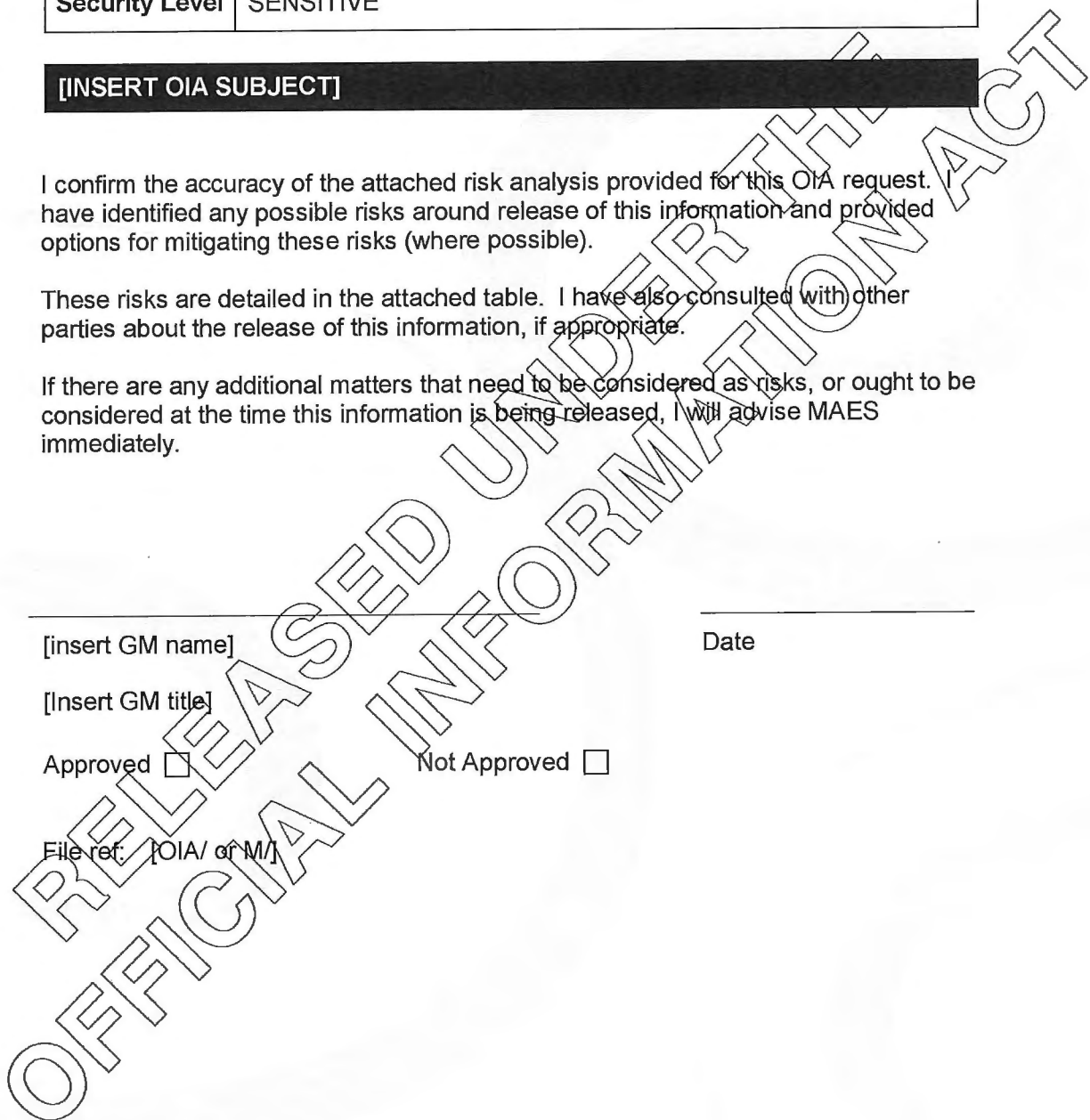
These risks are detailed in the attached table. I have also consulted with other parties about the release of this information, if appropriate.

If there are any additional matters that need to be considered as risks, or ought to be considered at the time this information is being released, I will advise MAES immediately.

 [insert GM name] Date

[Insert GM title]
 Approved Not Approved

File ref: [OIA/ or M/]



Editorial

Requests for Draft Documents

In recent years, there has been an increasing tendency for requesters, when seeking access to copies of documents such as reports, correspondence or policy advice, also to request copies of any "draft reports, correspondence or advice." We are often asked if there is any special protection under the Official Information Act (OIA) that allows any requests for such drafts to be refused.

The short answer is: "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" of information. Each case must be examined on its merits.

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 a request for "draft report, correspondence or advice" can cover a wide array of different circumstances. For example, there is a significant distinction between requests for:-

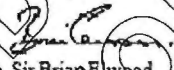
- Early drafts prepared by the author of a particular document for their own use as part of the process of jotting down initial ideas and working through them, to develop the final shape and content of the advice or information the author wants to convey;
- Documents which are drafted for the signature of another person where that person may wish to (and must be free to) amend or even decline to sign; and
- Documents which are the end product of a deliberative drafting process and are labelled "Draft" and then circulated to third parties for comment before being finalised and tendered to the planned recipient of the

document (be it a specific individual, an interest group or the general public as a whole).

In each case the fundamental questions to be addressed are - whether disclosure of the draft documents requested would prejudice an interest protected under the Act, and whether there is a countervailing public interest in disclosure that outweighs the interest in withholding? Factors to be considered will include the nature and content of the draft document, the context in which it was generated, the process to which it relates and how it is to be used, and the extent to which the information it contains is already in the public domain.

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 circumstances where disclosure of drafts would reveal some impropriety in process or practice that the public interest in release would outweigh the interests in protecting information under the Act. That is an assessment that can only be made in the circumstances of each particular case.


Sir Brian Elwood
Chief Ombudsman


Anand Satyanand
Ombudsman

Editorial

Legal Professional Privilege and Official Information

The Official Information Act 1982 has always recognised, legal professional privilege as a possible ground for withholding official information. This shows Parliament has accepted the common law view that there is a strong public interest in ensuring people may obtain confidential legal advice without fearing that this will later be disclosed without compelling reason.

What is the privilege? In essence, it is that of the client to keep communications between lawyer and client relating to the seeking or giving of legal advice confidential. It matters not whether the lawyer is a salaried employee or in private practice. In addition, where legal proceedings are involved, either already commenced, or reasonably apprehended, the privilege extends to communications with third parties, but only where the dominant purpose underlying such communications is to assist the lawyer to conduct or advise on the proceedings.

• Although the privilege may be claimed, it may also be waived. Waiver may even occur without the client realising the fact and may be contrary to any wish in this regard. Such implied waiver can occur, for example, where privileged material has been disclosed in part and the circumstances are such that it would be unfair not to disclose the remainder.

• The recent case of *Tua v Darie* (1996) H.C. Wellington CP215/95, 27/2/96 *McGechan J* contains an example of implied waiver, contrary to a client's expectations. The statement of defence, in denying various allegations, had also made positive assertions in this regard, stating that an independent legal opinion had been obtained and had been relied on regarding a matter at issue. The implicit suggestion was that the opinion favoured the stance of the defence and in that context, the Judge said it would "be quite unfair to permit the [person claiming privilege] to blow hot as to the existence of content of the opinion, but cold on disclosure". He held privilege to be waived.

• Legal professional privilege cannot be invoked for communications that are not in the context of "legal advice", from a practising lawyer. Moreover, if professional legal advice is merged into advice from a non-lawyer, the privilege may be lost through that merger.

• A communication is not "legal advice" simply because a lawyer may be the source of the information. The lawyer must have been acting in a professional capacity, not an executive one, and the information must have come into existence for the purpose of providing legal advice.

The question of whether information may properly be withheld on the grounds of legal professional privilege is often a complex one that cannot be addressed in an editorial as short as this. Nevertheless, its content may give some guidance as to the essential matters that require consideration when faced with a request for information 'of a legal nature'.

Where information has been refused on the grounds of maintaining legal professional privilege an Ombudsman's task on review can be threefold.

First, to consider whether the information is of a kind to which the privilege applies.

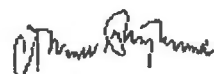
Secondly, if the information is of that kind, to consider whether the privilege has been waived.

Thirdly, if the privilege has not been waived, to consider whether there are any public interest factors favouring release that outweigh the public interest in the need to maintain the privilege.

Legal professional privilege and its maintenance remain important.



Sir Brian Elwood
Chief Ombudsman



Anand Satyanand
Ombudsman

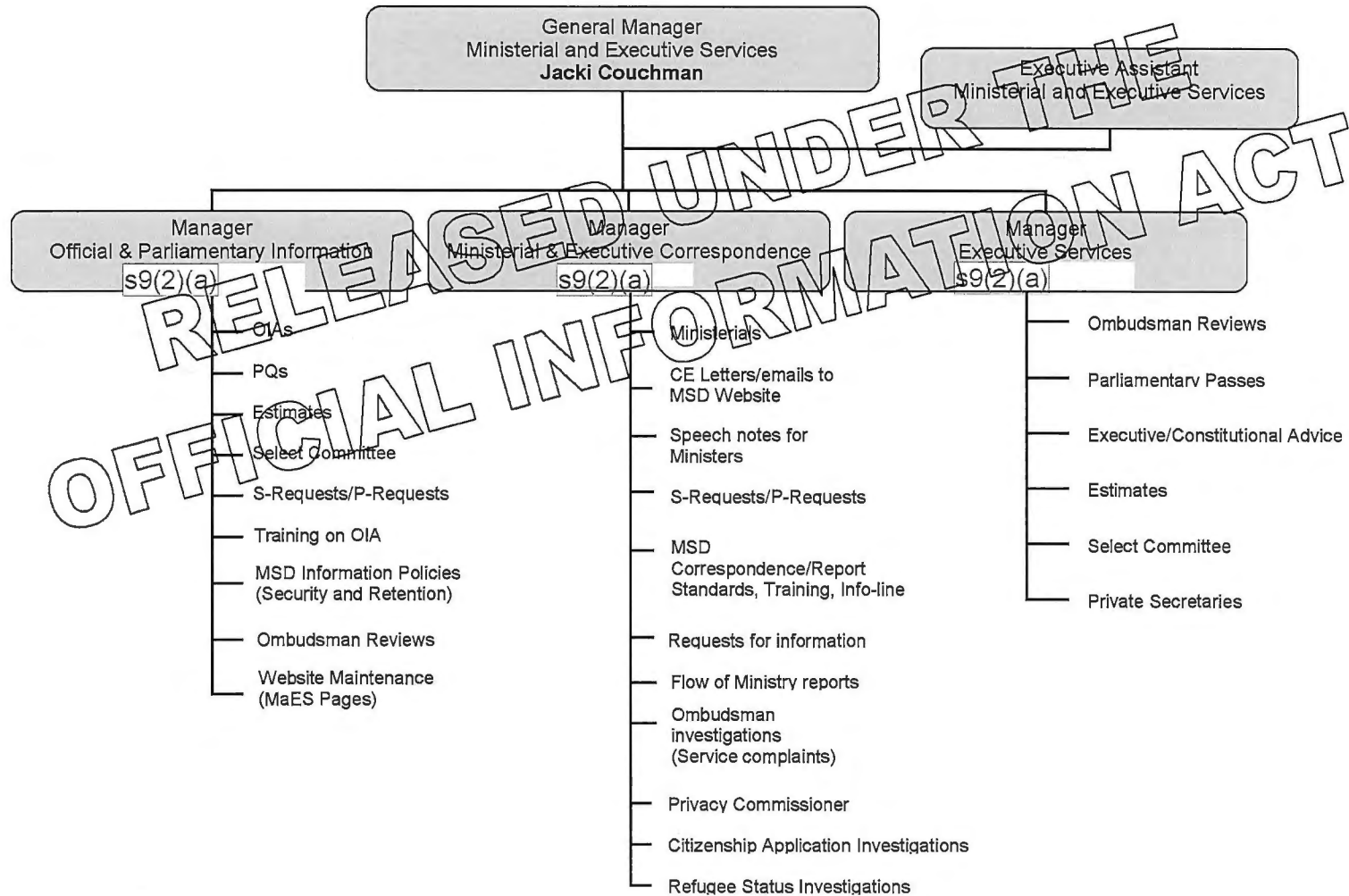
Notes



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Organisational Chart



Ministerial and Executive Services

Process Manual

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OFFICIAL INFORMATION ACT

December 2016

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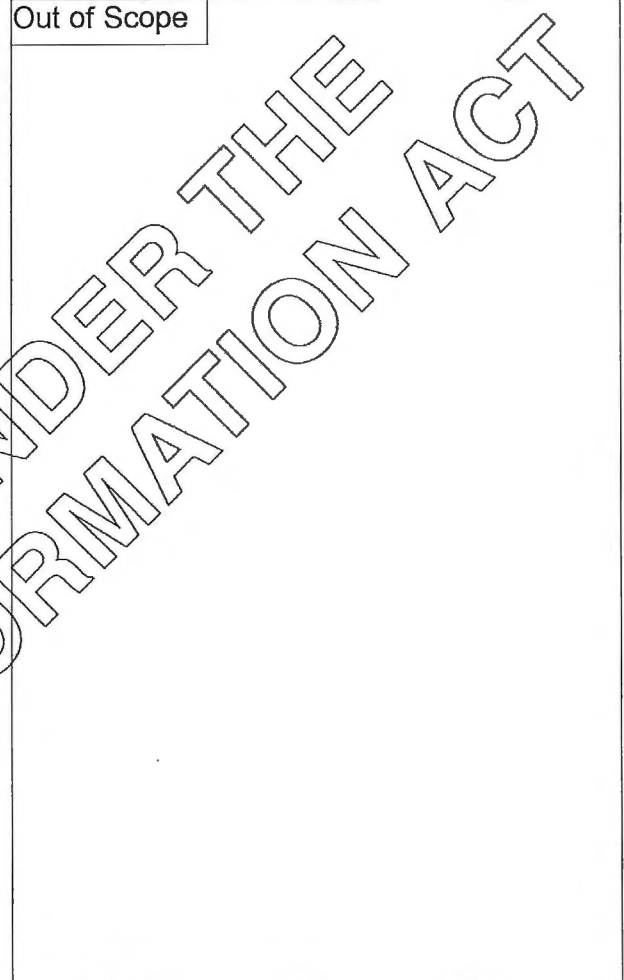
7.2.2. Commission and scope

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6. Official Information Act – Ministerial

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Out of Scope



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Out of Scope



11.8.For documents contained within files

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6. Official Information Act - Ministerial

6.1 Purpose

The process for a Ministerial Official Information Act (OIA) request is set out below.

Please note that this process differs considerably from the process for OIA requests made with the Chief Executive of the Ministry. While that process works to a 20 working day timeframe to provide a **decision**, the process for ministerial OIA requests works to a 20 working day timeframe to provide a **response**. This distinction is not a legislative requirement; however, it is the Minister's preference that a fulsome response, rather than a decision, is provided within 20 working days.

6.2 Stages

An OIA request is a five-part process that is broken down into the following stages:



6.2.1 Receipt

All OIA requests received are logged in EDRMS, and an electronic and paper file established (Red for OIAs). The date of receipt and the respond by date are also entered, and a workflow set up.

Day 1: OIA Request received

- Via email, letter, transfer from another agency or business unit within MSD. Requests are also received through the website, www.fyi.org.nz and although rare, can also be made orally.
- Requests are generally made by members of the public, media, opposition MP's, interest or lobby groups, the private sector, students and researchers.

Day 1: Allocation to staff member

- An allocation meeting is held daily at 4pm with OIA advisors. At this stage it may be established that the request needs to be transferred to the Ministry to respond, rather than the Minister. [Document 1: *Transfer letter to requestor*; Document 2: *Transfer letter to other agency*].
- The administrator creates an OIA file in EDRMS and allocates a unique OIA reference number to the request. A physical file is also created at this time.
- The administrator will also send acknowledgment of the request to the requestor.

6.2.2 Commission and scope

The advisor will contact and meet with the appropriate business unit(s) for information to prepare the response.

Days 2 to 5:

- The request is commissioned with the relevant business units, using centralised issues team email addresses where appropriate. [Document 3: '*Commissioning email*']. Commissioning is complete by day 2 at the latest.
- In the commissioning email, the advisor will provide the business unit with information about the requestor, the likely reason for the request (including media attention, or previous media queries), and provides copies of previous relevant requests.
- The following business units have centralised issues email addresses: Service Delivery, Community Investment, Child, Youth and Family and Insights for data. Centralised Issues email addresses to be used are:
DCE_Office_Servicedelivery@msd.govt.nz;
Community_Investment_Issues@msd.govt.nz;
Issues_corporate_support@cyf.govt.nz
MSD_Data_Requests@msd.govt.nz
- These issues teams inform the OIA advisor of subject matter experts to liaise directly with, regarding the request. The OIA advisor schedules and holds a scoping meeting with relevant business units, including the subject matter experts, to determine the information that falls within scope of the request and any complications that may exist in compiling the relevant information.
- At the scoping meeting, the advisor will **establish the timeframe** for the business unit to provide information. This timeframe will depend on the amount of information in scope of the request, and the complications involved in providing the information.
- At this stage it may become clear that the Ministry and Minister will not be able to meet the 20 working day timeframe. In these cases an extension may be necessary. [Document 4: '*Extension Letter*']. Under section 15A of the Act, the agency may extend the time limit to make a decision on the request where:
 - The request is for a large amount of information, or a search through a large amount of information is necessary; or
 - Consultations are necessary to make a decision on the request and cannot reasonably be made within the 20 working day timeframe.
- **Any extension should be discussed with the relevant Minister's office**, as the Minister responsible will be required to sign the extension letter to the requestor.
- Following the scoping meeting, contact should be made with the requestor if the request needs to be refined or if the advisor needs to clarify the request. For Ministerial OIA's the OIA advisor should not make contact with the requestor prior to discussion with the Minister's office. It may be the Office's preference for the Private Secretary to contact the requestor.

Please note, under section 15(1AB) of the Act, if the original request is amended or clarified by the agency within seven working days, the timeframe is reset.

Please also note, that under section 15(1AA) of the Act, if the requestor amends or clarifies the request *themselves* at any time after their original request, then the amended or clarified request is treated as a new request and the timeframe is reset.

6.2.3 Collation

The Advisor checks to ensure that all required information has been provided.

Days 6 to 10: MaES works with the business unit to establish what is going to be provided to requestor, and in what manner this will be provided.

- Where the information requested involves documents, MaES provides business unit(s) with a risk assessment template, with the front page memo completed. The completed risk assessment is provided to MaES in the timeframe negotiated. Generally, negotiated timeframes will be dependent upon number of documents that need to be reviewed. [Document 5: 'Risk Assessment']
- The timeframe for receiving the information in scope of the request will depend on what was agreed upon in the scoping meeting. During the collation stage, this timeframe may change due to further complications being discovered with providing data or relating to documents that are in scope of the request.

6.2.4 Response

Once all the required information has been received, the Advisor prepares the response.

Days 6 to 10: MaES compiles the response and report, with information provided by business unit. [Document 6: 'OIA response draft for Minister'; Document 7: 'OIA report for Ministerials']

Day 7: Last day to refine request with the requestor for the timeframe to respond to reset to 20 working days.

Day 10: Last day to transfer the OIA request to another agency, including from the Minister to the Ministry.

- During this stage it may become clear that documents proposed for release contain information from other agencies, or that documents proposed for release were jointly authored by the Ministry and other agencies. In these cases, these agencies should be consulted with by the advisor. Generally, **two working days** are required for the consultation..

6.2.5 Sign Out

This stage includes quality assurance and sign-out.

Day 10 to 15: Once the advisor has completed the response and report, this information, as well as all other relevant information should be placed into the OIA file [the red folder]. The information should be placed in the folder in the following order (from front to back of folder):

- Response (in plastic folder)

- Redacted copies of any documents proposed for release, stamped with 'Released under the Official Information Act' (in plastic folder).
- Clean copies (on pink paper) of all documents in scope of the request (in plastic folder), including documents to be withheld in full.
- Report, with first page printed on grey paper and clipped until the sign out page, which is secured into the folder.
 - Request (tagged with *Letter to Minister* sticker)
 - Any extension letters provided
 - Email correspondence with the business units
 - Excel spread sheets with raw data provided
 - Relevant media articles
 - Relevant previous OIA responses (not the reports).
- The response is then put through the QA process in MaES:
 - Peer review QA to be completed within **8 hours** by an OIA team member.
 - MaES Manager sign out within **24 hours**.
 - MaES General Manager sign out within **24 hours**.
- The response is then put into wider Ministry sign out. Each involved business unit has **two working days** to sign out the response. This includes:
 - Communications- please note that in some cases communications will not need to review the response, where it is very unlikely that any media attention will come about as a result of the response.
 - All business units involved in the response.
- During the sign out stage, it may be necessary to amend the response. Any amendments should be done in consultation with MaES and MaES should maintain version control of the documents.

Day 15: Once the report has been signed out by all the relevant business units, it is sent to the Minister's office for final sign out. A memo is drafted and is stapled to the front of the red folder [Document 8: '*Minister's office Ministerial OIA memo*'].

- The Minister's office is given **five working days** to sign out the response, and then send the response to the requestor. The file is provided back to MaES for filing, once the response has been signed out and sent.
- The Ministry's reporting Key Performance Indicator for Ministerial OIA responses is 100 per cent on time. Please note that for reporting, a Ministerial response is considered on time if it is provided to the Minister's office **by day 15** of the 20 working day timeframe. Sending the response is then the responsibility of the Minister's office.

7. Official Information Act - Chief Executive

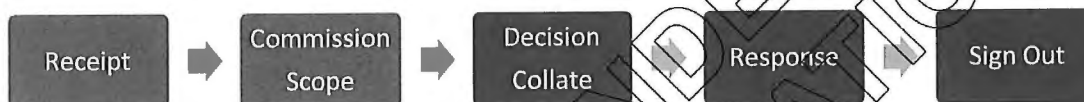
7.1 Purpose

The process for an Official Information Act (OIA) to the Ministry is outlined below. This process is for requests for information which are the responsibility of the Chief Executive.

Under section 15 of the Official Information Act 1982 (the Act), agencies must provide a **decision** to the requestor no later than 20 working days after the request is received by the agency. The decision must convey if the request will be granted in full, in part, or refused, and an outline of what information will be released. If information will be withheld, the decision must include any Official Information Act withholding grounds that will apply. Following the decision, a response should be provided to the requestor as soon as is practicably possible.

7.2 Stages

Responding to an OIA request is a five-part process that is broken down into the following stages:



7.2.1 Receipt

All OIA requests received are logged in EDRMS, and an electronic and paper file is created (Red for OIAs). The date of receipt and the respond by date are also entered into EDRMS, and a workflow is set up.

Day 1: OIA Request received

- Via email, letter, or transfer from another agency or business unit within MSD. Requests are also received through the website, www.fyi.org.nz and although rare, can be made orally.
- Requests are generally made by members of the public, media, opposition MP's, interest or lobby groups, the private sector, students and researchers.

Day 1: Allocation to staff member

- An allocation meeting is held daily at 4pm with OIA advisors.
- The administrator will create a OIA file in EDRMS and allocate a unique OIA reference number. A physical file is also created at this time.
- The administrator will also send an acknowledgment of the request to requestor.

7.2.2 Commission and scope

The advisor will contact the appropriate business unit(s) for information to prepare the response.

Days 2 to 5:

- The request is commissioned with the relevant business units, using centralised issues email addresses where appropriate. [Document 1: '*Commissioning email*']. Commissioning is expected to be complete by day 2.
- In the commissioning email, the advisor will provide the business unit with information about the requestor, the likely reason for the request (including media attention, or previous media queries), and provides previous relevant requests.
- The following business units have centralised issues email addresses: Service Delivery, Community Investment, Child, Youth and Family and Insights for data. Centralised Issues email addresses to be used: DCE_Office_Servicedelivery@msd.govt.nz; Community_Investment_Issues@msd.govt.nz; Issues_corporate_support@cyf.govt.nz; MSD_Data_Requests@msd.govt.nz
- These issues teams inform the OIA advisor of subject matter experts to liaise directly with regarding the request. The OIA advisor will schedule and hold a scoping meeting with relevant business units, including the subject matter experts, to determine the information that falls within scope of the request and any complications that may exist in compiling the relevant information.
- At the scoping meeting, the advisor will **establish the timeframe** for the business area to provide a response. This timeframe will depend on the amount of information in scope of the request, and the complications involved in providing the information.
- Following the scoping meeting, the advisor should contact the requestor if the request needs to be refined or if the advisor needs to clarify the request.
- Please note, under section 15(1AB) of the Act, if the original request is amended or clarified by the agency within seven working days, the timeframe is reset. Please also note, that under section 15(1AA) of the Act, if the requestor amends or clarifies the request *themselves* at any time after their original request, then the amended or clarified request is treated as a new request and the timeframe is reset.
- During the commissioning and scoping stage, it may be established that the request needs to be transferred to another agency. Under section 14 of the Act, the agency has ten working days to transfer requests to another agency. Following transferral, the timeframe is reset. [Document 2: *Transfer letter to requestor*; Document 3: *Transfer letter to other agency*].

7.2.3 Decision and collate

The Advisor checks to ensure that all required information has been provided.

Days 6 to 15: MaES works with the business unit to establish what information is going to be provided to requestor, and in what manner this will be provided.

- Where the information requested involves documents, MaES provides business unit(s) with a risk assessment template, with the front page memo completed. The complete risk assessment is provided back to MaES in the timeframe negotiated. Generally, the negotiated timeframe is dependent upon the number of documents that need to be reviewed. [Document 4: 'Risk Assessment']
- The timeframe for receiving the information in scope of the request will depend on what was agreed upon in the scoping meeting. During the collation stage, this timeframe may change due to further complications being discovered with providing data or relating to documents that are in scope of the request.

Day 7: Last day to refine request with the requestor for the timeframe to respond to reset to 20 working days.

Day 10: Last day to transfer OIA request to another agency

Days 11 to 15: MaES works with the business unit(s) to finalise the decision on how the Ministry will respond to the request. The Advisor drafts a decision letter or email, and sends a draft to the business unit(s) for electronic GM sign out. [Document 5: 'Notification of decision'].

- Please note that where a response is low risk, it may not be necessary to get GM sign out on the decision letters. This may also be the case where the response has been compiled, and is in sign out already. In these cases, the advisor only requires MaES GM sign out on the decision email or letter.
- If at this stage, MaES has been unable to establish what the decision on the request is, an extension may be necessary. [Document 6: 'Extension Letter']. Under section 15A of the Act, the agency may extend the time limit to make a decision on the request where:
 - The request is for a large amount of information, or a search through a large amount of information is necessary; or
 - Consultations are necessary to make a decision on the request and cannot reasonably be made within the 20 working day timeframe.

7.2.4 Response

Once all the required information has been received, the Advisor prepares the response.

Days 15 - : MaES compiles the response and report, with information provided by business unit. [Document 7: 'OIA response draft for CE'; Document 8: 'OIA report for CE'].

- Please note that where a response is very low risk, for example in cases where the information has been released previously, or if the request is being refused in full, it may be appropriate to 'fast track' the response. [Document 9: 'Fast track memo'].
- During this stage it may become clear that documents proposed for release contains information from other agencies, or that documents proposed for release were jointly authored by the Ministry and other agencies. In these cases, these agencies should be consulted with by the advisor. Generally **two working days** are required for consultation.

Day 20: Day 20 is the last day to provide the requestor with the decision on request or to extend the time available to make a decision. Please note that if a request is extended, this extends the time available to *make a decision*. Following an extension letter, the advisor should provide a decision to the requestor as soon as is practicably possible, and before the extended due date.

- The Advisor should continue to communicate with the requestor, and if possible, advise the requestor when they can expect a response. However, the advisor should also be aware that providing a date the response will be with the requestor creates an expectation and heightens risk.

7.2.5 Sign Out

This stage includes quality assurance and sign-out.

Day 20 - : Once the advisor has completed the response and report, this information, as well as all other relevant information should be placed into the OIA file [the red folder]. The information should be placed in the folder in the following order (from front to back of folder):

- Response (in plastic folder)
 - Redacted copies of any documents proposed for release (in plastic folder).
 - Clean copies (on pink paper) of all documents *in scope* of the request, including any documents proposed to be withheld in full (in plastic folder).
 - Report
 - Request (tagged with *Letter to CE* sticker)
 - Decision on request
 - Any extension letters provided
 - Email correspondence with the business units
 - Excel spread sheets with raw data provided
 - Relevant media articles
 - Relevant previous OIA responses (not the reports).
- The response is then put through the QA process in MaES:
 - Peer review QA to be completed within **8 hours** by an OIA team member.
 - MaES Manager signs out draft replies within **24 hours**.
 - MaES General Manager sign out draft replies within **24 hours**.

- The response is then put into wider Ministry sign out. Each involved business unit has **two working days** to sign out the response. This includes:
 - Communications- please note that in some cases communications will not need to see the response, where it is very unlikely that any media attention will come about as a result of the response.
 - All business units involved in the response.
- The final stage in sign out is the business unit that is responsible for signing out the letter. As above, the final signatory is given **two working days**.
- During the sign out stage, it may be necessary to amend the response. Any amendments should be done in consultation with MaES, and MaES should maintain version control of the documents.
- Once the response has been signed out by all the relevant business units, it is sent to the Minister's office for consultation. A memo is drafted and is stapled to the front of the red folder [Document 10: 'Minister's office Consultation memo'].
- The Minister's office is given **five working days** to provide any feedback to the advisor on the response.
- Following consultation with the Minister's office, the response is returned to the advisor and can be provided to the requestor.
- The MaES administrator manages sending responses to requestors, will strip the file and save a copy of the response and signed report to EDRMS.
- The Ministry's reporting Key Performance Indicator for CE OIA responses is 100 per cent on time.

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11. Naming conventions

Ministerial and Executive Services follows similar naming conventions across all teams to ensure consistency and to make it easy for anyone to navigate any one of the MaES' files to find the correct documents for audit purposes.

The naming conventions for files and workflows are as follows:

Out of Scope
<p style="text-align: center; font-size: 2em; opacity: 0.3; transform: rotate(-30deg);"> RELEASED UNDER THE OFFICIAL INFORMATION ACT </p>

11.4 Official Information Act – Ministerial

Convention: Surname, First name (Organisation) – MIN[Minister's name]: Summary of request or issue

Example: Doe, John (Media) - MIN[Bennett]: Any reports or official advice received by the Hon Paula Bennett, Minister for Social Housing on the Accommodation Supplement

11.5 Official Information Act – Chief Executive

Convention: Surname, First name (Organisation) – Summary of request or issue – CE

Example: Doe, Jane - The number of people in the South Island that have received an Advance Payment of Benefit to purchase a laptop or tablet – CE

Out of Scope.
<p style="text-align: center; font-size: 2em; opacity: 0.3; transform: rotate(-30deg);"> RELEASED UNDER THE OFFICIAL INFORMATION ACT </p>

Out of Scope

11.8 For documents contained within files

Convention: YYYYMMDD What the document is SURNAME

YYYYMMDD What the document is

Example: 20161212 Request SMITH

20161201 info requested from Service Delivery

11.9 Quick Reference Guide

All advisors and administrators have access to the following quick reference guide:

Naming Conventions
Main in/out documents:
yyyymmdd request SURNAME
yyyymmdd acknowledgement letter SURNAME
yyyymmdd OIA report SURNAME
yyyymmdd response SURNAME
Other documents:
yyyymmdd info requested from Service Delivery
yyyymmdd comments from CYF
If a document is not noted above - Use the same formatting

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Responding to Official Information Act requests

The Official Information Act 1982 allows 20 working days to respond to a request for information. This is not a guideline, it is a legislative requirement. To ensure that the Ministry is able to meet this timeframe, the Official and Parliamentary Information team (OPI) works to specific deadlines. If you are contributing to an OIA response and are having trouble meeting your deadline, talk to us - we will be able to help you.

The below time-frames are in working days.

Stage	Steps Tools & Forms
Day 1 - Request with OPI	<p>1. During this time, OPI will:</p> <ul style="list-style-type: none"> • lodge the request electronically • provide an acknowledgement letter to the requestor • scope the request • check to see what the Ministry has previously released on this topic and to see what other people have said about it.
Days 1-6 - Request with Business Units	<p>2. Business units are asked to compile the information they hold on the request. We ask that you provide all of the information you hold, we will then work with you to make a decision about whether it should be released.</p> <p>During this time if you feel that it will take longer than five working-days to put the information together, talk to your advisor as we will be able to help.</p> <p>If you feel that other Ministries need to be involved, we can help with this too.</p>
Day 6 to 12 - Request with OPI	<p>3. We take this time to write a response to the requestor. The Ministry is dedicated to ensuring that people asking for information get "the full picture". This may mean that we come back to you for further information to help with our draft reply.</p> <p>With every response letter we write, we also provide a full report outlining the information we are proposing to provide and an explanation about any information we wish to withhold.</p>

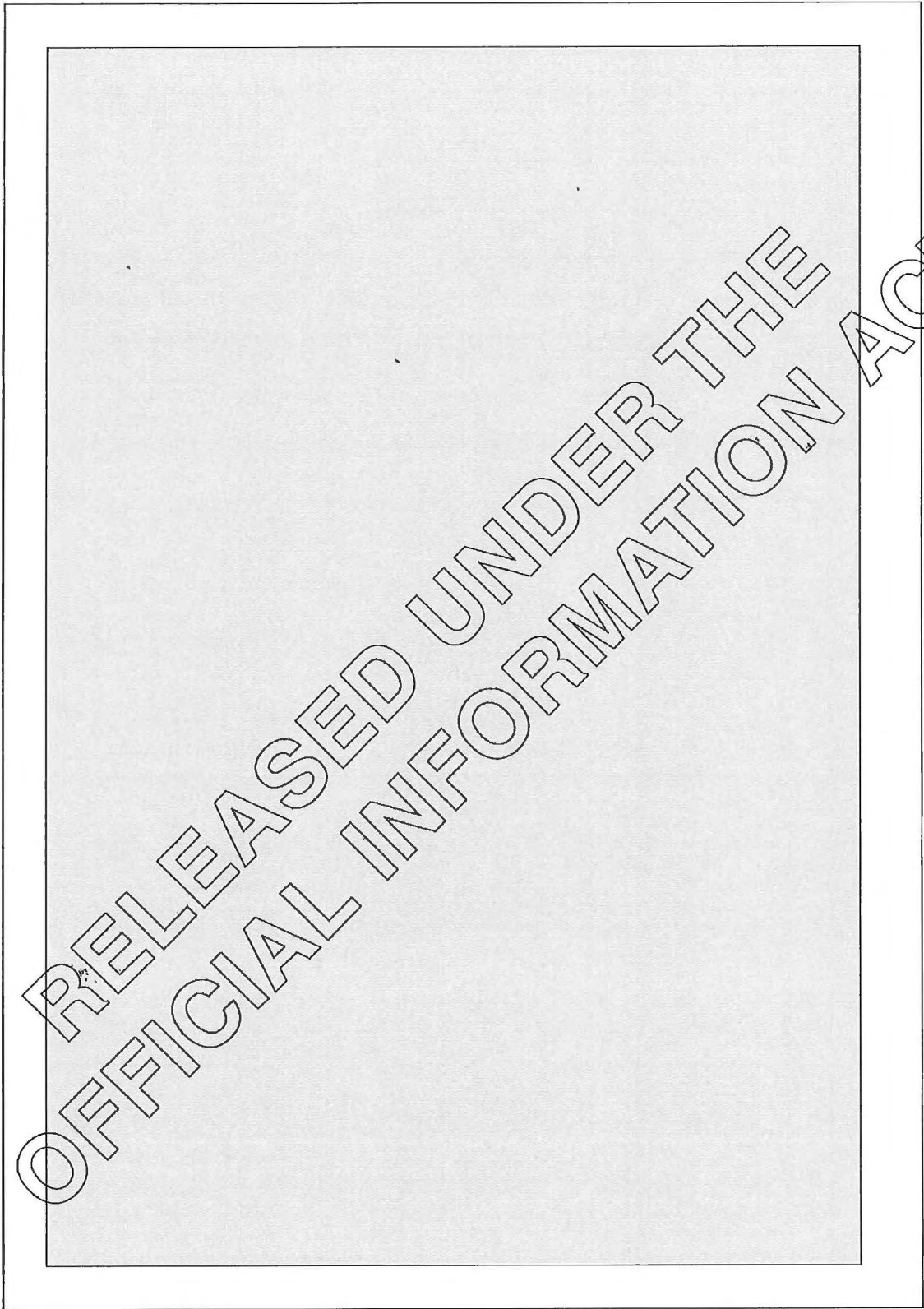
Stage	Steps	Tools & Forms
	<p>During this time, the advisor responsible will also arrange for a thorough Quality Assurance check from one of their peers.</p> <p>Every response requires a comprehensive sign-out. This starts with approval from the Manager, Official and Parliamentary Information, and the General Manager, Ministerial and Executive Services.</p> <p>Ministerial and Executive Services sign-off ensures that:</p> <ul style="list-style-type: none"> • the style and grammar are correct • the Official Information Act has been applied appropriately • the right people have been consulted • the file is in good shape and will stand up to further scrutiny • the right people have been identified to approve the release • the appropriate context has been provided 	
<p>Days 13-15 - Request with Business Units</p>	<p>4. Every response requires sign out by a Deputy Chief Executive or General Manager with delegated sign out authority. Each area has its own internal process for managing this. We allow two working days to ensure that Deputy Chief Executives are able to seek the advice they require from their own areas.</p> <p>The Deputy Chief Executives' sign-off provides us with an assurance that the information provided is factually correct and not misleading.</p> <p>Both report and letterhead response must be signed by DCE (or GM) at this stage.</p>	
<p>Day 15-20 - Request with the Minister's office</p>	<p>5. When the Minister is responsible for responding to the request, the draft response must be provided to the Minister's office for approval and release on Day 16.</p> <p>The response is provided to the Minister's office as part of the 'no surprises' approach.</p>	
<p>Day 20 - Request with the Chief Executive's office and returned to MaES</p>	<p>6. The request is provided to the Chief Executive for approval and sign off.</p> <p>MaES sends final response to requester.</p>	

• **Code of Conduct**

July 2011



MINISTRY OF
SOCIAL DEVELOPMENT
Te Manatū Whakahiato Ora



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Introduction

As public servants we have a privileged role. Each of us has the opportunity to make a positive difference in the lives of New Zealanders through the work we do.

So we can do our work, the taxpayers of New Zealand entrust us with the stewardship of their money, they trust us to protect their personal information and in some cases they trust us to be responsible for the care and protection of their children.

This is a big responsibility. It is important that the way we conduct ourselves reflects the trust New Zealand citizens place in us.

That's why we have a Code of Conduct. This Code provides you with guidelines on how to go about your work and how to best serve the government of the day. It is important you are familiar with the Code and you read it regularly. In fact, it is a requirement if you work here.

The Ministry of Social Development has a responsibility to you to be a good employer. You have the right to be treated fairly in all aspects of your job.

In return, there are some things the Ministry expects from you. The Code of Conduct includes clear expectations about behaviour and conduct we cannot and will not tolerate, and the consequences of not meeting these expectations. The Code clearly outlines the consequences of staff fraud, the deliberate release of sensitive information to third parties without authorisation, and sexual contact with, or abuse in any way of, children or young people the Ministry has a professional relationship with.

The Code of Conduct is a guide for you. It won't cover every situation or requirement you experience in your role. If you are ever unsure about what to do, ask for help.

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About the Code of Conduct

The Code of Conduct tells you about the way we work. It outlines how we should deal with the people we work alongside and the people we work for, to help make sure we all:

- work with honesty, integrity and respect
- provide the best possible service and advice to the Government, public and clients, and gain their trust and confidence in what we do
- do the best we can do and be the best we can be – every day.

This Code doesn't cover every possible requirement or situation. It gives us a benchmark to work from and gives others a basis from which to judge the way we are working.

We have policies and procedures that give you more detail on the way we work. You should understand and act on the policies and procedures that apply in the Ministry. You can find these on our intranet. If they change we'll let you know – meanwhile, read the Code and understand its contents.

Please note, if you don't meet these standards of conduct your behaviour may result in disciplinary action which could include termination of employment.

It is important you fully understand the Code. If you have questions about parts of the Code and how they apply to you in your role, or you are uncertain as to what some of the information means, ask your manager to explain.

Coverage

The Code applies to anyone who works for us, including:

- employees
- contractors
- consultants
- volunteers at the Ministry.

Whether you are a permanent staff member, are here temporarily or casually, or are a full-time or part-time worker, the Code applies to you.

The Code is part of your employment terms and conditions. It should be read alongside your employment agreement or contract, our policies and procedures, and the State Services Standards of Integrity and Conduct.

Standards

The State Services Commissioner has issued the State Services Standards of Integrity and Conduct. This document sets out the minimum standards of behaviour expected of public servants and is issued under section 57 of the State Sector Act 1988.

The standards say we must be:

- fair
- impartial
- responsible
- trustworthy.

You can find them in more detail at www.ssc.govt.nz/code.

The following pages outline what these standards mean for us as part of the Ministry of Social Development, and what policies and procedures help us to comply with them.

⑦ Zero tolerance

All public servants are expected to uphold general standards of behaviour. In the Ministry, there are higher standards over and above these in some areas because of the work we do.

The Ministry of Social Development is responsible for paying benefits and for prosecuting those who defraud the benefit system. Every day some of our staff use statutory powers to remove children from adults who abuse them. Our clients are required to provide us with highly sensitive, personal information to get what they need, or for our business reasons. This means that in these particular areas the standards we apply to ourselves must be higher than those we expect of others.

It is unacceptable under any circumstances for a Ministry staff member to:

- steal from the benefit system or the Ministry
- interfere with or in any way abuse a child or young person we are responsible for
- sell client information
- share client details or circumstances with someone outside of work without proper authority

In every case where a staff member is caught doing any of these things, the staff member will be dismissed and in every case the matter will be referred to police. In addition to any penalty the Court might impose, all money fraudulently obtained will have to be repaid in full.

Specific applications of the Ministry's zero tolerance policy are in the following pages. You can find other information in relevant Ministry policies on our intranet.

7 Fair

Conflicts of interest

At the Ministry we need to make sure we are always fair in the way we deal with people, no matter who they are, what their backgrounds are or what their needs are.

We must avoid any appearance or suggestion of preferential treatment or favouritism towards any individual or organisation which we or you have an interest in.

Because we live and work in our communities, it is sometimes hard to avoid conflicts of interest, whether real or perceived. That makes it even more important that conflicts of interest are identified and managed when they can be, and avoided when they cannot.

The Ministry has a policy and a procedure to help you and your manager identify and manage conflicts of interest that arise in the course of your work. You can find the policy and procedure for managing conflicts of interests on the intranet.

You must inform your manager if you have a relationship with someone you deal with in your role or someone we deal with at the Ministry that could cause or be seen to cause a conflict of interest.

Because we live and work in our communities, it is sometimes hard to avoid conflicts of interest, whether real or perceived. That makes it even more important that conflicts of interest are identified and managed when they can be, and avoided when they cannot.

Respecting others

As a Ministry staff member you need to make sure you respect the rights of other people, all the time. This includes any client, colleague or member of the public.

In particular, you must:

- ensure any workplace relationships with colleagues don't have a negative effect on your work
- respect others' dignity and worth
- not bring anything to work that could be seen as offensive to any person or group of people
- always be professional and unbiased in the work you do, or the advice you give
- be fair and unbiased, no matter who you are dealing with
- not bully, intimidate or threaten others
- remember that everyone has the right to privacy and confidentiality
- avoid acting in a way that could upset people, or cause harm or disruption
- make sure you don't abuse your position at the Ministry, or any power delegated to you in your role

We understand that sometimes you may need to do something as part of your role that conflicts with your personal beliefs. If you find yourself in this position, talk to your manager. They will be able to discuss this with you and help you find the right solution.

➤ Impartial

Political neutrality

While we work with the government of the day, we must also be able to work with future governments. This means we need to maintain the confidence of our current Minister and make sure the same relationship can be established with future Ministers. We do this by keeping politics out of our work and our work out of politics.

As public servants, we have the same rights as other New Zealanders and may publicly express our own political or personal views. However, at the same time we need to maintain our political neutrality. For most of us most of the time, this isn't difficult. For some of us, such as senior managers who work closely with Ministers, we have to keep a balance and it is not appropriate to publicly express views about government policy.

The State Services Commissioner's guidance about political neutrality is available at www.ssc.govt.nz or you can talk to your manager if you have any questions about what this means for you.

Commenting on government policy

You should not publicly comment on government policies. The Ministry may view staff members who make strong public statements or repeated criticisms of government policies as being unable to impartially implement, administer or advise on government policies.

* Only people who are authorised by the Chief Executive or who have permission as part of their job can make public statements. This applies to responses to any media enquiry.

Private communications with Ministers or Members of Parliament

You have the same right to approach political representatives as any other person, but you must remain politically neutral. Remember, any approach to a political representative about something that is not to do with the Ministry's work should be made with some sensitivity to your role as a public servant.

Any matters concerning the Ministry must go through the official Ministry channels.

Standing as a Member of Parliament

Public servants can seek election to Parliament but there are rules about this set out in the Electoral Act 1993. If you are thinking about putting your name forward for nomination as a constituency candidate or for inclusion on a party list, or if you have already done so, tell your general manager, regional commissioner or the General Manager Human Resources. They will discuss this with the Chief Executive.

You can find more information on the State Services Commission website www.ssc.govt.nz/code and in the State Services Standards of Integrity and Conduct.

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➤ Responsible

Probity

When we deal with public money and resources, there is a standard of behaviour expected of us. This is called probity.

Probity means we have shown integrity and professionalism in using public money to do our work.

Probity isn't about setting a list of rules; it's about showing we have used good judgement and a sensible process to make our decisions around how we spend money.

When spending public money, you can show probity if your expenditure:

- is reasonable
- demonstrates value for money
- is relevant to what we do, or to our goals
- can satisfy the questions of anyone who asks about it, including the public.

If you have questions about probity or how to apply it in your role, talk to your manager.

The Ministry's financial policies are available on our intranet.

Information and confidentiality

We need to keep all Ministry information secure, including personal information about our clients, their families or their organisations.

How we treat this information – collect it, store it, share it and use it – affects how the public trusts us and whether they are willing to continue to share their information with us so we can do our jobs properly.

The Ministry has a number of policies and procedures in place to protect information and to help us manage information appropriately.

This includes complying with the:

- Official Information Act 1982
- Privacy Act 1993
- Public Records Act 2005

You can find more information about the Ministry's IT policies on our intranet, particularly the Ministry's End User Security Policy.

We need to keep all Ministry information secure, including personal information about our clients, their families or their organisations.

Accessing information

Each of us must take care to ensure Ministry and client information is only accessible to authorised people for authorised use.

Make sure you always observe people's right to privacy when you are dealing with their personal information.

- You must only access client information or records for legitimate work purposes.
- You must not access your own record or the record of a friend, relative, colleague or acquaintance for any reason, even if the person asks you to.
- Accessing information also includes processing actions on records. You must not undertake any processing action within your own record or the record of any current or former client, including your own record if you're a current or former client of the Ministry, without a legitimate business reason – even if you're just interested or browsing.

This applies to any information we hold in any form. If you are not sure whether it is appropriate for you to access information, always check with your manager first.

Misuse of information

If you are found to have misused or falsified Ministry information, formal disciplinary action will be taken, which may include dismissal.

The Ministry has a zero tolerance policy for the misuse of personal information.

Any staff member found to have sold or given client information to someone without proper authority will be dismissed and the matter will be referred to police.

Any staff member found to have released or distributed information of a sensitive or confidential nature without proper authority will be dismissed.

You can find more information about this on our intranet.

⑦ Trustworthy

Client relationships

When we work for a government department it is important to be aware of how our relationships can affect the way we do our jobs or the reputation of the Ministry.

You must inform your manager if you have a relationship with someone you deal with in your role or someone we deal with at the Ministry that could cause, or be seen to cause, a conflict of interest.

Disclosing and managing these relationships is important to ensure the public's trust in the Ministry is well-founded and conflicts of interest are appropriately managed.

The Ministry has a vital role in protecting vulnerable children and young people. Because of this, we have zero tolerance for staff who interfere with, or in any way abuse, a child or young person we are responsible for. If you have sexual contact with, or abuse in any way, a child or young person we have a professional relationship with, you will be dismissed and the matter will be referred to police.

You must inform your manager if you have a relationship with someone you deal with in your role or someone we deal with at the Ministry that could cause, or be seen to cause, a conflict of interest.

Fraud

As a Ministry staff member, you must not commit, condone, encourage or be directly associated with any type of fraud.

The Ministry has a zero tolerance policy for fraud. In every case where a staff member is found to have defrauded the Ministry, they will be dismissed and the matter will be referred to police. In addition to any penalty the Court might impose, all money fraudulently obtained will have to be repaid in full.

If you know, or think you know, that someone is involved in fraud against the Ministry, tell your manager, the Internal Fraud Unit or Integrity Services.

If you are a social worker and you believe or know someone you deal with professionally (including any of their relatives or associates) is getting a payment from the Ministry they are not entitled to, you must tell the person they need to let us know about any change of circumstances that could affect that payment. If you think by doing this you might be placing a child, young person, their family or the work you've been doing with the family at risk, talk to your manager.

Prior or pending convictions

If you have a conviction we didn't know about before we hired you, or you weren't truthful about, we may take disciplinary action which could result in dismissal.

This does not apply to anything covered by section 7 of the Criminal Records (Clean Slate) Act 2004.

You must tell your manager if you have any convictions or criminal charges laid against you while you work for the Ministry.

Gifts and rewards

Any form of gift or reward for doing your role could be seen as a bribe or as a way of making you obligated to another person or organisation.

As a general rule you should not ask for or accept a gift or reward. Some occasions (such as a hui) may require an exchange of gifts. We are committed to meeting the needs of different cultures and if a gift is offered in these situations, it should be accepted on behalf of the Ministry. If you are in this situation, discuss it with your manager.

For more detail, refer to the Ministry's financial policies.

Other work or services

If you take on other work or services while you work at the Ministry, you'll need to consider how it could affect your work here. Make sure it doesn't conflict with your duties, negatively affect your performance, intrude on your normal working hours or affect the Ministry's reputation.

If you are planning to take on other work or services, you must talk to your manager. You will need their agreement in writing before starting.

Staff who are also clients

If you're a staff member as well as a client of the Ministry, you must make sure anything you do as a client is honest and lawful.

It is your responsibility to give us full details about your circumstances or any changes in your circumstances to ensure you receive a correct entitlement.

7 Breaches of the Code of Conduct

We need to identify breaches or potential breaches of the Code as soon as possible. We will always make sure the disciplinary process is impartial, fair, prompt and consistent. We will consider each case on its merits, including reviewing the reasons for the breach and taking into account the individual circumstances of each case before deciding on the action to take.

You can find more details of the disciplinary process on our intranet.

Reporting breaches of the Code of Conduct

If you find out about a breach or possible breach of either the State Services Standards of Integrity and Conduct or this Code of Conduct, you should:

- think carefully about how you can deal with the situation responsibly
- discuss the issue or situation with your manager as quickly as possible – they may have additional information you might not know, so trust them to know the best way to deal with things.

Also use this process to report any breach of any other Ministry policy, procedure, standard or guideline, unless another process is provided.

If you don't think you can talk to your manager, or if the situation remains unresolved, then you can talk to another Ministry manager or the General Manager Human Resources.

If you need access to confidential counselling, the Ministry's Employee Assistance Programme (EAP) is voluntary, private, confidential and available to all Ministry staff. You can find more details on EAP on our intranet.

Reporting serious wrongdoing

In some cases, a breach of the Code of Conduct may also be serious wrongdoing under the Protected Disclosures Act 2000. If this is the case, you can use the Ministry's Protected Disclosures procedures to report the incident or action, and receive the protections of the Act. There is information about protected disclosures on our intranet.

If you think the Ministry has not met its obligations under the Code

If you think the Ministry has not met its obligations, follow the same process as the one to report breaches of the Code of Conduct (as set out above).

Once you have told us about your concerns, we will:

- treat your concerns confidentially, investigate them promptly and appropriately, and take action as necessary
- where appropriate, let anyone affected by an allegation know about it and ask for their explanation
- consider the use of a neutral third party to resolve the issue, if appropriate
- let you know if an investigation or action has started and stay in regular contact, if appropriate
- let you know about the outcome, where appropriate.

The Ministry will make every effort to maintain the confidentiality of an individual making a protected disclosure. This is set out in our Protected Disclosures policy.

If you breach or think there is a risk you could breach the Code

If you are unsure about how to deal with an ethical issue, discuss it with your manager. If your manager is involved, discuss the issue with your manager's manager or any senior manager.

Managers who are advised of a breach or a possible breach will deal with the alleged breach in accordance with the Ministry's policy. This means anyone alleging a breach or who is being investigated for a breach of the Code of Conduct will be given adequate notice of meetings, have an opportunity to be heard, and have the right to representation and/or have a support person present at meetings.

Remember, you can also face disciplinary action for breaching other Ministry policies, procedures and guidelines.

If you are unsure about how to deal with an ethical issue, discuss it with your manager. If your manager is involved, discuss the issue with your manager's manager or any senior manager.

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