

STATE SERVICES COMMISSION  
Te Komihana O Ngā Tari Kāwanatanga



# The Official Information Act

## Key points for Ministerial office staff

New Zealand Government



# Overview

- The Official Information Act (or OIA) allows people to request official information held by Ministers and specified central and local government agencies.
- The basic principle of the OIA is that *'official information should be made available unless there's a good reason for withholding it'*.
- It contains rules for how such requests should be handled.
- It provides for a right of complaint to the Ombudsman in certain situations.



# Key timeframes

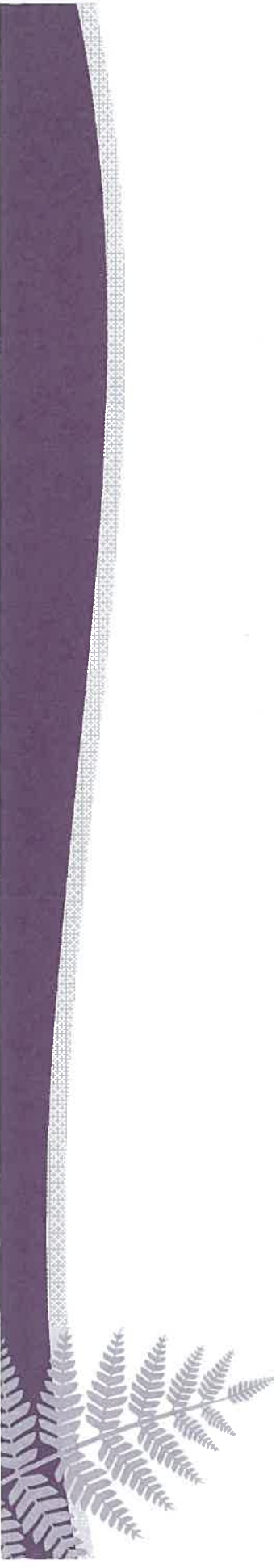
- The working day count starts **the day after** a request is received.
- If a request is refined within **7 working days** if can be treated as a new request.
- You have **10 working days** to transfer a request unless you extend the time limit to transfer.
- You have **20 working days** to extend the time limit for making and communicating a decision to the requester.
- You have **20 working days** to make and communicate a decision to the requester unless you extend the time limit.

The website of the Office of the Ombudsmen have a OIA response calculator on the front page which calculate the 20 working day time limit: [www.ombudsmen.parliament.nz](http://www.ombudsmen.parliament.nz)



# The OIA and Ministers

- Ministers of the Crown in their official capacity are subject to the OIA.
- The OIA does not apply to information held in their capacity as MP's, in their personal capacity, or as members of a political party.
- The Cabinet Manual provides guidance to Ministers on how to comply with the OIA.



# What is official information?

- Official information is any information 'held' by a Minister of the Crown, in their capacity as a Minister. This includes:
  - Cabinet papers, reports, memoranda, aide memoire, talking points, advice from agencies, letters, emails, drafts documents and text messages
  - information which is known but has not yet been written down
- A Minister's diary can be requested under the OIA – be clear about the capacity an engagement is undertaken in, i.e. Minister, MP or personal capacity



# Relationships

- Best practice is for Ministers and Chief Executives to discuss and agree consultation and notification arrangements on OIA requests.
- You should be familiar with the arrangements agreed between your Minister and Chief Executives
- Important to understand who is responsible for a decision on an OIA requests – your role will be different depending on whether it is a Minister OIA request or agency OIA request



# Understand arrangements

- Arrangements between Ministers and Chief Executives are likely to cover:
  - how OIA requests to the Minister will be managed
  - which agency OIA requests may need the Minister's input.
  - which requests should be transferred to the Minister
  - how much time a Minister needs to provide input to an agency OIA request
  - when the Minister wants to be notified about information being release by an agency
  - how to escalate and manage issues relating to OIA requests



# Requests to Ministers

- Your portfolio agencies may assist the Minister by:
  - Helping draft responses for Ministers OIA requests
  - Locating and assembling information
  - Providing advice on withholding grounds
- The Minister is the decision maker on a request he/she has received as a Minister of the Crown.





# Requests to agencies

- The Chief Executive is responsible for making decisions on agency OIA requests
- Agencies can consult a Minister about agency OIA requests to:
  - Decide whether to transfer a request to the Minister
  - Discuss a proposed response to an agency OIA request
- Purpose of consultation is to help the Chief Executive of the agency make their decision



# Risks and issues

As advisers to the Minister you can engage with agencies on the Minister's behalf about agency responses to OIA requests.

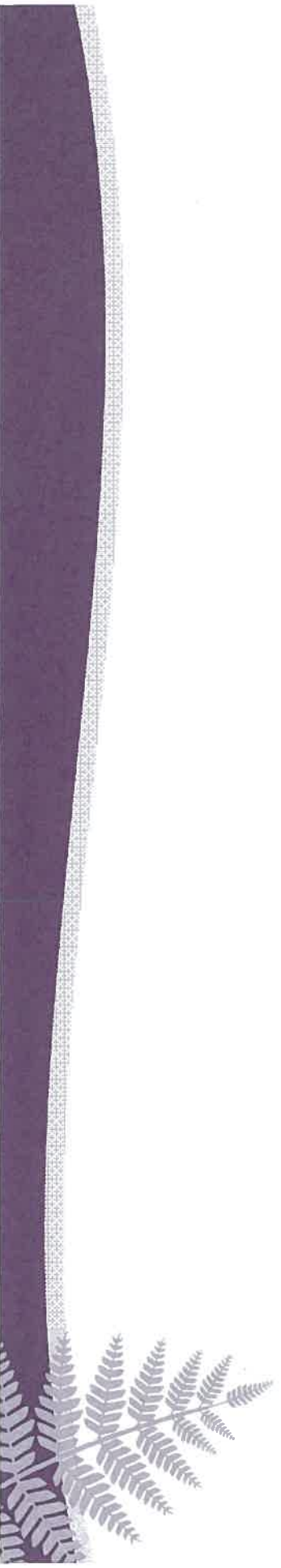
- Your engagement should be professional and in accordance with the Ministerial Staff Code of Conduct.
- It is critical that your interactions protect Minister from perceptions of interference in agency decision making
- Contextualise the feedback you provide to agencies on draft OIA responses to ensure they fully understand the views of the Minister.
- Remember that your interactions with agencies are discoverable under the OIA.



## Risks and issues cont.

Agencies can inform Minister about information being released as part of the 'no surprises' approach:

- Getting a heads up is not an opportunity to re-litigate the agency decision.
- The decision about when an agency releases information is solely for an agency.



# Conclusion

More information about the OIA:

- The Cabinet Manual contains guidance for Ministers about the OIA.
- SSC has advice about how to process an OIA request and a guide to some of the key provisions in the Act at: <http://www.ssc.govt.nz/improving-official-information-practices>
- Ministerial Services can also provide guidance on how to comply with the OIA.

