

OIA compliance and practice in  
Te Manatū  
Whakahiato Ora  
Ministry of Social  
Development

A report on the Chief Ombudsman's follow up investigation into the practices adopted by Te Manatū Whakahiato Ora Ministry of Social Development for the purpose of compliance with the Official Information Act 1982.

Te Kaitiaki Mana Tangata Aotearoa

The Ombudsman New Zealand

September 2022

ISBN: 978-1-99-116815-3

This work is licensed under the Creative Commons Attribution 4.0 International License.  
To view a copy of this license, visit <https://creativecommons.org>





# OIA compliance and practice in the Ministry of Social Development – Te Manatū Whakahiato Ora

Opinion of the Chief Ombudsman

May 2022

---

## Contents

Background	2
Introduction	2
The impact of COVID-19	3
Executive summary	6
Leadership and culture	13
Organisation structure, staffing, and capability	21
Internal policies, procedures and resources	26
Current practices	30
Performance monitoring and learning	49
Appendix 1. Official information practice investigation — terms of reference	53
Appendix 2. Key dimensions and indicators	58

## Background

In 2015 my predecessor, Dame Beverley Wakem, carried out an investigation to:

- examine the attitudes, policies, practices and procedures adopted by government agencies generally, in order to establish how well they were complying with the requirements of the OIA;
- identify good practices, areas of weakness or vulnerability and practices that could give rise to non-compliance; and
- recommend improvements where needed.

As it was not practicable to examine in detail the practices of all government agencies subject to the Ombudsman's jurisdiction, twelve government agencies were selected to investigate as being representative of central government agencies.<sup>1</sup> All 12 agencies were provided with individual reports and although these reports were not published, the agencies were provided with action points which, if implemented, would lead to improvements in OIA practice. A further 75 agencies and 27 Ministers' offices subject to the OIA were invited to provide information via a survey.

The resulting report titled *Not a Game of Hide and Seek*, was published in December 2015.

In December 2019, I decided that it was timely to revisit the 12 representative agencies involved in *Not a Game of Hide and Seek*, by initiating a follow up investigation to determine the current state of OIA practice and culture in these central government agencies.

## Introduction

This report sets out my opinion on how well the Ministry of Social Development (the Ministry) is meeting its obligations under the Official Information Act 1982 (OIA).

My investigation has included consideration of the Ministry's supporting administrative structures, leadership and culture, processes and practices, including information management, public participation, and proactive release of information to the extent that these relate to achieving the purposes of the OIA.

The purposes of the OIA are to increase the availability of information to the people of New Zealand in order to:

- enable effective participation in the making and administration of laws and policies; and
- promote the accountability of Ministers of the Crown and officials,

thereby enhancing respect for the law and promoting the good government of New Zealand.

---

<sup>1</sup> Accident Compensation Corporation, Department of Corrections, Ministry of Education, Ministry of Foreign Affairs and Trade, Ministry of Health, Ministry of Justice, New Zealand Customs Service, New Zealand Defence Force, Waka Kotahi NZ Transport Agency, Ministry of Social Development, Ministry of Transport, Public Service Commission.

The OIA also protects official information to the extent consistent with the public interest and the need to protect personal privacy.

As Chief Ombudsman, I am committed to ensuring official information is increasingly available and not unlawfully refused and to improving public sector capability in terms of decision making. Key to achieving this is Parliament's expectation that I regularly review the OIA practices and capabilities of public sector agencies.

I have initiated this practice investigation using my power under the Ombudsmen Act 1975 (OA). This provides me with the tools needed to investigate matters I consider important to improve administrative decision making across the public sector.<sup>2</sup>

I have considered the information gathered through my investigation against an assessment framework consisting of the following five areas:

- Leadership and culture;
- Organisation structure, staffing and capability;
- Internal policies, procedures and resources;
- Current practices; and
- Performance monitoring and learning.

## The impact of COVID-19

My investigation coincided with an unprecedented event, the emergence of COVID-19 and the resulting nationwide state of emergency. From 26 March to 13 May 2020, New Zealand was at Alert Levels 4 and 3, during which time individuals who were not deemed essential workers were instructed to stay home under a nationwide lockdown (*the 2020 lockdown*).<sup>3</sup>

The 2020 lockdown enacted in response to the COVID-19 pandemic has caused people across New Zealand, including in the public sector, to adapt to working differently – away from their office; remote from colleagues; and accessing work information from their homes.

While information gathering for my investigation commenced before the 2020 lockdown, I had an opportunity and a responsibility to extend my investigation and consider how agencies' existing official information practices enabled them to adapt to the challenges presented by the 2020 lockdown, and to maintain compliance with official information obligations. By reporting my findings, my intention is to highlight good practices, identify any vulnerabilities and lift overall official information practices across the public sector, including by recommending where agencies ought to improve their current arrangements to enable them

---

<sup>2</sup> See ss 13(1) and 13(3) OA 1975

<sup>3</sup> Link to the Unite against COVID-19 [History of the COVID-19 Alert System webpage](#).

Note that a second nationwide lockdown was initiated in August 2021. My post-lockdown staff survey and agency questionnaire only relate to the agency's practices during the first lockdown.

to maintain resilience and compliance should a pandemic or natural disaster occur at some point in the future.

A key aspect of my information gathering involved seeking information from the agency via a questionnaire, and seeking information from staff via an online survey before the 2020 lockdown. I extended my investigation to include consideration of agencies' practices during the 2020 lockdown. After the 2020 lockdown, I asked agencies to complete another questionnaire, and staff to complete another survey. For clarity, I have outlined below how I will refer to these throughout my report:

- A questionnaire sent to agencies in late 2019 seeking information about policies, procedures and practices (I will refer to this throughout my report as 'my initial questionnaire').
- A questionnaire sent to agencies in mid-2020 seeking information about policies, procedures and practices *during the 2020 lockdown* (I will refer to this throughout my report as 'my post-lockdown questionnaire').
- A survey of staff in late-2019 seeking their views about culture, policies, practices and procedures (I will refer to this throughout my report as 'my initial survey').
- A survey of staff in late-2020 seeking their views about culture, policies, practices and procedures *during the 2020 lockdown* (I will refer to this throughout my report as 'my post-lockdown survey').

## My opinion

Through the investigation process, I have identified areas of good practice, and areas of vulnerability that I think the Ministry should address. My opinion relates only to the Ministry's practice during the period in which my investigation took place.<sup>4</sup> I notified the Ministry of my investigation on 22 November 2019 and I formed my final opinion on 24 May 2022.

I have suggested 26 actions that I consider will improve the Ministry's practices. The Ministry was given the opportunity to comment on my provisional opinion before I formed my final opinion, and I have taken its comments into consideration. During the course of the investigation, the Ministry began making improvements. Upon receipt of my provisional opinion, the Ministry provided me with an action plan, and I encourage it to continue with the outlined programme of work to improve processes and practice. I refer to the Ministry's specific responses in the body of the report.

For the reasons set out below and on the information before me, it is my opinion that the Ministry appears to have acted contrary to law in relation to section 19(a) and (b) of the OIA,

---

<sup>4</sup> On occasion I may look at material from outside the investigation period where particular issues warrant further investigation.

by failing to advise requesters of a reason for refusal under the OIA, and the right to complain to the Ombudsman, when media information requests were refused by the Media team.<sup>5</sup>

For the reasons set out below and on the information before me, my opinion is that the Ministry appears to have acted contrary to law in relation to section 17(1) of the Public Records Act 2005 by failing to create and maintain full and accurate records of substantive correspondence (including telephone conversations, meetings and verbal discussions) with requesters, and any material internal discussions, to ensure there was a record of information scoping, administrative steps, and decision making for media information requests handled by the Media team.

However, I have not made recommendations in these instances as the Ministry advised that it is taking steps to address the Media team's practices in relation to responses to media information requests and record keeping.

I am pleased that the Ministry has an increasingly open culture, and the OIA webpage includes an array of useful information for requesters. During the 2020 lockdown, the Ministry kept requesters and the public informed about how OIA processes might be affected, which is commendable.

It is excellent that training on both the OIA and information management is provided to all new staff upon induction. A variety of OIA guidance material is available to assist staff, as well as an *Official Information Act [OIA] requests involving Ministers* guidance document. OIA reporting to senior leaders is robust and the OIA information the Ministry collects and reports upon is comprehensive.

I wish to acknowledge the Ministry for engaging with this investigation, including during the 2020 lockdown period. In particular, my thanks go to those staff who took the time to meet with my investigators to discuss their experiences and views on the Ministry's OIA practices; staff who participated in the investigation through completing employee surveys; and staff who liaised with my Office throughout the investigation compiling information, and responding to my detailed agency questionnaire. I also acknowledge members of the public, including journalists and regular requesters, for the views they shared in my public survey.

I look forward to further productive engagement with the Ministry as it works through my suggested action points.



Peter Boshier  
Chief Ombudsman  
24 May 2022

---

<sup>5</sup> Formal recommendations under the OA are only made if I form an opinion that a decision, recommendation, act, or omission by the agency was wrong, unreasonable or contrary to law, etc. under s 22 OA 1975.

## Executive summary

This summary draws together the key findings and suggested actions from my investigation.

### Leadership and Culture

The Ministry's leaders value transparency and are driving a more open culture. This is reflected in the Ministry's external messaging to the public, which includes overarching statements on its commitment to openness and transparency. The Ministry also provided examples of internal messaging to staff that foster the spirit of the OIA through the promotion of its purposes and principle, in conjunction with these topics.

In relation to being strongly or moderately pro-disclosure about the OIA, staff survey respondents rated the signals sent by their immediate manager higher than they rated the signals sent by the Chief Executive and Deputy Secretaries. Therefore, I encourage the Chief Executive and senior leaders to ensure ongoing internal messaging is provided to staff about the importance of the OIA and openness more generally. This will ensure the legislation stays front of mind for staff, and that the percentage of staff who view their senior leaders as strongly or moderately pro-disclosure will continue to grow.

The Ministry has an excellent OIA webpage. Not only is it easy to access and use, but it includes helpful information for requesters. I am pleased that through the course of this investigation, the Ministry's OIA webpage has continued to improve. However, there is still an opportunity for the Ministry to add an overarching 'statement of principle' outlining the importance of the OIA and openness, and that OIA responses can be provided in alternate formats. The Ministry could also expand on the description of information held (in the *Directory of Official Information* and on the OIA webpage) and publish details of its approach to internal decision making on OIA requests.

#### Action points: Leadership and culture

1. Ensure ongoing messaging from senior leaders to staff about the importance of the OIA, and openness more generally
2. Include additional information on the OIA webpage, such as an overarching 'statement of principle' outlining the importance of the OIA and openness, and that OIA responses can be provided in alternate formats
3. Expand on the description of information held by the Ministry in the *Directory of Official Information* and on the OIA webpage
4. Publish details on the OIA webpage of the Ministry's approach to internal decision making on OIA requests

## Organisation structure, staffing and capability

The Ministry uses a fully centralised OIA model, and OIA requests are handled by the Official and Parliamentary Information (OPI) team. An OIA workflow tool is integrated with the Ministry's information management system. Overall, the Ministry appears to have the staffing capacity and organisational capability to ensure it generally meets its OIA obligations in a timely manner.

It is commendable that during the course of this investigation the Ministry started providing OIA training to all staff at induction. The OIA online training module used at induction was also provided to all current staff to complete, and staff will be required to repeat the module every two years as part of their OIA refresher training. Further specialised training on the OIA, provided by the OPI team, is available to the rest of the Ministry. There did not appear to be any recent, OIA-specific training on decision making for senior leaders. I encourage the Ministry to provide OIA decision making training regularly as it will assist in the consistent application of OIA provisions across the organisation.

It is also commendable that information management and record keeping training is provided to all staff at induction, and refresher sessions are offered on a regular basis.

### Action point: Organisation structure, staffing and capability

5. Ensure the leadership team and staff who have the authority to make decisions on OIA requests are attending formalised, specialist OIA training on a regular basis

## Internal policies, procedures and resources

During the course of my investigation, the Ministry asked my staff to review its OIA guidance materials. I have provided my full feedback on these materials to the Ministry separately. Overall, the Ministry's OIA guidance is largely accurate and comprehensive, while also being clearly written and readily accessible to staff.

Although the Ministry has developed guidance for the proactive release of Cabinet papers, it has not yet developed a proactive release policy to cover other types of information that could be released (such as OIA responses). Despite the lack of policy, I am pleased select OIA responses are published on the Ministry's website. I encourage the Ministry to develop a proactive release policy and procedures for OIA responses and other types of information. Once developed, the proactive release policy should be published on the Ministry's website.

Information management and record keeping resources are robust, but should be kept up-to-date through regular reviews. The Ministry informed me that a project for this was delayed due to COVID-19, but is starting to be implemented.

### Action points: Internal policies, procedures and resources

6. Develop and publish a comprehensive proactive release policy

**Action points: Internal policies, procedures and resources**

7. Ensure information management and record keeping resources are regularly reviewed and up-to-date

## Current practices

The Ministry reported 96.8 percent of OIA requests were processed within the 20 working day maximum statutory timeframe for the period of 1 July 2019 to 30 June 2020. During the 2020 lockdown, overall OIA practices were maintained, including proactively releasing select OIA responses, which is laudable. Most proactively released OIA responses on the Ministry's website are PDF documents, but only the most recently released ones are searchable. In order to support accessibility, the Ministry should ensure the text of all proactively released OIA responses are searchable and not 'image only', and all visual elements are tagged with alternative text.

The Ministry has a number of good practices that it utilises when responding to OIA requests, and generally exhibits a high level of overall compliance with the requirements of the OIA. There are a few areas which could be improved, such as ensuring there is consistent record keeping of OIA decision making, and championing the use of the Ministry's templates to achieve this. Also in relation to OIA templates, I suggest the Ministry consider updating its OIA request acknowledgement to include the information requested, and an explanation that an extension will be notified if a decision cannot be made and communicated within the 20 working day statutory timeframe. Further, I suggest the Ministry consider updating the OIA response template to include the full wording of OIA subsections when information is withheld or refused, and the steps taken when searching for information to determine it does not exist or cannot be found. Finally, every OIA request should be acknowledged.

I am pleased the Ministry and Ministers' offices understand the final decision maker on departmental OIA requests is the Ministry. However, the Ministry should review its practice of providing departmental OIA responses to Ministers' offices for notification under the 'no surprises' principle, in order to identify opportunities where this may be fulfilled by providing the departmental OIA response to Ministers' offices at the same time, or shortly before, it is sent to the requester; and providing Ministers' offices with only the topic of the departmental OIA request, or a summary of the departmental OIA response, rather than the full departmental OIA response. In conjunction, the Ministry should update the *MaES Process Manual* to encompass changes in practice as a result of the review into the Ministry's application of the 'no surprises' principle.

During the course of my investigation, the Ministry developed a guide with its Ministers (*OIA requests involving Ministers*) to clarify when, and in what circumstances, decision makers will consult with Ministers' offices on departmental OIA requests or notify Ministers' offices of departmental OIA responses. I have identified some aspects of this guide which could be improved. Once updated, the *OIA requests involving Ministers* document published on the OIA webpage should be replaced with the revised version. The Ministry should also ensure the OIA

*requests involving Ministers and MaES Process Manual* documents are consistent with each other, and that the Ministry's practices align with the guidance.

Requests to the Media team for information which is held by the Ministry are subject to the OIA. The Ministry must ensure that all requests for information are handled in accordance with the OIA. During the course of my investigation, the Ministry developed a new OIA guideline for the Media team (*Media responses and the Official Information Act [OIA]*) to assist in handling requests for official information from journalists. I identified some aspects of this guideline which could be improved, and the Ministry promptly made my suggested changes. The Ministry should also ensure the Media team's practices comply with the *Media responses and the OIA* guideline.

On the occasions the Media team refused requests for information, I was concerned that requesters were not provided with a reason for refusal under the OIA, and informed about their right to complain to the Ombudsman. It is my opinion that these practices appear to have been contrary to section 19(a) and (b) of the OIA. However, I have not made a formal recommendation in this instance because the Ministry has now advised that it has reviewed and updated its guidance and practice to ensure a reason for refusal under the OIA is referenced in all responses when a media information request is fully or partially refused (as required by section 19(a) of the OIA). I have included an action point to reflect this.

The Ministry also advised that if the Media team fully or partially refuses a media information request under the OIA, standard text will be added to the media information response advising that the requester can make a complaint to the Ombudsman (as required by section 19(b) of the OIA). I am pleased this action has already been implemented, and that the standard text is included in the *Media responses and the OIA* guideline.

Some of the Media team's records I reviewed also appeared to be incomplete. In my opinion, I consider this practice appears to have been contrary to section 17(1) of the Public Records Act 2005. However, I do not consider it necessary to make a formal recommendation in this instance because:

1. the Ministry has assured me it is aware of its record keeping obligations, and has taken steps to address my concerns;
2. the Media team will provide my Office with '*a quarterly assurance check of a sample of its records to ensure they are full and accurate, in accordance with normal prudent business practice.*'; and
3. a section has been added to the *Media responses and the Official Information Act* guideline on '*Obligations under the Public Records Act 2005*'.

These actions will ensure there is a record of decision making for media information requests handled by the Media team. I have included an action point to reflect this.

Providing targeted OIA training to the Media team to ensure they understand their obligations under the OIA, and how to quickly and easily meet them, would raise compliance. This should

be supported by messaging from senior leaders reinforcing that requests for information handled by the Media team must adhere to the OIA.

### Action points: Current practices

8. Ensure consistent record keeping in relation to OIA decision making and champion the use of the Ministry's templates to achieve this
9. Ensure every OIA request is acknowledged, and consider updating the acknowledgement to include the information requested and an explanation that an extension may be notified if a decision cannot be made and communicated within the maximum 20 working day statutory timeframe
10. Consider updating the OIA response template to incorporate my suggestions
11. Review the practice of providing departmental OIA responses to Ministers' offices for notification under the 'no surprises' principle in line with my suggestions
12. Update the *MaES Process Manual* to incorporate changes in practice as a result of the review into the Ministry's application of the 'no surprises' principle
13. Review and update the *OIA requests involving Ministers* incorporating my suggestions
14. Once updated, replace the *OIA requests involving Ministers* on the OIA webpage with the revised version
15. Ensure the *OIA requests involving Ministers* and *MaES Process Manual* documents about interacting with Ministers' offices on OIA requests are consistent with each other, and the Ministry's practices align with that guidance
16. Ensure the *OIA requests involving Ministers* and *MaES Process Manual* documents clearly distinguish between notification of, and consultation with, Ministers' offices on departmental OIA requests
17. Provide targeted OIA training to the Media team to ensure they understand their obligations under the OIA and are following best practice as provided in the *Media responses and the Official Information Act* guideline
18. Amend the Media team's practices to ensure a reason for refusal under the OIA is referenced in all responses when a media information request is fully or partially refused
19. Amend the Media team's record keeping practices to ensure full and accurate records of substantive correspondence (including telephone conversations, meetings and verbal discussions) with requesters, and any material internal discussions, are created and maintained to ensure there is a record of information scoping, administrative steps, and decision making for media information requests handled by the Media team

**Action points: Current practices**

20. Ensure messaging from senior leaders reinforces that requests for information handled by the Media team must adhere to the OIA
21. Ensure the text of all PDF documents released are searchable and not 'image only', and all visual elements are tagged with alternative text

**Performance monitoring and learning**

The Ministry collects and reports on an extensive amount of OIA request data, and I applaud the Ministry for continuing to expand on the data collected during the course of this investigation. From this data, monthly and quarterly reports are provided to senior leaders. A weekly report also goes to senior leaders, key Ministry staff and Ministers' offices. Reports include the monitoring of OIA performance in terms of quantity and quality.

The Ministry does not collect data on the type of request (Part 2, 3 or 4 of the OIA) because there is no field in the information management system in which to capture it. I suggest the Ministry consider whether there is a way it can collect this data. Also, the Ministry's Key Performance Indicator for departmental OIA responses is 95 percent timeliness. This should be amended to 100 percent to ensure compliance with the 20 working day maximum statutory timeframe (unless extended), as it is a legal requirement in the OIA.

The Ministry counts media requests in its OIA statistical reporting. However, media requests are not currently recorded in a way that differentiates between media requests for information held (media information requests and so subject to the OIA), versus which are media requests for comment or an interview. In order to accurately report the correct statistics, both internally and to Te Kawa Mataaho, the Ministry must ensure it only includes media information requests in the count, and not media requests for comment or an interview.

Staff involved in the OIA process receive the outcome of Ombudsman investigations, and Ombudsman guidance is used when training new OPI team members. However, I strongly encourage the Ministry to formalise the process of circulating and learning from Ombudsman opinions and publications through written guidance. Finally, the Ministry could lift its OIA performance by developing a quality assurance process to be used after OIA responses have been finalised.

**Action points: Performance monitoring and learning**

22. Ensure only media information requests are included in OIA statistical reporting and not media requests for comment or an interview
23. Consider collecting data on the type of request (Part 2, 3 or 4 of the OIA)
24. Amend the Key Performance Indicator for departmental OIA requests to 100% timeliness to ensure compliance with the legal requirement in the OIA

**Action points: Performance monitoring and learning**

25. Formalise the process for learning from Ombudsman investigations and guidance, and reflect this in OIA policy and procedures

26. Develop a quality assurance process after finalisation of OIA requests

## Leadership and culture

Achieving the purposes of the OIA depends significantly on the culture of the agency and the attitudes and actions of its leaders. Ministers, chief executives and senior managers should take the lead in developing an environment that promotes openness and transparency, champions positive engagement with those who want to know and understand what work they are doing, and enables compliance with the principle, purposes and provisions of the OIA.

When it is clear to staff that their leaders respond to requests for official information positively and view it as an opportunity to operate in a more transparent, engaging and accountable manner, they will follow.

To assess the Ministry's leadership and culture, I considered whether:

- chief executives, senior leaders and managers demonstrated a commitment to the Ministry meeting its obligations under the OIA and actively fostered a culture of openness;
- senior leadership had established an effective official information strategic framework which promoted an official information culture open to the release of information; and
- senior leadership demonstrated a commitment to proactive disclosure and public participation, with clear links to the Ministry's strategic plans, creating a public perception of openness.

### Messaging to the public

It is important for agencies to publicly express a commitment to openness and transparency as it enables the public to have trust and confidence in how requests for information will be treated. External messaging can come in many different forms, but ideally, external corporate documents and strategic plans should include clear commitments to openness, transparency and the availability of official information. The Ministry's most recent Annual Reports and Statement of Intent include numerous messages that align with the purposes, principle and provisions of the OIA, as well as openness and transparency more generally.<sup>6</sup> For example, the *Annual Report 2019-20* states:

*As one of the largest agencies in the government sector, we are fully committed to the 'spirit of service' principles that underpin everything the Public Service does – supporting the Government of the day, acting with integrity, maintaining political*

---

<sup>6</sup> See pages 6, 13- 18, 20, 38-39, 45, 49, 51, 76, 88, 90, 96, 98, 99, 102-103, 132, 142-143, 178, 214 and 216 [Annual Report 2019/20](#)

See pages 4, 10, 18, 20, 23, 25, 27, 31, 34-35, 38-39, 47, 54, 59, 80, 82, 84, 90, 95-97, 117, 130, 201 and 252-253 [Annual Report 2018/19](#)

See pages 4, 16-17, 28, 33, 36-37, 39-40 and 73-74 [Annual Report 2017/18 Volume 1](#)

See pages 22, 29 and 142-143 [Annual Report 2017/18 Volume 2](#)

See pages 6-7, 12-15, 19-21, 23-24 and 28-30 [Statement of Intent 2018-2022](#)

*neutrality, providing free and frank advice, ensuring appointments are based on merit, and remaining committed to open government.*

The Ministry's commitment to openness is also reflected in its strategic direction.<sup>7</sup> An example of this on the website states:

***Mana manaaki – A positive experience every time***

*Helping people, whānau, families and communities is at the centre of what we do. Mana manaaki is about looking after the dignity of people with warmth, listening, respect, compassion, openness and fairness.*

Further, the Ministry's *Information releases* webpage states:<sup>8</sup>

*Proactively releasing information promotes good government, openness and transparency, and fosters public trust and confidence in agencies.*

The OIA response letter template used by the Ministry's OPI team, who handle OIA requests, lists some of the purposes of the OIA and states that the Ministry fully supports those purposes. Proactively released OIA responses using the template can be viewed by the public on the Ministry's *Responses to OIA Requests* webpage.<sup>9</sup>

During the 2020 lockdown, the Ministry provided information about how OIA processes might be affected. This included updating its website, an OIA request acknowledgement email template and an OIA extension letter template. If any OIA requests were in progress, then delayed due to the COVID-19 response, requesters were kept informed. This is consistent with the guidance issued by my Office,<sup>10</sup> which included information on the extension provisions.<sup>11</sup>

I commend the Ministry for providing clear external messaging through multiple channels about its support of the OIA, openness and transparency.

## Messaging to staff

Fostering a culture that promotes good official information practices is the responsibility of senior leaders. One indicator of an agency's internal culture of openness and transparency is whether there are regular, clear statements to staff reflecting a commitment to the purposes and principle of the OIA.

My initial questionnaire requested examples of recent, relevant messaging to staff from senior leadership about the importance of complying with the purposes, principle and provisions of the OIA. The Ministry replied:

---

<sup>7</sup> Link to the Ministry's [Our Strategic Direction: Te Pae Tawhiti – Our Future](#).

<sup>8</sup> Link to the Ministry's [Information releases webpage](#).

<sup>9</sup> Link to the Ministry's [Responses to OIA Requests webpage](#).

<sup>10</sup> Link to the Office of the Ombudsman [FAQs about official information requests during COVID-19](#).

<sup>11</sup> See s 15A OIA 1982

*They have been communicated to all staff...and have been promoted across the Ministry through face-to-face training, communications from leadership, and regular messaging through the Ministry's intranet and website.*

The Ministry provided examples of digital communication on internal screens to promote the proactive release of information, the Office of the Privacy Commissioner's 'Right to Know Day',<sup>12</sup> and tips for managing information requests. It emphasised that while internal messaging to staff does not always reference the OIA specifically, the spirit of the Act is fostered through the promotion of its purposes and principle. Also, senior leaders have been travelling to every region in New Zealand for front line forums with regional staff to discuss the Ministry's future direction. These forums include mana manaaki, which is about having authentic interactions with local communities and includes the concepts of openness and transparency.<sup>13</sup>

I conducted an initial staff survey and a post-lockdown staff survey. In both, I asked staff questions relating to their perceptions of leaders' approach to openness. While there were significantly fewer respondents to the post-lockdown staff survey,<sup>14</sup> the results in the tables below are still worth noting:<sup>15</sup>

---

<sup>12</sup> Link to the Office of the Privacy Commissioner [Right to Know Day](#).

<sup>13</sup> Link to the Ministry's [Our Strategic Direction: Te Pae Tawhiti – Our Future](#).

<sup>14</sup> There were 498 total responses to the initial staff survey compared to 55 total responses to the post-lockdown staff survey. Any findings should be balanced against the total number of staff (approximately 8,000) employed by the Ministry.

<sup>15</sup> Numbers may not add up to 100 as they have been rounded to the nearest percentage.

### How would you rate the signals sent by the following people about the OIA, as it relates to your agency?

Leadership level	Initial staff survey: Strongly or moderately pro-disclosure	Post-lockdown staff survey: Strongly or moderately pro-disclosure	Initial staff survey: 'They are silent on the issue' or 'I don't know'	Post-lockdown staff survey: 'They are silent on the issue' or 'I don't know'	Initial staff survey: Strongly or moderately anti-disclosure	Post-lockdown staff survey: Strongly or moderately anti-disclosure
Chief Executive	45%	39%	49%	61%	6%	0%
Deputy Secretary	50%	53%	45%	45%	5%	3%
Immediate Manager	67%	63%	27%	26%	6%	11%

### How would you rate the signals sent by the following people about openness and public engagement more broadly, as it relates to your agency?

Leadership level	Initial staff survey: Strongly or moderately pro-openness	Post-lockdown staff survey: Strongly or moderately pro-openness	Initial staff survey: 'They are silent on the issue' or 'I don't know'	Post-lockdown staff survey: 'They are silent on the issue' or 'I don't know'	Initial staff survey: Strongly or moderately anti-openness	Post-lockdown staff survey: Strongly or moderately anti-openness
Chief Executive	67%	63%	28%	37%	4%	0%
Deputy Secretary	63%	71%	33%	29%	4%	0%
Immediate Manager	77%	71%	20%	24%	4%	5%

## What is your impression of your agency's overall commitment to a culture of openness and public participation?

Initial staff survey: Strongly or moderately pro-openness	Post-lockdown staff survey: Strongly or moderately pro-openness	Initial staff survey: 'They are silent on the issue' or 'I don't know'	Post-lockdown staff survey: 'They are silent on the issue' or 'I don't know'	Initial staff survey: Strongly or moderately anti-openness	Post-lockdown staff survey: Strongly or moderately anti-openness
79%	82%	10%	16%	11%	3%

In the initial staff survey, staff's rating of the signals sent by the Chief Executive and Deputy Secretaries about the OIA, and about openness more broadly, was below the average of the 12 agencies investigated. The average ratings from across all 12 agencies in the initial staff survey were as follows:<sup>16</sup>

- 56 percent of staff said the signals sent by their Chief Executive are strongly or moderately pro-disclosure under the OIA.
- 76 percent said the signals sent by their Chief Executive are strongly or moderately pro-openness.
- 58 percent said the signals sent by Deputy Secretaries are strongly or moderately pro-disclosure under the OIA.
- 69 percent said the signals sent by Deputy Secretaries are strongly or moderately pro-openness.

I note that in the initial staff survey, staff's rating of the signals sent by their immediate manager about the OIA, and about openness more broadly, was above the rating of the Chief Executive and Deputy Secretaries. It is also worth noting that 49 percent of respondents to the initial staff survey said the Chief Executive was 'silent' or they did not know what signals the Chief Executive was sending about the OIA. This increased to 61 percent in the post-lockdown survey. A respondent to the initial staff survey stated:

*I would question whether the approach to openness and public participation is consistently viewed across senior management. For the most part I am confident we are (at a minimum) moderately pro-openness and public participation...*

In the post-lockdown staff survey results, the signals sent by the Chief Executive and Deputy Secretaries about the OIA was also rated below the average of the 12 agencies. However, the signals sent by the Deputy Secretaries about openness more broadly was rated above the

<sup>16</sup> Numbers have been rounded to the nearest percentage.

average of the 12 agencies. The average ratings from across all 12 agencies in the post-lockdown staff survey were as follows:<sup>17</sup>

- 49 percent of staff said the signals sent by their Chief Executive are strongly or moderately pro-disclosure under the OIA.
- 71 percent said the signals sent by their Chief Executive are strongly or moderately pro-openness.
- 50 percent said the signals sent by Deputy Secretaries are strongly or moderately pro-disclosure under the OIA.
- 66 percent said the signals sent by Deputy Secretaries are strongly or moderately pro-openness.

In the post-lockdown staff survey, staff's rating of the signals sent by their immediate manager about the OIA was also above the rating of the Chief Executive and Deputy Secretaries.

These results suggest a need for more specific messaging from the Chief Executive and senior leaders about the importance of the OIA. I have been advised that senior leaders are developing direct messages to deliver to staff about the OIA, which is encouraging. This messaging should not be a one-off exercise, but should represent an ongoing practice that evidences a permanent culture shift championed by the Ministry. Furthermore, this messaging and culture shift should also include the importance of openness and transparency more generally. The Ministry advised me it has accepted this action point.

#### Action point

Ensure ongoing messaging from senior leaders to staff about the importance of the OIA, and openness more generally

### OIA webpage

Information on agencies' websites is a signal to the public about leaders' commitment to the purposes and principle of the OIA and openness more generally. The information on the Ministry's OIA webpage is relatively easy to access and use.<sup>18</sup> For example, the OIA webpage is linked directly from the homepage under the heading 'Quicklinks'.

In order to assist requesters, the Ministry has included the following information on the OIA webpage:

- a brief explanation of what official information is, who can request it and making a request with '*due particularity*';

---

<sup>17</sup> Numbers have been rounded to the nearest percentage.

<sup>18</sup> Link to the Ministry's [OIA webpage](#).

- a link to an online form which can be used to make an OIA request;<sup>19</sup>
- an explanation of timeframes and potential outcomes of requests;
- a link to the 'Find a publication' search screen on the Ministry of Justice website where a requestor can then search for the charging guidelines;
- a link to the Ministry's *Manuals and Procedures*, which provides policy guidance for staff based on the legislation the Ministry administers;<sup>20</sup>
- two links to the Ombudsman's website (one to *Resources and publications* and one to the homepage for those making complaints); and
- a link to proactively released OIA responses.<sup>21</sup>

I am impressed by the comprehensiveness of the OIA webpage, and I only have a few minor suggestions. I encourage the Ministry to include a 'statement of principle' outlining the importance of the OIA and openness. Requesters should also be informed that OIA responses can be provided in alternate formats (which I discuss further under [Current practices](#)).

The Ministry stated that a description of the information it holds is found in the *Directory of Official Information* on the Ministry of Justice website.<sup>22</sup> There is a link on the Ministry's OIA webpage to the *Directory*. I suggest the Ministry expand the description of the information it holds in the *Directory* to include the definition of information 'held' and the types of information that can be requested.<sup>23</sup> Furthermore, on the Ministry's OIA webpage, there is value in including additional types of information that can be requested (such as draft documents, photos, videos and recordings).

As stated above, the OIA webpage includes a link to the Ministry's *Manuals and Procedures*, which details internal decision making rules. However, much of the Ministry's internal OIA guidance (such as the *Ministerial and Executive Services [MaES] Process Manual*), which details internal decision making on OIA requests, is not published on the OIA webpage. When asked if internal OIA guidance documents would be made publicly available, the Ministry stated that they are internal, '*would not have relevance to external audiences*', and their purpose is to serve as a reference guide for staff only. However, the Ministry also stated, '*official information policies and procedures have an integral role in improving clients' and stakeholders' trust in the Ministry.*'

I acknowledge the Ministry's reasoning for not proactively publishing its internal OIA guidance in full.<sup>24</sup> However, specific information from this guidance, such as the Ministry's approach to

---

<sup>19</sup> The Ministry should also provide other ways OIA requests can be submitted, such as an email address, phone number and postal address.

<sup>20</sup> Link to the Ministry's [Manuals and Procedures](#).

<sup>21</sup> Link to the Ministry's [Responses to OIA Requests webpage](#).

<sup>22</sup> Link to the Ministry of Justice [Directory of Official Information](#).

<sup>23</sup> See p 6 of the Office of the Ombudsman guide, [The OIA for Ministers and agencies](#)

<sup>24</sup> A request can be made for this information under s 22 OIA 1982.

internal decision making on OIA requests, would be a useful addition to the OIA webpage. Not only would this information allow the Ministry to explain its internal functions and operations when responding to OIA requests, but it would provide requesters with a better understanding of the Ministry's processes when an OIA request is received. For example, it could help manage journalist expectations about why the information they request cannot always be made available within a 24 hour news cycle deadline. Perhaps most importantly, key OIA guidance used by the Ministry to make itself open and accountable to the public should be made available to the public.

I am pleased the Ministry has recently published its *OIA requests involving Ministers* guide (discussed further below under [Current practices](#)) on its OIA webpage. Where agencies have clear and reasonable policies explaining publicly their approach to issues such as considering urgent requests, charging for the supply of information, checking the eligibility of requesters, and dealing with vexatious requests, they will be less vulnerable to criticism when they apply these policies.

The Ministry advised it will be updating the OIA webpage.

#### Action points

Include additional information on the OIA webpage, such as an overarching 'statement of principle' outlining the importance of the OIA and openness, and that OIA responses can be provided in alternate formats

Expand on the description of information held by the Ministry in the *Directory of Official Information* and on the OIA webpage

Publish details on the OIA webpage of the Ministry's approach to internal decision making on OIA requests

## Organisation structure, staffing, and capability

Responding to official information requests is not only a legal requirement but a core function of the public sector. Therefore, it is expected agencies will organise their structure and resources to ensure they are able to meet their legal obligations under the OIA, in a way that is relevant to their particular size, responsibilities and the amount of interest in the information they hold.

To assess the Ministry's organisational structure, staffing and capability, I considered whether:

- the Ministry had the capacity to discharge its official information obligations, with clear and fully functioning roles, accountabilities, reporting lines, delegations and resilience arrangements; and
- the Ministry had the capability to discharge its official information obligations.

### Model for handling OIA requests

The Ministry is divided into six groups, each with its own Deputy Chief Executive. Along with the Chief Executive, these roles comprise the Ministry's leadership team.

The Ministry has a fully centralised OIA model. As stated above under [Leadership and culture](#), OIA requests are handled by the OPI team, which comprises seven Advisors, three Senior Advisors, two Assistants and a Manager. The OPI team sits under Ministerial and Executive Services (MaES). The Ministry has advised me that the OPI team experienced some resourcing and capability issues during the 2019 calendar year, but this has been addressed through hiring more permanent MaES staff, and upskilling current staff with additional training.

The Ministry uses an Electronic Document and Records Management System (EDRMS) workflow tool to keep track of OIA requests, which is integrated with the Ministry's information management system, Objective. When an OIA request is received, it is logged in EDRMS and assigned a unique reference number. Each Advisor has a workflow slip in EDRMS which allows them to manage the OIA requests assigned to them and includes timeframes for those requests. When an OIA request is scoped and commissioned, any potential risks are discussed to 'ensure that the relevant areas are across the response early to help to prevent undue delay.' Furthermore, the Ministry stated:

*The OPI Manager produces a weekly report that is distributed to senior leaders and stakeholders throughout the Ministry, identifying the progress of OIA responses and their due dates.*

The escalation process for OIA requests was recently added to the *MaES Process Manual*:

*At times, there may be delays with receiving information from business units. If the OPI advisor has followed up with the business unit, and cannot reach an agreement with the business unit in regards to timeframes, the advisor should notify the OPI manager of the situation and begin to cc the manager into email chains with the business unit in question.*

OIA responses are peer reviewed within the OPI team using a roster system. Depending on the content, the Media team and/or Chief Executive's office might review the OIA response as well. The business unit to which the majority of the request relates is responsible for the final sign out. The leadership team have the authority to make decisions on OIA requests, but this authority can be delegated to General Managers (at the tier level three) or Managers (at tier four).

The final OIA response, as well as records of decision making and administrative steps, are saved in Objective. OIA folders within Objective are organised to assist the team that responds to Ombudsman complaints. I commend the Ministry for keeping structured records. Not only will accessing previous decision making documents (including precedents) quickly and easily assist with quality assurance and the consistency of decision making on future OIA requests, but this also ensures the Ministry can explain to an Ombudsman why it came to a decision at the time it was made (in the event of a complaint).<sup>25</sup> I did note some inconsistencies in record keeping which I discuss further below under [Current practices](#).

## OIA training

The *Not a Game of Hide and Seek* investigation outlined that an effective training framework should encompass:<sup>26</sup>

- training at induction;
- introductory basic awareness of key official information principles;
- advanced courses for specialists covering, for example:
  - proper application of the public interest and harm tests;
  - dealing with broad, complex requests covering a large volume of information; and
- refresher courses.

In October 2020, the Ministry released an OIA online training module which all current staff were required to complete. During the course of my investigation, the Ministry sought feedback from my staff on this module. I have provided my full feedback to the Ministry separately.

The OIA online training module is also part of induction training for all new staff. I am pleased to note the Ministry will be requiring all staff to complete the module every two years as part of their OIA refresher training. Since the implementation of the module, the OPI team has noticed staff's ability to identify OIA requests has improved. This has led to staff dispatching OIA requests to the OPI team more quickly.

---

<sup>25</sup> Section 29A of the OIA 1982 requires the agency to provide the Ombudsmen upon request with any information related to the investigation.

<sup>26</sup> Link to [Not a Game of Hide and Seek](#) (December 2015): 65.

New staff on the OPI team receive training from within the team, and are partnered with an experienced staff member. This training covers both the OIA legislation and the Ministry's internal procedures when responding to an OIA request. There are a wide variety of training materials which are suitable for their respective purposes.<sup>27</sup>

Targeted OIA training for the OPI team occurs every two to three weeks and is provided by a Senior Advisor (usually in the form of a presentation on a specific topic of interest). An example of this is training on *'detailed reports to accompany OIA responses, that will better assist decision makers with the release of information in a timely manner.'* The OPI team also meets with other teams around the Ministry to learn more about what they do, build relationships, and clarify whether a task falls to the OPI team or the business unit when responding to an OIA request. My staff also delivered training to the OPI team (and some of the Legal team) in February 2020.

The OPI team provides OIA training to other parts of the Ministry, specifically to staff who are subject matter experts on OIA requests. Training was also provided to Media Advisors at the Ministry and to new Private Secretaries in the Ministers' offices in 2018. I believe the Media team would benefit from targeted OIA refresher training, which I discuss further below under [Current practices](#). In April 2021, targeted training was provided to Private Secretaries on the new *OIA requests involving Ministers* guide. The guide is also discussed further below under [Current practices](#).

It does not appear the Ministry has provided the leadership team, or staff who have the authority to make decisions on OIA requests, with any recent, OIA-specific training on decision making. I encourage the Ministry to develop formalised OIA training for the leadership team and authorised decision makers to be delivered on a regular basis. This not only sends a clear message that leadership is committed to the purposes and principle of the OIA and of openness and transparency more generally, but will help to ensure OIA provisions are applied consistently across the organisation (including the public interest test).

While I appreciate that the leadership team and authorised decision makers may have experience and good support mechanisms in place, relying on an individual's knowledge and past experience to make the appropriate decision underestimates the benefits of ongoing training and regular refreshers, including keeping up to date with any changes in law or new opinions I issue. The benefits of providing regular training to the leadership team and authorised decision makers include that it:

- demonstrates leadership from the top, that responding to OIA requests is core business and should be prioritised;
- ensures officials' understanding and knowledge;

---

<sup>27</sup> Training materials include an *OIA Training Manual 2016*; *Understanding OIAs* PowerPoint; and *OPI Orientation* schedule. EDRMS-specific training documents include *Writing a response letter*; *Key contacts for the OPI team*; *Decision Letters*; *Signing Out*; *Setting up the Action Wizard for redactions and water marks*; *Transferring a request*; and *Writing a report*.

- promotes efficiencies and consistencies in decision making; and
- demonstrates commitment to support and grow the professional development of staff.

As the Ministry knows, my staff are available to assist with developing and/or delivering training on request.

### Action point

Ensure the leadership team and staff who have the authority to make decisions on OIA requests are attending formalised, specialist OIA training on a regular basis

## Information management and record keeping training

It is important that an agency has the capability to discharge its official information obligations. Training on the Ministry's information management and record keeping practices is essential in order to facilitate the retrieval of information in response to an OIA request.

Record keeping relates to controlling and managing records from creation, capture, maintenance and use, through to eventual disposal. Information management is a broader concept, relating to the creation of information, which is sometimes a record.

The Ministry uses Objective for information management, and induction training is provided to all new staff by the Information team. This training includes an e-learning module which covers 'the basics of managing information, privacy, and security' and has a quiz at the end so staff can test their knowledge. This e-learning module is currently being updated with an estimated completion date of July 2021.

Further training material is available on the Ministry's intranet (Doogle) and includes videos and guides.<sup>28</sup> I am pleased that both the *Searching for Information* and *Using Query in Objective* guides state one of the 'Benefits of effectively searching for information' is 'Allowing us [the Ministry] to respond efficiently to...Official Information Act requests by quickly finding relevant information.'

Specialist training for Objective is also available, as is refresher training for all staff on information management and record keeping. The Ministry advised that:

*A complete learning needs analysis was completed in 2018/2019 and new training and guidelines based on the outcome of the needs' analysis will be delivered...*

When Objective was introduced at the Ministry, a staff member from the Information team was walking around each floor to help. When Objective was recently upgraded, the entire team was roaming so they could be available to help. Some OPI team staff members were involved in the upgrade and provided feedback. The Information team is available to help with information management issues.

---

<sup>28</sup> Videos include *Why is information management important?* Guides include information on saving, storing, searching, sharing, disposing, *Working with Objects*, *Approving documents*, and *Physical File Management*.

Aside from a mention in the e-learning module, there does not appear to be any specific training offered on the Public Records Act 2005.<sup>29</sup> It is important for the Public Records Act to remain front of mind for the Ministry, as staff handle records on a daily basis.

---

<sup>29</sup> Link to the [Public Records Act 2005](#)

## Internal policies, procedures and resources

I expect as a matter of good practice that the Ministry develops or adopts policies and procedures that will assist staff to apply the requirements of the OIA consistently. In addition, staff should be supported by good systems, tools and resources that will enable them to effectively process requests and make good decisions consistent with the provisions in the Act.

To assess the Ministry's internal policies, procedures and resources, I considered whether it had accurate, comprehensive, user-friendly and accessible policies, procedures and resources that enable staff to give effect to the OIA's principle, purposes and statutory requirements. This includes policies, procedures and resources in relation to:

- dealing with official information;
- records and information management; and
- proactive release of information.

### OIA guidance material

In addition to the OIA training information referenced above in [Organisation structure, staffing and capability](#), there are several other resources available to staff that provide an overview of the Ministry's OIA process and of the legislation:

- *MaES Process Manual*
- *Official Information Act 1982 Workbook*
- *Overview of the Official Information Act (OIA) Request Process diagram*
- *Responding to a request under the OIA timeline*
- *Heat Map and MaES Heat Map risk matrix*<sup>30</sup>
- *Doogle webpages*<sup>31</sup>
- *Templates*<sup>32</sup>

---

<sup>30</sup> Please note these documents also cover 'matters that don't directly impact OIA [requests] but do impact on other teams within MaES'.

<sup>31</sup> Doogle webpages include *Releasing information under the Official Information Act or Privacy Act; Release of staff names in Official Information Act requests*; and *The Official and Parliamentary (OPI) Team*

<sup>32</sup> Templates include Document 1: 'Transfer letter to requester'; Document 2: 'Transfer letter to other agency'; Document 3: 'Commissioning email'; Document 4: 'Extension letter'; Document 5: 'OIA response draft for CE'; Document 10: 'Minister's office Consultation memo'; OIA Report for CE – Additional document provided; OIA Cover Sheet; email template for stakeholders; Fast Track Memo; and OIA Risk Assessment.

It is commendable that the Ministry has a wide variety of OIA resources to assist staff. During the course of my investigation, the Ministry sought feedback from my staff on its OIA guidance materials, which is also positive. I have provided my full feedback to the Ministry separately. As a result, the *MaES Process Manual* now includes how to respond to requests for internal decision making rules (section 22 OIA), statements of reasons (section 23 OIA) and personal information by bodies corporate (sections 24 – 27 OIA).<sup>33</sup>

I note the Ministry recently released a new guideline, titled *Media responses and the Official Information Act*, to assist the Media team in handling requests for official information from journalists. I discuss this guideline further under [Current practices](#).

Finally, I am pleased that 70 percent of respondents to my initial staff survey about the Ministry's OIA guidance said it was '*somewhat or very easy to find/access policy and guidance materials*' and 63 percent said it was '*somewhat or very easy to understand/use policy and guidance materials*'.<sup>34</sup>

### Proactive release of information policy

In its response to my initial questionnaire, the Ministry stated that it '*intends to develop a formal process for the proactive release of information related to OIA requests*'. The Ministry has already developed guidance on the proactive release of Cabinet papers, and it proactively releases select OIA responses on its website.<sup>35</sup>

Although the Ministry's current proactive release practices are encouraging, it is important that those practices are underpinned by policy and procedure. This will ensure an organisation-wide commitment to:

- implementing all types of proactive release practice as a BAU activity;
- developing a sound and consistent approach to proactive release procedures and decisions; and
- ensuring there is management accountability for its delivery, particularly when this forms a part of an agency's published, corporate strategy.

An overarching policy for the proactive release of information can also facilitate a consistent approach to the release of information between business units, and help to manage the risks of proactively releasing information. In addition, proactive release procedures should have clear processes for preparing information for proactive release, which includes:

- giving notice to the requester (applicable only to the proactive release of OIA responses);
- consulting third parties; and

---

<sup>33</sup> The *MaES Process Manual* now also includes dealing with urgent requests; charging for the supply of official information; making a decision on an OIA request (including the reasons for refusal); preparing the information for release; and internal and external consultation.

<sup>34</sup> Numbers have been rounded to the nearest percentage.

<sup>35</sup> Link to the Ministry's [Responses to OIA Requests webpage](#).

- a due diligence assessment of any risks associated with release.

The Ministry should also be aware of other legal obligations when deciding whether to release official information proactively, including obligations under the Privacy Act 1993.

Unlike with good faith responses to particular OIA requests, agencies are not protected from any civil or criminal liability that might arise from releasing information proactively online.<sup>36</sup> The provisions in the OIA that support an assessment of any potential harm from the release of information (see sections 4(c), 6 and 9 of the OIA), also do not necessarily apply. This means it is important to have a robust process for reviewing the information at issue for potential risks associated with publication, including peer review, and sign-off by an appropriately authorised staff member.

I encourage the Ministry to prioritise the development of a proactive release policy and procedure that covers all types of information that can be proactively released (including OIA responses). My Office has produced guidance on this topic which may prove useful.<sup>37</sup> Once developed, I encourage the Ministry to consider making this policy available on its website.

#### Action point

Develop and publish a comprehensive proactive release policy

#### The Ministry's response

The Ministry stated it has accepted this action point and will expand on it *'as the development of policies to complement the effectiveness of the OIA and should include a proactive release policy and accessibility of documents.'*

### Information management and record keeping policy and guidance materials

The Ministry has comprehensive guidance on information management and record keeping including:

- a Records Management Policy (last updated February 2011);
- Standards (*'set minimum expectations for how MSD manages specific information assets or principles'*);<sup>38</sup>

<sup>36</sup> See s 48 OIA 1982

<sup>37</sup> Link to the Office of the Ombudsman [Proactive release guide](#).

<sup>38</sup> Standards include an *Information Management Standard* (last updated September 2016); *Digitisation Standard* (last updated March 2020); and *Contractors' Recordkeeping Standard* (last updated March 2015).

- Advisory Notes (*'provide recommended policy or process advice on common queries or record sets'*);<sup>39</sup>
- Guides (*'offer brief guidance on completing a task, using a system or managing specific information'*);<sup>40</sup> and
- Doogle webpages.

It may be timely for the Ministry to review and update all information management and record keeping policies and guidance to ensure they are still fit for purpose. Regular reviews are essential to maintaining the usefulness of these documents and to ensuring good information handling practices within agencies. The Ministry should also ensure its guidance reflects newer platforms, like Zoom, as decisions made on these platforms should be recorded.<sup>41</sup> The Ministry has accepted the action point and advised:

*A framework for information policies and standards is currently in development and was due to be delivered [in 2020] but this has been delayed due to COVID-19 priorities. The policies and standards are being developed now and will be approved and released on a rolling cycle...*

#### Action point

Ensure information management and record keeping resources are regularly reviewed and up-to-date

---

<sup>39</sup> Advisory Notes include *Common Administrative Information*; *Managing Corporate Contracts Information*; *Adoption Cards* (last updated March 2015); *Electronic Board Paper Portals*; *Managing your project's documentation* (last updated May 2016); and *Unit Management Information*.

<sup>40</sup> Guides include *Information Obligations and Ministry Naming Conventions* (last updated February 2017).

<sup>41</sup> Link to Archives New Zealand [Information management during COVID-19 webpage](#).

## Current practices

The effectiveness of the OIA is largely dependent on those who implement it on a day-to-day basis and how they apply the resources available to them to manage the realities of giving effect to the Act.

To assess the current practices of the Ministry, I considered whether:

- the Ministry's official information practices demonstrate understanding and commitment to the principle and requirements of the OIA;
- the Ministry's staff have a good technical knowledge of the OIA; and
- the Ministry is coping with the volume and complexity of requests, and decisions are compliant.

### Reported OIA timeliness

The Ministry has improved its reported yearly timeliness from 76.8 percent (for the reporting period of 1 July 2015 to 30 June 2016) to 96.8 percent (for the reporting period of 1 July 2019 to 30 June 2020).<sup>42</sup> Timeliness is monitored everyday through an electronic project management system, Kanboard.

For the six month period of 1 July 2019 to 31 December 2019, the Ministry completed 665 OIA requests with a timeliness rating of 94.7 percent. For the six month period of 1 January 2020 to 30 June 2020, the Ministry completed 1,204 OIA requests with a timeliness rating of 98 percent. This was an increase of 81 percent in OIA requests when compared to the previous six months.<sup>43</sup>

I note the COVID-19 2020 lockdown happened during this time period. While the number of OIA requests handled by the OPI team decreased slightly during the 2020 lockdown, the number of media requests handled by the Media team more than doubled compared to the previous year. After the 2020 lockdown, the number of OIA requests handled by the OPI team also experienced an increase. The Ministry includes requests handled by the Media team in its OIA statistical reporting (discussed further below under [Performance monitoring and learning](#)), so the influx of media requests to the Media team had a substantial impact.<sup>44</sup>

In the latest OIA statistics reported for the six month period of 1 July 2020 to 31 December 2020, the Ministry completed 998 OIA requests with a timeliness rating of 99.8 percent. I encourage the Ministry to continue its exceptional work in this area.

---

<sup>42</sup> Link to the Te Kawa Mataaho [OIA statistics webpage](#).

<sup>43</sup> However, I note the Ministry included requests for comment or an interview (which are not subject to the OIA) as well as media requests for information held (which are subject to the OIA) in its OIA reporting.

<sup>44</sup> As above.

## OIA practices

To gain an understanding of the processing of OIA requests, my investigators reviewed a random selection of recent OIA request files from before, during and after the 2020 lockdown. These files contained some examples of good OIA practices. For example, additional information was provided to requesters for added context. For one OIA request file sample, in email correspondence between the Minister's office and the Ministry, the Minister's office acknowledged that the Ministry is the final decision maker on a departmental OIA request. I discuss this further under [Ministerial interactions on OIA requests](#).

In addition, the Ministry advised it is proactive about contacting requesters to seek clarification, and there is a culture within the OPI team of asking questions. The Ministry's Policy team has also created a database of documents that have previously been released under the OIA.

The Ministry has developed comprehensive templates to assist staff in recording decision making on OIA requests.<sup>45</sup> For example, the *OIA Report for CE – Additional document provided (Report)* includes sections for 'Recommended Actions', 'Due Date', 'Background', 'Suggested Response', 'Risks and Issues', and 'Consultation'. The *Report* also comprises other documents including a *Record of Decision*, *Sign Off Sheet*, *Document Table*, *Official Parliamentary Team – Checklists* (for a Chief Executive's [departmental OIA] Response or a Minister's [office OIA] Response), and *Official Parliamentary Team - Peer Review*.

Some of the OIA request sample files my investigators reviewed had information withheld under section 9 of the OIA, and the public interest test was applied for most of the section 9 withholding grounds. However, the *Report* for several of these OIA request file samples did not explain how the public interest was weighed in relation to withholding information under section 9(2)(a).<sup>46</sup> In the future, I encourage the Ministry to be cognisant of recording the outcome of the public interest test when any section 9 withholding ground is used, and in particular section 9(2)(a). I have produced guidance which might prove useful.<sup>47</sup>

Even with comprehensive templates to assist staff, as described above, a recurring issue was inconsistent record keeping. When reviewing OIA request sample files, my investigators noted that the record of request refinement, some peer reviews, some external consultations, notification of a departmental OIA response to the Minister's office and 'QA Sheets' appeared to be incomplete. In one OIA request sample file, staff determined the date referenced in the acknowledgement email was incorrect, and the request had actually been received on a

---

<sup>45</sup> The *Fast Track Memo* includes sections for 'Due Date', 'Background', 'Suggested Response', 'Risks and Issues', and 'Record of Decision'. The *Fast Track Memo* also includes a *Sign Off Sheet*.

The *OIA Risk Assessment (Memo)* includes sections for 'List of Information Relevant to Request', 'OIA Assessment', and 'APPENDIX 1 - Important notes about withholding information'.

<sup>46</sup> Section 9(2)(a) OIA 1982 states '*the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons*'

<sup>47</sup> Links to the Ombudsman guides, [Privacy: A guide to section 9\(2\)\(a\) of the OIA and section 7\(2\)\(a\) of the LGOIMA](#) and [Public interest: A guide to the public interest test](#).

different date. However, there was no record provided to show whether the requester was informed of this correction.

My investigators also noted that in one OIA request file sample, a charge was considered for part of the request. However, the time, labour and cost to locate the information was not recorded, nor was there a record of the requester being given an opportunity to review or refine the request.

While it is encouraging that most OIA request records (such as the initial request, final response and documents detailing decision making) are saved, my expectation is that complete records are kept consistently for every OIA request. It is important that the Ministry documents its handling of official information requests including the administrative steps to search for information, the information identified as relevant to the request, and the reasons for its decisions. A quality assurance process could also help identify inconsistencies in record keeping. This is discussed further below under [Performance monitoring and learning](#).

The *MaES Process Manual* states an Administrator ‘sends an OIA acknowledgement email or letter to the requestor (if required). The [OPI] Manager decides whether an acknowledgment needs to be sent.’ I consider that best practice is to send an acknowledgement email for every OIA request (unless it can be answered immediately), and I suggest the Ministry amend its practice accordingly. Further, the acknowledgement email that is being sent appears to be an automatic reply and does not include the following:

- details of the Ministry’s understanding of the information requested; and
- an explanation that if a decision cannot be made and communicated within the maximum 20 working day statutory timeframe, an extension may be notified.<sup>48</sup>

I suggest the Ministry update its acknowledgement response to ensure these details are included in the future. My Office has produced a template which might prove useful.<sup>49</sup> Including the above information helps to ensure at the earliest possible stage that the Ministry and the requester are in agreement as to the nature of the information requested.

One OIA request file sample my investigators reviewed involved the Ministry partially refusing an OIA request by referencing the subsection under which the information was withheld (as an example, ‘Information has been withheld under section 9(2)(k) of the OIA.’). It would also be helpful for the Ministry to include the full wording from the subsection in its response (as an example, ‘Information has been withheld under section 9(2)(k) of the OIA to ‘prevent the disclosure or use of official information for improper gain or improper advantage.’). Providing the full wording gives the requester more context, especially if the withholding ground is one that is less commonly used.

---

<sup>48</sup> See s 15A(1)(a) and (b) OIA 1982

<sup>49</sup> Link to the Office of the Ombudsman [Template letter 1: Acknowledgement letter](#).

For another OIA request file sample, where the request was refused in full, the OIA response letter did not outline the steps taken to try to locate the information in order to determine it did not exist or could not be found.<sup>50</sup>

To align with best practice, I suggest the Ministry update its Document 9: ‘OIA response draft for CE’ template to ensure the above details are included in the future. My Office has also produced templates which might be of use.<sup>51</sup>

### Action points

Ensure consistent record keeping in relation to OIA decision making and champion the use of the Ministry’s templates to achieve this

Ensure every OIA request is acknowledged, and consider updating the acknowledgement to include the information requested and an explanation that an extension may be notified if a decision cannot be made and communicated within the maximum 20 working day statutory timeframe

Consider updating the OIA response template to incorporate my suggestions

### The Ministry’s response

The Ministry advised it has accepted these action points, and will be reviewing existing templates and forms as part of its action plan.

## OIA practices during the 2020 lockdown

As stated in [The impact of COVID-19](#), my investigation coincided with the COVID-19 pandemic and resulting 2020 lockdown. At Alert Levels 3 and 4, staff were instructed to work from home.

Staff were redeployed from throughout the Ministry to assist with the COVID-19 emergency response. To put the scale of the response into perspective, between the start of the COVID-19 2020 lockdown and early December 2020, over 2,000 new staff members were hired. Although the OPI team did not have any staff redeployed, the team still assisted with the COVID-19 response when they had capacity. This included helping with emails from the [information@msd.govt.nz](mailto:information@msd.govt.nz) inbox, fielding queries, and wage subsidy applications. There was messaging from senior leaders to all Ministry staff about teamwork during this time.

The Ministry had done test runs of working from home on laptops before the 2020 lockdown. This ensured the equipment and technology worked (such as the VPN, Objective and Jabber).<sup>52</sup>

<sup>50</sup> See s 18(e) OIA 1982

<sup>51</sup> Links to the Office of the Ombudsman [Template letter 6: Letter communicating the decision on a request](#) and [Template letter 19: Refusal letter under section 18\(e\) OIA / section 17\(e\) LGOIMA—Document does not exist or cannot be found](#).

<sup>52</sup> Jabber is the Ministry’s internal phone system which also allows external phone calls, internal video calls, internal instant messaging and screen sharing.

IT support was available for any technical issues during the testing period and throughout the 2020 lockdown. All staff had a laptop and headset, and could also take home keyboards or monitors.

The OPI team was deemed essential so the Manager of the OPI team was able to work from the National Office. Most of the team opted to work from home, but they had the option to come in. Most senior leaders were also deemed essential and opted to work from the National Office.

The OPI team had daily calls to check-in and keep work progressing. Any decisions made were recorded in emails so they could be filed in Objective. As the Manager of the OPI team worked out of the National office, some issues were able to be followed-up in person with senior leadership or staff from other teams who had also been deemed essential. Had that Manager and an administrator not been in the office, it would have proved more challenging to respond to OIA requests on time.

Staff received a working from home guideline, as well as daily announcements and messages about health, safety and wellbeing. The Manager of the OPI team emailed any OIA-specific guidance, and the OPI team was reminded about saving OIA request information to Objective.

Minor issues experienced during the 2020 lockdown included:

- one OIA request for information held in physical files (which were unable to be accessed);<sup>53</sup>
- the probability that more OIA requests were extended;
- the quality of OIA responses being impacted when OIA requests were for large quantities of information;
- certain teams with high workloads due to the COVID-19 response would take longer to answer requests for information; and
- OPI staff sometimes being unable to save emails in Objective (however, once the National Office reopened to all staff, emails were able to be saved in Objective retrospectively).

Successful OIA practices during the 2020 lockdown included:

- meeting OIA maximum timeframes;
- moving to an electronic review and sign out process for OIA responses, including with Ministers' offices;
- replicating the physical Trello board from the office with an electronic project management system called Kanboard;

---

<sup>53</sup> The request was for old files that were not electronic.

- proactively releasing wage subsidy data outside the standard reporting to pre-empt OIA requests;
- the OPI team receiving support from the senior leadership team on OIA requests when needed; and
- sharing COVID-19 messaging about OIA requests from the Ombudsman.

Most importantly, OIA requests remained a priority, as the Ministry's *Crisis Management Plan* classifies the provision of official information as a critical function.<sup>54</sup> Overall, it appears the Ministry operated consistently within my COVID-19 guidance during the 2020 lockdown.<sup>55</sup>

Positive changes the Ministry has kept and/or made after the 2020 lockdown include:

- the continuing use of an internal electronic review and sign out process for some OIA responses;<sup>56</sup>
- the continuing use of electronic interactions with Ministers' offices on OIA requests and responses;
- an upgrade for Objective to bring the entire system online; and
- archiving physical files.

The main barrier to all OIA responses having electronic sign out is that the entire Ministry does not have the Adobe Acrobat Pro software used for making redactions (blacking out information that needs to be withheld). Therefore, if information has been redacted, staff without Adobe Acrobat Pro are unable to see what is being withheld when they are reviewing proposed decisions on OIA requests. An option the Ministry could use to resolve this is by providing staff from outside the OPI team with both a redacted and un-redacted copy of the information being released, which they could compare side by side on one or more screens.

## Proactive release of information

The Ministry has an *Information releases* webpage which includes sections for 'MSD Reports', 'Latest Cabinet papers', 'Reports to the Minister for Social Development' and 'Reports to Parliament'.<sup>57</sup> The 'Latest Cabinet papers' section includes a link to the Cabinet Office circular

---

<sup>54</sup> In the post-lockdown questionnaire, the Ministry stated '*Critical functions are defined as those functions that would need to be undertaken or resumed within the first five days of an emergency or business disruption.*'

<sup>55</sup> Link to the Office of the Ombudsman [FAQs about official information requests during COVID-19](#).

<sup>56</sup> Occasionally large or complex OIA responses are still signed out in hard copy, and certain business groups prefer a hard copy.

<sup>57</sup> Link to the Ministry's [Information releases webpage](#).

on the updated requirements for proactive release of Cabinet material.<sup>58</sup> Furthermore, the Ministry recently launched the MSD Insights webpage that contains:<sup>59</sup>

*Insights from our research, evaluation, data and statistics help us make better decisions about the services we provide for New Zealanders.*

The table below shows how many OIA responses have been proactively published on the Ministry's website (in 6 month increments) as reported to Te Kawa Mataaho:<sup>60</sup>

Timeframe	OIA request responses published on website
1 July 2020 - 31 December 2020	189
1 January 2020 - 30 June 2020	142
1 July 2019 - 31 December 2019	184
1 January 2019 - 30 June 2019	52
1 July 2018 - 31 December 2018	63
1 January 2018 - 30 June 2018	49

Proactive release of OIA responses continued during the 2020 lockdown, with the Ministry also proactively releasing a substantial amount of information above and beyond OIA responses. Furthermore, the table shows the number of proactively released OIA responses has continued to increase annually, which is laudable. I encourage the Ministry to maintain this trajectory, as it supports the intentions of the Open Government Partnership.<sup>61</sup>

I am pleased to note that where information has been redacted (blacked out) in the proactively released OIA responses on the Ministry's website, the withholding or refusal grounds have been referenced.<sup>62</sup> Despite a fairly strong practice around the proactive release of OIA responses, the Ministry would benefit from a policy to guide, ensure and underscore its practice. I discussed this above in [Internal policies, procedures and resources](#).

## Ministerial interactions on OIA requests

When interacting with Ministers' offices on departmental OIA requests and responses, it is essential that agencies differentiate between:

- consultation with the Minister – where the Minister's input on an OIA request is required, and the timeframe for responding to the request might legitimately be

<sup>58</sup> Link to the Department of the Prime Minister and Cabinet [CO \(18\) 4: Proactive Release of Cabinet Material: Updated Requirements webpage](#).

<sup>59</sup> Link to the [MSD Insights webpage](#).

<sup>60</sup> Link to the Te Kawa Mataaho [OIA statistics webpage](#).

<sup>61</sup> Link to the [Open Government Partnership website homepage](#).

<sup>62</sup> Link to the Ministry's [Information releases webpage](#).

extended for a reasonable timeframe to allow the Ministry to receive information or advice which allows it to make a proper decision on the request;<sup>63</sup> and

- notification of the agency's decision on an OIA request to the Minister - which is done for the Minister's information only, at the same time or shortly before the decision is conveyed to the requester.

At the beginning of my investigation, the Ministry did not have a written agreement with its Ministers' offices to guide the process of dealing with OIA requests involving Ministers. However, the Ministry did have some internal guidance on interacting with Ministers' offices. As stated above in [Internal policies, procedures and resources](#), during the course of my investigation, the Ministry provided its *MaES Process Manual* to my staff in order to seek feedback. I provided my full feedback to the Ministry separately, and I note a link was included to my guidance for agencies on OIA requests involving Ministers.<sup>64</sup> There are still aspects in the *MaES Process Manual* that could be further clarified to align with my guide, which I discuss further below.

In addition to the *MaES Process Manual*, the Ministry had a *MaES Heat Map risk matrix*. The matrix was used by staff to identify whether an OIA request met a low, medium or high risk threshold, which determined whether and how the Minister was notified about an OIA request. The Ministry advised that OIA responses deemed 'low risk' and unlikely to impact the Minister were notified to the Minister at the same time they were sent to requesters. OIA responses deemed 'medium' or 'high risk', and likely to impact the Minister, were generally notified with a five working day timeframe. This occurred at the same time the response was going through the Ministry's internal sign out process, which, the Ministry considered, minimised the impact on its ability to make a decision on an OIA request '*as soon as reasonably practicable*'.<sup>65</sup>

In response to my provisional opinion, the Ministry informed me:

*Following a change in Senior Leadership, MaES no longer deliver the MaES Heat Map risk matrix but instead provide a quarterly report to MSD's Organisational Health governance committee. Its first report was delivered at the end of July 2021 and its next one is due at the end of October 2021.*

It was clear from the review of OIA file samples that the Ministry previously assessed each OIA request as low, medium or high risk as per the *MaES Heat Map risk matrix*.

In relation to notification, the *MaES Process Manual* states:

*The Minister's Office needs to be provided an FYI under "no surprises" regarding*

- *any OIA response assessed as being medium to high risk*
- *if the content of the OIA response impacts on their Office*

---

<sup>63</sup> See s 15(1) OIA 1982

<sup>64</sup> Link to the Office of the Ombudsman [Dealing with OIA requests involving Ministers guide](#).

<sup>65</sup> See s 15(1) OIA 1982

- *or is seen as being connected to the reputation of the Minister.*

*Please provide the Minister's Office five working days to review an OIA request.*

*In the first instance, call the Private Secretary whose portfolio responsibilities fall under the scope of the request. Discuss the OIA response with the Private Secretary to see if the Office would like to review it.*

However, it was not always clear in practice when or if OIA requests or responses were sent to Ministers' offices (for example, what date they were sent), and whether they were sent for notification or consultation.

I understand the Ministry's intent when it notifies Ministers' offices of an OIA response at the same time the response is going through the internal sign out process. Minimising the risk of breaching OIA timeliness obligations is laudable. However, I note some potential issues with the Ministry's interpretation of the 'no surprises' principle in respect of:<sup>66</sup>

- allowing the Minister's office five days to review the response irrespective of whether it is for notification or consultation; and
- sending proposed responses to the Minister's office before the sign out process is complete.

It is acceptable for agencies to provide decisions on departmental OIA responses to Ministers' offices for notification under the 'no surprises' principle if it is for a proper purpose (such as allowing the Minister to prepare for public commentary). If the Ministry has made a decision, but communicates it to the requester only after it has sat with the Minister for a five day notification period, the Ministry may be in breach of its obligation to make and communicate the decision to the requester 'as soon as reasonably practicable'.<sup>67</sup> However, if a departmental OIA response is still going through the internal sign out process when it is notified to the Minister, then it is not completely clear whether or not the Ministry has finalised that decision.

If the Ministry has not finalised the decision, then the blanket application of the five working day notification period for medium to high risk OIA responses sent to Ministers' offices for review creates some ambiguity about decision making. It may suggest to Ministers' offices that during the notification period, the Ministry's decisions on departmental OIA requests are open to input from Ministers. The Ministry should also be mindful that notification of decisions is not about seeking clearance, approval or sign-off from Ministers. It is worth mentioning that my investigators did not note any interference by the Minister's office in decision making on departmental OIA requests, and it was clear all parties understood the Ministry was the final decision maker.

Sending OIA responses to Ministers' offices, apparently before a decision is finalised, combined with allowing a five working day timeframe, is more consistent with the discretion to consult. As I discussed above, it appears that in practice the Ministry is not always making the distinction between notification and consultation. The above quoted wording from the *MaES*

---

<sup>66</sup> Link to paragraph 3.22 [Cabinet Manual](#).

<sup>67</sup> See s 15(1) OIA 1982

*Process Manual* about the Minister's office being provided with five working days to 'review' an OIA request, and 'discuss' an OIA response with a Private Secretary 'to see if the Office would like to review it' further reinforces this point. Therefore, I suggest the Ministry review its practice of providing departmental OIA responses to Ministers' offices for notification under the 'no surprises' principle, in order to identify opportunities where this may be fulfilled by:

- providing departmental OIA responses to Ministers' offices at the same time, or shortly before, they are sent to requesters (rather than five days in advance); and
- providing Ministers' offices the topic only, or a brief synopsis of the departmental OIA response, rather than the proposed OIA response in its entirety.

The Ministry should also amend the *MaES Process Manual* in accordance with my suggestions and my published guidance, and ensure its practice aligns with that guidance.<sup>68</sup>

In relation to consultation, I note that in a follow-up to the initial questionnaire, the Ministry advised it does not consult with Ministers on departmental OIA requests, even when requests involve them. However, an OIA request sample file showed consultation with Ministers' offices does occur. Further, the *MaES Process Manual* includes a section on 'Minister's office: Consultation', as well as the threshold an OIA request must meet to be sent for consultation. There are circumstances in which consultation with Ministers' offices is appropriate. The distinction between consultation and notification should be made clear to staff in practice.

I am encouraged that during the course of this investigation, the Ministry developed a guide with its Ministers, titled *OIA requests involving Ministers*, and published this document on the OIA webpage. The *OIA requests involving Ministers* covers most of the aspects I consider such an agreement should have. This includes the factors the Ministry considers when notifying an OIA request to Ministers' offices; the timeline for providing requests to Ministers' offices for consultation; and the process when Ministers' offices are unable to respond to the Ministry within the 20 working day statutory timeframe that the Ministry has to respond to the requester.

While the current guide is good, I suggest including more information to align with best practice, as per the model protocol I developed in August 2019.<sup>69</sup> I note the guide does not include:

- the factors the Ministry should consider when consulting Ministers' offices on departmental OIA requests;
- whether all responses for notification are provided in full to the Ministers' offices, or whether some are notified by subject only; and
- the timeframe for notification of departmental OIA responses (that is, responses should be provided to Ministers' offices at the same time, or shortly before, being sent to requesters).

---

<sup>68</sup> Link to the Office of the Ombudsman [Dealing with OIA requests involving Ministers guide](#).

<sup>69</sup> Link to the Office of the Ombudsman [Model protocol on dealing with OIA requests involving Ministers](#).

This information should be added.

The guide also states:

*MSD will transfer all or part of an OIA request to the Minister’s Office, when the requested information is not held by MSD but is believed to be held by the Minister’s Office or more closely connected with the functions of the Minister’s Office.*

This wording suggests that ‘more closely connected’ is contingent upon the Ministry not holding the information. However, this is not a pre-requisite for transfer. The Ministry could reword this to state:

*MSD will transfer all or part of an OIA request to the Minister’s Office, when the requested information is not held by MSD but is believed to be held by the Minister’s Office, or when the requested information is more closely connected with the functions of the Minister’s Office.*

Once the *OIA requests involving Ministers* has been updated, I encourage the Ministry to upload the revised version to the OIA webpage.

Finally, the Ministry should ensure that the information in the *OIA requests involving Ministers* and *MaES Process Manual* documents about interacting with Ministers’ offices on OIA requests are consistent with each other, and that the Ministry’s practices align with that guidance.

Action points
Review the practice of providing departmental OIA responses to Ministers’ offices for notification under the ‘no surprises’ principle in line with my suggestions
Update the <i>MaES Process Manual</i> to incorporate changes in practice as a result of the review into the Ministry’s application of the ‘no surprises’ principle
Review and update the <i>OIA requests involving Ministers</i> incorporating my suggestions
Once updated, replace the <i>OIA requests involving Ministers</i> on the OIA webpage with the revised version
Ensure the <i>OIA requests involving Ministers</i> and <i>MaES Process Manual</i> documents about interacting with Ministers’ offices on OIA requests are consistent with each other, and the Ministry’s practices align with that guidance
Ensure the <i>OIA requests involving Ministers</i> and <i>MaES Process Manual</i> documents clearly distinguish between notification of, and consultation with, Ministers’ offices on departmental OIA requests

The Ministry’s response
The Ministry advised it will be reviewing guidance on interactions with Ministers’ offices.

## Media information requests

Requests to an agency media team for information which is held by the agency are subject to the OIA. The Ministry's Media team receives most media requests through email. These are recorded in a Microsoft Excel spreadsheet, and there is also a separate log of the request that includes the full response.

The Media team does not differentiate between media requests for information held (which are OIA requests) versus media requests for comment or an interview (which are not OIA requests). I consider it is useful to make this differentiation, both for OIA recordkeeping purposes (discussed further under [Performance monitoring and learning](#)), and so the Media team is clear when the requirements of the OIA apply to the responses they are providing. These requirements are not onerous. They are either to provide the information requested, or if not, to provide the reason for refusal and reference to the right to complain.

New Media Advisors at the Ministry received OIA training in 2018. A Senior MaES Advisor and Senior Media Advisor meet weekly to discuss requests. The Ministry stated:

*The Media team is familiar with the OIA and seeks advice from the OPI team where necessary.*

A good example of the Media team and the OPI team working together occurred during lockdown. As mentioned above in [Reported OIA timeliness](#), the number of media information requests (as well as requests for comment or an interview) increased significantly, and the Media team was under a considerable amount of pressure. Due to the Media team's heightened workload, the OPI team implemented a priority rating system for OIA requests (handled by the OPI team) that required review by the Media team.

In its response to my initial questionnaire, the Ministry stated it recognises that media information requests are governed by the OIA. Therefore, all media information requests are assessed in accordance with the provisions of the OIA. Media information requests are received by the Media team and will be passed to the OPI team if a response:

- cannot be sent in time to meet a journalist's deadline;
- may require an extension; or
- may require information to be withheld or refused.

As noted above in [Internal policies, procedures and resources](#), the Ministry recently released a *Media responses and the Official Information Act* guideline to formalise these processes. This guideline includes examples of situations the Media team might face when handling official information requests.

Although the Ministry stated that in practice, if information may need to be withheld or refused, a request will be passed from the Media team to the OPI team, the guideline does not explicitly reflect this practice. Rather, it is suggested that the Media team can and should respond in some situations where information is being withheld or refused. Regardless of who within the Ministry handles requests when information may be withheld or refused, my expectation is that guidance is accurate and aligns with the OIA. Should the Ministry decide to

maintain the practice of passing official information requests from the Media team to the OPI team in all instances when information may need to be withheld or refused, the guideline should be revised to reflect this practice.

While it was encouraging that the Ministry developed specific guidance for the Media team to ensure compliance with the OIA, there were some inaccuracies which I suggested correcting. After receiving my provisional opinion, the Ministry promptly made my suggested changes to the *Media responses and the OIA* guideline. Other suggestions have been provided to the Ministry separately.

### **Reason for a refusal to be given**

To gain further understanding of the processing of media information requests, my investigators reviewed a random selection handled by the Ministry's Media team from before, during and after the 2020 lockdown. My investigators found that the Media team was sometimes refusing requests for information, and a reason for the refusal was provided when this occurred, as required by the OIA. However, in two instances, the reason provided was not a reason to withhold or refuse information under the OIA.<sup>70</sup> Further, in a number of media information requests reviewed, information about the right to complain to my Office was not included.<sup>71</sup>

This is a timely reminder that all staff should be aware that when a request for information is refused, that decision must be communicated in accordance with section 19 of the OIA. This section requires the Ministry to:

- provide the reason under the OIA for the refusal and, if requested, the grounds in support of that reason; and
- advise the requester that they may make a complaint to the Ombudsman and seek an investigation and review of this decision.

My provisional view was that the Ministry appeared to have acted contrary to law by failing to comply with section 19(a) and (b) of the OIA. The Ministry disagreed with my provisional view that the Media team acted contrary to law in relation to section 19(a) of the OIA (which requires an agency to provide the reason under the OIA for the refusal and, if requested, the grounds in support of that reason). The Ministry stated that:

- the two sample files found to be in breach of the OIA were a one-off, and not reflective of the Media team's usual practices;
- the reason given for refusal in the two sample files was a reason under the OIA;
- the sample size was small;

---

<sup>70</sup> Two different news outlets asked the same question, and the same refusal reason was given to both, which was not a reason under the OIA.

<sup>71</sup> Of the 19 media information requests reviewed, five were full or partial refusals which did not include a reference about the right to complain to the Ombudsman.

- only six of the media information requests reviewed were ‘*purely requests for information in terms of section 12 of the Act [OIA]*’ while the rest were ‘*blended request[s] for information, comment, and statement*’;
- journalists know about their right to complain to the Ombudsman when information is refused; and
- ‘*...refusals of information are as a matter of practice referred to the [OPI] team.*’

I would note that, regardless of whether a media request is ‘blended’, the OIA still applies to information ‘held’ by the Ministry. Furthermore, regardless of whether or not a journalist knows about their right to complain to the Ombudsman when information is refused, the law is clear that this information must be included.

In light of the concerns raised by the Ministry, it was incumbent on me to seek further information so I could respond to the Ministry’s concerns appropriately. Therefore, I requested two months of media files to review. I found further evidence of the Media team refusing requests for information, and not providing a reason to withhold or refuse under the OIA.<sup>72</sup> These specific examples have been provided to the Ministry separately. The Ministry considered the examples found in the two months of media files to be minor ‘*technical compliance omissions*’, and submitted that there will likely be ‘*outliers of inconsistent practice*’ at an agency of its size. However, the Ministry also advised it has updated its guidance and practice to ensure a reason for refusal under the OIA is referenced in all responses when a media information request is fully or partially refused:

*...we [the Ministry] can see that the requirement under section 19(a)(i) of the Act is for the decision to specify which of the provisions in section 18(a) to (h) has been relied upon when refusing the request (see Kelsey v The Minister of Trade [2015] NZHC 2497 [13 October 2015] at [125]).*

Further, the Ministry stated:

*We [the Ministry] accept that it is desirable for a high level of consistency in our practice, and to achieve this, we have updated our processes. As of April 4, we are now including standard wording and a hyperlink in all media responses, that allows journalists to link through to more information on the grounds relied on in refusing their request.*

The Ministry provided the hyperlink to *The Official Information Act and media responses* webpage.<sup>73</sup> Feedback on this webpage has been provided to the Ministry separately.

Also in response to my provisional opinion, the Ministry advised that if the Media team fully or partially refuses a media information request under the OIA, standard text will be added to the media information response advising that the requester can make a complaint to the

---

<sup>72</sup> As per ss 6, 9 and 18 of the OIA 1982.

<sup>73</sup> Link the Ministry’s [The Official Information Act and media responses webpage](#).

Ombudsman. I am pleased this action has already been implemented, and that the standard text is included in the *Media responses and the OIA* guideline.

Having considered all these matters, my final opinion is that the Ministry appears to have acted contrary to law by failing to comply with sections 19(a) and (b) of the OIA. However, in view of the steps taken by the Ministry to ensure it complies with its statutory obligations in future, I have not made a formal recommendation.

### **Record keeping**

Additionally, in a number of media information request samples my investigators reviewed, some records appeared to be missing. For example, a requester was told via email that the answers to their questions were likely held by a different government agency, and a Ministry staff member would confirm and get back to them. However, no record of a confirmation was provided to show this had occurred, despite my investigators following up on this specific example (in July 2021).

It was not until April 2022 that a record was found in relation to this example and provided to my Office. This record showed another government agency had been contacted, confirmed it held the information requested and would respond. Having this record provided the necessary context to understand what was written in the Media Summary. However, I note it is unclear whether the Ministry let the requester know their request had been transferred to another agency.

In another example, a requester was told via email that their request would need to be referred to the OPI team, but no record was provided of whether the request was then passed on or withdrawn. It was also acknowledged that internal verbal discussions about media requests are not always written down.

My provisional view was that the Ministry appeared to have acted contrary to law in relation to section 17(1) of the Public Records Act 2005, by failing to *'create and maintain full and accurate records of its affairs'*. I suggested the Ministry amend the Media team's record keeping practices to ensure full and accurate records of substantive correspondence (including telephone conversations, meetings and verbal discussions) with requesters, and records of any material internal discussions, are created and maintained. This would ensure there is a record of information scoping, administrative steps, and decision making for media information requests handled by the Media team. The requirement to create and maintain full and accurate records of substantive matters could be fulfilled through the use of file notes or follow up emails (saved to Objective) to document what was discussed verbally. I do not expect the Media team to keep records of every single interaction between staff members, but I do expect records of substantive matters to be routinely created and managed as part of normal business practice.

The Ministry disagreed with my provisional view that the Media team acted contrary to law in relation to section 17(1) of the Public Records Act 2005. The Ministry stated that in order to accept my finding it *'would need to be satisfied that the samples clearly indicate that there is a systemic issue in either the Ministry not recording its decision in writing, or that the record is*

*not full and accurate, or it is incapable of being understood by others, or that it was not created in a timely manner.'* However, I note the Ministry also added a section to the *Media responses and the Official Information Act* guideline on '*Obligations under the Public Records Act 2005*', which is positive.

I considered MSD's response required me to seek advice from Archives New Zealand, the regulatory stewards of the Public Records Act 2005, about whether the samples indicated a breach of the Public Records Act 2005. Archives New Zealand was also of the view that the Ministry had not kept full and accurate records as mandated by the Public Records Act 2005 in respect of two samples I provided them. Archives NZ advised that the samples indicated a lack of record keeping in relation to the Ministry's decision making practices and actions.<sup>74</sup> Further, the two months of media files reviewed showed a similar pattern.

The Ministry further stated:

*The Media team's records will not always be as detailed due to the inherent time constraints of responding to requests within media timeframes.*

*We note that you appear to expect a near verbatim record of all steps taken in responding to a media enquiry including scoping and administrative steps.*

The Ministry continued by stating that it considers its media log to be a sufficient record, and relevant emails can be provided if required. It also stated that consideration had not been given as to what constitutes '*normal, prudent business practice*' during a pandemic.<sup>75</sup>

It is worth reiterating that I do not expect verbatim records to be kept, and I have given particular consideration to the context in which the media team operates in assessing what constitutes '*normal, prudent business practice*'. What I do expect is that substantive internal or external consultations and/or discussions relied on to formulate a decision (that will affect a requester's access to the official information they are seeking, and who may then seek my independent investigation and review of that decision) are recorded. I also expect this approach to be applied consistently in similar teams across the public sector.

Archives New Zealand has provided guidance on the topic of keeping records during COVID-19:<sup>76</sup>

*To ensure Government is transparent and accountable, particularly in such an unprecedented time, it is crucial that public offices and local government continue to create and maintain full and accurate records of their business. These core obligations under the Public Records Act 2005 remain as important as ever.*

I agree and also issued guidance on the critical importance of the OIA operating effectively during this time, particularly for an agency such as the Ministry which was making decisions

---

<sup>74</sup> The additional record sent by the Ministry in April 2022 was not viewed by Archives New Zealand because my correspondence with Archives occurred in November 2021.

<sup>75</sup> See s 17(1) Public Records Act 2005

<sup>76</sup> Link to Archives New Zealand's [Managing information during COVID-19 webpage](#).

under pressure and urgency that was impacting people in New Zealand significantly.<sup>77</sup> In times of crisis, I am of the view that the obligations relating to Government record keeping, much like compliance with the OIA, remains as important as ever. When unprecedented decisions are being made by officials quickly in a high pressure environment, records of those decisions become a crucial mechanism for transparency and accountability.<sup>78</sup>

Having considered all these matters, my final opinion is that the Ministry appears to have acted contrary to law in relation to section 17(1) of the Public Records Act 2005. However, I have not considered it necessary to make a formal recommendation in this instance because the Media team proactively offered to undertake *'a quarterly assurance check of a sample of its records to ensure they are full and accurate, in accordance with normal prudent business practice.'* Updates will be provided to my Office, and I will be actively reviewing and monitoring the Media team's practices to ensure that trust and confidence in the Ministry's actions and decisions when dealing with media information requests can be maintained. At this stage, I am confident the Ministry is aware of its record keeping obligations in this context and has taken steps to address my concerns. Furthermore, as stated above, a missing record was found which helped to explain the outcome of one of the initial media information request examples.

These findings reinforce the need for, as mentioned above in [Organisation structure, staffing and capability](#), targeted OIA refresher training on a regular basis to ensure the Media team's practices demonstrate understanding and commitment to the purposes, principle and provisions of the OIA. The Ministry stated it has accepted this action point, and confirmed its Media team will follow *'best practice guidance in the Media responses and the [OIA] guideline.'*

I understand that my suggestions may require a cultural shift for the Ministry and within the Media team. This should be supported by strong messaging from senior leaders to reinforce that requests for information handled by the Media team must adhere to the OIA, and that in doing so they must also meet their Public Records Act 2005 obligations. Furthermore, there is no reason that compliant practices should interfere with timeliness or the effective relationships which appear to exist between the Ministry's Media team and journalists.

### Action points

Provide targeted OIA training to the Media team to ensure they understand their obligations under the OIA and are following best practice as provided in the *Media responses and the Official Information Act* guideline

<sup>77</sup> Link to the [Chief Ombudsman's statement on official information response times during the COVID-19 emergency](#).

<sup>78</sup> Archives New Zealand's [Report on the State of Government Recordkeeping 2020/21](#) states *'At the time of writing, Aotearoa New Zealand is in lockdown due to a COVID-19 outbreak of the virulent Delta strain. Many people, including public sector staff and IM professionals, are, yet again, working from home. Thanks to technology, the peoples of the land of the long white cloud are working in the cloud. But whether we record information in emails or via video calls on Teams or Zoom or instant messaging apps, we must manage it. The principles of government recordkeeping remains the same; the records of government, our nation's collective memory, must be maintained, regardless of format.'*

### Action points

Amend the Media team's practices to ensure a reason for refusal under the OIA is referenced in all responses when a media information request is fully or partially refused

Amend the Media team's record keeping practices to ensure full and accurate records of substantive correspondence (including telephone conversations, meetings and verbal discussions) with requesters, and any material internal discussions, are created and maintained to ensure there is a record of information scoping, administrative steps, and decision making for media information requests handled by the Media team

Ensure messaging from senior leaders reinforces that requests for information handled by the Media team must adhere to the OIA

### Accessibility and usability of official information releases

All public service and non-public service agencies are required to meet the NZ Government Web Accessibility Standard.<sup>79</sup> The standard is intended to make websites more accessible for users with a range of disabilities, including visual, hearing, physical, speech, cognitive, language, learning and neurological disabilities. Although the accessibility standards apply to website content, it is also best practice to apply these standards to information released in response to OIA requests.

I have produced a guide which includes a section on New Zealand's international and domestic obligations to ensure disabled people have equal access to information.<sup>80</sup> This section also provides advice on making information accessible. It should be noted that not all members of the public have access to internet, and some may require information in other formats (including, but not limited to, audio, braille, printed materials, New Zealand Sign Language, and Easy Read) to cater for different access needs. The public should be advised that they can ask for accessible formats if required.

Agencies should publish and provide information in a format that accommodates the use of assistive technology, such as screen readers. For example, publishing or providing information in an 'image only' format (such as a scanned PDF or JPG) is not accessible for blind and low vision individuals using screen readers, or those with learning disabilities using read aloud applications. It also limits the ability to search documents using keywords. Where PDF documents are provided in response to an OIA request, they should be searchable. Published PDF documents should also be searchable, and ideally be accompanied by an accessible Microsoft Word version.

<sup>79</sup> Link to the Digital government [Web Accessibility Standard 1.1](#).

<sup>80</sup> See section 'Making sure the information is accessible' on p 11 of the Office of the Ombudsman [Proactive release guide](#).

In its response to my initial questionnaire, the Ministry advised that *'All published OIA responses will be searchable and accessible to the public from January 2020.'*<sup>81</sup> Within the Adobe redaction software used by the Ministry is an 'Action Wizard' feature that allows for the creation of accessible documents. Cabinet Papers are also proactively released as searchable PDF documents.

In March 2021, my investigators reviewed a random selection of the OIA responses published on the Ministry's website dating from January 2020 to December 2020.<sup>82</sup> They found only some of the OIA responses were searchable. However, they confirmed that the Cabinet Papers on the Ministry's website are published in a searchable format, which is excellent.

In May 2021, my investigators reviewed all OIA responses published on the Ministry's website for January and February 2021. They found all of the OIA responses from these most recent months to be searchable. I encourage the Ministry to maintain its practice of ensuring all OIA responses published in PDF format are searchable and not 'image only', as well as ensuring any visual elements are tagged with alternative text. I also note the Ministry's published OIA responses occasionally include a watermark, which can sometimes inhibit the use of assistive technologies.

#### Action point

Ensure the text of all PDF documents released are searchable and not 'image only', and all visual elements are tagged with alternative text

---

<sup>81</sup> The Ministry also advised *'3 or 4 of the responses for all of 2020 were unable to be converted to a searchable PDF...'*

<sup>82</sup> Link to the Ministry's [Responses to OIA Requests webpage](#).

## Performance monitoring and learning

The OIA does not impose specific requirements on agencies in relation to record keeping and management of requests they receive for access to information. However, Ombudsmen have consistently supported maintaining a full audit trail for any decision made by an agency. Formulating a decision on a request for access to official information is no different. Once this information is recorded, agencies have a wealth of information that can be used to inform business planning and future decisions concerning access to information—but only if it is captured in a way that is meaningful, facilitates subsequent analysis, and regular monitoring and reporting occurs.

To assess performance monitoring and learning of the Ministry in relation to requests for official information, I considered whether:

- the Ministry has an established system for capturing meaningful information about its official information activities and established appropriate and relevant performance measures;
- there is regular reporting and monitoring about the Ministry's management performance in respect of official information requests; and
- the Ministry learns from data analysis and practice.

### Collection, analysis and reporting of OIA data

In the initial questionnaire, the Ministry stated that all OIA data collected helps to '*inform timeframes, consultation periods between business groups, and the length of time to respond to requesters and to measure the timeframes for issuing notifications of decisions.*' The Ministry produces a weekly *Start-up OIA report* that details the OIA requests on hand, as well as their timeframes. This report goes to senior leaders, key Ministry staff (such as members of the Media team) and Ministers' offices. I have been provided with a copy.

In addition, the development of the *Heat Map* and *MaES Heat Map risk matrix* for senior leaders were used to identify '*present and emerging issues*' from '*OIAs, complaints & correspondence*'.<sup>83</sup> These helped the Ministry to identify topics for proactive release and were sent to senior leaders quarterly. I was provided copies of the *Heat Map* and *MaES Heat Map risk matrix*, which were excellent documents.

The timeliness and quantity of OIA requests are reported monthly and quarterly to senior leaders. Media requests are included in these statistics, and the report differentiates between those processed by the Media team and OPI team. I am pleased the Ministry has recently begun including the number of charges made and collected for OIA requests in the monthly report.

---

<sup>83</sup> Please note, as per the [Current practices](#) section, the *MaES Heat Map risk matrix* is no longer in use.

The Ministry advised that media requests are included in OIA statistical reporting to Te Kawa Mataaho, as well as in accountability documents (such as materials for Select Committee Hearings).<sup>84</sup> The inclusion of media information requests in OIA statistical reporting allows the Ministry to gauge its OIA performance more accurately. However, the Ministry should ensure it is only including media information requests in the OIA statistics and not media requests for comment or an interview (as these are not subject to the OIA). As stated above in [Current practices](#), the Ministry does not currently differentiate between these.

If the OPI team has received multiple OIA requests for similar information, this is shared with the relevant reporting team, who assess the information on its viability for proactive release. An example provided by the Ministry was requests for certain information that is now included in the proactively released Benefit Fact Sheets.<sup>85</sup>

Senior leaders and stakeholders from each Deputy Chief Executive office hold weekly meetings to discuss the management of information requests. The meetings encompass topics such as OIA training, lifting OIA performance and learning from Ombudsman complaints, guidance and opinions.

I commend the Ministry for recently adding new data fields to Objective to capture the outcome of a request (granted in full, granted in part or refused in full), reason for extensions, reason for transfers, and if an OIA request was sent to the Minister's office as an FYI. Capturing this information will allow for ease of reporting, which will in turn lift the Ministry's OIA performance. The Ministry has also recently produced a *Chargeable OIAs* Excel spreadsheet, and has added some of the data from this spreadsheet to the monthly report.<sup>86</sup>

The OIA information the Ministry collects and reports upon is incredibly comprehensive, and I believe this is a standout area of which the Ministry should be proud. I encourage the Ministry to also consider collecting the type of request (Part 2, 3 or 4 of the OIA) in Objective. This information is not currently collected because there is no field in which to capture it.

The *MaES Manual* states the Key Performance Indicator for departmental OIA responses is 95 percent timeliness. This indicator is 'based off performance measures adopted from what is expected in terms of performance reported in the Annual Report', which is 95 percent timeliness for Ministerial OIA responses.<sup>87</sup> As compliance with the 20 working day maximum statutory timeframe is a legal requirement of the OIA (unless validly extended), the Key Performance Indicator for departmental OIA responses should be changed to 100 percent to ensure compliance with the law.

---

<sup>84</sup> Link to the Te Kawa Mataaho [OIA statistics webpage](#).

<sup>85</sup> Link to the Ministry's [Benefit Fact Sheets](#).

<sup>86</sup> The data collected in the *Chargeable OIAs* spreadsheet includes the name of the requester, what information was requested, the amount charged, the reason for charging (Commercially valuable information; Staff time; Photocopying), the date the invoice was sent to the requester, and the date the payment was received by the Ministry.

<sup>87</sup> Ministerial OIA responses are for OIA requests made to the Minister's office (Ministerial OIA requests), as distinct from OIA requests made to the Ministry (departmental OIA requests). Agencies can assist Minister's office staff in responding to Ministerial OIA requests.

The Ministry stated it has accepted these action points.

Action points
Ensure only media information requests are included in OIA statistical reporting and not media requests for comment or an interview
Consider collecting data on the type of request (Part 2, 3 or 4 of the OIA)
Amend the Key Performance Indicator for departmental OIA requests to 100% timeliness to ensure compliance with the legal requirement in the OIA

## Learning from investigations and guidance

It is important agencies learn from Ombudsman investigations and resources in order to build institutional knowledge (to reduce the likelihood of complaints being made in the future), stay apprised of current topics and work toward continuous improvement.

The Ministry advised me that the Complaints Management Insights and Improvement (Complaints) team handles Ombudsman complaints for the Ministry and works closely with the OPI team. Outcomes from Ombudsman investigations are shared by the Complaints team on an ad hoc basis with the OPI team. The Manager of the Complaints team and the Manager of the OPI team also work together to disseminate investigation outcomes to other parts of the Ministry as and when required. Ombudsman guidance is provided to OPI Advisors as part of their OIA training, and provided to other business groups to support their decision-making.

As the feedback loop for Ombudsman complaint outcomes happens on an ad hoc basis, it is not formalised in policy or written procedure. As there does not appear to be a mechanism to capture this information in agency memory, I suggest the Ministry formalise the process. This could be as simple as adding a section to an existing OIA guidance document (such as the *MaES Manual*).

It is also positive that the OPI team staff attend Te Kawa Mataaho's OIA forums.<sup>88</sup>

Action point
Formalise the process for learning from Ombudsman investigations and guidance, and reflect this in OIA policy and procedures

## Quality measures

Quality assurance is conducted once the process of responding to an OIA request is complete, and has a broader focus on the effectiveness of the process as a whole. There is a wealth of qualitative data to be gained from incorporating quality assurance into the OIA process. When analysed effectively, this can be used to inform improvements in the OIA process, including:

- ensuring consistency in the agency's approach across similar requests;

<sup>88</sup> Link to the Te Kawa Mataaho [Official Information Forum webpage](#).

- determining the reason for any delays; and
- identifying areas for training.

At present, there are no quality assurance processes in place at the Ministry for OIA requests. There is merit in the Ministry developing a more formalised quality assurance system to ensure consistency of decision making and the identification of risk. In the case of OIA requests, this might include a random check of closed files on a periodic basis.

The Ministry has informed me that it is planning to develop an OIA audit process to monitor quality, which is pleasing.

#### Action point

Develop a quality assurance process after finalisation of OIA requests

## Appendix 1. Official information practice investigation — terms of reference

---

### The Ministry of Social Development

22 November 2019

This document sets out the terms of reference for a self-initiated investigation by the Chief Ombudsman into the practices of the Ministry relating to the Official Information Act 1982 (OIA).<sup>89</sup>

#### **Purpose of the investigation**

The investigation will cover how the *Departments/Ministries* work to achieve the purposes of the Official Information Act through its processing and decision-making on requests for information. It is essentially a follow-up to the 2015 investigation.

The investigation will assess how well the agency has implemented the action points raised in the 2015 investigation of its OIA practices, and will also consider its current official information practices, policies and culture. This will include consideration of the *Departments'/Ministries'* supporting administrative structures, leadership and culture, processes and practices, including information management, public participation and proactive release of information, to the extent that these relate to achieving the purposes of the OIA.

The investigation will identify areas of good practice, and make suggestions for improvement opportunities where areas of vulnerability are identified.<sup>90</sup>

#### **Scope of the investigation**

The investigation will evaluate each agency's leadership and culture, organisational systems, policies, practices and procedures needed to achieve the purposes of the OIA, with the primary focus being how each agency has progressed with its implementation of action points from the 2015 *Not a Game of Hide and Seek* investigation. We may also investigate any new issues relating to the agency's official information culture, policy and practice that arise through the surveys or review of policies and guidance documents about Official Information processing, records management and information management.

---

<sup>89</sup> See sections 13(1) and 13(3) of the Ombudsmen Act 1975 (OA).

<sup>90</sup> Formal recommendations under the OA will only be made if the Chief Ombudsman forms an opinion that a decision, recommendation, act, or omission by the agency was unreasonable or contrary to law under section 22 of the OA.

The investigation will be underpinned by a set of indicators, grouped around the following dimensions:

- Leadership and culture
- Organisation structure, staffing and capability
- Internal policies, procedures, resources and systems
- Current practices
- Performance monitoring and learning

It will also compare data collected in, or relating to, the period of the 2015 investigation with current data to assess whether the agency has made improvements in any area(s). This data may include:

- Ministry OIA statistics
- Complaints received by the Office of the Ombudsman
- Results from agency, staff, and public surveys
- Content on an agency's website.

A sample of decisions reached by the agency on individual OIA requests may be considered as part of this investigation, to assist the Chief Ombudsman's understanding of the agency's official information practices.

If evidence emerges concerning specific examples of OIA breach, then a determination will be made in each case as to whether it can be addressed adequately within this investigation, or whether a separate stand-alone intervention is warranted. Any process issues which can be resolved during the course of the investigation will be addressed immediately.

## **Investigation process**

The Manager Official Information Practice Investigations will work with a team of Senior Investigators and Investigators to assist the Chief Ombudsman in conducting the investigation. The investigation team will liaise with your nominated contact official during the investigation. Information may be gathered through the processes set out below.

## **Information gathering**

Information will be gathered through desk research, a survey of each agency's official information practices, a staff survey, meetings with key staff, and a survey of the public. A sample of decisions reached by the agency on individual OIA requests may also be requested and considered as part of this investigation. As would be the case with any investigation conducted by the Ombudsman, any information requested of an agency by this Office during this investigation will be subject to the secrecy provisions in section 21 of the Ombudsmen Act 1975 (OA). Requests for information will be made pursuant to section 19 of the OA.

## Desk research

A review of publicly available information including the agency's annual reports, strategic intentions documents, and any other material made available on its website. Desk research will also review data and information held by the Office of the Ombudsman (for example, statistical data), and statistics published by the Ministry regarding reported OIA timeliness.

## Surveys

A survey of the agency, including requests for the supply of internal documents about:

- The steps taken to implement action points suggested by the Chief Ombudsman in the 2015 investigation
- Policies and guidance documents related to official information processing, record-keeping and information management

A survey of agency staff, canvassing:

- Views of the agency's leadership and culture in relation to official information and transparency more generally
- Views of the agency's policies, processes, training and resources relating to official information
- Views of the agency's record-keeping and Information Management systems, policies, training and resources, inasmuch as these impact the agency's ability to discharge its official information obligations

A survey of members of the public (including journalists/other media) that have sought information from the agency. The Chief Ombudsman may issue a media release that includes a link to the public survey, and will ask each agency to include a link to the survey on its public website.

Note that we may also request any other documents or information required to investigate issues that arise as a result of meetings with staff; and agency, staff and public surveys.

## Meetings

The investigation team will meet with:

- the tier-two manager responsible for the agency's official information processing function; and
- the manager of the team that processes official information requests.

In addition, further meetings may be scheduled with other staff members after information collected from the agency and through staff and stakeholder surveys has been analysed by the investigation team.

My staff will also meet with staff of the Minister's office who liaise with MSD on responses to OIA requests.

Staff members selected to meet with the investigation team will be provided with information about the meetings process and the purpose of the meeting. The meetings will be digitally (audio) recorded. Meetings are likely to take approximately one hour.

## **Other**

A review of the agency's intranet.

## **Follow up period**

After information has been gathered through the methods outlined above, the investigation team may request additional information or clarification from the agency on points that may have arisen throughout the course of the investigation, to assist our understanding of matters of fact and to provide the opportunity for further relevant information to be supplied.

## **Reporting**

### **Draft report**

The draft report of the Chief Ombudsman's investigation will incorporate good practices as well as any issues that may have been identified during the investigation. The draft report will outline the Chief Ombudsman's provisional findings and, when relevant, identify the suggestions and/or recommendations that may be made to improve the agency's official information practices. The draft will be provided to the Chief Executive for comment.

### **Final reports**

Comments received on the draft report will be considered for amendment of, or incorporation into, the final report.

The final report will be sent to the agency's Chief Executive, relevant Ministers, published on the Ombudsman's website, and tabled in Parliament. Note that the published version of the report will not include detail of our assessment of the agency's progress toward implementing action points from the 2015 *Not a Game of Hide and Seek* investigation. We committed to each agency at the time that the details of the 2015 investigation for each agency would not be made public.

In addition to individual reports, we will produce an 'omnibus' report which will outline general trends across all agencies. Because this will be a summary of the final opinions for each agency, a draft of this report will not be provided to the agencies as they will have already had chance to comment on our findings.

## **Evaluation**

Following completion of his investigation, the Chief Ombudsman will conduct a review exercise as part of his Continuous Improvement programme. This will involve seeking the views of the agency's senior managers on their experience of this practice investigation, its value and relevance to their improving their work practices, and how future investigations may be improved when applied to other agencies.

## Appendix 2. Key dimensions and indicators

### Introduction

There are five key dimensions that have an impact on official information good practice in government agencies:

1. [Leadership and culture](#)
2. [Organisation structure, staffing and capability](#)
3. [Internal policies, procedures and resources](#)
4. [Current practices](#)
5. [Performance monitoring and learning](#)

These dimensions are underpinned by a series of **indicators**, which describe the elements of good practice we would expect to see in order to evaluate whether each of the dimensions is being met.

These indicators are not exhaustive and do not preclude an agency demonstrating that good practice in a particular area is being met in other ways.

## Leadership and culture

Achieving the purposes of the Act<sup>91</sup> largely depends on the attitudes and actions of leaders, including Ministers, chief executives, senior leaders and managers within the agency. Ministers, chief executives and senior managers should take the lead in promoting openness and transparency, and championing positive engagement with official information legislation.

Elements	Things to look for (indicators)
Ministers, chief executives, senior leaders and managers demonstrate a commitment to the agency meeting its obligations under the Act and actively foster a culture of openness within the agency	<ul style="list-style-type: none"> <li>✓ Chief executives, leaders and the relevant Minister(s) actively and visibly work together to promote a culture of positive OIA compliance and good administrative practice</li> <li>✓ Leaders make clear regular statements to staff and stakeholders in support of the principle and purposes of official information legislation, reminding staff of their obligations</li> <li>✓ Leaders demonstrate clear knowledge and support of the Act's requirements</li> <li>✓ Leaders encourage staff to identify areas for improvement and provide the means for suggesting and implementing them when appropriate</li> <li>✓ Leaders make examples of good practice visible</li> <li>✓ A visible and explicit statement exists about the agency's commitment to openness and transparency about its work</li> </ul>

<sup>91</sup> 'The Act' refers to the Official Information Act 1982

Elements	Things to look for (indicators)
<p>Senior leadership have established an effective official information strategic framework which promotes an official information culture open to the release of information</p>	<ul style="list-style-type: none"> <li>✓ The agency has a strategic framework describing how it intends to achieve: <ul style="list-style-type: none"> <li>– Compliance with the Act</li> <li>– Good practice</li> <li>– A culture of openness and continuous improvement</li> <li>– Participation and access to information by the public and stakeholder groups</li> </ul> </li> <li>✓ Senior leadership takes an active role in the management of information</li> <li>✓ A senior manager has been assigned specific strategic responsibility and executive accountability for official information practices including proactive disclosure</li> <li>✓ Senior managers have accountabilities for compliance with the Act</li> <li>✓ Appropriate delegations exist for decision makers and they are trained on agency policies and procedures and the requirements of the Act</li> <li>✓ Senior leaders model an internal culture whereby all staff: <ul style="list-style-type: none"> <li>– Are encouraged to identify opportunities for improvement in official information practice (including increasing proactive disclosure) and these are endorsed and implemented</li> <li>– Are trained to the appropriate level for their job on official information policies and procedures and understand the legal requirements</li> <li>– Have compliance with the Act in their job descriptions, key performance indicators, and professional development plans</li> </ul> </li> <li>✓ Senior leaders oversee the agency’s practice and compliance with the Act, the effectiveness of its structures, resources, capacity and capability through regular reporting. Any issues identified that risk the agency’s ability to comply with the Act are actively considered and addressed</li> </ul>

Elements	Things to look for (indicators)
<p>Senior leadership demonstrate a commitment to proactive disclosure, and public participation with clear links to the agency's strategic plans, thereby creating a public perception, and a genuine culture of openness</p>	<ul style="list-style-type: none"> <li>✓ Senior leaders are committed to an active programme of proactive disclosure and stakeholder engagement where the agency seeks and listens to the public's information needs through: <ul style="list-style-type: none"> <li>– Regular stakeholder meetings and surveys</li> <li>– Reviewing and analysing requests and media logs</li> <li>– Reviewing and analysing website searches</li> </ul> </li> <li>✓ There is clear senior leadership commitment to the proactive release of information resulting in the agency publishing information about: <ul style="list-style-type: none"> <li>– The role and structure of the agency and the information it holds</li> <li>– Strategy, planning and performance information</li> <li>– Details of current or planned work programmes, including background papers, options, cabinet papers and consultation documents</li> <li>– Internal rules and policies, including rules on decision-making</li> <li>– Corporate information about expenditure, procurement activities, audit reports and performance</li> <li>– Monitoring data and information on matters the agency is responsible for</li> <li>– Information provided in response to official information requests</li> <li>– Other information held by the agency in the public interest</li> </ul> </li> <li>✓ The agency holds up to date information that is easily accessible (easy to find, caters for people requiring language assistance or who have hearing or speech or sight impairments) about: <ul style="list-style-type: none"> <li>– What official information it holds</li> <li>– How it can be accessed or requested by the public and its stakeholders</li> <li>– How to seek assistance</li> <li>– What the agency's official information policies and procedures are (including charging)</li> <li>– How to complain about a decision</li> </ul> </li> <li>✓ The agency makes information available in different formats, including open file formats</li> <li>✓ The agency's position on copyright and re-use is clear</li> <li>✓ The public and stakeholders perceive the agency to be open and transparent</li> </ul>

## Organisation structure, staffing and capability

Responding to official information requests is a core function of the public sector. Therefore, it is expected agencies will organise their structure and resources to ensure they are able to meet their legal obligations under the Act considering each agency's size, responsibilities and the amount of information held.

Elements	Things to look for (indicators)
<p>Agency has the capacity to discharge its official information obligations, with clear and fully functioning:</p> <ul style="list-style-type: none"> <li>• roles;</li> <li>• accountabilities;</li> <li>• reporting lines;</li> <li>• delegations; and</li> <li>• resilience arrangements.</li> </ul>	<ul style="list-style-type: none"> <li>✓ An appropriate, flexible structure exists to manage official information requests which is well resourced reflecting the:               <ul style="list-style-type: none"> <li>– Size of the agency</li> <li>– Number of requests received (and from whom, public, media, other)</li> <li>– Number or percentage of staff performing official information functions in the agency</li> <li>– Percentage of time these staff are also required to undertake other functions</li> <li>– Need to respond within statutory time limits</li> <li>– Use of staff time, specialisations, structural resilience</li> </ul> </li> <li>✓ Roles and responsibilities are clearly defined:               <ul style="list-style-type: none"> <li>– Specific responsibility exists for coordinating, tracking and monitoring official information requests and agency decisions (and ombudsman decisions) and there is the authority and support to ensure compliance<sup>92</sup></li> <li>– Decision makers are sufficiently senior to take responsibility for the decisions made and are available when required, and if not, resilience arrangements exist.</li> <li>– The official information function is located in an appropriate unit or area within the agency that facilitates effective working relationships with relevant business units (for example; media and legal teams)</li> </ul> </li> </ul>

<sup>92</sup> This indicator is also relevant to performance monitoring and learning.

Elements	Things to look for (indicators)
Agency has the capability to discharge its official information obligations	<ul style="list-style-type: none"> <li>✓ Training at all levels on the requirements of the Act is provided regularly and staff are expected to attend, and to apply the knowledge acquired</li> <li>✓ Training is role specific with additional training for senior managers, decision makers and staff with official information responsibilities to support their work</li> <li>✓ Expectations are set by senior leaders that regular refreshers are provided to all staff</li> <li>✓ Training is provided on information management and record keeping that is role-specific and includes guidance on information retrieval as well as information storage</li> <li>✓ The process for staff to assess and make decisions on official information requests is clear, understood, up to date and staff apply and document the process</li> <li>✓ Agency staff, including front line staff and contractors, know what an official information request is and what to do with it</li> <li>✓ User-friendly, accessible resources, guidance and 'go to' people are available</li> <li>✓ Staff official information capability is regularly assessed and monitored through, for example, performance reviews and regular training needs analyses</li> <li>✓ Official information obligations are included in induction material for all staff</li> <li>✓ The agency's internal guidance resources are accessible to all staff</li> </ul>

## Internal policies, procedures and resources

Agencies should develop or adopt policies and procedures that will assist staff to consistently apply the requirements of the Act supported by good systems, tools and resources ensuring effective processing of requests consistent with the requirements of the Act.

Elements	Things to look for (indicators)
<p>The agency has good official information policies, procedures and resources that are accurate and fit for purpose</p>	<ul style="list-style-type: none"> <li>✓ Good policies, procedures and resources exist for receipt and assessment of requests, which cover:               <ul style="list-style-type: none"> <li>– What is official information</li> <li>– Identifying the type of official information request received (Part 2, 3 or 4 of OIA) and distinguishing from Privacy Act requests</li> <li>– Identifying the scope of the request</li> <li>– Consulting with and assisting the requester</li> <li>– Establishing the eligibility of a requester when necessary</li> <li>– Logging requests for official information</li> <li>– Acknowledging receipt of the request</li> <li>– Correctly determining statutory time limits and tracking the handling of the requests</li> <li>– Identifying who in the agency should respond to the request</li> <li>– Establishing criteria for deciding whether, and if so, how a response to a request should be provided urgently</li> <li>– Managing potential delays (including the reasons for them, the escalation process and invoking the extension provision)</li> </ul> </li> <li>✓ Good policies, procedures and resources exist for information gathering on requests, which cover:               <ul style="list-style-type: none"> <li>– Identifying the information within the scope of the request</li> <li>– Searching, finding and collating the information at issue</li> <li>– Documenting the search undertaken for the information within the scope of the request (including time taken if charging is likely)</li> <li>– Transferring requests to other agencies or Minister(s) and advising the requester</li> <li>– Consulting officials within the agency and third parties</li> <li>– What to do if the information is held by a contractor covered by the Act by virtue of section 2(5) of the OIA</li> <li>– Engaging with Ministers on official information requests</li> </ul> </li> <li>✓ Good policies, procedures and resources exist for decision making on requests, which cover:               <ul style="list-style-type: none"> <li>– Making a decision whether to release the information</li> </ul> </li> </ul>

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> <li>- Making a decision on the format in which information is released</li> <li>- Making a decision whether to charge for the release of information</li> <li>- Guidance on application of withholding or refusal grounds relevant to requests made under Parts 2, 3 and 4</li> <li>- Guidance on any statutory bars on disclosure relevant to the legislation the agency administers</li> <li>- Imposing conditions on release where appropriate</li> <li>- Advising the requester of the decision</li> <li>- Recording reasons for each item of information withheld, and the agency's consideration of the public interest in release where required</li> <li>✓ Good policies, procedures and resources exist for releasing requests, which cover: <ul style="list-style-type: none"> <li>- Providing the information in the form requested</li> <li>- Preparing information for release (including redactions)</li> </ul> </li> <li>✓ The agency has tools and resources for processing official information requests, such as templates, checklists, 'go-to' people, effective tracking and monitoring systems, and redaction software and staff are trained on how to use them.</li> <li>✓ The agency's official information policies, procedures and resources are regularly reviewed and up-to-date</li> <li>✓ Staff find them useful and easy to access</li> </ul>
The agency has appropriate record keeping and information management policies, procedures and resources	<ul style="list-style-type: none"> <li>✓ Staff are able to identify, access and collate information that has been requested under the Act</li> <li>✓ The agency has accurate and comprehensive records and information management policies, procedures and resources which enable information relevant to a request to be identified and collated</li> <li>✓ The policies and procedures cover aspects such as: <ul style="list-style-type: none"> <li>- Creating, organising, maintaining and storing records</li> <li>- Managing and modifying records</li> <li>- The security of information</li> <li>- A guide to determining which records systems exist and what information each holds</li> <li>- Retaining, retrieving and disposing of records</li> <li>- Both manual and electronic records, including personal e mail accounts, instant messaging and text messages</li> </ul> </li> </ul>

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> <li>- Assigned responsibilities and performance criteria for records and information management by staff</li> <li>- The provision of secure audit trails</li> <li>- Annual/periodic audits of records</li> <li>✓ These policies and procedures are regularly reviewed and up-to-date</li> <li>✓ Staff find the policies and procedures useful and easy to access</li> </ul>
<p>The agency has accurate and comprehensive proactive release policies, procedures and resources</p>	<ul style="list-style-type: none"> <li>✓ The policies and procedures cover the release of such things as: <ul style="list-style-type: none"> <li>- Information that has been released in response to official information requests</li> <li>- Information described in section 20 of the OIA about the agency and the information it holds</li> <li>- Information described in section 22 of the OIA about the agency's internal decision making rules, including its official information policies and procedures</li> <li>- Strategy, planning and performance information</li> <li>- Financial information relating to income and expenses, tendering, procurement and contracts</li> <li>- Information about work programmes and policy proposals</li> <li>- Information about public engagement processes, including public submissions</li> <li>- Minutes, agendas, and papers of advisory boards or committees</li> <li>- Information about regulatory or review activities carried out by agencies</li> </ul> </li> <li>✓ The policies and procedures include a process for identifying opportunities for proactive release, for example, where a high number of official information requests are received about a subject</li> <li>✓ The policies and procedures include a process for preparing for proactive release, including managing risks around private or confidential information, commercially sensitive information and information subject to third party copyright</li> <li>✓ The policies outline how and where the information should be made available for access, and if any charge should be fixed</li> <li>✓ They are regularly reviewed and up-to-date</li> <li>✓ Staff know about the agency's proactive release policies and procedures</li> <li>✓ Staff find the policies useful and easy to access</li> </ul>

## Current practices

The effectiveness of the Act is largely dependent on those who implement it on a day to day basis and how they apply the resources available to them to manage the realities of giving effect to the Act.

Elements	Things to look for (indicators)
Official information practices demonstrate understanding, compliance, and commitment to the principle and requirements of the Act	<ul style="list-style-type: none"> <li>✓ The agency complies with maximum statutory timeframes to transfer, extend, decide on requests, and release official information</li> <li>✓ Requests are handled in accordance with the applicable law (Privacy Act, Part 2 OIA, section 22 OIA, section 23 OIA, Part 4 OIA)</li> <li>✓ The agency makes appropriate use of the withholding grounds and administrative reasons for refusal</li> <li>✓ The agency makes appropriate use of the mechanisms for dealing with large and complex official information requests</li> <li>✓ The agency gives proper consideration to the public interest in release of official information, and explains this to requesters</li> <li>✓ The agency interprets the scope of official information requests reasonably</li> <li>✓ The agency consults with, and provides reasonable assistance to requesters</li> <li>✓ The agency consults appropriately with third parties</li> <li>✓ Ministerial involvement in agency official information decision making is appropriate</li> <li>✓ The process for escalation of issues is used where necessary and is effective</li> <li>✓ Official information is released in the form requested unless there is a good reason not to</li> <li>✓ Consideration is given to releasing information in accessible formats</li> <li>✓ There is evidence that agency practice aligns with its policies and procedures</li> <li>✓ Staff regularly use the agency's policies and procedures</li> </ul>

Elements	Things to look for (indicators)
The agency has good record keeping and information management practices	<ul style="list-style-type: none"> <li>✓ The agency documents its handling of official information requests, including the steps taken to search for the requested information, the information identified as relevant to the request, and the reasons for its decisions</li> <li>✓ The agency's records and information management practices facilitate official information compliance (it is generally easy to find information that has been requested under the Act)</li> <li>✓ Staff regularly use the Agency's records and information management policies and procedures as described in 'The agency has appropriate record keeping and information management policies, procedures and resources' indicator under <a href="#">Internal policies, procedures, and resources</a></li> </ul>
The agency has good proactive release practices	<ul style="list-style-type: none"> <li>✓ The agency's entry in the <i>Directory of Official Information</i> is full, accurate and likely to assist requesters, and is linked from, or reproduced on, the agency's own website</li> <li>✓ The agency publishes useful information online including the types of information described in the 'The agency has accurate and comprehensive proactive release policies, procedures and resources' indicator under <a href="#">Internal policies, procedures, and resources</a></li> <li>✓ The agency publishes information in multiple formats, and applies open use standards</li> <li>✓ The agency's position on copyright and re-use is clear</li> <li>✓ Staff use the agency's proactive release policies and procedures where applicable</li> </ul>

## Performance monitoring and learning

Agencies should adopt performance monitoring and learning frameworks that enable them to learn and drive performance improvement and innovation.

Elements	Things to look for (indicators)
<p>The agency has an established system for capturing and analysing data to inform meaningful and appropriate performance measures</p>	<ul style="list-style-type: none"> <li>✓ Performance measures include:               <ul style="list-style-type: none"> <li>– Quantity – for example the number of requests, from where and the number processed</li> <li>– Efficiency – for example duration of request handling, number of responses that exceed legislative maximum time limits, the reasons for any delays</li> <li>– Quality – for example outcome of any internal quality assurance reviews and/or external reviews of official information decisions and processes and whether or not the results of those reviews provide evidence of system wide issues</li> <li>– Monitoring of opportunities for proactive release – for example identifying common types of requests or a high number that indicates information that could be made available</li> </ul> </li> <li>✓ The agency collects data about its performance under the Act including such things as:               <ul style="list-style-type: none"> <li>– The number of requests</li> <li>– The type of request (Part 2, 3 or 4 of the Act)</li> <li>– The type of requester (for example; media, political researcher, corporation, individual citizen, Member of Parliament, interest group, etc.)</li> <li>– The information sought</li> <li>– The number and reason for transfers, and whether the transfer was made in time</li> <li>– The number, length and reason for extensions</li> <li>– The outcome of the request (granted in full, granted in part, refused in full, withdrawn or abandoned)</li> <li>– The number and amount of charges made and collected</li> <li>– The grounds on which information was withheld or the request refused</li> <li>– Whether the requester was consulted prior to any refusal under section 18(f)</li> <li>– Whether the Minister was consulted on the decision</li> <li>– Whether the decision was notified to the Minister</li> <li>– Whether, and which, third parties were consulted</li> </ul> </li> </ul>

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> <li>- The time from receipt of the request to communication of the decision</li> <li>- The time from receipt of the request to release of the information</li> <li>- If the time limit (extended or not) was breached, the reasons for the delay</li> <li>- Whether the response was proactively published and if not, why</li> <li>- Whether the Ombudsman investigated or resolved a complaint about the request</li> <li>- The outcome of the Ombudsman’s investigation or involvement</li> <li>- The outcome of any internal quality assurance reviews of processes or decisions</li> <li>- Staff time spent and costs incurred in processing official information requests, including the time spent assisting in processing requests by staff who are not in core OIA roles</li> <li>✓ The agency analyses this data to determine whether it is complying with its relevant performance measures</li> <li>✓ The agency monitors information demand (for example, through official information requests, website use, and other enquiries) to identify opportunities for proactive release</li> <li>✓ The agency monitors any difficulties in identifying and collating information that has been requested</li> </ul>
<p>There is regular reporting about the agency’s management and performance in respect of official information requests</p>	<ul style="list-style-type: none"> <li>✓ Data about the agency’s official information performance, and information demand is regularly reported to senior leaders, and at least quarterly to the Chief Executive</li> <li>✓ Reports include emerging themes or trends, opportunities for improvement and proactive release, resourcing, capacity or capability (training) issues</li> <li>✓ Reporting informs planning, resourcing and capability building decisions</li> </ul>

Elements	Things to look for (indicators)
The agency learns from data analysis and practice	<ul style="list-style-type: none"><li>✓ The agency has a system for sharing official information learning and experience, such as meetings, newsletters, email or intranet updates, or official information '<i>champions</i>'</li><li>✓ The agency monitors relevant data, guidance and publications, including those produced by the Ombudsman and Public Service Commission</li><li>✓ The agency monitors the outcome of Ombudsman investigations and reports these to relevant staff, including official information decision makers</li><li>✓ The agency analyses this information to determine where it has the potential to improve official information practice, stakeholder relations, or increase opportunities for public participation</li><li>✓ The agency periodically reviews its relevant systems, structures, and compliance with policies and procedures</li><li>✓ The agency actively participates in initiatives to share and discuss best practice externally, for example through forums, interest groups, networks and communities of practice</li></ul>

Document ends



**Ombudsman**

Tuia kia ōrite • Fairness for all

[ombudsman.parliament.nz](http://ombudsman.parliament.nz)