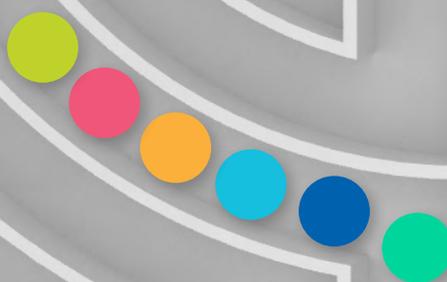


OIA compliance and practice in
Te Ope Kātua o Aotearoa
New Zealand Defence
Force



A report on the Chief Ombudsman's follow up investigation into the practices adopted by Te Ope Kātua o Aotearoa New Zealand Defence Force for the purpose of compliance with the Official Information Act 1982.

Te Kaitiaki Mana Tangata Aotearoa

The Ombudsman New Zealand

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OIA compliance and practice in the New Zealand Defence Force - Te Ope Kātua o Aotearoa

Opinion of the Chief Ombudsman

December 2021

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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.¹ All twelve 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 twelve 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 New Zealand Defence Force (NZDF) is meeting its obligations under the Official Information Act 1982 (OIA).

My investigation has included consideration of NZDF'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.

¹ 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. This provides me with the tools needed to investigate matters I consider important to improve administrative decision making across the public sector.²

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*).³

The 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 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 to maintain

² See ss 13(1) and 13(3) of the Ombudsmen Act 1975

³ 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.

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 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

My opinion relates only to the NZDF's practice during the period in which my investigation took place.⁴ I notified the NZDF of my investigation on 22 November 2019 and I formed my final opinion on 21 December 2021.

Through the investigation process, I have identified areas of good practice, and areas of vulnerability that I think the NZDF should address. I have made one recommendation and suggested 27 actions that I consider will improve the NZDF's practices. The agency was given the opportunity to comment on my provisional opinion before I formed my final opinion and I have taken its comments into consideration. The opportunity to review and address my proposed recommendations and suggested action points was welcomed by the NZDF. I refer to the NZDF'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, in relation to the Media team's practices, the NZDF acted contrary to law when it refused media information requests without citing the reasons relied on under the OIA, or informing requesters about the right to complain to my Office, as outlined in subsections 19(a) and (b) of the OIA.

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

For the reasons set out below, on the information before me, it is also my opinion that the Media team has acted contrary to law in relation to section 17(2) of the Public Records Act 2005, which requires the NZDF to maintain full and accurate records for media information requests *'in an accessible form, so as to be able to be used for subsequent reference.'*⁵

However, I have not made recommendations in the above instances as the NZDF advised in its response to my provisional opinion that it will implement measures to address the identified issues. I commend the NZDF's commitment to improving its OIA practices and look forward to further updates on its progress.

I have made one recommendation in relation to the NZDF's processing of requests for military service records. I recommend that the NZDF take steps to address the backlog of requests for military service records and ensure that the requests are processed within the required statutory timeframes.

It is very encouraging that the NZDF has effected changes to its practices throughout my investigation illustrating commitment to the principle and purposes of the OIA. I particularly note the OIA policy and procedure document, *Defence Force Instructions 0.70*, which regulates the agency's OIA process in some detail. This extensive guidance also covers such areas as proactive release, liaising with the Minister's office on departmental OIA requests, and interactions between the OIA and Media teams when processing media information requests.

I would like to extend my thanks to the NZDF for the positive and open way it engaged with this investigation, including during the lockdown periods. In particular, my thanks go to those staff who took the time to meet with my investigators to discuss their OIA experiences; staff who completed employee surveys; and liaised with my Office throughout the investigation. 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 NZDF in the months to come as it works through the remaining action points.



Peter Boshier
Chief Ombudsman
21 December 2021

⁵ See s 17(2) of the Public Records Act 2005

Executive summary

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

Leadership and culture

NZDF's senior leaders' messaging to staff on the OIA and openness in general appears to be an area of vulnerability. The agency's response to my questionnaire, while outlining some positive OIA practices, did not provide examples of proactive regular messaging from senior leaders. The results of my initial and post-lockdown surveys also show that a significant proportion of respondents did not know how to rate the signals sent by NZDF's senior leaders on openness and the OIA or thought the leaders were silent on these issues.

While some of NZDF's recent measures may go some way towards effecting the necessary change in the agency's OIA culture, in my view, the NZDF leadership should send more regular communications to staff (via emails, memos, the intranet, meetings, blogging and newsletters) reinforcing the importance the NZDF attaches to openness and complying with the principle and purposes of the OIA. Senior staff should actively role-model openness, transparency and good OIA practices (including sound information management and record keeping), for example, by setting a clear expectation that staff are trained to the appropriate level for their role and making this expectation visible by attending training themselves.

NZDF's corporate and strategic documents include many positive statements signalling the agency's commitments to being an accountable government agency that aims to maintain public trust and confidence. However, I note that the documents contain only a few references to openness and transparency and do not mention the OIA at all.

As with internal messaging on openness and the OIA, review of the NZDF's signalling to its external stakeholders reveals many opportunities for the agency to improve its messaging. The NZDF's response to my initial questionnaire did not contain any examples of proactive and regular signalling by the agency's leaders of its commitment to openness and compliance with the OIA. The NZDF's website and strategic and corporate documents also appear to be in need of increased messaging. I encourage the NZDF to consider the impact of promoting good OIA compliance and practice (including proactive release) on public trust and perceptions of transparency and openness by weaving OIA compliance into the agency's corporate and strategic documents.

Finally, the NZDF has been experiencing technical issues with its website since late July 2020 when a hardware failure at one of the agency's data centres caused the website to go offline. I was advised by the NZDF that, although the new website went live on 18 October 2021, it *'remains a work in progress'* with further changes expected with respect to content. When planning the content of the website, I encourage the NZDF to ensure that the new website is consistent with guidance published by the Public Service Commission, and includes an overarching statement of the NZDF's commitment to the purposes, principle of availability and requirements of the OIA, and information for OIA requesters such as links to proactively released information.

Action points
1. Senior leaders should make clear, visible and regular statements to all staff about the OIA and its role in enabling more effective participation in government and promoting accountability through openness and transparency
2. Senior leaders to set clear expectations that staff receive appropriate training on the OIA and make these expectations visible by attending training themselves
3. Senior leaders should make clear, visible and regular statements to the public about the OIA and its role in enabling more effective participation in government and promoting accountability through openness and transparency
4. NZDF should incorporate in its corporate documents a strategic framework describing how the agency intends to achieve: <ul style="list-style-type: none"> • Compliance with the OIA; • Good practice; • A culture of openness and continuous improvement; and • Participation and access to information by the public and stakeholder groups.
5. Review and update the website incorporating my suggestions

Organisation structure, staffing and capability

The NZDF operates a partly centralised model of processing OIA requests which helps ensure that the agency generally meets its reported OIA timeliness obligations.

I was advised by the NZDF that the agency's Chief of Staff signs upwards of 1000 responses per year. Given the sheer volume of requests it seems unlikely that the Chief of Staff would have capacity to decide on each of these requests in a detailed manner. I suggest, therefore, that the NZDF review its delegations and sign-out procedures for responses to OIA requests to ensure that decisions on OIA responses are able to be made by a wider range of relevant and sufficiently senior staff members who are authorised and have capacity to make decisions.

The results of my initial staff survey highlight a lack of OIA training as a significant area of vulnerability for the NZDF, which I suggest the agency address in order to enhance its OIA culture and practices. While I acknowledge the NZDF's recent measures to improve its OIA training, I suggest that the NZDF continue to build on the work it has already done towards establishing an effective OIA training system. In addition, NZDF's senior leaders should model an internal culture whereby all staff are trained to the appropriate level for their job on official information policies and procedures and understand the legal requirements.

Training on information management and record keeping appeared to present another opportunity for improvement for the NZDF. For example, a reasonable proportion of respondents in my initial staff survey indicated that, since starting work at the NZDF, they had never received training on information management and record keeping. In addition, a large number of respondents in the survey were not clear on how to use NZDF's information management systems and many reported that it was difficult to use the systems for storage, retrieval and collation of information.

In my view, the NZDF should ensure that adequate training in information management and record keeping is provided to all staff. Such training should include both induction and refresher training provided at appropriate intervals. In order to identify areas where staff require additional support, I suggest that the NZDF also consider conducting a survey of training needs, and of compliance with information management and record keeping policies. These measures should be bolstered by increased messaging from senior leaders to signal NZDF's commitment to maintaining sound information management and record keeping practices.

Action points

6. Consider whether to authorise a wider range of senior staff members to make decisions on OIA requests, and ensure that the NZDF's responses to OIA requests are signed by the authorised decision maker
7. Ensure the OIA training programme includes the following components:
 - induction training for all staff;
 - advanced training for OIA specialists including private secretaries seconded to the Minister's office, as well as the Media team and any other front-line staff tasked with processing or responding to OIA requests;
 - targeted training for decision makers; and
 - regular refresher training for all staff
8. Ensure all staff receive training at induction on record keeping and the use of information management systems relevant to their role; regular refresher training should also be available
9. Consider conducting a needs analysis in order to identify areas where staff require additional training support and/or guidance on the use of the information management systems and good record keeping

Internal policies, procedures and resources

The NZDF's OIA guidance for its staff is comprehensive and addresses, in addition to OIA requests, NZDF's proactive release and dealing with personal information under the Privacy Act 2020, as well as staff's obligations under the Public Records Act 2005. The guidance could be further improved by including tools to help enable easy processing of OIA requests, such as

checklists, process maps, links to template letters, and a record of the NZDF's decision-making process on OIA requests set out in one discrete document. I also suggest expanding the range of substantive OIA issues covered by the guidance to include such aspects as the application of the public interest test and engagement with requesters.

At the time of writing this report, the NZDF has been unable to fully implement its proactive release programme due to technical issues with its website. The agency's OIA guidance outlines the proactive release policy in some detail and covers much of what I would expect to see in a proactive release policy. I make one suggestion, and that is to include a provision on the frequency and timing of publication of official information.

The NZDF currently operates an information management platform called Defence Documentation Management System (DDMS), which, at the time of writing this report, has not yet been implemented in all business areas within the organisation. I note that the results of my initial staff survey reveal some challenges in the staff's use of NZDF's information management systems. For example, only 11 percent of respondents in the survey stated that there was one, centralised system for records storage, and many (28 percent) indicated that it was not clear how and for what type of information each of the NZDF's records storage systems should be used.

In my view, the NZDF should ensure that the DDMS is implemented in a way that improves the efficiency of capturing, storing, searching and retrieval of information to support its overall capabilities and performance. In addition, until the DDMS is fully established, the NZDF must remain aware of the limitations of its current systems, and ensure it has policies and processes in place that will mitigate any risk of information being overlooked when it is searched for in the context of an OIA request. Senior leaders should bolster these measures by signalling NZDF's commitment to maintaining sound information management and record keeping practices.

The NZDF has a comprehensive suite of guidance to regulate its information management and record keeping practices. This includes *'Information strategy 2020'*, *'Defence Force Order 60'*, and guidance produced by the NZDF's Knowledge and Information Management Directorate on an 'as required' basis. As the NZDF advised that it will review and update its information management and record keeping policies, I encourage the agency to ensure that the guidance covers such matters as creating and managing records, as well as determining which records systems exist and what information each holds.

I note that an issue may exist around the OIA team's limited access to protected systems and documents. While I understand that the NZDF is aware of this and is considering taking steps to mitigate the issue, I suggest that staff are advised of the limitations in their access and which business units can assist in searching for information when processing OIA requests.

Action points

10. Review and update OIA guidance material incorporating my suggestions

Action points

11. Develop user-friendly tools to support the NZDF's OIA process, such as checklists, process maps, links to template letters, along with a template for recording the NZDF's decision making process on OIA requests to include considerations as outlined in my report
12. Include information on frequency and timing of publication of official information in the proactive release policy
13. Ensure that the introduction of the NZDF's new information management system, DDMS, is:
 - accompanied by appropriate interim measures (such as additional training and/or guidance) to address staff's difficulties with the use of the current information management systems to mitigate the risk of information being overlooked when it is searched for in the context of an OIA request; and
 - supported by clear and regular messaging from senior leaders on the importance of sound information management and record keeping practices.
14. Ensure that information management and record keeping guidance covers the matters outlined in my report
15. Review the OIA team's access to protected systems and documents

Current practices

The NZDF's reported timeliness compliance has been increasing since 2015/16 and remained high – 97.5 percent – in the reporting period from January to June 2020, which includes the 2020 lockdown. The agency appeared to respond well to the challenges of the 2020 lockdown with many respondents in my post-lockdown survey for staff reporting that operations and processes continued as normal during the lockdown.

Review of the NZDF's sample OIA files conducted by my investigators revealed some inconsistencies with best OIA practice. For example, the reviewed files did not appear to contain letters acknowledging receipt of OIA requests. While the files contained records of most information I would expect, they did not include documents outlining NZDF's decision making process on OIA requests and articulating the rationale behind the NZDF's decision. I suggest the NZDF remedy the above inconsistencies by amending its OIA templates consistent with my suggestions.

The NZDF's interactions with the Minister's office around OIA requests are guided by the recently developed OIA policy and procedure, Defence Force Instructions 0.70 (DFI 0.70), which contains a dedicated section outlining the agency's policies and processes in some detail. Notifications and consultations are clearly distinguished, with the guidance stating that '*[t]he Minister is notified of [OIA requests] received by the NZDF in the Defence Ministers Weekly Report.*' The guidance itself, while extensive, can be further improved by including information such as a clear statement on where responsibility rests for decision-making on departmental

OIAs, and whether all responses deemed of interest to the Minister are provided in full or can be notified by subject only or by brief synopsis.

Upon review of the NZDF's responses to media information requests handled by the agency's Media team, my investigators found that the Media team refused requests for information without citing the reasons relied on under the OIA, or informing requesters of their right to seek a review of the NZDF's decision by way of a complaint to me. I consider this practice contrary to section 19 of the OIA.

It is also my opinion that the Media team has acted contrary to law in relation to section 17(2) of the Public Records Act 2005, which requires the NZDF to maintain full and accurate records for media information requests *'in an accessible form, so as to be able to be used for subsequent reference.'*⁶

However, I have not made recommendations in these instances as the NZDF advised in its response to my provisional opinion that it will implement measures to address the identified issues.

The publication of the NZDF's OIA guidance, accompanied with providing regular specialist OIA training to the Media team, will help ensure that staff within the Media team understand their obligations under the OIA, as well as give requesters a better understanding of the NZDF's processes. These measures should be supported by messaging from senior leaders reinforcing that media information requests handled by the Media team must adhere to the OIA.

The agency is currently dealing with a significant backlog of requests for military service records where these requests are processed with delays of almost 12 months.⁷ The NZDF advised that the backlog has resulted from the impact of the 2020 lockdown, the upsurge of requests after Anzac Day commemorations, and some staffing changes that took place within the team tasked with handling requests for military service records.

While I acknowledge the NZDF's attempts to address the backlog, I consider that the NZDF has acted contrary to law by not meeting its legal obligations under section 15(1) of the OIA. This section requires the NZDF to make and communicate its decisions on requests for military service records *'as soon as reasonably practicable, and in any case not later than 20 working days after the day on which the request is received'*. Therefore, I recommend that the NZDF take steps to address the backlog of requests for military service records by ensuring that the requests are processed within the required statutory timeframes under the OIA.

Finally, I suggest that the NZDF ensure the accessibility of its official information by releasing information in a searchable format with all visual elements tagged with alternative text. This measure should also be applied to responses to OIA requests that the NZDF intends to publish on its new website.

⁶ See s17(2) of the Public Records Act 2005

⁷ Requests for military service records include requests under the OIA and the Privacy Act 2020.

Recommendation

Implement measures to address the backlog of requests for military service records by ensuring that NZDF has adequate resources to enable it to meet its legal obligations under the OIA

Action points

16. Develop a template letter for acknowledging receipt of OIA requests
17. Revise template letters for extending timeframes for responding to OIA requests and communicating refusals to release information under section 18(f) of the OIA incorporating my suggestions
18. Review the NZDF's guidance on the agency's interactions with the Minister's office incorporating my suggestions.
19. Ensure the Media team's responses to media information requests, which contain full or partial refusal, are dealt with in accordance with the provisions of the OIA
20. Ensure the Media team creates and maintains in an accessible form full and accurate records of substantive correspondence with requesters (including telephone conversations, meetings and verbal discussions), and any material internal discussions
21. Provide targeted OIA and information management and record keeping training to the Media team to ensure they understand their obligations under the OIA
22. Ensure messaging from senior leaders reinforces that media information requests handled by the Media team must adhere to the OIA
23. Ensure the text of all PDF documents proactively released are searchable and not 'image only', and all visual elements are tagged with alternative text

Performance monitoring and learning

The NZDF's draft responses to OIA requests are peer-reviewed by completing a coversheet, which provides a strong base to help ensure high quality of the NZDF's responses. However, I suggest that the agency consider developing a set of quality criteria against which all of NZDF's draft responses to OIA requests can be reviewed. This measure can be supported by including clear guidance for staff around NZDF's quality assurance and peer review policies and processes.

Quality assurance checks of OIA responses completed after requests are finalised is another way the NZDF can ensure that its practice is in accordance with the agency's OIA guidance and consistent across the organisation.

The NZDF's information management system, DDMS, captures a broad range of information on OIA requests, and the agency's OIA guidance provides extensive instructions for staff around recording qualitative OIA data such as *'total time taken to answer the request'*. Some of the collected OIA data is reported weekly by the OIA team to senior leaders and *'key personnel in all business portfolios'*, with the weekly report containing a list of current OIA requests *'presenting potential reputational risk'* and OIA requests due in the relevant week. The NZDF's practices in this area can be further improved by including more data to monitor the quality of the agency's responses to OIA requests.

Action points

24. Consider reviewing the peer review template document and including guidance on peer review in DFI 0.70
25. Develop a quality assurance process for completed OIA requests
26. Collect and report further qualitative data on the handling of OIA requests
27. Include analysis of qualitative data on OIA requests (such as trends or themes of OIA requests) in statistical reporting to senior leadership

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 NZDF's leadership and culture, I considered whether:

- Chief executives, senior leaders and managers demonstrated a commitment to the NZDF 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 NZDF's strategic plans, creating a public perception of openness.

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.

When asked to provide examples of clear messaging to staff about the importance of complying with the purposes, principle and requirements of the OIA, the NZDF replied with the following:

- *The NZDF OIA policy (Defence Force Order 70) is currently being reviewed and updated.*
- *Training by Ombudsman's Office and NZDF staff to specific teams that deal with the most requests for information.*
- *Regular meetings between Chiefs of Staff to ensure compliance.*

As an example of messaging to staff, I note that the NZDF's recently introduced OIA guidance (Defence Force Instructions 0.70, discussed in [Internal policies, procedures and resources](#)) includes the following high-level statement about the OIA:

As a nation, New Zealand has one of the world's most open and trustworthy governments. The NZDF is committed to improving how Government responds to requests for Official Information. This includes making Official Information more

accessible by adopting regular administrative practices for responding to requests for access to Official Information.

Leadership and a strong commitment to complying with the OIA and the PA [Privacy Act 2020] are exercised from the very top of the NZDF. Successive Chiefs of Defence Force have set great value on providing access to Official Information. They have recognised that effective government relies on transparency and openness. This understanding extends to providing a greater awareness of the professionalism of the NZDF as a whole and ensures that the public are well-informed of its activities.

During meetings with my investigators, key NZDF staff indicated that the agency has undergone a shift in its OIA culture with staff (particularly uniformed personnel) becoming increasingly aware of openness and compliance with the OIA. However, many respondents in my initial staff survey also commented on the NZDF's challenges in balancing the need for operational security with transparency and openness:

There appears to be a difference in approach between the civilian arm (quite pro openness) to the military arm (way more reticent and unwilling).

NZDF participates in operations that makes it difficult to always be completely open...

Very pro-disclosure but tempered by the need to protect that which is necessarily secret...

Given the nature of the work that some parts of the NZDF perform on behalf of all New Zealanders some information cannot be provided to the public/media. Otherwise it could place lives at risk. However, wherever possible NZDF seeks to be a transparent and open organisation.

The NZDF understands the need for transparency - there is always a tension between total openness and operational security.

Policy is not always clear especially when on going overseas operations are concerned. NZDF needs to protect the integrity of its security classifications relating to operations. Unfortunately that means not being open and disclosing to the public.

The nature of Defence and Intelligence business creates a culture of protectiveness. Even Defence Public Affairs duck all questions that they aren't obliged to answer. Whilst often strictly correct, it may not present the whole picture.

Some comments from my initial staff survey also show that there may be areas within the organisation in need of increased training and messaging to raise OIA awareness and tackle outdated perceptions on the principle of availability of official information:

[The NZDF] want to disclose nothing - then try and release the least it can get away with. The intent to protect the reputation of the NZDF is the key behaviour modifier, and that protection is more important than openness.

The culture not to disclose is far stronger than any policy.

While I believe the NZDF wants to be more transparent, there is a general sense that certain sectors of the public and some media outlets would simply use (or deliberately misconstrue) released information to discredit the NZDF.

The results of my initial and post-lockdown staff surveys⁸ indicate that respondents generally hold a favourable opinion of the NZDF's openness culture. When asked *'What is your impression of your agency's overall commitment to a culture of openness and public participation?'* respondents answered as follows:⁹

	Strongly pro-openness and public participation	Moderately pro-openness and public participation	<i>'It is silent on the issue' or 'I don't know'</i>	Moderately anti-openness and public participation	Strongly anti-openness and public participation
Initial survey	19%	56%	5%	13%	8%
Post-lockdown survey	31%	38%	20%	7%	3%

Survey respondents were also largely positive in their views on leaders' approach to openness. When asked *'How would you rate the signals sent by the following people about openness and public engagement more broadly, as it relates to your agency?'* the respondents answered as follows:

Leadership level	Initial staff survey: Strongly or moderately pro-openness	Post-lockdown staff survey: Strongly or moderately pro-openness	Initial staff survey: <i>'They are silent on the issue' or 'I don't know'</i>	Post-lockdown staff survey: <i>'They are silent on the issue' or 'I don't know'</i>	Initial staff survey: Strongly or moderately anti-openness	Post-lockdown staff survey: Strongly or moderately anti-openness
Chief Executive	65%	57%	29%	36%	6%	7%
Deputy Secretaries	56%	47%	36%	48%	8%	5%

⁸ There were 143 total responses to the initial staff survey compared to 414 total responses to the post-lockdown staff survey. Any findings should be balanced against the total number of staff (approximately 15,000) employed by the NZDF.

⁹ Note that figures may not total 100 percent due to rounding.

Leadership level	Initial staff survey: Strongly or moderately pro-openness	Post-lockdown staff survey: Strongly or moderately pro-openness	Initial staff survey: <i>'They are silent on the issue' or 'I don't know'</i>	Post-lockdown staff survey: <i>'They are silent on the issue' or 'I don't know'</i>	Initial staff survey: Strongly or moderately anti-openness	Post-lockdown staff survey: Strongly or moderately anti-openness
Immediate Manager	62%	59%	28%	33%	10%	8%

However, when staff were asked *'How would you rate the signals sent by the following people about the OIA, as it relates to your agency?'* many respondents were less certain:

Leadership level	Initial staff survey: Strongly or moderately pro-disclosure	Post-lockdown staff survey: Strongly or moderately pro-disclosure	Initial staff survey: <i>'They are silent on the issue' or 'I don't know'</i>	Post-lockdown staff survey: <i>'They are silent on the issue' or 'I don't know'</i>	Initial staff survey: Strongly or moderately anti-disclosure	Post-lockdown staff survey: Strongly or moderately anti-disclosure
Chief Executive	44%	40%	50%	56%	6%	5%
Deputy Secretaries	39%	36%	54%	59%	7%	5%
Immediate Manager	48%	49%	43%	46%	9%	5%

Of the twelve agencies surveyed in my current investigation, the NZDF received below average ratings from respondents in my initial staff survey in relation to senior leaders' approach to disclosure of information under the OIA and their approach to openness more generally. The average ratings from across all twelve agencies in my initial staff survey were as follows:¹⁰

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

¹⁰ Numbers have been rounded to the nearest percentage.

- 76 percent said the signals sent by their Chief Executive are strongly or moderately pro-openness;
- 69 percent said the signals sent by Deputy Secretaries are strongly or moderately pro-openness.

Overall, senior leaders' messaging on the OIA and openness in general appears to be an area of vulnerability for the NZDF. The agency's response to my questionnaire, while outlining some positive OIA practices, did not provide examples of proactive regular messaging from senior leaders. The results of my initial and post-lockdown surveys also show that a significant proportion of respondents did not know how to rate the signals sent by NZDF's senior leaders on openness and the OIA or thought the leaders were silent on these issues.

While the results of my surveys showed that many respondents thought favourably of the NZDF's overall commitment to a culture of openness reflecting a positive shift in the perception held by staff, I note that that the NZDF's culture was recently the subject of extensive media coverage in the context of the Government Inquiry into Operation Burnham.¹¹ The report released by the Inquiry referred to 'failures of culture' as it stated the following:¹²

NZDF is subject to the control of the minister, who in turn is accountable to Parliament. NZDF is also subject to the Official Information Act, with its emphasis on transparency within state organisations to the extent possible. On the basis of what we have seen in this Inquiry, it appears that the culture within NZDF was not fully accepting of the constraints and disciplines inherent in those fundamental principles.

In light of the above, I strongly encourage the NZDF to continue to work on improving its OIA culture to bring about the 'fundamental change' as recommended by the Inquiry. While some of NZDF's recent measures¹³ may go some way towards effecting the necessary change, in my view, the NZDF's senior leaders should send more regular communications to staff (via emails, memos, the intranet, meetings, blogging and newsletters) reinforcing the importance the agency attaches to openness and complying with the principle and purposes of the OIA.

Senior staff should also actively role-model openness, transparency and good OIA practices (including sound information management and record keeping). NZDF's senior leaders can take the lead in championing positive engagement with official information legislation, for example, by promoting an internal culture whereby expectations are clear that all staff are provided adequate OIA training. These expectations should be made visible by the agency's senior

¹¹ Link to the [Report of the Government Inquiry into Operation Burnham and related matters](#)

¹² The report also commented on the NZDF's 'lack of corporate memory' stemming from the agency's 'failures to keep proper records ... and inadequate information storage and retrieval processes'.

¹³ These include the recently developed OIA guidance, DFI 0.70 (discussed in [Internal Policies, procedures and resources](#)), and some measures aimed at improving NZDF's OIA training systems (discussed in [Organisation structure, staffing and capability](#)).

leaders attending OIA training themselves. I discuss OIA training in more detail in [Organisation structure, staffing and capability](#).

Staff's concerns around balancing operational security with transparency and openness could be addressed by messaging to all staff that one of the OIA's purposes is '*...to protect official information to the extent consistent with the public interest and the preservation of personal privacy.*'¹⁴ The key principle of the OIA is that information must be made available on request '*unless there is good reason for withholding it*'.¹⁵ The tools for protecting information are the withholding grounds in sections 6, 7, 9 and 10 of the OIA.

Action points

Senior leaders should make clear, visible and regular statements to all staff about the OIA and its role in enabling more effective participation in government and promoting accountability through openness and transparency

Senior leaders to set clear expectations that staff receive appropriate training on the OIA and make these expectations visible by attending training themselves

Messaging to the public

It is important for agencies to publicly express a commitment to openness and transparency to increase public awareness of the OIA as a constitutional measure and enable the public to have trust and confidence in how requests for information will be treated.

When asked to provide examples of clear messaging to external stakeholders about the NZDF's commitment to complying with the purposes, principle and requirements of the OIA, the NZDF provided the following in its response to my initial questionnaire:

- *Full participation in the Government Inquiry into Operation Burnham – 15 May 2018 statement*
- *Publication of statements in response to allegations from members of the media*

While the above constitutes limited evidence of NZDF's explicit and regular messaging to the public, I note that the agency's corporate and strategic documents provide more helpful examples. The documents, published on the NZDF's website,¹⁶ contain the following statements:

¹⁴ See s 4(c) of the OIA

¹⁵ See s 5 of the OIA

¹⁶ Link to the NZDF's ['Document library' webpage](#). The webpage includes NZDF Strategic Plan 2019-2025, New Zealand Defence Force – Statement of Intent for the period 1 July 2018 – 30 June 2021 and Annual reports.

- The NZDF's Strategic Defence Policy Statement 2018¹⁷ prioritises maintaining public trust and confidence as one of the agency's high-level principles 'underpinning New Zealand's Defence policy'. The Statement also says that '[d]efence must be transparent and open with the New Zealand public'.
- The NZDF's Strategic Plan 2019-2025¹⁸ also refers to maintaining public trust and confidence as a high-level principle. The plan further states as follows:

A foundational component of being able to operate effectively as an organisation and on operations is robust information management systems that provide secure, ready, resilient, and protected information to people when needed.

- The NZDF's Statement of Intent 2018-2021¹⁹ describes the Defence Force Governance Model as one that is 'designed to deliver a strong performance and accountability culture and bring closer alignment between governance, performance and planning.'
- Finally, the NZDF's Annual Report 2020²⁰ outlined the 2020 results of Colmar Brunton Public Sector Reputation Index which measures the public reputations of 54 New Zealand public sector agencies:

The NZDF recorded one of the largest moves by any agency, improving from the tenth position of the 54 public sector agencies rated in 2019 to the second position in 2020. The NZDF scored highly in all four areas of the research which are Fairness, Trust, Leadership and Social Responsibility.

All of the above documents emphasise, as one of NZDF's high-level principles, that the agency 'must be transparent and open with the New Zealand public'.

It is evident that the NZDF's corporate and strategic documents include many positive statements signalling the agency's commitment to being an accountable government agency that aims to maintain public trust and confidence. However, the documents contain only a few references to openness and transparency and do not mention the OIA at all.

I also note that the need to improve public's perception of the NZDF's OIA culture was highlighted in the report of the Government Inquiry into Operation Burnham:²¹

We also consider that NZDF's culture would benefit if NZDF embraced greater openness and transparency as an operating principle, thereby building greater public trust and confidence.

¹⁷ Link to the NZDF's [Strategic Defence Policy Statement 2018](#)

¹⁸ Link to the NZDF's [Strategic Plan 2019-2025](#)

¹⁹ Link to the NZDF's [Statement of Intent 2018/19-2021/22](#)

²⁰ Link to the NZDF's [Annual Report 2020](#)

²¹ Link to the [Report of the Government Inquiry into Operation Burnham and related matters](#)

As with internal messaging on openness and the OIA, review of the NZDF's signalling to its external stakeholders reveals many opportunities for the agency to improve its messaging. The NZDF's response to my initial questionnaire did not contain any examples of proactive and regular signalling by the agency's leaders of its commitment to openness and compliance with the OIA. The NZDF's website and strategic and corporate documents also appear to be in need of increased messaging. I encourage the agency to consider the impact of promoting good OIA compliance and practice (including proactive release) on public trust and perceptions of transparency and openness by weaving OIA compliance into NZDF's corporate and strategic documents. Therefore, I suggest that the NZDF include in its corporate documents a strategic framework describing how the agency intends to achieve:

- Compliance with the OIA;
- Good practice;
- A culture of openness and continuous improvement; and
- Participation and access to information by the public and stakeholder groups through, for example, proactive release.

Action points

Senior leaders should make clear, visible and regular statements to the public about the OIA and its role in enabling more effective participation in government and promoting accountability through openness and transparency

NZDF should incorporate in its corporate documents a strategic framework describing how the agency intends to achieve:

- Compliance with the OIA;
- Good practice;
- A culture of openness and continuous improvement; and
- Participation and access to information by the public and stakeholder groups.

OIA webpage

The NZDF has been experiencing technical issues with its website since late July 2020 when a hardware failure at one of the agency's data centres caused the website to go offline.²² As the website was later found to be unrecoverable,²³ the NZDF operated a temporary website which, as stated by the NZDF in its correspondence to my Office, *'has a narrow content scope and limited scope for growth'*.

²² Link to New Zealand Herald news article [They won't let you go far: NZ Defence Force sites offline](#)

²³ Link to New Zealand Herald news article [Online casualties: NZ Defence Force websites now deemed unrecoverable](#)

I was advised by the NZDF that, although a new website went live on 18 October 2021, it *'remains a work in progress'* with further changes expected with respect to content.

When reviewing and planning the content of the new website, I encourage the NZDF to ensure that the website is consistent with guidance published by the Public Service Commission²⁴ and includes the following information:

- An overarching statement of the NZDF's commitment to complying with the purposes, principle and requirements of the OIA, including an explanation of how one of the purposes of the OIA is to enable the public to participate in government decision making and to hold government agencies to account;
- Links to proactively released information (including previous OIA responses) along with a link to the *Directory of Official Information*²⁵ published by the Ministry of Justice (the webpage can also invite requesters to look at the already published information before making an OIA request – this may help requesters make fewer or more targeted OIA requests);²⁶
- How to make an OIA request, including a definition of official information, who can make an OIA request, timeframes for processing OIA requests, withholding information, link to the charging guidelines published by the Ministry of Justice, and contact details for making OIA requests;
- What to do if a requester has a complaint about the NZDF's response (including a link to my website);
- Links to the agency's OIA policy and procedure (the NZDF advised in its correspondence that the agency's website is to include the recently reviewed OIA policy (discussed in [Internal policies, procedures and resources](#))).

I encourage the NZDF to publish the above information on its website as it will help the agency achieve the following:

- Promoting openness and accountability by increasing OIA awareness among internal and external stakeholders (I note that the NZDF's OIA policy already contains positive messaging for staff that the webpage *'must allow persons to request access to Official Information without difficulty and provide clear guidance on how the NZDF will respond to their requests'*);
- Providing requesters with a better understanding of what information the NZDF holds, which enables them to make more tailored OIA requests, which may in turn help reduce unnecessary administrative burdens on the NZDF; and
- Increased understanding of the NZDF's OIA processes by requesters, which can help manage their expectations around their OIA requests and make the NZDF less vulnerable

²⁴ Link to the Public Service Commission [Agency Website Guidance](#)

²⁵ See s 20(1) of the OIA

²⁶ Link to the [Directory of Official Information](#)

to criticism when applying its OIA policy and procedure (especially when applying the withholding grounds under the OIA).

Action point

Review and update the website incorporating my suggestions

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 NZDF's organisational structure, staffing and capability, I considered whether:

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

Model for handling OIA requests

The NZDF's current OIA processes operate under a partly centralised model which, as indicated by the agency's reported timeliness of 99.2 percent for the reporting period from July to December 2020,²⁷ appears to meet the NZDF's demands in this area of its functions. Overall, and subject to my later comments on service record requests (discussed further in [Current practices](#)), the NZDF appears to have the staffing capacity and organisational capability to ensure that the agency is able to meet its OIA obligations in a timely manner. The NZDF's capacity and capability also allowed it to successfully adapt to the challenges of the 2020 lockdown (discussed further in [Current practices](#)).

The NZDF's OIA team (Corporate and Ministerial Services team), sits within the Office of the Chief of Defence, which also includes the legal and media communications teams. The OIA team consists of 5 FTE specialist advisors and supports the NZDF in meeting its obligations under the OIA, as well as handling correspondence addressed to the Minister, the Chief of Defence and tier two managers. The OIA team reports to the Director of Coordination who reports to the Chief of Staff.

The team is supported by dedicated points of contact (Information Contact Officers), located throughout the organisation, whose main responsibility is to help coordinate OIA responses and input from subject matter experts. The NZDF's OIA guidance states that Information Contact Officers are appointed by Commander Joint Forces and must be *'trained on the NZDF policies and procedures and the requirements of the OIA and the PA [Privacy Act 2020].'*

²⁷ An NZDF staff member advised that during the reporting period from July to December 2020 the agency started including requests for military service records (discussed in [Current practices](#)) in the OIA statistics reported to the Public Service Commission.

While the Information Contact Officers generally administer OIA requests directed to their business area, the agency's OIA guidance prescribes that certain OIA requests are to be referred to the Office of the Chief of Defence Force, i.e. when a response may:

1. *impact on the reputation of the NZDF;*
2. *require consultation with other parts of the NZDF;*
3. *involve the research and collation of a large amount of information;*
4. *require consultation with Defence Legal Services;*
5. *require review by the Chief Financial Officer;*
6. *involve sensitive information concerning the defence and security of New Zealand and its people or the Government's international relationships;*
7. *require considered application of the PA [Privacy Act 2020]; or*
8. *when considering charging the requester for release of the information.*

Authorised decision makers

The NZDF's Chief of Staff (who reports directly to the Chief of Defence Force) is assigned with the overall responsibility for the agency's OIA performance and is the delegated²⁸ decision maker on OIA requests.

A senior NZDF staff member advised that most responses to OIA requests are signed by the Chief of Staff with the Director of Coordination making decisions on OIA requests when the Chief of Staff is away.

It is positive that the Chief of Staff takes ownership of OIA requests and there are resilience arrangements in place for when he is unavailable to sign OIA responses. I observe, however, that the Chief of Staff is the substantive decision maker on upwards of 1000 requests per year. Given the sheer volume of requests, as well as the other duties incumbent on the Chief of Staff, it seems unlikely that the Chief of Staff would have capacity to consider and decide on each of these requests in a detailed manner.

The NZDF, therefore, may wish to review its delegations and sign-out procedures to ensure that decisions on OIA responses are able to be made by a wider range of relevant and sufficiently senior staff members who are authorised by the Chief of Defence Force to make decisions on their behalf.

I suggest that the NZDF also record its decision making process on OIA requests in appropriate detail (discussed in [Internal policies, procedures and resources](#)), so it is clear which staff member made the decision on the request, and the agency is able to ensure that decisions on OIA requests are made by authorised decision makers.

²⁸ See s 15(4) of the OIA

Action point

Consider whether to authorise a wider range of senior staff members to make decisions on OIA requests, and ensure that the NZDF's responses to OIA requests are signed by the authorised decision maker

OIA training

My initial staff survey asked when respondents last received training on responding to OIA requests. The results below show that a significant proportion of respondents have never received training on the OIA:²⁹

Within the last year	Between 1-2 years ago	Between 3-4 years ago	More than 4 years ago	'I have never received any training on the OIA'
7%	3%	8%	15%	66%

Respondents in my initial staff survey commented on the agency's OIA training as follows:

The one-on-one training was cursory and consisted of a short brief on the OIA process and what my role was in collecting all relevant information to honestly answer an OIA request.

Self-initiated through reading of documents on the Ombudsman's website (resources)...

I am a lawyer and the OIA was part of my academic study...

There is no training. OIA responses are controlled by the Legal [department], whose aim is to protect the organisation.

Some basic level training in terms of general awareness would be useful...

When asked whether the agency has OIA policy and/or guidance documents, 35 percent of respondents to my initial staff survey said they did not know.³⁰

The above results and comments highlight a lack of training as a significant area of vulnerability for the NZDF which I suggest the agency address in order to enhance its OIA culture and practices.

In its response to my initial questionnaire the NZDF provided the following outline of its OIA training systems:

²⁹ Numbers may not add up to 100 as they have been rounded to the nearest percentage.

³⁰ Sixty five percent of respondents indicated 'yes'.

- *Regular and ongoing agency wide training is still in development in conjunction with the accompanying Defence Force Orders and Defence Force Instructions.*
- *OIA training is not yet provided to all new NZDF staff at induction.*
- *As previously mentioned, training is provided to relevant staff, including managers, in specific parts of the organisation.*
- *This training includes sessions at NZDF by Ombudsman's Office staff and attending OIA training sessions hosted by the [Public Service Commission].*

NZDF staff also stated during a meeting with my investigators that, whenever a new point of contact for processing OIA requests is appointed within a business group, the OIA team member will conduct a briefing with the appointee. During the briefing, a general outline of the OIA and the NZDF's OIA process will be provided to the new point of contact. The briefings are further supplemented with regular meetings between the OIA team staff and points of contact, depending on the individual's training needs and workload of the relevant business group.

Following the staff changes within the NZDF's Media team (Defence Public Affairs), the agency arranged for my staff to conduct a training session for the team on 9 October 2020. An internal Q&A session was subsequently conducted for the staff by the OIA team (Corporate and Ministerial Services) as a follow-up to the session held by my staff. (I discuss Media team training further in [Current practices](#).)

It is pleasing to see the NZDF implement measures to improve its OIA training, especially since, as noted by some staff members during meetings with my investigators, providing training to specific business areas that deal with most OIA requests appears to have contributed to a positive shift in the NZDF's OIA culture (discussed in [Leadership and culture](#)).

However, based on the above results of my initial staff survey, I suggest that the NZDF continue to build on the work it has already done towards establishing an effective OIA training system. The training system should ideally include the following elements.

- Induction training should be provided to new NZDF staff in order to establish basic awareness of key matters such as, for example, the purposes of the OIA, the principle of availability and the definition of 'official information'. While I do not expect all staff to have advanced knowledge of the OIA, all government employees must understand the principle and purposes of the OIA and its role in ensuring government accountability and reflecting the OIA's constitutional importance, and understand what to do if they receive a request for information.
- The partly centralised model of processing OIA requests operated by the NZDF and the size of the agency (approximately 15,000 FTEs) warrants, in my view, the provision of specialist OIA training not only to the OIA team but also to its points of contact throughout the organisation. Such training will help facilitate effective discussions among

staff involved in the OIA process, especially as points of contact are appointed from operational areas of the agency and may be less familiar with the OIA.

The specialist OIA training should be delivered regularly to address more advanced OIA topics, including the balancing of the harm and public interest test, dealing with broad or complex requests and how to appropriately engage with requesters. The points of contact must have some familiarity with and awareness of the nuances of the OIA if they are to successfully collate information (when processing an OIA request) to which the OIA team might only have limited access.

- Along with the OIA team and its points of contact, regular OIA training should also be provided to private secretaries seconded to the Minister's office, as well as the agency's Media team and any other front-line staff tasked with processing or responding to OIA requests.
- Finally, I suggest that the NZDF deliver regular OIA training to senior staff at tier four management level and above who make decisions on OIA requests. This will help ensure that the NZDF's decision makers keep abreast of any changes to OIA legislation or guidance that might affect the agency's policies and procedures when dealing with OIA requests. Even more importantly, providing refresher OIA training to senior managers will help prevent over-reliance on the managers' past experience in the public sector and reduce the risk of outdated views and decisions passing on to other staff and becoming embedded into the NZDF's OIA practice.

The above measures, when fully implemented, will no doubt benefit the NZDF's practices by increasing agency-wide OIA awareness, providing staff with current knowledge of the OIA and best OIA practices which will help ensure that OIA requests are dealt with consistently in accordance with the OIA. In addition, NZDF's senior leaders should model an internal culture (discussed in [Leadership and culture](#)) whereby all staff are trained to the appropriate level for their job on official information policies and procedures and understand the legal requirements. Clear expectation should be set that all staff attend OIA training (with senior leaders also attending themselves), including regular refresher training. This will help reinforce to staff the importance that the NZDF's leaders place on the OIA, championing positive engagement with official information legislation.

The NZDF may wish to be aware that staff in my office are available to assist with developing and/or delivering training on request.

Action point

Ensure the OIA training programme includes the following components:

- induction training for all staff;
- advanced training for OIA specialists including private secretaries seconded to the Minister's office, as well as the Media team and any other front-line staff tasked with processing or responding to OIA requests;

Action point

- targeted training for decision makers; and
- regular refresher training for all staff.

Information management and record keeping training

It is my expectation that all agencies provide training for staff on information management systems and record keeping obligations that is role-specific, and includes guidance on information retrieval, as well as information storage. Implementing agency-wide information management and record keeping training is essential in order to facilitate the retrieval of information in response to an OIA request. The effective use of systems for storage and retrieval of information is important not only in fulfilling OIA obligations, but for efficient business practices generally.

In its response to my initial questionnaire the NZDF stated that it *‘provides systems based Information Management training to all staff. Training covers the correct use of systems to ensure compliance.’* NZDF staff further clarified during meetings with my investigators that training has been provided to staff on the use of the recently introduced information management system, Defence Document Management System (DDMS) (discussed in further detail in [Internal policies, procedures and resources](#)). Staff are required to pass an online test before they are able to use the new system. Meeting attendees also acknowledged that there may be room to improve the agency’s information management and record keeping training as the staff often have to approach the NZDF’s record keeping specialists in order to search for and retrieve information from the agency’s information management systems.

The need to increase staff training around record keeping and the use of information management platforms is evidenced by the results of my initial staff survey. A reasonable proportion of respondents in the survey indicated that, since starting work at the NZDF, they had never received training on information management (12 percent) and record keeping (32 percent).³¹ Staff were further asked to describe the nature of the training they received at the NZDF, to which the respondents answered as follows:

‘What was the nature of the information management/record keeping training you received?’

Answer choices	Responses
There is some mention of IM systems/record keeping during induction training	28%
A general overview of how to use the information management systems and record keeping obligations	58%

³¹ For information management training, 3 percent said they had received it more than four years ago; 6 percent between 3-4 years ago; 30 percent between 1-2 years ago; and 48 percent within the last year. For record keeping training, 19 percent said they had received it more than four years ago; 4 percent – between 3-4 years ago; 20 percent between 1-2 years ago; and 24 percent within the last year.

Answer choices	Responses
In depth training on record keeping and information management systems including use of search functions	25%
A record keeping and information management refresher session for experienced staff	4%
One-on-one training on an ad hoc basis	20%
I haven't received any training on record keeping or information management since working at this agency	11%
Other (staff responded with comments describing training on the new information management system, DDMS)	17%

I note that 20 percent of respondents received training on an ad hoc basis, and only 4 percent received refresher training. This suggests an opportunity for the NZDF to implement refresher training for staff at regular intervals.

The results of the initial staff survey also show that staff may be in need of increased training on the use of NZDF's information management systems. A large proportion of respondents in the survey reported that it was difficult to use the NZDF's information systems for storage, retrieval and collation of information. The below table shows responses to the question 'How easy or difficult is it to:'

	Very or somewhat easy	Neither easy nor difficult	Somewhat or very difficult	'I don't know'
Use the information management system(s) to store information?	37%	16%	42%	5%
Use the information management system(s) to search for and find information?	29%	15%	52%	4%
Use the information management system(s) to collate information?	23%	15%	52%	11%

Although I note the NZDF has guidance material in relation to record keeping and information management systems (discussed in [Internal policies, procedures and resources](#)), training on the use of these systems would increase staff awareness of the guidance and how to use the systems.

I am concerned that where staff are not clear on how to use the NZDF's information management systems, the task of retrieving information when handling OIA requests becomes more complex. Therefore, in order to help minimise the time required to search for information, and to mitigate the risk that information within the scope of an OIA request may

not be found, I suggest that the NZDF ensure that adequate training on information management and record keeping is provided to all staff. Such training should include both induction training and refresher training provided at appropriate intervals.

In order to identify areas where staff require additional support, I suggest that the NZDF also consider conducting a survey of training needs, and of compliance with information management and record keeping policies. These measures should be bolstered through increased messaging from senior leaders to signal NZDF's commitment to maintaining sound information management and record keeping practices.

Action points

Ensure all staff receive training at induction on record keeping and the use of information management systems relevant to their role; regular refresher training should also be available

Consider conducting a needs analysis in order to identify areas where staff require additional training support and/or guidance on the use of the information management systems and good record keeping

Internal policies, procedures and resources

I expect as a matter of good practice that agencies develop or adopt 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 of the OIA.

To assess the NZDF'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 policy and guidance material

The NZDF's OIA guidance for its staff is contained in a document titled '*Defence Force Instructions 0.70 Official Information*' (DFI 0.70) which has been in force since 1 December 2020. This is an extensive 99 page document that '*provides direction to members of the NZDF about the protection, availability, use and disclosure of information held by the NZDF*'. In addition to OIA requests, the guidance also addresses proactive release and dealing with personal information under the Privacy Act 2020 (including the NZDF's privacy policy), as well as the requirements to retain and dispose of official information pursuant to the Public Records Act 2005.

DFI 0.70 is comprehensive and contains guidance on the following issues:

- The purpose of the OIA and the principle of availability of official information;
- Information security and security classification system;
- The outline of the various stages in the OIA process including the following:
 - the definition of official information and the form of OIA requests, including the principle of '*due particularity*';³²
 - requester engagement, including considering requests for urgency and the requirement under the OIA to provide reasonable assistance to requesters;

³² To be a valid request, the information sought must be '*specified with due particularity*' (s 12(2) of the OIA). This means that the agency must be reasonably able to identify what information is being requested.

- processes for transfers, extensions, amendments and clarifications of requests, and considering alternative ways of providing information in response to an OIA request;
 - charging for the provision of official information (in addition to the outline of the NZDF's processes for charging, staff are instructed to refer to the charging guidelines published by the Ministry of Justice and the Ombudsman's guidance);
 - searching for information – the inclusion of this guidance is a particularly positive measure as it instructs staff that, when processing OIA requests, *'a record detailing the search for information is to be compiled'*, including key words and other search terms used to locate the information, *'for future reference for similar enquiries or an Ombudsman's investigation'*;
 - brief description of the withholding grounds under the OIA with references to the relevant sections and the description of the agency's obligation under the OIA to advise requesters of reasons for refusing information and their right to seek a review of the decision on their request by the Ombudsman (as a minor suggestion, this can be supplemented by a list of agency-specific examples of the types of OIA requests most frequently received by the NZDF along with guidance on the possible withholding grounds applicable in each case);
- Role of the Ombudsman in the administration of the OIA, including investigations of complaints;
 - Contact with the media and communicating in public (these instructions aim to ensure that NZDF's contact with the media and public is *'appropriate, worthwhile and protects members of the NZDF against possible misreporting'*);
 - Interactions with the Minister's office around processing of OIA requests by the NZDF;
 - Processing of media information requests;
 - Proactive release of official information.

While the DFI 0.70 provides extensive guidance on the OIA, it could be made more user-friendly by including the following tools to support the OIA process:

- Brief checklists and process maps to guide staff through the stages in the OIA process and highlight various levels of involvement of each staff member or business group in the OIA process from receipt to sign-out (this can include quality assurance processes conducted via e.g. peer-reviewing draft responses to OIA requests with the use of prescribed criteria);
- Links to template letters for various stages in the OIA process, such as, for example, acknowledging the receipt of an OIA request, seeking clarification or amendment of requests, transfers, extensions and letters responding to OIA requests (I encourage the

NZDF to consider aligning the wording of its letters with the templates I have produced);³³

- Record of the NZDF's decision-making process on OIA requests in the form of a sign-off sheet or memoranda for decision makers to help guide staff handling similar OIA requests, streamline the decision-making process and promote good record-keeping. The record could include the following considerations:
 - details of internal and external consultations on OIA requests,
 - factors considered when applying withholding grounds under the OIA, including the public interest test,³⁴ where appropriate;
 - the administrative steps taken to search for information,³⁵ including the system that was searched, the search terms or methods used and the outcome of the searches, where appropriate.

There are a number of reasons I suggest the NZDF implement the above measures and maintain good record keeping practices for OIA requests:

- the Public Records Act 2005 (PRA) requires every agency to which it is subject to create and maintain full and accurate records of its affairs;³⁶
- good record keeping practices for OIA requests will assist the NZDF in ensuring consistency between decisions, in responding to Ombudsman investigations, and in responding to requesters if they seek the grounds for withholding information under section 19 of OIA;
- information released under the OIA does not automatically attract protections under section 48 of the OIA.³⁷ Instead, as the High Court has recently clarified,³⁸ section 48 operates as a positive defence, and it is the agency who bears the onus of demonstrating that information was released pursuant to an OIA request and in 'good faith'. It therefore would be prudent to keep records of the NZDF's decision making in order to evidence 'good faith' release should any decision become the subject of a challenge.

³³ Link to the Ombudsman [Resources and publications webpage](#)

³⁴ Link to the Ombudsman [Public interest: A guide to the public interest test](#)

³⁵ Explanation of what constitutes a 'reasonable search' is outlined in Ombudsman's guidance [Information not held](#).

³⁶ See s 17 of the Public Records Act 2005

³⁷ Section 48 of the OIA states that '[w]here any official information is made available in good faith pursuant to this Act no proceedings, civil or criminal, shall lie against the Crown or any other person in respect of the making available of that information, or for any consequences that follow...'

³⁸ *Williams v New Zealand Police* [2021] NZHC 808, currently under appeal.

I note that 51 percent of respondents in my initial staff survey indicated that they found the NZDF's OIA guidance easy to find or access, and 41 percent of respondents found it easy to understand and use.³⁹

The NZDF's current OIA guidance contains many directions that are helpful and user-friendly, such as the following:

A security classification or endorsement does not in itself provide good reason for withholding Official Information. The security classification or endorsement determines how a document is handled within the government system, not whether it can be released externally.

Also:

A decision to withhold any information that is classified or is protected by special handling endorsements must be made under the criteria of the OIA, as for all other Official Information.

I commend the NZDF for including this into the OIA guidance as clear instructions around handling classified information are important for any government agency working in the defence, national security and international relations spheres. The need for clear guidance and training on handling classified information and compliance with the OIA is also evidenced by some comments in the initial staff survey, for example:

A lot of our information is classified so we cannot be open with everything.

While the NZDF's guidance on the OIA is already extensive, it can be further improved by including more information on the following issues:

- Requests made under sections 22, 23 and 24-27 of the OIA;
- Application of the public interest test (for example, a step-by-step process of application of the test as outlined in Appendix 1 to my guidance 'Public interest: A guide to the public interest test');⁴⁰
- Consulting with and assisting requesters, including:
 - strategies for managing difficult OIA requests (see, for example, Appendix 2 to my guidance 'The OIA for Ministers and agencies: A guide to processing official information requests');⁴¹

³⁹ A reasonable proportion of respondents thought that it was neither easy nor difficult: 24 percent for finding or accessing OIA policy and guidance, and 33 percent for understanding or using OIA policy and guidance.

⁴⁰ Link to the Ombudsman [Public interest: A guide to the public interest test](#)

⁴¹ Link to the Ombudsman [The OIA for Ministers and agencies: A guide to processing official information requests](#)

- before refusing an OIA request due to administrative reasons,⁴² considering whether fixing a charge and extending the time limit under section 15A of the OIA would enable the request to be granted;⁴³
- Tracking the handling of the requests and managing potential delays (including the reasons for them and consultations with the requester).

Action points

Review and update OIA guidance material incorporating my suggestions

Develop user-friendly tools to support the NZDF's OIA process, such as checklists, process maps, links to template letters, along with a template for recording the NZDF's decision making process on OIA requests to include considerations as outlined in my report

Proactive release of information policy

As the NZDF has been experiencing technical issues with its website at the time of writing this report (discussed in [Leadership and culture](#)), the agency has been unable to fully implement its proactive release programme as outlined in its OIA policy and procedures (DFI 0.70). The range of documentation currently published by the agency on its website⁴⁴ includes the following:

- Strategies and plans (for example, Strategic Defence Policy Statement 2018),⁴⁵
- Operational guidance (for example, a document titled '*New Zealand Defence Doctrine NZDDP-D (Fourth Edition)*'),
- Reporting documentation (including Briefings for the Incoming Minister and Annual reports.⁴⁶)

The NZDF does not currently publish its responses to OIA requests or its OIA policy and guidance material.

The NZDF's proactive release policy and procedure are outlined in detail in *DFI 070 – Official Information* (discussed in [Internal policies, procedures and resources](#)). The guidance (referring to proactive release as '*voluntary release*') contains the following information:

- High-level statement expressing the NZDF's commitment to '*improving how Government responds to requests for Official Information*';
- Statement outlining the benefits of proactively releasing information;
- Types of official information that the NZDF proactively releases (this includes, among other things, responses to OIA requests and '*policies and procedures ... and other*

⁴² See s 18 of the OIA

⁴³ See s 18A of the OIA

⁴⁴ Link to the NZDF's [Document library webpage](#)

⁴⁵ Link to the NZDF's [Strategic Defence Policy Statement 2018](#)

⁴⁶ Link to the NZDF's [Annual Report 2020](#)

material that would help the public best understand the role of the NZDF, and other material of general interest that may become subject to requests under the OIA’);

- Identifying opportunities for proactively releasing information, such as analysing and reporting ‘*emerging trends or questions about a particular subject*’;
- Process for preparing for proactive release, including managing risks around private or confidential information, commercially sensitive information and information subject to third party copyright;
- Provision for accessibility of information (discussed in [Current practices](#)).

The NZDF’s guidance on proactive release is comprehensive and covers much of what I would expect to see in a proactive release policy. I make one suggestion, and that is to include a provision on the frequency and timing of publication of official information.

Action point

Include information on frequency and timing of publication of official information in the proactive release policy

Information management and record keeping systems and guidance

Information management systems

An agency’s capability to discharge its official information obligations is often dependent on establishing and maintaining effective systems for information management and record keeping.

The NZDF currently operates an information management platform called Defence Documentation Management System (DDMS). While the system has not yet been implemented in all business areas within the organisation, a senior staff member advised during a meeting with my investigators that it contains the ‘*vast majority of [NZDF’s] corporate information*’.

DDMS is defined by one of NZDF’s guidance documents (‘*DDMS Design Standard*’) as ‘*...a document management, records management and collaboration tool for New Zealand Defence Force (NZDF) and Ministry of Defence (MoD)*.’ For example, a document titled ‘*Moving to a digital documents future*’ directs staff to ‘*... save emails that are evidence of significant NZDF activity such as an approval or confirmation of a decision to DDMS*.’

The NZDF stated that in order to assist with the implementation of DDMS and transition to paperless work, the agency has established a dedicated team, Knowledge and Information Management Directorate, whose responsibilities are broadly outlined in the NZDF’s ‘*Information Strategy 2020*’:

The Knowledge and Information Management (KIM) Directorate provides information management expertise to support the Defence Force to manage and leverage the value of the Defence Force’s Information Asset. It is responsible for

delivery of the Information Management Framework and for measuring the Defence Force's information management maturity; identifying the foundations and capability required to lift our maturity level.

The results of my initial staff survey appear to reveal some challenges in the staff's use of NZDF's information management systems. When asked to describe the agency's systems, respondents in the survey indicated as follows:

- only 11 percent of respondents in the initial staff survey stated that there was one, centralised system for records storage;
- forty percent indicated that there were several systems in use for different types of information and it was clear how/for what type of information each should be used;
- many respondents (28 percent) indicated that it was not clear how and for what type of information each of the NZDF's records storage systems should be used; and
- twenty percent responded with comments.

Respondents in the above survey also commented on such vulnerabilities as 'teething problems' in the use of the DDMS and the overall lack of uniformity in the information management and record keeping systems, for example:

This is the real weak area in the NZDF. We hold so much information in different systems that it is almost impossible to accurately search and collate related information.

There is still a lack of clarity (due to the transition in process from paper subject files to purely electronic record-keeping) of what historic paper records (before mid-2019) will be kept long-term or digitised, when subject matter files will be digitised, how easy it will be to search in digital copies, and which paper files will be destroyed and when.

In theory there is one centralised system but this is very difficult to navigate and thus people tend to avoid using it. This results in record storage which is all over the place.

Answering OIA requests is made difficult because of poor record keeping and poor information management systems.

Collating information relies on having the right persons remember where they filed things, unfortunately.

I believe that there is a perception that the NZDF has a far more reliable, detailed IM system and that we deliberately decide not to make information available. The truth is we often cannot find information or failed to accurately record it in the first place.

Respondents in the post-lockdown survey further commented on the agency's ongoing difficulties in this area:

The state of NZDF's IM is not great, as evidenced by Op Burnham etc.

[DDMS] is a terrible system to use on an aging IT infrastructure ... 10s of years of information cannot be loaded onto this new archive system due to IT project failures.

Defence Document Management System is a mess. Recent transfer from shared drive or share point system to DDMS, many are still using home drives to store material.

As discussed further below in [Internal policies, procedures and resources](#), the NZDF has guidance available to staff covering the use of the agency's document management system, DDMS. As some of the above comments highlight, staff are aware of the information management system that should be used. However, it appears that many respondents find it difficult to navigate the NZDF's new and existing information management systems.⁴⁷ This indicates to me that there needs to be more targeted training on the NZDF's information and record keeping policies and systems and the agency's obligations under the Public Records Act 2005 to ensure that staff are aware of their responsibilities. I discuss training in further detail in [Organisation structure, staffing and capability](#).

While I acknowledge NZDF's progress in this area (i.e. the introduction of DDMS), I encourage the agency to ensure that the new system is implemented in a way that improves the efficiency of capturing, storing, searching and retrieval of information to support its overall capabilities and performance. In addition, until the new system is fully established, the NZDF must remain aware of the limitations of its current systems, and ensure that it has policies and processes in place (including providing guidance and training for staff on the use of information management systems) that will mitigate any risk of information being overlooked when it is searched for in the context of an OIA request. Senior leaders should bolster these measures by signalling NZDF's commitment to maintaining sound information management and record keeping practices.

Information management and record-keeping policies and procedures

The NZDF's 'Information Strategy 2020' includes 'quality of our information' as one of its five Information Strategic Outcomes:

...to improve the Quality of our information – so information is trusted, accurate, relevant, accessible and timely.

High-level statements on information management and record keeping are also included in the OIA policy and procedure, DFI 0.70 (discussed in [Internal policies, procedures and resources](#)), which, in my view, clearly demonstrates the importance accorded by the NZDF to information management and record keeping:

⁴⁷ Training on the use of the new information management system, DDMS (discussed in [Organisation structure, staffing and capability](#)), was provided to business areas where the new system was introduced.

Well-organized record-keeping and information management policies and systems are fundamental enablers for compliance with the OIA and the effectiveness of the organisation's administrative practices.

And:

The government holds a large quantity of information of all kinds. The law governing the creation, collection, storage, and use of this information is set out mainly in the Public Records Act 2005 and the PA [Privacy Act 2020]. These Acts, together with the OIA, also govern the availability of this information and promote accountability of government, public service agencies and officials through transparency and reliable recordkeeping. They help to ensure that information generated or obtained by the government is used for lawful purposes.

The DFI 0.70 provide an outline of the Public Records Act 2005 as they 'address the requirement to retain and dispose of Official Information pursuant to the Public Records Act 2005'. The purpose of the Public Records Act 2005 is explained in DFI 0.70 along with NZDF's responsibilities under the Act.

Overarching policies for the management of information within the NZDF are included in the recently developed 'Defence Force Order 60' (DFO 60), covering 'the responsibility, accessibility and protection of information to support NZDF activities'. The NZDF advised that, subsequent to the introduction of the new information policy, the agency will review and update all Defence Force Instructions (DFIs) subordinate to DFO 60.

In addition to these guides, the NZDF's Knowledge and Information Management Directorate produces guidance on an 'as required' basis, such as the following:

- 'Moving to a digital documents future' (one of the purposes of this document is to 'provide guidance on how to manage digital documents in DDMS and digital and physical versions of documents outside of DDMS');
- 'Electronic approvals and authorisation for documents and transactions' (purposes of this document include '... [authorising] the use of electronic approvals and authorisations for NZDF documents and transactions, and [providing] guidance on changing processes to include electronic approvals and authorisations.')

It is pleasing to see the NZDF develop a comprehensive suite of guidance to support its information management and record keeping practices. I encourage the agency to ensure (particularly in the context of the above review) that the guidance covers the following aspects:

- creating, organising, maintaining and storing records,
- managing and modifying records,
- the security of information,
- a guide to determining which records systems exist and what information each holds,
- retaining, retrieving and disposing of records,

- both manual and electronic records, including personal e-mail accounts, instant messaging and text messages,
- assigned responsibilities and performance criteria for records and information management by staff;
- the provision of secure audit trails; and
- annual/periodic audits of records.

Finally, I note that an issue may exist around the OIA team’s limited access to protected systems and documents. An NZDF staff member advised during a meeting with my investigators that the OIA team’s staff do not have digital access to some systems, and can only obtain access to hard copy versions of information after following prescribed protocols. While I understand that the NZDF is aware of this and is considering taking steps to mitigate the issue, I encourage the agency to advise staff of the limitations in their access to information systems and which business units can assist in searching for information when processing OIA requests. This measure will help mitigate the risk of overlooking information within the scope of an OIA request due to staff being unaware that this information exists.

Action points
<p>Ensure that the introduction of the NZDF’s new information management system, DDMS, is:</p> <ul style="list-style-type: none"> • accompanied by appropriate interim measures (such as additional training and/or guidance) to address staff’s difficulties with the use of the current information management systems to mitigate the risk of information being overlooked when it is searched for in the context of an OIA request; and • supported by clear and regular messaging from senior leaders on the importance of sound information management and record keeping practices.
<p>Ensure that information management and record keeping guidance covers the matters outlined in my report</p>
<p>Review the OIA team’s access to protected systems and documents</p>

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 NZDF, I considered whether:

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

Reported OIA timeliness

As outlined in [Organisation structure, staffing and capability](#), and subject to my later comments on requests for military service records, the NZDF's partly centralised model for processing OIA requests generally appears, based on reported timeliness statistics, to meet the agency's demands in the OIA area and ensure that the NZDF maintains high timeliness compliance.

The NZDF's reported timeliness has increased from 93.4 percent in 2015/16 to 99.2 percent as at December 2020. However, the number of responses to OIA requests proactively released on the agency's website (discussed in [Internal policies, procedures and resources](#)) has decreased from 47 in 2017/18 to 5 in 2019/20. While the NZDF has not been publishing its responses to OIA requests due to the technical issues with its website (discussed in [Leadership and culture](#)), the agency has clearly signalled its intention to proactively release responses to OIA requests by including clear and comprehensive guidance on proactive releases in its OIA policy and procedure, 'Defence Force Instructions 0.70 Official Information' (DFI 0.70) (discussed in more detail in [Internal policies, procedures and resources](#)).

The reported OIA timeliness remained high – 97.5 percent – in the reporting period from January to June 2020, which includes the 2020 lockdown. This was despite the agency experiencing an increase in the number of requests received during that period in comparison to the preceding six months.⁴⁸

The following table shows that the percentage of OIA requests processed by the NZDF within the statutory timeframe has steadily increased since the Public Service Commission (PSC) began publishing these statistics for the 2015/2016 year:

⁴⁸ Five hundred and ninety four requests were completed in the reporting period of July-December 2019 and 721 requests were completed during January-June 2020.

Reporting year	Requests received	OIA requests handled within legislated timeframe
2015/16	881	93.4 percent
2016/17	1112	91.4 percent
2017/18	1267	92.9 percent
2018/19	1383	93.5 percent
2019/20	1315	97.2 percent
2020/21	3223	90 percent

The table shows a decrease in timeliness and a twofold increase in the number of OIA requests received in the reporting period from July to December 2020. An NZDF staff member advised that these changes resulted from including requests for military service records in the OIA statistics reported to the Public Service Commission. This is a positive measure as it will help provide a more comprehensive picture of the NZDF's actual OIA workload and performance.

OIA practices

To gain an understanding of how the NZDF processes OIA requests, my investigators reviewed a random selection of files relating to OIA requests. Overall, the files show high levels of compliance with the requirements of the OIA, with consistent adherence to statutory timeframes and adequate record keeping of emails and key correspondence.

The NZDF could further improve its practices with some focus on the following areas:

- There did not appear to be records of letters acknowledging receipt of OIA requests. I consider that it is best practice for agencies to acknowledge receipt of an OIA request within 1-3 days after the request is received. The letter should, among other things, explain the NZDF's obligation under section 15(1) of the OIA to communicate its decision on an OIA request '*as soon as reasonably practicable, and in any case not later than 20 working days after the day on which the request is received*'. I have produced a template which might prove useful.⁴⁹
- Extension letters should specify the proposed date by which the requester can expect to receive the NZDF's response. I suggest the NZDF amend its template to align more closely with the templates published on my website.⁵⁰
- While the NZDF's sample OIA files contain records of internal and external consultations, there does not appear to be a discrete document outlining the NZDF's decision making process on an OIA request and clearly articulating the rationale behind the NZDF's decision (for example, consideration of the relevant withholding grounds, including the

⁴⁹ Link to the Ombudsman [OIA templates webpage](#)

⁵⁰ Link to the Ombudsman [OIA templates webpage](#)

public interest test, and steps taken to search for information). I discuss recording the decision making process in [Internal policies, procedures and resources](#).

- Having reviewed two OIA files where the agency refused a request under section 18(f) of the OIA (substantial collation or research), my investigators found that the responses to OIA requests did not explain whether the NZDF considered charging or extending the timeframe for responding to the request⁵¹ or consulting the requester pursuant to section 18B of the OIA. More importantly, one file contained no information of the NZDF's consideration of charging or extending the timeframe. Therefore, I encourage the NZDF to ensure its template letters include this information and align more closely with the templates published on my website.⁵²

My review of sample files has also shown a reasonably high number of OIA requests extended during the reporting period of January – June 2020 (39 out of 148 OIA requests completed during that period were extended). As the NZDF collects limited data on its use of extensions, I suggest that the agency consider collecting, analysing, and reporting a greater range of qualitative data as this may assist in understanding the reasons for the use of extensions to ensure they are being used appropriately. I will discuss this further under [Performance monitoring and learning](#).

I consider improved guidance (see [Internal policies, procedures and resources](#)) and increased introductory and specialist OIA training (see [Organisation structure, staffing and capability](#)) would help mitigate these gaps in practice. To align with best practice, I also suggest the NZDF update its template letters to ensure that all relevant details are communicated to requesters. I have produced templates which might prove useful.⁵³

Action points

Develop a template letter for acknowledging receipt of OIA requests

Revise template letters for extending timeframes for responding to OIA requests and communicating refusals to release information under section 18(f) of the OIA incorporating my suggestions

OIA practices during the 2020 lockdown

As stated in [The impact of COVID-19](#), my investigation coincided with the COVID-19 pandemic and resulting lockdown in 2020. From 26 March to 27 April 2020, New Zealand was at Alert Level 4 and from 28 April to 13 May 2020 at Alert Level 3.⁵⁴ At Alert Levels 3 and 4, staff were instructed to work from home.

⁵¹ See s 18A of the OIA

⁵² Link to the Ombudsman [OIA templates webpage](#)

⁵³ Link to the Ombudsman [OIA templates webpage](#)

⁵⁴ Link to the Unite against COVID-19 [History of the COVID-19 Alert System webpage](#)

Several respondents in my post-lockdown survey stated that the NZDF's OIA processes continued as normal during the 2020 lockdown period, for example:

It went relatively smoothly thanks to us having rehearsed working from home as a contingency for a national disaster.

The NZDF's emergency management structure established via a Business Continuity Plan was tested prior to the 2020 lockdown, and staff continue to have access to the tools necessary to work remotely,⁵⁵ equipping the agency for any future possible lockdown or emergency scenarios.

The NZDF advised in its response to my post-lockdown questionnaire that its OIA processes during the 2020 lockdown were informed by guidance published by the Solicitor-General, although no internal communications were sent informing staff of any changes in the agency's OIA processes or practices. Nor were there any messages or statements published on the NZDF website (the NZDF's telephone system and Personnel Archives & Medals webpage had a message advising the office was closed, but they could still be contacted via email). The NZDF summarised its OIA practices during the 2020 lockdown as follows:

The NZDF process remained the same throughout the lockdown period with relevant staff working from home rather than at Headquarters NZDF. This produced a nominal increase in email correspondence, but no significant difficulties were encountered.

Many respondents in my post-lockdown survey of NZDF staff noted that access to classified information or hard-copy records was restricted during the 2020 lockdown (this included military service records discussed in [Current practices](#)). However, only a small proportion of respondents (three percent) indicated that the NZDF encountered a situation where information requested under the OIA could not be accessed due to staff working from home.⁵⁶

Overall, based on the results of the post-lockdown survey and the NZDF's reported timeliness compliance during the 2020 lockdown period (97.5 percent) (discussed above in [Current practices](#)), it appears that the agency's OIA practices and systems were sufficiently robust to ensure that the agency adapted well to the challenges presented by the lockdown.

Ministerial interactions on OIA requests

The NZDF's interactions with the Minister's office around OIA requests are regulated by the recently developed DFI 0.70 which contains a dedicated section outlining the agency's relevant

⁵⁵ Eighty percent out of 270 respondents in the post-lockdown staff survey indicated that they worked from home during the 2020 lockdown with 76 percent of respondents stating that they had adequate resources to fulfil their roles in relation to the OIA during the lockdown.

⁵⁶ In my post-lockdown survey respondents were asked: 'To your knowledge, did your agency encounter a situation where information requested under the OIA could not be accessed due to staff working from home?' In answer to this question, 41 percent of respondents indicated 'No', and 56 percent – 'I don't know'.

policies and processes in some detail. An NZDF staff member advised during a meeting that the guidelines were developed in conjunction with the Minister's office.

Notifications and consultations are clearly distinguished in the DFI 0.70 via the use of headings in the text of the guidance and providing definitions and referral criteria for both types of interactions. NZDF staff stated during interviews that, whenever sending responses to OIA requests to the Minister's office, the agency will advise the Minister's office whether the response is being sent for notification or consultation. Indeed, the review of the NZDF's sample OIA files illustrated that the agency always included the words *'for your info'* into emails sent to the Minister's office when notifying responses to OIA requests. I consider that it is good practice to distinguish between consultation and notification when interacting with Minister's offices on departmental OIA requests, and I commend NZDF for this practice.

The DFI 0.70 prescribes a number of factors for the agency to consider when deciding whether responses to departmental OIA requests are sent to the Minister's office for consultation or notified under the *'no surprises'* convention.⁵⁷ While staff are broadly instructed to notify the Minister's office of *'controversial'* matters or any issues that *'may become subject of public debate'*, criteria for consulting the Minister's office are more specific and include the following:

- the Minister's office provided the information;
- the information is about the Minister's role or functions;
- the information could affect their role as Minister; or
- the release of information may generate political or media opinion.

The NZDF's practice under the *'no surprises'* convention, as explained by staff during meetings with my investigators, is to notify the agency's responses to the Minister's office 24 hours before they are due to the requester. The recently developed OIA policy and procedure (DFI 0.70), however, now states that *'[t]he Minister is notified of requests for access to Official Information received by the NZDF in the Defence Ministers Weekly Report.'*

Providing this does not infringe NZDF's obligation to make and communicate a decision on a request *'as soon as reasonably practicable'* in a particular case, this generally appears to be a reasonable timeframe in which to notify the Minister's office under the *'no surprises'* convention, and I encourage the NZDF to ensure that the process prescribed by the DFI 0.70 is followed consistently in every OIA request.

Overall, it is pleasing to note that DFI 0.70 provide extensive guidance on the NZDF's interactions with the Minister's office around OIA requests. However, there are some areas where increased guidance and messaging from senior leaders will help ensure compliance with

⁵⁷ See paragraph 3.22(a) of the Cabinet Manual 2017

the OIA and best OIA practices and raise staff's OIA awareness throughout the organisation. I suggest that the NZDF review the DFI 0.70 to include information on the following issues:⁵⁸

- a clear statement on where responsibility rests for decision making on departmental OIA requests, including an explanation that whenever a response is notified to the Minister's office, the NZDF does not seek input from the Minister's office and staff should not delay responses waiting for feedback or clearance from the Minister's office;
- whether all responses deemed of interest to the Minister are provided in full to the Minister's office, or whether some are notified by subject only (in most situations it may only be necessary to provide the Minister's office a brief synopsis of the response rather than the proposed response in its entirety);
- the appropriate contact people in the NZDF if staff at the Minister's office have questions or comments on a proposed response; and
- the process to follow where the Minister's office wishes to raise concerns.

Action point

Review the NZDF's guidance on the agency's interactions with the Minister's office incorporating my suggestions

Media information requests

In relation to media information requests handled by the NZDF's Media team (Defence Public Affairs) the agency stated as follows:

Requests for a substantial amount of information, that are complex in nature, that require consultation across various parts of the NZDF or with external agencies, and that pose a significant reputational risk are managed by the Corporate and Ministerial Services Team.

The criteria for referring requests to the OIA team are set out in the NZDF's OIA policy and process document, 'Defence Force Instructions 0.70 – Official Information' (DFI 0.70) (discussed in more detail in [Internal policies, procedures and resources](#)).

A senior NZDF staff member advised during a meeting with my investigators that the Media team maintains a close working relationship with the OIA team which allows them to conduct regular meetings and have helpful and prompt conversations about the appropriate treatment of requests from the media.

While the Media team generally refers to the OIA team any requests for information that are likely to be refused, upon review of the NZDF's sample responses to media information

⁵⁸ Link to the Office of the Ombudsman guide [Dealing with OIA requests involving Ministers](#)

Link to the Office of the Ombudsman [Model protocol on dealing with OIA requests involving Ministers](#)

requests my investigators found instances⁵⁹ where the Media team withheld information or otherwise refused a request without providing the reason for its refusal or informing the requester of their right to complain to an Ombudsman to seek an investigation and review of the decision on their request.

In this instance, I consider that the NZDF has acted contrary to law by not meeting its legal obligations under sections 19(a) and (b) of the OIA. These sections require the agency to:

- provide the reason for the refusal; and
- advise the requester of their right to complain to an Ombudsman to seek an investigation and review of this decision.

However, I have not made a recommendation in this instance because the NZDF's response to my provisional opinion stated the following:

The Media team are ... changing their approach to media responses to ensure that they are compliant with 19(a) and (b) of the OIA. Requesters from the media will be formally informed of their right to complain to the Ombudsman when information requests are refused, and the reasons are formally provided in the format required.

I note that the NZDF's media logs contain a column titled 'Request Type' which marks requests as either 'BAU', 'Reputation' or 'OIA'. This practice, in my view, suggests that there may be a misconception within the NZDF that media information requests are distinct from the OIA process.⁶⁰ This is supported by some comments in my post-lockdown staff survey such as the following:

This agency, along with all others I have worked with, continues to not observe the intent of the OIA in that all information requests should be treated as OIAs, and that the type of administration associated with all information requests should be the same, whether the OIA is referred to or not.

The Media team's record keeping for its media information requests also seems distinct from the practices of the OIA team, as the Media team does not appear to maintain full and accurate records in an accessible form of its substantive discussions on media information requests. In response to a request from my investigators for the Media team's sample OIA files, the team was unable to provide the records of the substantive emails and discussions on which the decisions were made, without some effort by the agency. For example, based on discussions with NZDF staff, I understand that emails relevant to a particular media request are not stored in the DDMS. If retrieval of these emails is needed, it is dependent on whether or not individual staff members still have them in their email inbox.

⁵⁹ Of the 20 responses to media information requests reviewed, three were full or partial refusals which did not include a reference about the right to complain to the Ombudsman and, in many cases, did not provide the reasons for refusals.

⁶⁰ This misconception appears to persist despite the NZDF recently including media information requests in public reporting on the NZDF's OIA statistics.

I, therefore, consider that the NZDF has acted contrary to law in relation to section 17(2) of the Public Records Act 2005 which requires the agency to maintain records in an accessible form to enable use for subsequent reference.

However, I have not made a recommendation, as the NZDF acknowledged in its response to my provisional opinion that the media log is inadequate and advised this will be addressed to ensure that appropriate records are kept.

I appreciate that both the Media team and journalists value the immediacy and informality of their interactions, which facilitate fast turnaround of responses. However, it is also important for the NZDF's staff to be aware that media information requests handled by the NZDF's Media team are subject to the OIA and must be dealt with in accordance with the provisions of the OIA (including the requirements of section 19 of the OIA). The agency must also comply with the requirements of section 17(2) of the Public Records Act 2005, as outlined above.

Regardless of whether the Media team or the OIA team responds to requests, I suggest that the NZDF emphasise in its messaging and guidance that the OIA requires a decision to be made and communicated '*as soon as reasonably practicable*', and no later than 20 working days after the date the request is received.⁶¹ The 20 working days is not a de facto goal, but the absolute maximum (barring an extension).⁶²

Requesters should also be made aware that under section 12(3) of the OIA, a requester may ask that their request be treated as urgent, where reasons can be provided for doing so.⁶³ If an agency agrees that there is a valid need for urgency, this may change what is considered '*reasonably practicable*' in the particular case. If the query cannot be responded to within a timeframe preferred by the requester (e.g. 24 hours), another timeframe could be discussed with the requester.

The NZDF can increase OIA awareness and signal its commitment to openness and accountability to the public by proactively publishing the NZDF's OIA guidance, DFI 0.70, on its website (I discuss proactive release in [Internal policies, procedures and resources](#)). The publication of the OIA guidance material not only encourages transparency and consistency of practice, it can also give requesters a better understanding of the NZDF's processes and may help manage journalists' expectations about why the information they request cannot always be made available within a 24-hour news cycle deadline. Additionally, where agencies have clear and reasonable OIA policies easily accessible to the public, they will be less vulnerable to criticism when they apply these policies (for example, when considering urgent requests, charging for the supply of information, or dealing with vexatious requests).

I suggest that the publication of the NZDF's OIA guidance be accompanied by the provision of regular specialist OIA and information management and record keeping training to the Media

⁶¹ See s 15(1) of the OIA

⁶² See s 15A(1)(a) and (b) of the OIA

⁶³ While a reporting deadline would not typically be considered a valid reason to prioritise the handling of one OIA request above others, I note that media requesters may at times have other genuine and legitimate reasons to request that their information request is treated with urgency.

team (as I discussed in [Organisation structure, staffing and capability](#)). I reiterate the need for specific training for the Media team here because it is important to ensure the Media team's practices demonstrate an understanding and commitment to the principles and requirements of the OIA (as well as sound information management and record keeping). Training is important for the team to recognise when they are refusing media information requests so they either refer those requests on to the OIA team as per the NZDF's guidance, or ensure the requester is given the reason for the refusal and advised of the right to complain.

I understand that my proposed recommendations and suggestions may require a cultural shift in the Media team. This should be supported by strong messaging from senior leaders to reinforce that the Media team's OIA processes and responses to media information requests must adhere to the OIA and the Public Records Act 2005.

Action points

Ensure the Media team's responses to media information requests, which contain full or partial refusal, are dealt with in accordance with the provisions of the OIA

Ensure the Media team creates and maintains in an accessible form full and accurate records of substantive correspondence with requesters (including telephone conversations, meetings and verbal discussions), and any material internal discussions

Provide targeted OIA and information management and record keeping training to the Media team to ensure they understand their obligations under the OIA

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

NZDF's response

In relation to compliance with section 19 of the OIA, the agency stated that it aims to *'meet the intent of the law'*, and the Media team *'exists to ... deal effectively with [media] requests for comment and information as quickly, efficiently and accurately as possible.'* The NZDF also advised that the Media team is *'changing [its] approach to media responses'* to ensure compliance with section 19 of the OIA.

My comments

I commend the NZDF for its commitment to improving its OIA processes and practices and look forward to seeing the agency's progress against the above action points. I will seek updates on its actions over the next year.

Address the backlog of service record requests

Based on the information provided by the NZDF to my Office, the agency is currently dealing with a backlog of requests for military service records:⁶⁴

- As of 25 November 2019, there were 1061 requests waiting to be processed, with the earliest dated 9 July 2019;
- As of 30 June 2020, there were 763 requests waiting to be processed with the earliest dated 21 April 2020;
- In May 2021 there were approximately 979 requests waiting to be processed with the earliest dating back to October 2020;
- As of 19 October 2021 there were 1621 requests waiting to be processed with the earliest dated 28 October 2020.

NZDF advised that, other than the impact of the 2020 lockdown and the upsurge of requests after Anzac Day commemorations, the backlog of service records requests may be largely attributable to staffing changes that took place within NZDF Personnel Archives & Medals team responsible for handling the requests (e.g. resignations and staff going on leave). While the NZDF hired permanent and fixed-term staff into the team in an attempt to address the issue, the backlog remains an area of vulnerability for the NZDF. The NZDF's more recent measures were outlined in the agency's response to my post-lockdown questionnaire:

Steps taken to address the situation:

- *Employed a staff member working part-time on a fixed term contract in the Business Operations team. The contract expired on 30 June 2020.*
- *Employed 3 staff members working full-time on fixed term contracts in the Research and Entitlement team from January 2020 to September 2020.*
- *Redistributed photocopying service requests to the Archives and Records team for follow up.*
- *Other Improvements to processes reduced administrative overhead.*

The backlog of service requests for photocopying of military personnel files has substantially increased due to the team having a vacant position since 8 June 2020 and the contract position finishing on 30 June 2020.

⁶⁴ Requests for military service records of someone other than the requester are subject to the OIA. Therefore, the NZDF must communicate its decisions on these requests in accordance with section 15(1) of the OIA, i.e. 'as soon as reasonably practicable, and in any case not later than 20 working days after the day on which the request is received'. Also, individual's requests for information about themselves are processed under the Privacy Act 2020 (see Information privacy principle 6 of the Privacy Act 2020). The timeframes for responding to Privacy Act requests are prescribed by s 44 of the Privacy Act 2020 and are similar to those of the OIA.

While I acknowledge the challenges faced by the NZDF and the agency's attempts to implement solutions to address the backlog, I note that the information provided by the agency on the backlog shows that in October 2021 some requests were being processed with delays of almost 12 months.⁶⁵ Therefore, it is my opinion that the NZDF has acted contrary to law by not meeting its legal obligations under section 15(1) of the OIA. This section requires the NZDF to make and communicate its decision on a request for official information (i.e. military service records) 'as soon as reasonably practicable, and in any case not later than 20 working days after the day on which the request is received'.

I recommend that the NZDF take steps to address the backlog of requests for military service records and ensure that the requests are processed within the required statutory timeframes. Achieving compliance with the OIA will require not only increasing the rate at which the NZDF Personnel Archives & Medals team handles requests for military service records, but also streamlining the team's processes to help ensure efficiency and fairness to requesters. In my view, the NZDF should organise its structure and resources to ensure it is able to meet its legal obligations under the OIA.

Finally, I note that the application form⁶⁶ for requests for service records states that a \$28 flat fee may be required for second or more file requests, and that 'payment requirement will be advised'. I encourage the NZDF to amend the 'Charges' section in the application form to more clearly align with the charging guidelines published by the Ministry of Justice,⁶⁷ which state that the amount of charges should be determined on a case-by-case basis in light of all relevant information.

The NZDF's response

The Chief of Defence Force stated as follows:

I had already directed action to be taken to address this situation and as a first step a surge team of five staff has been contracted for a fixed term. Recruitment is also underway to fill the four permanent staff vacancies. A full organisational review of the structure, staffing levels, access to technology and processes has been recommended by management. It is my expectation that all of these steps will change the current trajectory and enable the NZDF to meet its legal obligations for timeliness under the OIA.

My comments

I look forward to seeing the NZDF's progress against the above recommendation and will seek updates over the next year.

⁶⁵ I note that extending time limits for processing these requests under s 15A of the OIA was not, in my view, available to the NZDF. This is because s 15A requires extensions to be made 'for a reasonable period of time', and the delays with which the NZDF has been processing service records requests cannot be considered 'reasonable'.

⁶⁶ Link to the NZDF's [application form](#)

⁶⁷ Link to [Charging Guidelines for Official Information Act 1982 Requests](#)

Recommendation

Implement measures to address the backlog of requests for military service records by ensuring that NZDF has adequate resources to enable it to meet its legal obligations under 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.⁶⁸ 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 guide⁶⁹ which includes a section on New Zealand's international and domestic obligations to ensure disabled people have equal access to information. 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.

As the NZDF launches its new website (discussed in [Leadership and culture](#)) and the agency begins to proactively release more OIA responses, the web accessibility standards become increasingly important. The NZDF should ensure all PDF documents that are proactively released are searchable and not 'image only', and tag all visual elements with alternative text.

In its response to my initial questionnaire the NZDF advised that its responses to OIA requests are provided in a searchable PDF format. In situations where optical character recognition is not possible (because a document has only ever been saved as an image), an explanation is provided to the requester in the response. While these are positive practices, I encourage the NZDF to also ensure that its correspondence with requesters includes an explanation that if a

⁶⁸ Link to the Digital government [Web Accessibility Standard 1.1 webpage](#)

⁶⁹ See section 'Making sure the information is accessible' on p. 11 of the Office of the Ombudsman's [Proactive release: Good practices for proactive release of official information guide](#)

requester requires information in a more accessible optical character recognition format, such can be provided to them where possible and practicable.

The accessibility of the NZDF's responses to OIA requests is prescribed by 'Defence Force Instructions 0.70 – Official Information' as follows:

Documents and material made available to an applicant in response to a request for access to Official Information should normally be returned in the format requested by the applicant⁷⁰ but there may be occasions when it is imperative that a document cannot be altered after it has been communicated. In these cases the material is to be sent to the requester in secure portable document format (pdf). ...

Official Information provided in response to requests is to be in a format where the text can be searchable. Where material is promulgated in portable document format or 'Flash' it must be accompanied by an accessible alternative means of reading and searching for specific information.

The OIA policy also contains helpful guidance around publishing information on the NZDF's website:

All official information promulgated on the NZDF official information webpages must conform to the New Zealand Government's Web Accessibility Standards.⁷¹ Website managers must refer to these standards when preparing material for promulgation on the external-facing NZDF website as the standards are subject to change without notification.

As I note that all information currently published on the NZDF's website is searchable, I encourage the agency to also ensure the accessibility of responses to OIA requests that will be published on the agency's new website.

Action point

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

⁷⁰ Section 16(2) of the Official Information Act.

⁷¹ Link to the Digital government [Web Accessibility Standard 1.1 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 advocated 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 NZDF in relation to requests for official information, I considered whether:

- The NZDF 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 NZDF's management performance in respect of official information requests; and
- The NZDF learns from data analysis and practice.

Quality measures

Good quality performance monitoring enables agencies to learn from previous practice in order to inform future practice.

The NZDF's draft responses to OIA requests are peer-reviewed by completing a coversheet which includes the following sections:

- *'Consultations'*,
- *'Legal review'*,
- *'OMD [Office of the Minister of Defence] review'*,
- *'DCoord [Director of Coordination]⁷² review'*,
- *'Interested parties'* (e.g. other agencies with which full or partial transfer of the OIA request has been discussed)

While the above process provides a strong base to help ensure high quality of the NZDF's responses to OIA requests, I suggest that the agency consider refining their practices in this area. For example, the coversheet (or a separate document) can include a set of quality criteria

⁷² This is a staff member who reports to the tier two manager responsible for the NZDF's OIA function and performance.

against which all of NZDF's draft responses to OIA requests can be reviewed. The criteria can include the following considerations:

- whether the requester has been provided reasonable assistance;⁷³
- whether the draft response answers the requester's query;
- whether the withholding grounds were applied correctly (including consideration of the public interest test, where required);
- whether the draft response is clear and uses plain English;
- whether the draft response is consistent with the NZDF's past responses to similar OIA requests.

I encourage the NZDF to ensure that its OIA policy and procedure document (DFI 0.70) includes clear guidance for staff around the agency's quality assurance and peer review policies and processes. The need for such guidance is particularly evident as most respondents in the initial staff survey (67 percent) did not know whether the NZDF had any quality assurance or peer review processes for OIA responses.⁷⁴

Quality assurance checks of OIA responses completed after requests are finalised is another way agencies can ensure that practice is in accordance with guidance and consistent across the organisation. The quality of OIA responses may encompass factors such as a robust and adequately documented decision making process, the inclusion of contextual information to assist requesters, and the quality of response letters, amongst others. Establishing a system of quality assurance can be used to inform improvements in the OIA process, including:

- ensuring consistency in the agency's approach across similar requests;
- determining the reason for any delays; and
- identifying areas for training.

Action points

Consider reviewing the peer review template document and including guidance on peer review in DFI 0.70

Develop a quality assurance process for completed OIA requests

⁷³ See s 13 of the OIA

⁷⁴ Respondents in the initial staff survey were asked: 'Does your agency have any quality assurance or peer review processes for OIA responses?'. Thirty two percent of respondents indicated 'yes' and one percent indicated 'no'.

Collection, analysis and reporting of OIA data

The NZDF's OIA data is reported weekly by the OIA team to senior leaders and 'key personnel in all business portfolios', with the weekly report containing a list of current OIA requests 'presenting potential reputational risk'⁷⁵ and OIA requests due in the relevant week. The weekly report includes the following data:

- requester type;
- topic; and
- sensitivity level.

The range of data captured by the NZDF's Defence Document Management System (DDMS) (and not necessarily reported on) is much broader and contains many indicators of the NZDF's OIA performance on which I would expect agencies to collect and analyse information. The DFI 0.70 also directs staff to record 'details of any information withheld and under which provisions of the OIA', 'details of the search for information' and 'total time taken to answer the request'.

I am pleased to note that, along with the procedural guidance, the OIA policy includes strong messaging on 'performance and monitoring':

Monitoring the organisation's performance in responding to requests for access to Official Information, providing consistent and quality responses and managing the workload of the staff involved, necessitates robust processes and the means of ensuring that the provision of information is complete and reliable. This can be achieved by recording relevant data with respect to each request including calls for information from the media.

I have been provided with a DDMS screenshot of captured OIA data and a copy of the weekly report. Having reviewed both documents, it appears that the reporting continues to focus mainly on the OIA process and timeliness compliance while capturing little data pertaining to the quality of NZDF's substantive decision-making on its OIA requests. I would encourage the agency to further expand the range of reported data to help measure and improve the quality of NZDF's responses to OIA requests and the efficiency of its processes.

For example, recording reasons for extending the maximum time limits for transferring OIA requests and communicating decisions on requests, along with the length of extensions, may help NZDF detect potential systemic issues, such as:

- whether extensions are used appropriately;
- workload issues;
- areas of the business which require training; and

⁷⁵ I note that reputational risk should not be the sole driver for reporting. The purpose of reporting to senior leadership is to enable the agency to learn and drive performance improvement and innovation.

- whether there may be issues with information storage or retrieval (for example, where extensions are made on the basis that substantial collation is required; or where information is refused because it cannot be found).

It is particularly important for the NZDF to analyse and report data on its extensions considering the agency’s issues with the backlog of service records requests (discussed in [Current practices](#)) and the NZDF extending timeframes for a large number of requests during the reporting period of January – June 2020 (discussed in [Current practices](#)).

I encourage NZDF to expand the range of OIA data it collects and analyses to include the following:

- the type of request (Part 2, 3 or 4 of the OIA);
- the type of requester;
- the number and reason for transfers, and whether the transfer was made in time;
- the number, length and reason for extensions;
- the business unit or request topic that required extensions;
- the outcome of the request (granted in full, granted in part, refused in full);
- the number of charges made and collected;
- whether referrals to the Minister’s Office are for consultation or notification;
- the time from receipt of the request to communication of the decision; and
- the time from receipt of the request to release of the information.

The NZDF’s OIA practices will also benefit from monitoring the following:

- Outcomes of any external/internal quality assurance consultations and reviews of OIA decisions and processes, and whether or not the results of those reviews provide evidence of system-wide issues;
- Trends or themes of OIA requests (based on interviews with NZDF staff, there is no formalised process to do this and I encourage the NZDF to include a designated space for these considerations in its weekly reporting to senior leaders to help inform the agency’s decisions on proactive release, resourcing and training).

Action points

Collect and report further qualitative data on the handling of OIA requests

Include analysis of qualitative data on OIA requests (such as trends or themes of OIA requests) in statistical reporting to senior leadership

Learning from investigations and guidance

Many respondents in my initial staff survey indicated that the NZDF could do more to continuously improve its OIA practice through the process of learning from the experience of responding to OIA requests, and from Ombudsman investigations. The table below shows the views of respondents on whether the NZDF has effective practices in the following areas:

	Yes	No
Learning from the experience of responding to OIA requests	46%	54%
Promoting improvement to its OIA practices	43%	57%
Ensuring staff learn from Ombudsman decisions and guidance on the OIA	39%	61%

The NZDF has advised me that all decisions from Ombudsman investigations are discussed amongst members of the OIA team (Corporate and Ministerial Services) with the significant decisions shared with senior leaders.

Some processes around learning from Ombudsman's investigations and guidance have now been incorporated into the NZDF's recently reviewed OIA policy and procedure (DFI 0.70) which contains the following instruction:

- a. *Records regarding requests for Official Information must be routinely analysed by the Chief of Staff HQNZDF and outcomes reported to the Chief of Defence Force, Chiefs of Service and senior executives as appropriate.*
- b. *The information arising from the analysis of requests has three outcomes. It allows the organisation to—*
 1. *be aware of potential issues that may be in the public interest and for which there may be further enquiries;*
 2. *be cognisant of the performance of the internal OIA processes and recommendations of the Ombudsman; and*
 3. *improve the management of the NZDF Official Information processes and training modules.*
- c. *The analysis and reporting is to include emerging trends or questions about a particular subject, frequency of requests, opportunities for the voluntary release of information and the results of any Ombudsman's investigations.*

Also:

The Ombudsman routinely reviews Government agencies' compliance of the OIA. The Ombudsman's Office also publishes data on the results of complaints they

receive every six months. These reports are made public on the Ombudsman's website at www.ombudsman.parliament.nz.

While it is pleasing to see the NZDF provide clear and helpful guidance to its staff, I would also encourage the agency to consider formalising and implementing more measures to help generate appropriate discussions throughout the organisation and to keep staff's knowledge of the OIA up-to-date. These measures can include sending regular agency-wide communications advising staff of Ombudsman investigations and guidance or having a dedicated page on the NZDF's intranet where relevant guidance, opinions and case notes can be accessed by all staff.

In order to ensure continuous improvement in OIA practice, it is important that agencies monitor information from Ombudsman investigations and guidance, and OIA information from other sources such as the PSC. Relevant lessons should be drawn from these sources and these should then be embedded into agency practice through, for example, updating OIA guidance. I produce case notes on investigations, including where the outcomes have high applicability across multiple agencies, or where few examples of investigations into that subject matter exist. I suggest agencies monitor these, as well as the results of investigations into the agency's own actions.

Appendix 1. Official information practice investigation — terms of reference

New Zealand Defence Force – Te Ope Kātua o Aotearoa

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 New Zealand Defence Force – Te Ope Kātua o Aotearoa relating to the Official Information Act 1982 (OIA).⁷⁶

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.⁷⁷

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.

⁷⁶ See sections 13(1) and 13(3) of the Ombudsmen Act 1975 (OA).

⁷⁷ Formal recommendations under the Ombudsmen Act 1975 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 Ombudsmen Act 1975.

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:

- The agency's 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 agency 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 the agency 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 Act⁷⁸ 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"> ✓ 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 ✓ 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 ✓ Leaders demonstrate clear knowledge and support of the Act's requirements ✓ Leaders encourage staff to identify areas for improvement and provide the means for suggesting and implementing them when appropriate ✓ Leaders make examples of good practice visible ✓ A visible and explicit statement exists about the agency's commitment to openness and transparency about its work

⁷⁸ '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"> ✓ The agency has a strategic framework describing how it intends to achieve: <ul style="list-style-type: none"> – Compliance with the Act – Good practice – A culture of openness and continuous improvement – Participation and access to information by the public and stakeholder groups ✓ Senior leadership takes an active role in the management of information ✓ A senior manager has been assigned specific strategic responsibility and executive accountability for official information practices including proactive disclosure ✓ Senior managers have accountabilities for compliance with the Act ✓ Appropriate delegations exist for decision makers and they are trained on agency policies and procedures and the requirements of the Act ✓ Senior leaders model an internal culture whereby all staff: <ul style="list-style-type: none"> – Are encouraged to identify opportunities for improvement in official information practice (including increasing proactive disclosure) and these are endorsed and implemented – Are trained to the appropriate level for their job on official information policies and procedures and understand the legal requirements – Have compliance with the Act in their job descriptions, key performance indicators, and professional development plans ✓ 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

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

- ✓ 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:
 - Regular stakeholder meetings and surveys
 - Reviewing and analysing requests and media logs
 - Reviewing and analysing website searches
- ✓ There is clear senior leadership commitment to the proactive release of information resulting in the agency publishing information about:
 - The role and structure of the agency and the information it holds
 - Strategy, planning and performance information
 - Details of current or planned work programmes, including background papers, options, cabinet papers and consultation documents
 - Internal rules and policies, including rules on decision-making
 - Corporate information about expenditure, procurement activities, audit reports and performance
 - Monitoring data and information on matters the agency is responsible for
 - Information provided in response to official information requests
 - Other information held by the agency in the public interest
- ✓ 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:
 - What official information it holds
 - How it can be accessed or requested by the public and its stakeholders
 - How to seek assistance
 - What the agency's official information policies and procedures are (including charging)
 - How to complain about a decision
- ✓ The agency makes information available in different formats, including open file formats
- ✓ The agency's position on copyright and re-use is clear
- ✓ The public and stakeholders perceive the agency to be open and transparent

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"> • roles; • accountabilities; • reporting lines; • delegations; and • resilience arrangements. 	<ul style="list-style-type: none"> ✓ An appropriate, flexible structure exists to manage official information requests which is well resourced reflecting the: <ul style="list-style-type: none"> – Size of the agency – Number of requests received (and from whom, public, media, other) – Number or percentage of staff performing official information functions in the agency – Percentage of time these staff are also required to undertake other functions – Need to respond within statutory time limits – Use of staff time, specialisations, structural resilience ✓ Roles and responsibilities are clearly defined: <ul style="list-style-type: none"> – 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 compliance⁷⁹ – Decision makers are sufficiently senior to take responsibility for the decisions made and are available when required, and if not, resilience arrangements exist. – 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)

⁷⁹ 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"> ✓ 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 ✓ Training is role specific with additional training for senior managers, decision makers and staff with official information responsibilities to support their work ✓ Expectations are set by senior leaders that regular refreshers are provided to all staff ✓ Training is provided on information management and record keeping that is role-specific and includes guidance on information retrieval as well as information storage ✓ 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 ✓ Agency staff, including front line staff and contractors, know what an official information request is and what to do with it ✓ User-friendly, accessible resources, guidance and 'go to' people are available ✓ Staff official information capability is regularly assessed and monitored through, for example, performance reviews and regular training needs analyses ✓ Official information obligations are included in induction material for all staff ✓ The agency's internal guidance resources are accessible to all staff

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

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

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

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"> ✓ The agency complies with maximum statutory timeframes to transfer, extend, decide on requests, and release official information ✓ Requests are handled in accordance with the applicable law (Privacy Act, Part 2 OIA, section 22 OIA, section 23 OIA, Part 4 OIA) ✓ The agency makes appropriate use of the withholding grounds and administrative reasons for refusal ✓ The agency makes appropriate use of the mechanisms for dealing with large and complex official information requests ✓ The agency gives proper consideration to the public interest in release of official information, and explains this to requesters ✓ The agency interprets the scope of official information requests reasonably ✓ The agency consults with, and provides reasonable assistance to requesters ✓ The agency consults appropriately with third parties ✓ Ministerial involvement in agency official information decision making is appropriate ✓ The process for escalation of issues is used where necessary and is effective ✓ Official information is released in the form requested unless there is a good reason not to ✓ Consideration is given to releasing information in accessible formats ✓ There is evidence that agency practice aligns with its policies and procedures ✓ Staff regularly use the agency's policies and procedures

Elements	Things to look for (indicators)
The agency has good record keeping and information management practices	<ul style="list-style-type: none"> ✓ 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 ✓ 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) ✓ 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 Internal policies, procedures, and resources
The agency has good proactive release practices	<ul style="list-style-type: none"> ✓ 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 ✓ 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 Internal policies, procedures, and resources ✓ The agency publishes information in multiple formats, and applies open use standards ✓ The agency's position on copyright and re-use is clear ✓ Staff use the agency's proactive release policies and procedures where applicable

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"> ✓ Performance measures include: <ul style="list-style-type: none"> – Quantity – for example the number of requests, from where and the number processed – Efficiency – for example duration of request handling, number of responses that exceed legislative maximum time limits, the reasons for any delays – 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 – 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 ✓ The agency collects data about its performance under the Act including such things as: <ul style="list-style-type: none"> – The number of requests – The type of request (Part 2, 3 or 4 of the Act) – The type of requester (for example; media, political researcher, corporation, individual citizen, Member of Parliament, interest group, etc.) – The information sought – The number and reason for transfers, and whether the transfer was made in time – The number, length and reason for extensions – The outcome of the request (granted in full, granted in part, refused in full, withdrawn or abandoned) – The number and amount of charges made and collected – The grounds on which information was withheld or the request refused – Whether the requester was consulted prior to any refusal under section 18(f) – Whether the Minister was consulted on the decision – Whether the decision was notified to the Minister – Whether, and which, third parties were consulted

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> - The time from receipt of the request to communication of the decision - The time from receipt of the request to release of the information - If the time limit (extended or not) was breached, the reasons for the delay - Whether the response was proactively published and if not, why - Whether the Ombudsman investigated or resolved a complaint about the request - The outcome of the Ombudsman’s investigation or involvement - The outcome of any internal quality assurance reviews of processes or decisions - 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 ✓ The agency analyses this data to determine whether it is complying with its relevant performance measures ✓ The agency monitors information demand (for example, through official information requests, website use, and other enquiries) to identify opportunities for proactive release ✓ The agency monitors any difficulties in identifying and collating information that has been requested
<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"> ✓ 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 ✓ Reports include emerging themes or trends, opportunities for improvement and proactive release, resourcing, capacity or capability (training) issues ✓ Reporting informs planning, resourcing and capability building decisions

Elements	Things to look for (indicators)
The agency learns from data analysis and practice	<ul style="list-style-type: none">✓ 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>✓ The agency monitors relevant data, guidance and publications, including those produced by the Ombudsman and Public Service Commission✓ The agency monitors the outcome of Ombudsman investigations and reports these to relevant staff, including official information decision makers✓ 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✓ The agency periodically reviews its relevant systems, structures, and compliance with policies and procedures✓ The agency actively participates in initiatives to share and discuss best practice externally, for example through forums, interest groups, networks and communities of practice

Document ends

