OIA compliance and practice in the Accident Compensation Corporation - Te Kaporeihana Āwhina Hunga Whara

Opinion of the Chief Ombudsman March 2022

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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]](#footnote-2) All 12 agencies were provided with individual reports and although these reports were not published, the agencies were provided with action points which, if implemented, would lead to improvements in OIA practice. A further 75 agencies and 27 Ministers’ offices subject to the OIA were invited to provide information via a survey.

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

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

# Introduction

This report sets out my opinion on how well the Accident Compensation Corporation (ACC) is meeting its obligations under the Official Information Act 1982 (OIA).

My investigation has included consideration of ACC’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.

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

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

I have initiated this practice investigation using my power under the Ombudsmen Act 1975 (OA). This provides me with the tools needed to investigate matters I consider important to improve administrative decision making across the public sector.[[2]](#footnote-3)

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]](#footnote-4)

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

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

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

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

## My opinion

Through the investigation process, I have identified areas of good practice, and areas of vulnerability that I think ACC should address. My opinion relates only to ACC’s practice during the period in which my investigation took place.[[4]](#footnote-5) I notified ACC of my investigation on 22 November 2019 and I formed my final opinion on 28 March 2022.

I have suggested 15 actions that I consider will improve ACC’s practices. ACC 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 suggested action points was welcomed by ACC. I refer to ACC’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 ACC’s Media team acted contrary to law in relation to section 17(2) of the Public Records Act 2005, which requires agencies to maintain records in an accessible form to enable use for subsequent reference.

However, I have not made a recommendation in this instance as ACC advised in its response to my provisional opinion that immediate action is being taken to address the Media team’s practices in relation to record keeping.

I am pleased that ACC has an increasingly open culture, driven largely by its leaders. Public messaging through the OIA webpage advises of ACC’s commitment to releasing official information and resources about the work it does. The OIA webpage also includes an array of useful information for requesters.

It is excellent that training on both the OIA and information management is provided to all new staff upon induction, and there is an OIA module in the induction programme for new Board members. A variety of OIA guidance material is available to assist staff, as well as a *Proactive Release of OIA responses* policy. Records are kept of OIA decision making, consultation and administrative steps, as per best practice. The sign out process for OIA responses has been streamlined. OIA reporting to senior leaders is robust and the OIA information ACC collects and reports upon is comprehensive.

I would like to extend my thanks to ACC for the positive and open way it engaged with this investigation, including during the 2020 lockdown period. In particular, my thanks go to those staff who took the time to meet with my investigators to discuss their 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 ACC in the months to come as it works through my suggested action points.



Peter Boshier

Chief Ombudsman

28 March 2022

# Executive summary

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

### Leadership and Culture

I consider that ACC’s senior leaders value transparency and are driving a more open culture. This is reflected in ACC’s external messaging to the public on the OIA webpage and in corporate documents.

Although ACC provided examples of internal messaging to staff that fosters the spirit of the OIA (in conjunction with openness and transparency), over a third of respondents in the initial staff survey said the former Chief Executive was silent on the OIA or they did not know what signals were being sent. Therefore, I encourage the current Chief Executive and senior leaders to ensure ongoing internal messaging is provided to staff about the importance of the OIA and openness more generally. This will ensure the spirit of the legislation stays front of mind for staff, and that the percentage of staff who view their senior leaders as strongly or moderately pro-disclosure will continue to grow.

ACC has an excellent OIA webpage. Not only is it easy to access and use, but it includes helpful information for requesters. Through the course of this investigation, I identified opportunities for ACC to improve its OIA webpage by including additional information, such as my Office’s contact details, and advice that, where requested, OIA responses can be provided in alternate formats. ACC promptly effected these changes after receiving my provisional opinion. There is still an opportunity for ACC to expand on the description of information held in the *Directory of Official Information* and on the OIA webpage.

ACC plans to publish its internal decision making rules (as described in section 22 of the OIA). Once published, they should be linked to the OIA webpage. ACC should also publish details of its approach to internal decision making on OIA requests.

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| **Action points: Leadership and culture** |
| 1. Ensure ongoing messaging from senior leaders to staff about the importance of the OIA, and openness more generally |
| 1. Expand on the description of information held by ACC in the *Directory of Official Information* and on the OIA webpage |
| 1. Following the publication of ACC’s internal decision making rules (described in section 22 of the OIA) on its website, include a link on the OIA webpage, and also publish details of ACC’s approach to internal decision making on OIA requests on the OIA webpage |

### Organisation structure, staffing and capability

ACC uses a centralised OIA model, and OIA requests are handled by the OIA Services team. Overall, ACC appears to have the staffing capacity and organisational capability to ensure it generally meets its OIA obligations in a timely manner.

It is commendable that during the course of this investigation ACC started providing OIA training to all staff at induction. I have made a few suggestions to ensure additional OIA information is accessible for new staff when they start.

Regular OIA refresher training for staff occurred prior to the 2020 lockdown. I am pleased this OIA refresher training is being reinstated, and I note targeted OIA training was still available upon request. There did not appear to be any recent, OIA-specific training on decision making for senior leaders. I encourage ACC to provide OIA decision making training regularly because it will assist in the consistent application of OIA provisions across the organisation.

It is also commendable that during the course of this investigation ACC started providing information management and record keeping training to all staff at induction. Refresher training on information management and record keeping is self-directed, and promoted by ACC to all staff on a regular basis.

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| **Action point: Organisation structure, staffing and capability** |
| 1. Ensure targeted OIA training is provided to senior leaders and decision makers |

### Internal policies, procedures and resources

ACC’s OIA guidance documents are largely accurate and comprehensive. They are also clearly written and readily accessible to staff. However, I have identified some aspects, which could be improved. For example, there is little to no information about requests for internal decision making rules (section 22 of the OIA), and finding and collating the requested information.

Through the course of this investigation, I identified opportunities for ACC to improve the *OIA policy* and *Guidance for declining official information* documents, and I am pleased that ACC promptly effected these changes.

I am encouraged that ACC has a sound *Proactive release of OIA responses* policy, which covers most of the aspects I consider such a policy should have. I suggest the addition of two minor details to ensure the policy aligns with best practice. One is a commitment to releasing information in accessible and usable formats, and the other is a provision for regular review of the policy itself. Once updated, the *Proactive release of OIA responses* policy should be published on ACC’s website.

Information management and record keeping resources are robust, and are kept up-to-date through regular reviews.

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| **Action points: Internal policies, procedures and resources** |
| 1. Review and update OIA policies and procedures to include information on requests for internal decision making rules (section 22 of the OIA), and finding and collating the requested information |
| 1. Update the *Proactive Release of OIA responses* policy to include releasing information in accessible and usable formats, as well as a provision for regular review of the policy itself |
| 1. Publish the *Proactive Release of OIA responses* policy on the ACC’s website |

### Current practices

ACC reported 98 percent of OIA requests were processed within the statutory timeframe for the period of 1 July 2019 to 30 June 2020. During the 2020 lockdown, overall OIA practices were maintained.

ACC began proactively publishing select OIA responses on its website in the six-month period of 1 July 2020 to 31 December 2020. I encourage ACC to continue proactively releasing more OIA responses. Most of the proactively released OIA responses are PDF documents, but only some are searchable. In order to support accessibility and New Zealand’s obligations under the Convention on the Rights of Persons with Disabilities, ACC should ensure the text of all proactively released OIA responses are searchable and not ‘image only’, and all visual elements are tagged with alternative text.

There are a number of good practices ACC utilises when responding to OIA requests, and it generally exhibits a high level of overall compliance with the requirements of the OIA. Through the course of this investigation, I identified an opportunity for ACC to update the *OIA* *Letter Response template* to include wording to use if an OIA response will be proactively released on ACC’s website, and ACC promptly made this change.

When staff search for information on Te Pātaka (the information management system), sometimes they see folders or documents that exist, but which they do not have permission to access. While this can be catered for by seeking assistance from another staff member, a potential issue arises when staff searching for information cannot see folders or documents that exist. After receiving my provisional opinion, ACC confirmed staff are aware of their search limitations within Te Pātaka, and OIA requests requiring a full search Te Pātaka are undertaken by staff with full access to the system. ACC also confirmed that more than one staff member has full search access through the eDiscovery tool.

I am pleased ACC and Ministers’ offices understand the final decision maker on departmental OIA requests is ACC. During the course of my investigation, ACC developed a *Guidance for dealing with OIA requests involving Ministers* document to clarify when, and in what circumstances, decision makers will consult with Ministers’ offices on departmental OIA requests or notify Ministers’ offices of departmental OIA responses. ACC should consider publishing the *Guidance for dealing with OIA requests involving Ministers* on its OIA webpage. ACC should also ensure the *Guidance for dealing with OIA requests involving Ministers* and *The GES OIA Process* documents are consistent with each other, and ACC’s practices align with the guidance.

Requests to the Media team for information, which is held by ACC, are subject to the OIA, and therefore must be handled in accordance with its provisions. ACC should ensure my suggestions for the in-development guidance document, explaining how the Media team applies the principles of the OIA to media information requests, are incorporated. Once developed, I encourage ACC to publish this guidance on the OIA webpage.

ACC’s Media team failed to maintain records in an accessible form to enable use for subsequent reference. In my opinion, I consider this practice to be contrary to section 17(2) of the Public Records Act 2005. However, I have not made a formal recommendation in this instance because ACC advised immediate action is already being taken to address this deficiency. ACC is expanding access to the Microsoft Dynamics 365 (Dynamics) workflow tool to the Media team. I have included an action point to address this.

Through the course of this investigation, I identified an opportunity for ACC to ensure the right to complain to the Ombudsman is referenced in all responses when a media information request is fully or partially refused. ACC promptly effected this change after receiving my provisional opinion.

Targeted OIA training should be provided to the Media team to ensure they understand their obligations under the OIA. Also, changes in practice should be supported by messaging from senior leaders, reinforcing that requests for information handled by the Media team must adhere to the OIA.

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| **Action points: Current practices** |
| 1. Update *The GES OIA process* document to ensure it is consistent with the *Guidance for dealing with OIA requests involving Ministers*; andensure ACC’s practices when interacting with Ministers on OIA requests aligns with its guidance |
| 1. Consider publishing the *Guidance for dealing with OIA requests involving Ministers* on the OIA webpage |
| 1. Ensure the in-development guidance document explaining how the Media team applies the provisions of the OIA to media information requests incorporates my suggestions, and publish this guidance on the OIA webpage |
| 1. Amend the Media team’s record keeping practices to ensure full and accurate records of substantive correspondence with requesters (including emails, telephone conversations, meetings and verbal discussions), and any material internal discussions and decisions, are created and maintained in an accessible form |
| 1. Provide targeted OIA training to the Media team to ensure they understand their obligations under the OIA |
| 1. Ensure messaging from senior leaders reinforces that requests for information handled by the Media team must adhere to the OIA |
| 1. Ensure the text of all PDF documents released are searchable and not ‘image only’, and all visual elements are tagged with alternative text |

### Performance monitoring and learning

I commend ACC for the extensive amount of OIA request data it collects and reports on, which includes information on OIA timeliness, emerging themes and trends, opportunities for improvement, resourcing, capacity and capability. From this data, a dashboard is presented to senior leaders at a fortnightly meeting. Two weekly reports also go to the ACC Board, senior leaders and key staff.

Staff involved in the OIA process circulate and learn from Ombudsman opinions and publications. Through the course of this investigation, I identified an opportunity for ACC to formalise this process through written guidance. ACC promptly effected this change after receiving my provisional opinion.

ACC could also lift its OIA performance by developing a quality assurance process to be used after OIA responses have been finalised.

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| **Action point: Performance monitoring and learning** |
| 1. Develop a quality assurance process after finalisation of OIA requests |

# Leadership and culture

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

* chief executives, senior leaders and managers demonstrated a commitment to ACC 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 ACC’s strategic plans, creating a public perception of openness.

### Messaging to the public

It is important for agencies to publicly express a commitment to openness and transparency as it enables the public to have trust and confidence in how requests for information held will be treated. External corporate documents, such as ACC’s most recent Annual Reports and Strategic Intentions, include numerous messages that align with the purposes, principle and provisions of the OIA, as well as openness and transparency more generally.[[5]](#footnote-6) For example, the *Statement of intent 2018-2022* states:

We expect that our integrated portfolio will support the delivery of key elements of our strategic intentions by improving the transparency of decisions which will be available to customer through technology changes.

In addition, the *Briefing to the Incoming Minister* (November 2020) states:

In response to customer and stakeholder feedback, ACC has redesigned its services to put customers at the centre of everything it does, and is committed to creating a more transparent, modern, and efficient organisation.

Further, ACC proactively reports on net trust scores for clients, providers, and business customers,[[6]](#footnote-7) and one of ACC’s five values is ‘Fair and open’.[[7]](#footnote-8)

The information published on an agency’s website is also a strong indicator of senior leaders’ approach to openness. ACC’s OIA webpage contains the following statement:[[8]](#footnote-9)

We strive to be fair and open. We're committed to making information available under the principles of the OIA unless there's a good reason to withhold it.

I commend ACC for providing clear external messaging through multiple channels about its support of openness and transparency.

### Messaging to staff

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

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

We have recently updated our main staff intranet pages to reflect up to date messaging about handling of OIA requests. The OIA Services team is developing plans for an OIA week with the intention of increasing OIA awareness and compliance across the organisation.

I followed up with ACC about the OIA week in my post-lockdown questionnaire, and ACC advised it had been delayed due to COVID-19 and internal restructuring. ACC was also updating its stakeholder engagement plan (to include both internal and external groups), but this was delayed for the same reasons. I encourage ACC to continue its plans for an OIA week as this is a laudable initiative.

I note that ACC has a *Proactive Release of Official Information Act [OIA] responses* policy which states:

ACC is committed to supporting open and transparent Government. By making information available to the public, we seek to promote good government, openness and transparency, and encourage public trust and confidence in ACC. This is consistent with the spirit of the OIA and our responsibilities under Commitment Two of New Zealand’s Open Government Partnership National Action Plan 2016- 2018, where the Government has committed to improving agency practices around proactive release of information and requests for official information under the OIA.

This is excellent, and is exactly the type of language I would expect a proactive release policy to include. The *Proactive Release of OIA responses* policy is not yet available externally. I discuss this further below under [*Internal policies, procedures and resources*](#_Proactive_release_of_1).

ACC’s *Official Information Requests Policy* states:

Accurate and consistent management of official information requests is important to increasing public trust and confidence in ACC and supports our organisational value of being ‘Fair and Open’.

I conducted an initial staff survey and a post-lockdown staff survey. In both, I asked staff questions relating to their perceptions of leaders’ approach to openness. While there were significantly fewer respondents to the post-lockdown staff survey,[[9]](#footnote-10) the results in the tables below are still worth noting:[[10]](#footnote-11)

* + - 1. How would you rate the signals sent by the following people about the OIA, as it relates to your agency?

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| --- | --- | --- | --- | --- | --- | --- |
| Leadership level | Initial staff survey:  Strongly or moderately pro-disclosure | Post-lockdown staff survey:  Strongly or moderately pro-disclosure | Initial staff survey:  ‘They are silent on the issue’ or ‘I don’t know’ | Post-lockdown staff survey:  ‘They are silent on the issue’ or ‘I don’t know’ | Initial staff survey:  Strongly or moderately anti-disclosure | Post-lockdown staff survey:  Strongly or moderately anti-disclosure |
| Chief Executive | 63% | 43% | 36% | 57% | 0% | 1% |
| Deputy Secretary | 54% | 50% | 42% | 50% | 0% | 4% |
| Immediate Manager | 78% | 72% | 20% | 26% | 2% | 2% |

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

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| --- | --- | --- | --- | --- | --- | --- |
| Leadership level | Initial staff survey:  Strongly or moderately pro-openness | Post-lockdown staff survey:  Strongly or moderately pro-openness | Initial staff survey:  ‘They are silent on the issue’ or ‘I don’t know’ | Post-lockdown staff survey:  ‘They are silent on the issue’ or ‘I don’t know’ | Initial staff survey:  Strongly or moderately anti-openness | Post-lockdown staff survey:  Strongly or moderately anti-openness |
| Chief Executive | 85% | 67% | 14% | 31% | 2% | 1% |
| Deputy Secretary | 70% | 63% | 27% | 37% | 0% | 2% |
| Immediate Manager | 90% | 85% | 10% | 13% | 2% | 0% |

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

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| Initial staff survey:  Strongly or moderately pro-openness | Post-lockdown staff survey:  Strongly or moderately pro-openness | Initial staff survey:  ‘They are silent on the issue’ or ‘I don’t know’ | Post-lockdown staff survey:  ‘They are silent on the issue’ or ‘I don’t know’ | Initial staff survey:  Strongly or moderately anti-openness | Post-lockdown staff survey:  Strongly or moderately anti-openness |
| 92% | 85% | 4% | 13% | 4% | 2% |

In the initial staff survey, respondent’s rating of the signals sent by the former Chief Executive about the OIA, and about openness more broadly, was above the average of the 12 agencies investigated. The average ratings from across all 12 agencies in the initial staff survey were as follows: [[11]](#footnote-12)

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

Although the signals sent by the former Chief Executive about openness more broadly rated highly with staff survey respondents in the initial survey, the signals sent by the former Chief Executive about the OIA rated lower. Over a third of staff survey respondents in the initial survey said the former Chief Executive was silent on the OIA or they did not know what signals were being sent.

These results suggests that more can be done to lift staff perception of the value the Chief Executive and senior leaders place on OIA compliance. Therefore, I encourage the current Chief Executive and senior leaders to provide further messaging to staff about the importance of the OIA, as well as openness and transparency more generally. This messaging should not be a one-off exercise, but should represent an ongoing practice that evidences a permanent culture shift championed by ACC.

After receiving my provisional opinion, ACC noted this action point, and I look forward to being kept updated on ACC’s progress in this area.

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

### OIA webpage

Information on agencies’ websites is a signal to the public about leaders’ commitment to the purposes and principle of the OIA and openness more generally. The information on ACC’s OIA webpage[[12]](#footnote-13) is relatively easy to access and use. For example, the OIA webpage is located one click away from the homepage under the heading ‘Contact us’.

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

* an explanation of the principle of availability;
* who is eligible to make an OIA request;
* an explanation of timeframes, including that the OIA requires a decision on a request to be made ‘no later than 20 working days after we [ACC] receive your request’ (barring an extension);
* a link to the ‘Resources’ section of ACC’s website where proactively released OIA responses are available;[[13]](#footnote-14)
* a link to the Ombudsman’s website (one to the *Resources and publications* webpage and one to the homepage for those making complaints);
* a link to the charging guidelines on the Ministry of Justice website;[[14]](#footnote-15) and
* a link to the Te Kawa Mataaho’s *Official Information* webpage.[[15]](#footnote-16)

I am impressed by the comprehensiveness of the OIA webpage, and I only have a few minor suggestions. One suggestion is informing requesters that OIA responses can be provided in alternate formats, which is discussed further under [*Current practices*](#_Accessibility_and_usability_1).

Under ‘How to make a request’, there is only one channel provided, which is by email. I consider that best practice is to have as wide a variety of OIA request submission methods as possible to assist requesters, particularly those who may have a disability or difficulties submitting a written request. ACC may wish to consider adding a contact phone number and an online form to its submission methods for OIA requests. Under ‘Sort out a problem with a request’, I suggest including my Office’s contact details for requesters’ ease of use.

After receiving my provisional opinion, ACC added my Office’s contact details to its webpage and that, where requested, OIA responses can be provided in alternate formats.

ACC stated that a description of the information it holds is found in the *Directory of Official Information* on the Ministry of Justice website.[[16]](#footnote-17) There is a link on ACC’s OIA webpage to the *Directory*, and the OIA webpage also includes links to corporate information and reports, how levies work, statistics and privacy. I suggest ACC expand the description of the information it holds in the *Directory* to include the definition of information ‘held’ and the types of information that can be requested.[[17]](#footnote-18) Furthermore, there is value in adding the definition and types of information directly to ACC’s OIA webpage.

ACC also advised me it is working with the Ministry of Justice to update its information in the *Directory*.

ACC advised its internal decision making rules are on ProMapp.[[18]](#footnote-19) Although these are not yet linked to ACC’s external website, ACC is currently ‘working toward this, specifically by adapting Promapp’s ‘minimode’ which will enable the public to access most of the policies.’ ACC noted this is an ongoing process:

Discussion with our IT and with Promapp specialists indicate that considerable work needs to be undertaken to prepare the information for publication.

I look forward to ACC’s progress in this area. Once its internal decision making rules are published, I suggest ACC link them to the OIA webpage.

ACC’s internal OIA guidance (such as the *Official Information Requests [OIA] Policy* and *Guidance for making decisions on OIA requests*), which details internal decision making on OIA requests, is not currently published on the OIA webpage. When asked if internal OIA guidance documents would be made publicly available, ACC stated:

The [OIA] Policy as it is written, was to satisfy ACC’s Board and Executive requirements. For this reason, there is no appetite in including as is.

However, ACC went on to say it is considering updating its website to include ‘parts of the [OIA] Policy that will be useful for the public.’

I understand ACC’s reasoning for not proactively publishing its internal OIA guidance in full.[[19]](#footnote-20) However, specific information from this guidance, such as ACC’s approach to internal decision making on OIA requests, would be a useful addition to the OIA webpage. Not only would this information allow ACC to explain its internal functions and operations when responding to OIA requests, but it would provide requesters with a better understanding of ACC’s processes when an OIA request is received. It would also help manage journalist expectations about why the information they request cannot always be made available within a 24-hour news cycle deadline. This rationale is equally applicable to other requesters who may ask for their request to be treated as urgent. Perhaps most importantly, key OIA guidance used by ACC to make itself open and accountable to the public should be made available to the public.

Therefore, I am encouraged ACC is reconsidering its position on this matter. Where agencies have clear and reasonable OIA policies explaining publicly their approach to considering urgent requests, charging for the supply of information, checking the eligibility of requesters, and dealing with vexatious requests, they will be less vulnerable to criticism when they apply these policies.

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| Action points |
| Expand on the description of information held by ACC in the *Directory of Official Information* and on the OIA webpage |
| Following the publication of ACC’s internal decision making rules (described in section 22 of the OIA) on its website, include a link on the OIA webpage, and also publish details of ACC’s approach to internal decision making on OIA requests on the OIA webpage |

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| **ACC’s response**  ACC stated that making certain internal OIA guidance documents, such as *Guidance for making decisions on OIA requests*, publicly available ‘would be minimally useful to members of the public. As an alternative, ACC suggested that ‘information about OIA requests can be found on your [Ombudsman] office’s website.’  **My comment**  I acknowledge that ACC does not wish to publish its internal OIA guidance documents on the OIA webpage in their entirety. However, I encourage ACC to consider publishing specific information from its OIA guidance, such as ACC’s approach to internal decision making on OIA requests, on the OIA webpage. This would provide requesters with a better understanding of ACC’s internal processes when responding to OIA requests. |

# Organisation structure, staffing, and capability

Responding to official information requests is not only a legal requirement, but also 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 ACC’s organisational structure, staffing and capability, I considered whether:

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

### Model for handling OIA requests

ACC is divided into nine groups, each with its own Chief Officer. Along with the Chief Executive, these roles comprise the Executive (senior leadership team). Within each group are business units, and within business units are teams.

ACC has a centralised OIA model, and OIA requests are handled by the OIA Services team, which sits under Government Engagement and Support within the Pae Ora Group (Māori Capability Group). The OIA Services team comprise a Team Coordinator, six Advisors, three Senior Advisors and a Manager. Depending on the OIA request, either the business unit or the OIA Services team collate the information, and the OIA Services team drafts the response.

Introduced in June 2019, Dynamics is the workflow tool used to track OIA requests. Final OIA responses are saved in Microsoft SharePoint (Te Pātaka), one of ACC’s information management systems. Te Pātaka folders are linked to Dynamics, so the workflow tool and information management system are integrated.

I am pleased that ACC has streamlined its sign out process for OIA responses. Most are signed out by the Manager of the OIA Services team (tier four), and any deemed ‘noteworthy’ are signed out by the Head of Government Engagement and Support (tier three). OIA requests are considered ‘noteworthy’ if they ‘are likely to generate media attention or for another reason may need an extra level of oversight’. The Legal team, Media team and Chief Executive’s office are often involved in ‘noteworthy’ OIA requests, with the response being notified to the relevant Minister’s office.

ACC advised the final decision maker on OIA requests is ‘determined on a case by case basis but is typically the most senior person to review the response – most often that will be the Manager of [the] OIA Services [team].’ For ‘noteworthy’ OIA requests, the final decision maker is ‘almost always the Chief responsible for the information.’

The practice of a Chief Officer making a decision on a ‘noteworthy’ OIA request, followed by the Head of Government Engagement and Support signing their name on the OIA response, may create ambiguity for the requester about who the decision maker was. This could lead to problems in the event there is disagreement about a proposed response. ACC’s *The GES OIA Process* document provides guidance on which staff (or teams) review and sign off on OIA responses before they are sent to requesters. However, this document does not clearly state who is authorised to make decisions on OIA requests on the Chief Executive’s behalf. I suggest ACC includes information in *The GES OIA Process* on which roles are authorised to make decisions on OIA requests on the Chief Executive’s behalf, and the types of OIA requests each role can make decisions on.

In order to meet the requirements of section 15(4) of the OIA, and in the interests of accountability, and ensuring transparency for the requester in relation to who the decision maker was, the signatory to OIA response should be that of the authorised decision maker. Alternatively, it should be made clear that the OIA response is sent on behalf of the authorised decision maker, with an appropriate record kept of the decision maker’s approval.

In response to my provisional opinion, ACC stated that the ‘OIA Services Manager and the Head of Government Engagement and Support are the authorised decision maker as delegated by the Chief Executive’. ACC also provided an *OIA Sign-out process* workflow document which clarified that ‘noteworthy’ OIA requests are signed out by the Head of Government Engagement and Support. A Chief Officer is consulted, but ultimately the final decision is made by the Head of Government Engagement and Support.

### OIA training

The *Not a Game of Hide and Seek* investigation outlined that an effective training framework should encompass:[[20]](#footnote-21)

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

The initial staff survey asked when staff last received training on responding to OIA requests. The results are below.[[21]](#footnote-22)

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| Answer Choices | Responses |
| Within the last year | 32% |
| Between 1-2 years ago | 16% |
| Between 3-4 years ago | 10% |
| More than 4 years ago | 5% |
| I have never received any training on the OIA | 37% |

I note that over forty percent of staff had not received training on the OIA or had received training more than four years ago.

In the initial questionnaire, ACC stated ‘there is no specific training about the OIA given to staff new to ACC as a whole.’ However, I am pleased that during the course of the investigation ACC developed an *Information Requests* module,[[22]](#footnote-23) which is now included as part of the induction programme for all new staff. I received a copy of this module, which was thorough and included an explanation of the principle of availability.

I note that some slides used in the module could be clarified to better reflect the provisions of the OIA. I have provided separate feedback to ACC on this matter. I also encourage ACC to include the following information in the module:

* why the OIA is important, the purposes of the OIA and a statement that ACC endeavours to meet these purposes to give the public and stakeholders trust and confidence in ACC;
* that official information is held by staff, but also by contractors and Ministers;
* details on section 22 of the OIA, as some of the examples used are section 22 requests;
* an explanation of how OIA requests are handled internally at ACC, such as who does the coordinating and who is authorised to make decisions; and
* a statement about record keeping, such as what the expectations are for staff, and/or reference the *Protect and Manage our Information* induction training module (discussed further below under [*Information management and record keeping training*](#_Information_management_and_1)) where staff record keeping obligations are explained.

In response to my provisional opinion, ACC stated that it believes ‘it is not appropriate to include that level of detail in the module’ and instead ‘will update the OIA Services SharePoint [Te Pātaka] page to cover these points.’ I acknowledge ACC’s approach to provide this specific OIA information to new staff in a different format. Once this specific OIA information has been added to the Te Pātaka page, ACC could consider providing a link to it from the *Information Requests* module.

A staff meeting attendee noted the induction programme for new Board members also includes a module on the OIA. Although ACC advised the Board’s *Governance Manual* is being updated, I have received the current copy and am pleased the OIA section includes the definition of official information, the types of information that can be requested, and the purposes and principle of the OIA.

ACC stated that as part of the draft stakeholder engagement plan, the OIA Services team provided monthly OIA refresher training (via a PowerPoint) to different business groups in order to increase staff awareness of ACC’s obligations under the OIA. These monthly sessions occurred prior to the 2020 lockdown. My investigators were advised that the more training and outreach the OIA Services team did, the more they noticed staff engaging and improving their ability to identify OIA requests. Ad hoc OIA refresher training is still available upon request. A staff survey respondent noted:

The OIA team works very hard to ensure that the rest of the agency understands its obligations under the Act.

I am encouraged that ACC intends to reinstate regular OIA refresher training sessions for all staff in the coming months. The Media team would also benefit from targeted OIA refresher training, which I discuss further below under [*Current practices*](#_Media_information_requests_1). I received a copy of the PowerPoint presentation and handout for the future OIA refresher training, both of which are excellent.

The OIA Services team provides a customised induction for each new team member depending on their level of experience. I received a copy of *The GES OIA Process* training document (last updated 4 August 2021) which included information on internal and external consultation, making a decision on an OIA request, the importance of recording details of decision making, and preparing information for release. Each new team member also attends a one day OIA course offered by an external training provider. Ongoing OIA training opportunities are provided to the team on an ad hoc basis, such as when any gaps in knowledge are identified.

In March 2021, my Office provided general OIA training to new staff within Government Engagement and Support, including the OIA Services team. In April 2021, my Office provided targeted training on section 23 of the OIA (Right of access by person to reasons for decisions affecting that person) to Government Engagement and Support, including the OIA Services team.

Overall, OIA training appears to be an area of strength for ACC. However, it does not appear ACC has provided senior leaders with any recent, OIA-specific training on decision making. I encourage ACC to develop formalised OIA training for the senior leadership team to be delivered on a regular basis.

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

* demonstrates leadership from the top, that responding to OIA requests is core business and should be prioritised;
* ensures officials’ understanding and knowledge;
* promotes efficiencies and consistencies in decision making; and
* demonstrates commitment to support and grow the professional development of staff.

As ACC is aware, my staff are available to assist with developing and/or delivering training on request.

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| Action point |
| Ensure targeted OIA training is provided to senior leaders and decision makers |

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| **ACC’s response**  ACC advised that all staff are required to complete the *Information Requests* module, including decision makers and senior leaders.  **My comment**  I am pleased all ACC staff are required to complete the *Information Requests* module. However, I consider that additional targeted training for decision makers and senior leaders would still be beneficial. |

### Information management and record keeping training

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

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

The initial staff survey asked when staff last received training on information management and record keeping. The results are below.[[23]](#footnote-24)

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| --- | --- | --- | --- | --- | --- |
| Answer Choices | Within the last year | Between 1 - 2 years ago | Between 3 - 4 years ago | More than 4 years ago | I haven't received any training since working at this agency |
| Last received training on information management (such as how to use the information management systems to store/search for information) | 30% | 26% | 7% | 4% | 33% |
| Last received training on record keeping (such as what a record is, how/where/for how long records should be kept) | 25% | 25% | 10% | 8% | 32% |

I note that over a third of staff had not received training on information management and record keeping or had received training more than four years ago. In the initial questionnaire, ACC stated:

There is currently no central guide covering information management practices across all of ACC’s core systems.

However, I am pleased that during the course of this investigation ACC developed online training for all staff and contractors on information management and record keeping, titled *Protect and Manage our Information*. This online training is split into an *Information Management* module and an *Information Security* module. In relation to emails and instant messaging, the *Information Management* module states, ‘…everything is monitored and recorded…it can all be requested as part of a Privacy or Official Information Act request’.

As stated above in [*Model for handling OIA requests*](#_Model_for_handling), ACC uses Te Pātaka for information management. The *Information Management* module includes high-level information on searching Te Pātaka, as well as how to access and share information on the system. Further targeted training on Te Pātaka is available from the M365 team if required.

I note that ACC also has a *Data Ethics* online training module for staff who work with data sets. The *Data Ethics* module includes a section on information security, in which the OIA is mentioned. ACC advised:

The People Development team has a review cycle in place for all online learning modules, and product owners for these modules may also contact us for out-of-cycle content updates, if required…

It is good practice for training materials to be periodically reviewed to ensure they are up-to-date and fit for purpose, and I applaud ACC for this initiative.

In relation to refresher training on information management and record keeping, I note ACC advised its induction modules are ‘available at any time’ and ‘can be retaken when required.’ Further refresher training on Te Pātaka is staff-directed, in the form of a video and FAQ page. I encourage ACC to promote information management and record keeping refresher training to all staff on a regular basis. This could be as simple as reminding staff the relevant induction modules can be retaken, and linking them to the Te Pātaka page where the self-directed learning can be accessed.

After receiving my provisional opinion, ACC advised that the promotion of regular refresher training on information management and record keeping is already occurring, with ‘New pages/sites/posts’ promoted on the Te Pātaka home page. An example ACC provided was of the Privacy team publishing an article, *Let’s talk about Information Management 2022*, which included ‘some tips, links to resources and the various Grow@ACC modules available.’

# Internal policies, procedures and resources

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

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

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

### OIA guidance material

Of the respondents who answered questions in my initial staff survey about ACC’s OIA guidance, 87 percent said it was ‘*somewhat or very easy to find/access policy and guidance materials*’ and 82 percent said it was ‘*somewhat or very easy to understand/use policy and guidance materials*’.[[24]](#footnote-25) This is a good result that indicates staff generally consider OIA resources are accessible and user-friendly.

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

* OIA webpages on Te Pātaka,[[25]](#footnote-26) which also serves as ACC’s intranet
* *Guidance for declining official information*
* *Guidance for providing personal information about staff*
* OneNote ‘live’ OIA document to capture the information that changes most frequently, such as the processes preferred by different teams when an OIA request is commissioned
* Templates[[26]](#footnote-27)

I applaud ACC for having a wide variety of OIA resources to assist staff, and for the many positive aspects within these resources. When it comes to reviewing and updating OIA policies and procedures, ACC explains it best:

This process, by its very nature, will never be complete and will be responsive to changes in OIA best practice or legislation.

During the course of this investigation, I was pleased ACC developed OIA guidance material on differentiating between consultation and notification with Ministers’ offices (discussed further under [*Current practices*](#_Ministerial_interactions_on)), why information might be refused, and how to respond to requests for statements of reasons (section 23 of the OIA) and personal information by bodies corporate (sections 24 – 27 of the OIA).

The OIA webpages on Te Pātaka are connected to Promapp and vice versa, so staff are able to seamlessly move between the systems when accessing OIA guidance. The *OIA* *Services* webpage on Te Pātaka is excellent and includes the purposes and principle of the OIA, the definition of official information, and asks staff who receive an OIA request to contact the OIA Services team if the request cannot be answered straightaway. It states that a decision on an OIA request must be made and communicated *‘*as soon as reasonably practicable’,[[27]](#footnote-28) and no later than 20 working days after the date the request was received. A section on ‘Staff Names’ states, ‘We cannot blanket withhold names…’ Links to the Office of the Ombudsman website are also provided.

The *OIA processing guides* page on Te Pātaka includes *Guidance for making decisions on OIA requests* (last updated 19 March 2021); *OIA Policy* (last updated 7 July 2020); *Guidance for Part four OIA requests* (last updated 7 May 2021); *Proactive release policy* (discussed further below under [*Proactive release of information policy*](#_Proactive_release_of_1)); *Guidance for dealing with OIA requests involving Ministers* (discussed further below under [*Current practices*](#_Ministerial_interactions_on)); and *GES Guide to responding to Section 23 OIA requests*.

The *Guidance for making decisions on* *OIA requests* includes a link to my Office’s guidance on this topic, and closely mirrors parts of it, such as handling requests for urgency and consulting third parties.[[28]](#footnote-29)

It is encouraging that the *OIA Policy* includes a reference to the principle of availability,[[29]](#footnote-30) links to Ombudsman guidance, and sections on scoping and charging for the supply of official information. It also touches on internal and external consultations in relation to privacy. Section 5.3 states, ‘…responses regarding requests for official information will be responded to as soon as is practical’.[[30]](#footnote-31) Section 5.4 states, in relation to extensions, ‘where possible, the decision to extend should be made well before the original due date.’

I have the following suggestions to improve the *OIA Policy* even further:

* In section 5.2, consider differentiating between section 13 of the OIA (giving ‘reasonable assistance’ to help a person make a request), and section 15(1AA) and (1AB) of the OIA (subsequently helping a requester to clarify a request). In relation to clarification, consider adding information on the discretion to treat a clarified request as having replaced the original request and, in certain circumstances, to reset the maximum statutory timeframe for responding to the clarified request.
* In section 5.3, in relation to ‘20 working days’, this wording could be updated to ‘the 20 working day maximum statutory timeframe (unless extended)’, with a view to ensuring readers of the policy are certain on this point.
* In section 5.5, in relation to transfers, I suggest liaising with the agency who ACC believes holds the information, or is more closely connected with the functions, before transferring the request. With a view to ensuring readers of the policy are certain, when referring to ‘10 working days’, this wording could be updated to ‘the 10 working day maximum statutory timeframe (unless extended)’. ACC should also advise the requester of which agency their request, or part of their request, has been transferred to, as well as contact details for that agency.[[31]](#footnote-32)
* In section 5.6, in relation to charging, consider including links to the charging guidelines on the Ministry of Justice website,[[32]](#footnote-33) and the Ombudsman guidance on charging.[[33]](#footnote-34)
* In section 5.8, in relation to requesters stating their preferred format for the information requested, ACC should consider adding alternative forms of release.[[34]](#footnote-35)

The *Guidance for declining official information* includes ACC-specific examples for staff of reasons why information might be withheld or refused. Currently under the column ‘Reason for declining request’, the reason is written out (as an example, ‘to protect the privacy of persons, including that of deceased persons’). It would also be helpful for ACC to include the specific subsection (as an example, ‘*section 9(2)(a)* - to protect the privacy of persons, including that of deceased persons’) for context, particularly where there might be some overlap between withholding grounds. Furthermore, it would be helpful to differentiate between sections 6 (conclusive reasons for withholding official information), 9 (other reasons for withholding official information) and 18 (refusal of requests) of the OIA, as well as to explain the public interest test in relation to section 9.

ACC updated the *OIA policy* and *Guidance for declining official information* documents to incorporate my suggestions.

The *Guidance for providing personal information about staff* lists factors that should be taken into account when considering disclosure of information such as staff names and contact details. My Office has also produced guidance which might prove useful.[[35]](#footnote-36)

As stated above, the existing guidance for staff on processing OIA requests has many good features. However, there appears to be little or no information about requests for internal decision making rules (section 22 of the OIA), or practical guidance for finding and collating the information that falls within scope of an OIA request. I suggest this information be added.

In the agency questionnaire, ACC advised it aims to review its internal OIA guidance every one to two years, or if there are any legislative changes. This is great practice, and I suggest adding dates to all OIA resources that do not already have them, so it is evident when periodic reviews and updates should be completed. My Office is also available to review OIA resources.

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| Action point |
| Review and update OIA policies and procedures to include information on requests for internal decision making rules (section 22 of the OIA), and finding and collating the requested information |

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| **ACC’s response**  ACC stated that the next time it reviews its OIA policies and procedures, it will look to include information about requests for internal decision making rules (section 22 of the OIA), and practical guidance for finding and collating the information that falls within scope of an OIA request.  **My comment**  I commend ACC on its progress in this area. |

### Proactive release of information policy

During the course of my investigation, ACC developed a *Proactive release of OIA responses* policy, which was finalised in August 2020. Although ACC does not yet have a proactive release policy to cover the other types of information it releases, I am pleased it is planning to develop one later this year (which will be separate from the *Proactive release of OIA responses* policy).

A copy of the *Proactive release of OIA responses* policy was provided, and covers most of the aspects I consider such a policy should have.[[36]](#footnote-37) This includes a high-level statement committing to proactively releasing official information, the process of preparing information for proactive release, and the frequency and timing of publications.

I suggest the addition of a statement reflecting a commitment to releasing information in accessible and usable formats, and provision for the policy to be regularly reviewed and updated. The *Proactive Release of OIA responses* policy could then be published on ACC’s website.

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| Action points |
| Update the *Proactive Release of OIA responses* policy to include releasing information in accessible and usable formats, as well as a provision for regular review of the policy itself |
| Publish the *Proactive Release of OIA responses* policy on ACC’s website |

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| **ACC’s response**  ACC stated that the next time it reviews its *Proactive Release of OIA responses* policy, it will look to include releasing information in accessible and usable formats, as well as a provision for regular review of the policy itself.  In relation to publishing the *Proactive Release of OIA responses* policy on ACC’s website, ACC has noted this action point.  **My comment**  I acknowledge ACC for the initiative it has undertaken in this area and will seek an update on the changes made to the *Proactive Release of OIA responses* policy. I look forward to the policy being published. |

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

ACC has comprehensive guidance on information management and record keeping, such as an *Information Management Policy* (last updated 25 March 2021), *Email and Instant Messaging Policy* (last updated 2 February 2021) and *Information Security Policy* (last updated 2 December 2020), as well as *Information Management Standards* (last updated May 2019) and *Information Stewards and Custodians Standard* (last updated 17 January 2019). In addition, ACC has a retention and disposal schedule and a comprehensive Information Management Portal on Te Pātaka.

I am pleased the *Email and Instant Messaging Policy* states:

Email and instant messages are legally discoverable and may be requested as part of information requests under the Official Information Act, Privacy Act, Public Records Act, etc.

This policy also references newer platforms ACC staff use, like Microsoft Teams and Skype for Business.

The *Information Management Standards* includes information on complying with the Public Records Act 2005,[[37]](#footnote-38) a section on document naming standards, and a section on metadata. The section on document naming standards states:

Inconsistent document naming leads to future problems, including:

* Introducing compliance risk under the Accident Compensation, Privacy, Public Records, and Official Information Acts.

In the agency questionnaire, ACC advised it aims to review its information management and record keeping policies and guidance every one to two years. Most of ACC’s information management and record keeping policies have been updated within this timeframe, which is excellent. I suggest ACC also review any remaining guidance on information management and record keeping if the date of the last check occurred more than two years ago.

# 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 ACC, I considered whether:

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

### Reported OIA timeliness

For the six month period of 1 July 2019 to 31 December 2019, ACC completed 720 OIA requests with a timeliness rating of 97.6 percent.

For the six month period of 1 January 2020 to 30 June 2020, ACC completed 496 OIA requests with a timeliness rating of 98.6 percent. I note the COVID-19 2020 lockdown happened during this time, and OIA requests decreased during this lockdown.

When the above six month time-periods are combined (1 July 2019 to 30 June 2020), the reported yearly timeliness rating is 98 percent. In the latest OIA statistics released for the six-month period of 1 July 2020 to 31 December 2020, ACC completed 630 OIA requests with a timeliness rating of 98.7 percent. I encourage ACC to continue its work in this area.

### OIA practices

To gain an understanding of the processing of OIA requests, my investigators reviewed a random selection of recent OIA request files from before, during and after the 2020 lockdown. These files contained some examples of excellent OIA practices. I was pleased that when ACC refused requests under section 18(f) of the OIA (‘the information requested cannot be made available without substantial collation or research’), ACC first considered, and recorded itself considering, whether it instead should charge for the supply of the information or should extend the 20 working day maximum statutory timeframe to make a decision on the request.[[38]](#footnote-39) Administrative steps and decision making are recorded in an *OIA cover* *memo* *template*, which also includes public interest considerations if information is withheld under section 9 of the OIA (‘Other reasons for withholding official information’).[[39]](#footnote-40) Overall, the documentation of decision making on OIA requests is sound.

My investigators also noted other examples of good OIA practices. A staff meeting attendee advised that the OIA Services team is proactive about contacting requesters to seek clarification of the request, and endeavours to provide OIA responses to requesters in a format that is easy to understand. When an OIA request is fully or partially refused under section 18 of the OIA, ACC endeavours to provide additional contextual information in the OIA response letter to explain the reason why (for example, if the information is not held or does not exist).

Another staff meeting attendee advised that the OIA Services team has built strong relationships across the organisation. A triage meeting for new OIA requests is held by the OIA Services team every morning, and is attended by key contacts from the business units. The OIA Services team also work closely with the Ministerial Services team, and if there is a sudden increase in OIA requests, staff from the Ministerial Services team are able to help. Another benefit of the close working relationship is consistency across both OIA and ministerial responses on recurring topics. Many staff survey respondents were very positive about the work of the OIA Services team without prompting, which shows how valued their knowledge and expertise is to the organisation.

As mentioned above in [*Organisation structure, staffing and capability*](#_Model_for_handling), ACC’s workflow tool, Dynamics, links to Te Pātaka. Dynamics allows the OIA Services team to monitor the progress of OIA requests and manage each step of the process.[[40]](#footnote-41) OIA requests are allocated through Dynamics, and a Senior Advisor is assigned to each to be a source of guidance and complete the (eventual) peer review for the response. Staff are able to access templates and send emails through Dynamics as well.

I am pleased that during the course of this investigation ACC updated its *OIA Acknowledgement Template* to include:

* the date the request was received (or deemed to have been received);[[41]](#footnote-42) and
* an explanation that if a decision cannot be made within the 20 working day maximum statutory timeframe, an extension will be notified.[[42]](#footnote-43)

I suggest ACC also include details of its understanding of the information requested. My Office has produced a template, which might prove useful.[[43]](#footnote-44) Including this information helps to ensure at the earliest possible stage that ACC and the requester are in agreement as to the nature of the information requested.

After receiving my provisional opinion, ACC stated:

Unfortunately, this is not possible. Due the volume of correspondence transiting through GovernmentServices@acc.co.nz on a daily basis, acknowledgments are done using automatic reply in the same style as the one used by your office. To include a reference to the information requested would require returning to an entirely manual process; something our resourcing does not allow.

I acknowledge that system constraints do not allow ACC to reference the information requested in acknowledgement emails. In the future, if improved technology or additional resource allows, I encourage ACC to revisit this.

### OIA practices during the 2020 lockdown

As stated in [*The impact of COVID-19*](#_The_impact_of), my investigation coincided with the COVID-19 pandemic and resulting 2020 lockdown. At Alert Levels 3 and 4, staff were instructed to work from home. Some ACC staff were already working remotely as part of business as usual, which proved advantageous. Most of the OIA Services team already had remote devices, and those who did not were swiftly provided with them. Overall, it appears ACC’s flexibility and preparedness when faced with the COVID-19 emergency allowed staff to seamlessly transition to working from home full-time, while maintaining OIA responsiveness.

ACC’s *Business Continuity Policy* required all business units to have a recovery plan in place in the event of a disruption. Further, ACC established a Crisis Management team ‘to manage COVID-19 specific issues affecting the whole organisation.’ No staff were redeployed from the OIA Services team, and there were no changes to the team’s ability to perform its OIA functions. This is supported by a reported OIA timeliness rating of 98.6 percent during the 6 month reporting period in which the 2020 lockdown occurred, and OIA requests decreasing during this time (as mentioned above in [*Reported OIA timeliness*](#_Reported_OIA_timeliness)). A staff survey respondent said staff had other priorities, but those priorities ‘would not have displaced OIA obligations.’

Several staff survey respondents said access to technology assisted with efficient and accurate OIA processing during the 2020 lockdown. ACC staff communicated through Microsoft Teams, and the OIA Services team had daily, and then weekly, catch-ups to stay connected. Dynamics allows internal sign out, so the sign out process for OIA responses was already electronic, and therefore, did not change during the 2020 lockdown. In response to my post-lockdown questionnaire, ACC advised that the OIA Services team received support from the senior leadership team on OIA requests as needed.

While many agencies had to adjust to electronically consulting with Ministers’ offices on all departmental OIA requests, and notifying Ministers’ offices of all departmental OIA responses, (discussed further below under [*Ministerial interactions on OIA requests*](#_Ministerial_interactions_on)) during the 2020 lockdown, ACC had already implemented this type of communication through email.

Although there were a few minor technical issues at the beginning of the 2020 lockdown for some ACC staff, the OIA Services team was able to work unimpeded. The only minor issue experienced by the OIA Services team during the 2020 lockdown was a requester who wanted a paper copy of their OIA response. ACC worked with my Office and was able to post the OIA response to the requester.

There were no OIA requests received during the 2020 lockdown for physical files, but a staff member noted that if there had been, it would have been a challenge to respond. ACC may wish to consider its ability to digitise paper files to mitigate the chance of this becoming an issue during a future crisis.

Overall, it appears ACC operated consistently within my COVID-19 guidance during the 2020 lockdown.[[44]](#footnote-45) After the 2020 lockdown, the Pae Ora Group reviewed its *Pae Ora Rōpu Business Continuity Plan* (last updated March 2021) which will continue to be updated annually, or as needed.

### Proactive release of OIA responses

ACC began proactively publishing select OIA responses on its website in the six-month period of 1 July 2020 to 31 December 2020. This coincided with the finalisation of ACC’s *Proactive Release of OIA responses* policy (discussed above in [*Internal policies, procedures and resources*](#_Proactive_release_of_1)). As reported to the Te Kawa Mataaho, 28 OIA responses were published during this time.[[45]](#footnote-46)

ACC proactively releases a substantial amount of information, as distinct from OIA responses. Based on the number of OIA requests received by ACC, I would expect more OIA responses to be released proactively. In the future, the number of OIA responses published should keep increasing to align with the intentions of the Open Government Partnership.[[46]](#footnote-47) I note a staff meeting attendee advised that ACC is continuing to build its capacity for proactive release of information, which I encourage.

Additionally, the PDF format in which the OIA responses are published is not fully searchable. I discuss this point further below under [*Accessibility and usability of official information releases*](#_Accessibility_and_usability_1).

Finally, I noted ACC’s *OIA* *Letter Response template* did not include a prompt (which could be kept or removed as appropriate) about whether the OIA response would be proactively released on ACC’s website. I suggested updating this template to include wording similar to the following (as per a template produced by my Office):[[47]](#footnote-48)

Please note that it is our policy to proactively release our responses to official information requests where possible. Our response to your request will be published shortly at [URL], with your personal information removed.

In response to my provisional opinion, ACC updated the *OIA* *Letter Response template* to include a prompt about whether the OIA response will be proactively released on ACC’s website.

### Ministerial interactions on OIA requests

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

* consultation with the Minister – where the Minister’s input on a departmental OIA request is required, and the timeframe for responding to the request might legitimately be extended for a reasonable timeframe to allow the agency to receive information or advice which allows it to make a proper decision on the request;[[48]](#footnote-49) and
* notification of the agency’s decision on a departmental OIA request to the Minister - which is done for the Minister’s information only, at the same time or shortly before the decision is conveyed to the requester.

At the beginning of my investigation, ACC did not have a written agreement with its Ministers’ offices to guide the process of dealing with OIA requests involving Ministers. ACC described the unwritten process whereby ‘noteworthy’ departmental OIA responses were provided for notification, usually three working days in advance of the response being sent. Further, there was no written guidance on consulting with Ministers’ offices specifically (as distinct from other external parties) on departmental OIA requests.

It is acceptable for agencies to provide decisions on departmental OIA responses to Ministers’ offices for notification under the *‘no surprises’* principle if it is for a proper purpose (such as allowing the Minister to prepare for public commentary).[[49]](#footnote-50) However, I am concerned about the practice of departmental OIA responses being notified to Ministers’ offices up to three days in advance of being sent to requesters. If ACC has essentially made a decision, but only communicates that decision to the requester after what is essentially a three day stand-down period in which the Minister is notified of the decision taken, then ACC may risk being in breach of its obligation to make and to communicate the decision to the requester ‘as soon as reasonably practicable’.[[50]](#footnote-51)

I am encouraged that during the course of this investigation, ACC developed a written agreement with its Ministers, *Guidance for dealing with OIA requests involving Ministers* (last updated 14 January 2021). A copy of this document was provided, and covers most of the aspects I consider such an agreement should have. This includes:

* the factors ACC considers when notifying departmental OIA responses to Ministers’ offices, and consulting Ministers’ offices on departmental OIA requests;
* the timeframe for notification of departmental OIA responses to Ministers’ offices, and consultation with Ministers’ offices on departmental OIA requests; and
* when consulting with Ministers’ offices on departmental OIA requests, the process when Ministers’ offices are unable to respond to ACC within the 20 working day maximum statutory timeframe that ACC has to make a decision.

I note the ‘Notification of decisions’ section of this document states:

ACC will notify the office of the Minister for ACC at the same time as the decision [departmental OIA response] is communicated to the requester.

This is consistent with my guide.[[51]](#footnote-52) However, *The GES OIA Process* document still states:

If the response is required to be sent to the Minister’s Office for their information, it will be noted on the record. The response does not go to the Minister’s Office until internal ACC units have completely signed it off.

…

The Minister’s Office gets three days as an FYI.

I suggest ACC update *The GES OIA process* document so it aligns with the *Guidance for dealing with OIA requests involving Ministers.* This will ensure that the information contained in these documents about interacting with Ministers’ offices on OIA requests is consistent. Further, I suggest ACC ensure its practice aligns with that guidance. Finally, I suggest ACC consider publishing the *Guidance for dealing with OIA requests involving Ministers* on the OIA webpage.

After receiving my provisional opinion, ACC advised it ‘will undertake a review of this guidance [The GES OIA process document and the Guidance for dealing with OIA requests involving Ministers] with a view to aligning it as much as is possible.’

It was clear all parties understood their role in the process and that ACC was the final decision maker. ACC said the OIA Services team does not wait to hear back from Ministers’ offices before sending departmental OIA responses to requesters, which my review of the OIA request sample files confirmed.

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| Action points |
| Update *The GES OIA process* document to ensure it is consistent with the *Guidance for dealing with OIA requests involving Ministers*; and ensure ACC’s practices when interacting with Ministers on OIA requests aligns with its guidance |
| Consider publishing the *Guidance for dealing with OIA requests involving Ministers* on the OIA webpage |

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| **ACC’s response**  ACC stated that publishing the *Guidance for dealing with OIA requests involving Ministers* on the OIA webpage ‘would be minimally useful to members of the public.’  **My comment**  I acknowledge that ACC does not wish to publish the *Guidance for dealing with OIA requests involving Ministers* on the OIA webpage. However, I encourage ACC to consider what aspects of the guidance it could publish to help the public understand how it interacts with Ministers’ offices on departmental OIA requests and responses. |

### Media information requests

Requests to an agency’s media team for information held by the agency are subject to the OIA. ACC’s Media team differentiates between media requests for information held (media information requests) versus media requests for comment or an interview. I consider it is important to make this distinction, both for OIA record keeping purposes, and so the Media team is clear when the requirements of the OIA apply to the responses they are providing. These requirements are not onerous. They are either to provide the information requested, or if not, to provide the reason for refusal and reference to the right to complain to my Office.

ACC’s Media team assesses each media information request on a case-by-case basis to decide whether it needs to be passed to the OIA Services team for response. Media information requests are generally passed on if *‘*oversight of ACC’s Government Engagement & Support [OIA Services] team would improve the robustness of a response, or there is a substantial amount of information collation to be done’. Other factors that may cause a media information request to be passed to the OIA Services team include requests that will take more than three working days, those that are deemed to be complex or high risk, and usually if information may need to be withheld or refused. ACC advised that ‘regardless of who is responding to the request, the provisions of the OIA are followed.’

The Media team works closely with the OIA Services team, with whom they hold two meetings per week. ACC is also developing a guidance document explaining how the Media team applies the provisions of the OIA to media information requests. I suggest that the guidance include information on how to comply with the OIA. For example, if a response to a media information request is a full or partial refusal, the Media team must provide the reason for refusal and advise requesters of their right to complain to the Ombudsman. It would also be helpful to include the ground in support of the refusal reason. Once developed, this guidance should then be published on ACC’s OIA webpage.

After receiving my provisional opinion, ACC noted my suggestions in relation to the in-development guidance document (explaining how the Media team applies the provisions of the OIA to media information requests). I look forward to being kept updated on ACC’s progress in this area.

ACC has noted the action point about ensuring the in-development guidance document (explaining how the Media team applies the provisions of the OIA to media information requests) incorporates my suggestions and is published on the OIA webpage.

To gain further understanding of the processing of media information requests, my investigators requested a random selection of 19 file samples from before, during and after the 2020 lockdown. ACC provided a *Media inquiry* document for each file, which captures the ‘Date’; ‘Reporter’ (name of the reporter); ‘From’ (name of the media outlet); ‘Contact’ (contact details of the reporter); ‘Timeframe’; ‘Request’; ‘Response’; and ‘Who involved’ (names of ACC teams or staff who contributed). ACC also provided three email chains. I am concerned that records of internal discussions and decisions were not always included in the *Media inquiry* document. In response to a request from my Office for further records, my investigators were told this information could not be provided without significant effort because ‘…there is not a centralised place with copy of emails, file notes etc’ for the Media team.

Therefore, it appears that ACC’s Media team does not maintain full and accurate records in an accessible form of its substantive discussions and decisions on media information requests. I consider that ACC has acted contrary to law in relation to section 17(2) of the Public Records Act 2005, which requires agencies to maintain records in an accessible form to enable use for subsequent reference. However, I have not considered it necessary to make a formal recommendation in this instance in light of ACC’s advice that immediate remedial steps are being taken to address this. ACC stated it ‘is currently working with Datacom to expand Dynamics 365 to the Media team. … The work is progressing well and the Statement of Work has been finalised.’

Upon reviewing the *Media inquiry* documents, the Media team did sometimes refuse requests for information, and a reason for the refusal was provided when this occurred, as required by the OIA. However, none of the *Media inquiry* documents included a reference about the right to complain to my Office. My investigators were advised that the Media team has a standardised line to inform requesters about their right to complain to the Ombudsman, but it is usually only added when staff believe a requester might be dissatisfied with the response. Therefore, although requesters might have been told about their right to complain to my Office when information was fully or partially refused, this could not be determined based on the information provided.

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

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

ACC’s Media team must ensure the right to complain to the Ombudsman is referenced in all responses when a media information request is fully or partially refused. I am pleased the Media team already has a standard line to inform requesters about their right to complain to my Office, but it needs to be used every time a media information request is a full or partial refusal. The Media team should also keep a copy of any such communication as evidence that it is fulfilling its statutory obligations under section 19 of the OIA.

ACC also advised the template for Media responses has been updated to reflect the right to complain to the Ombudsman in all responses when a media information request is fully or partially refused, and is now in use.

As mentioned above in [*Organisation structure, staffing and capability*](#_Internal_policies,_procedures_1), there is a need for targeted OIA refresher training on a regular basis to ensure the Media team’s practices demonstrate understanding and commitment to the purposes, principle and provisions of the OIA.

After receiving my provisional opinion, ACC stated that providing targeted OIA training to the Media team ‘will be done as part of the implementation of Dynamics 365.’

I understand that my proposed recommendation and suggestions may require a cultural shift in the Media team. This should be supported by strong messaging from senior leaders to reinforce that requests for official information handled by the Media team must adhere to the OIA. Furthermore, there is no reason that compliant practices should interfere with timeliness or the effective relationships which appear to exist between ACC’s Media team and journalists.

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| Action points |
| Ensure the in-development guidance document explaining how the Media team applies the provisions of the OIA to media information requests incorporates my suggestions, and publish this guidance on the OIA webpage |
| Amend the Media team’s record keeping practices to ensure full and accurate records of substantive correspondence with requesters (including emails, telephone conversations, meetings and verbal discussions), and any material internal discussions and decisions, are created and maintained in an accessible form |
| Provide targeted OIA training to the Media team to ensure they understand their obligations under the OIA |
| Ensure messaging from senior leaders reinforces that requests for information handled by the Media team must adhere to the OIA |

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| **ACC’s response**  ACC has noted the action point about ensuring messaging from senior leaders reinforces that requests for information handled by the Media team must adhere to the OIA, and will ask such messages to be ‘communicated by Comms [Communications] senior leaders.’  **My comment**  It is positive that senior leaders in the communications space will provide messaging to reinforce that requests for information held, which are responded to by the Media team, must adhere to the OIA. It is also important that this messaging is provided by senior leaders outside the communication sphere, such as the Chief Executive.  I look forward to being kept updated on ACC’s progress on these action points. |

### 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.[[52]](#footnote-53) The standard is intended to make websites more accessible for users with a range of disabilities, including visual, hearing, physical, speech, cognitive, language, learning and neurological disabilities. Although the accessibility standards apply to website content, it is also best practice to apply these standards to information released in response to OIA requests.

I have produced a guide, which includes a section on New Zealand’s international and domestic obligations to ensure disabled people have equal access to information.[[53]](#footnote-54) 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 ACC begins to proactively release more OIA responses, the web accessibility standards become increasingly important.

ACC advised:

Since the beginning of 2019, we have adopted a practice to covert to PDF all our [OIA] responses. In addition to that, when required and possible, every document released goes through the ‘Optical Character Recognition’ process to recognise printed text on ‘image only’ documents.

In June 2021, my investigators reviewed a random selection of the OIA responses published on ACC’s website dating from September 2020 to February 2021.[[54]](#footnote-55) They found only some of the OIA responses were searchable. However, they confirmed that the two Cabinet Papers on ACC’s website were published in a searchable format, which is excellent.

ACC should ensure all PDF documents that are proactively released are searchable and not ‘image only’, and tag all visual elements with alternative text. I also note ACC’s published OIA responses include a watermark, which can sometimes inhibit the use of assistive technologies.

ACC advised me that it was able to identify ‘that the sanitise function with the new Adobe Acrobat seems to be converting all pages of the document to images when removing sensitive information.’ Currently ACC is looking for a solution to ensure PDF documents ‘are consistently searchable.’ I am encouraged that ACC is actively working to make sure its PDF documents are accessible.

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| Action point |
| Ensure the text of all PDF documents released are searchable and not ‘image only’, and all visual elements are tagged with alternative text |

### Searching, finding and collating information on requests

Agency staff need to be able to access documents in order to effectively respond to OIA requests. Therefore, agencies should have appropriate record keeping and information management practices so staff are able to identify, assess and collate information that has been requested under the OIA.

In relation to searching for information, the *Information Management* training module (mentioned above in [*Organisation structure, staffing and capability*](#_Information_management_and_1)) states:

When you are searching for information on Te Pātaka or SharePoint, you will only see the information you have permission to see.

ACC confirmed that when undertaking a search, sometimes staff can see folders or documents that exist, but which they do not have permission to open. If access to those folders or documents is needed (to determine whether the information is within scope of an OIA request), staff can contact the team who has access.

Where there is a potential issue, is when staff undertaking a search cannot see folders or documents that exist, and which they do not have permission to access. This creates a risk that relevant information may not be included in an OIA response because staff are unaware that the information exists. I encourage ACC to ensure staff are cognisant of their search limitations, as there appears to be minimal written guidance informing staff of this.

After receiving my provisional opinion, ACC advised staff are aware of the search limitations within Te Pātaka.

I acknowledge that not all OIA requests require a full system search. However, for the OIA requests that do require a full system search (such as a request for information involving multiple teams), such searches should be undertaken, or checked for accuracy, by staff with full access to Te Pātaka.

There is an eDiscovery solutions tool in Microsoft 365 that allows specific staff to undertake searches everywhere within ACC, including all systems, drives and emails. I am pleased a Senior Advisor on the OIA Services team is in the process of being granted access to this tool. However, I suggest a minimum of two staff from the OIA Services team be granted access to eDiscovery, as being dependent upon one staff member is a vulnerability (if, for example, that staff member has an extended absence or moves to a different position).

ACC also advised me that:

While one GES staff member has access to facilitate the process of emails sweep, ACC’s Information Management Team also has access to eDiscovery, and support any OIA request whenever it is needed.

Since staff on the Information Management team also have access to eDiscovery, this alleviates my concern about the vulnerability created by the dependence on one staff member.

# Performance monitoring and learning

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

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

* ACC 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 ACC’s management performance in respect of official information requests; and
* ACC learns from data analysis and practice.

### Collection, analysis and reporting of OIA data

ACC advised that a dashboard, which includes OIA request data, is presented by the Pae Ora Group at the fortnightly Executive meeting of senior leaders. I have been provided with a copy, and am encouraged that it includes information on OIA timeliness, emerging themes and trends, opportunities for improvement, resourcing, capacity and capability.

In addition to the fortnightly dashboard, the OIA Services team prepares two weekly reports with data extracted from Dynamics (of which I have received copies). The *Current OIAs, OMBs and MINs* report is a spreadsheet that goes to the Board of ACC, the Executive, and the Pae Ora leadership team, and lists all OIA requests ACC is currently handling. This spreadsheet includes information such as the date ACC received the OIA request, the information the requester is seeking, the latest possible date for a decision to be made and communicated (barring an extension),[[55]](#footnote-56) whether the OIA request has been deemed ‘noteworthy’, and the current status of the request (for example, open or closed).

The *GE&S News* report is an email comprising OIA-related updates with two tables that goes to a large number of staff from different business groups. The OIA-related updates encompass ‘some trend and workload analysis as well as any topical matters; for example, the outcome of Ombudsman investigations or the release of OIA statistics by SSC [Te Kawa Mataaho].’ One of the tables lists the new OIA requests ACC has received that week, and the other table lists all OIA requests ACC has on hand that are labelled ‘noteworthy’. The two tables capture the same information as listed above in the *Current OIAs, OMBs and MINs* report.[[56]](#footnote-57)

The Manager of the OIA Services team and the Head of Government Engagement and Support are in an issues management group that meets twice weekly to discuss emerging issues and key topics.[[57]](#footnote-58) These meetings help to identify trends that influence what information ACC chooses to proactively release.

ACC stated that Dynamics has more than 106 fields in which to record information about OIA requests, which is outstanding. For example, Dynamics is able to capture the following OIA data (which can then be reported on):

* the type of requester (such as media or opposition);
* whether a request is a Part 4 under the OIA;
* whether an OIA request was clarified with the requester within seven working days of receipt;
* the number, length and reason for both transfers and extensions, as well as the agency to which a request was transferred;
* whether third party consultation was required, and which third parties were consulted;
* whether a proposed OIA response was notified to the Minister’s office, or whether the Minister’s office was consulted on an OIA request;
* the outcome of the request (such as granted in full, granted in part, refused in full, or withdrawn), and the reason for withholding or refusing information;
* the time from the receipt of the request to communication of the decision, and the time from the receipt of the request to release of the information;
* whether a response was proactively published; and
* whether the Ombudsman investigated or resolved a complaint about the request, and the outcome of the Ombudsman’s investigation or involvement.

Although ACC does not currently charge for OIA requests, if it determined to fix a charge, the number and dollar amount of charges made and collected could be extracted from Dynamics. Dynamics also has wide-ranging search capabilities. Not only can keywords be searched, but staff are also able to search by template and within documents.

The OIA information ACC collects and reports upon is comprehensive, and I consider this is a standout area of which ACC should be proud. The only information ACC does not yet collect is whether the type of OIA request is a Part 2 or Part 3 under the OIA. I also note Dynamics has the ability to measure customer satisfaction, but ACC has yet to explore whether to collect that data from OIA requesters.

ACC advised that media information requests are included in OIA statistical reporting to Te Kawa Mataaho, which is laudable.[[58]](#footnote-59) The inclusion of media information requests in OIA statistical reporting allows ACC to gauge its OIA performance more accurately.

### Learning from investigations and guidance

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

ACC stated that it considers Ombudsman case notes, guidance and opinions before making decisions about more complex OIA requests, and in the event of an adverse opinion from my Office, the outcome would be shared in one of the weekly reports. Further, Ombudsman investigation results are discussed at Government Engagement and Support’s monthly meetings. Although it is positive the outcome of Ombudsman investigations are shared among staff, I understand that there is not a formal, written policy to support this practice, or to disseminate new resources from my Office to staff. I suggest ACC formalise the process for learning from Ombudsman investigations and guidance, which could be as simple as adding a section to the existing *OIA Policy*.

In response to my provisional opinion, ACC advised me that the OIA Advisor guide [*The GES OIA Process*] was updated to formalise the process for learning from Ombudsman investigations and guidance.

### Quality measures

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

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

At present, there are no post-closure quality assurance processes in place at ACC for OIA requests. ACC stated this is because it has rigorous processes in place for quality assurance prior to OIA responses being sent to requesters. However, there is merit in ACC developing a more formalised post-closure quality assurance system to ensure consistency of decision making and the identification of risk. In the case of OIA requests, this might include a random check of closed files on a periodic basis.

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| Action point |
| Develop a quality assurance process after finalisation of OIA requests |

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| **ACC’s response**  ACC advised it will 'look to establishing a process like the one you suggest in the coming financial year.’  **My comment**  It is positive that ACC will consider establishing a more formalised post-closure quality assurance process for OIA requests. |

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

### Accident Compensation Corporation

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 Accident Compensation Corporation (ACC) relating to the Official Information Act 1982 (OIA).[[59]](#footnote-60)

## Purpose of the investigation

The investigation will cover how ACC works 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 ACC’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 investigation will identify areas of good practice, and make suggestions for improvement opportunities where areas of vulnerability are identified.[[60]](#footnote-61)

## 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.

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:

* ACC 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 ACC 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 ACC 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](#_Leadership_and_culture)
2. [Organisation structure, staffing and capability](#_Organisation_structure,_staffing)
3. [Internal policies, procedures and resources](#_Internal_policies,_procedures)
4. [Current practices](#_Current_practices)
5. [Performance monitoring and learning](#_Performance_monitoring_and)

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

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

## Leadership and culture

Achieving the purposes of the Act[[61]](#footnote-62) 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.

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| **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 | * 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 |
| Senior leadership have established an effective official information strategic framework which promotes an official information culture open to the release of information | * The agency has a strategic framework describing how it intends to achieve:   + 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:   + 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 is 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.

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| **Elements** | **Things to look for (indicators)** |
| Agency has the capacity to discharge its official information obligations, with clear and fully functioning:   * roles; * accountabilities; * reporting lines; * delegations; and * resilience arrangements. | * An appropriate, flexible structure exists to manage official information requests which is well resourced reflecting the:   + 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:   + Specific responsibility exists for coordinating, tracking and monitoring official information requests and agency decisions (and ombudsman decisions) and there is the authority and support to ensure compliance[[62]](#footnote-63)   + 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) |
| Agency has the capability to discharge its official information obligations | * 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.

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| **Elements** | **Things to look for (indicators)** |
| The agency has good official information policies, procedures and resources that are accurate and fit for purpose | * Good policies, procedures and resources exist for receipt and assessment of requests, which cover:   + 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:   + 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:   + Making a decision whether to release the information   + 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:   + 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 | * 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:   + 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   + 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 |
| The agency has accurate and comprehensive proactive release policies, procedures and resources | * The policies and procedures cover the release of such things as:   + 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.

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| **Elements** | **Things to look for (indicators)** |
| Official information practices demonstrate understanding, compliance, and commitment to the principle and requirements of the Act | * 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 |
| The agency has good record keeping and information management practices | * 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*](#_Internal_policies,_procedures) |
| The agency has good proactive release practices | * The agency’s entry in the *Directory of Official Information* 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*](#_Internal_policies,_procedures) * 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.

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| **Elements** | **Things to look for (indicators)** |
| The agency has an established system for capturing and analysing data to inform meaningful and appropriate performance measures | * Performance measures include:   + 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:   + 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   + 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 |
| There is regular reporting about the agency’s management and performance in respect of official information requests | * 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 |
| The agency learns from data analysis and practice | * The agency has a system for sharing official information learning and experience, such as meetings, newsletters, email or intranet updates, or official information *‘champions’* * 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

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. [↑](#footnote-ref-2)
2. See ss 13(1) and 13(3) OA 1975 [↑](#footnote-ref-3)
3. Link to the Unite against COVID-19 [History of the COVID-19 Alert System](https://covid19.govt.nz/alert-system/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. [↑](#footnote-ref-4)
4. On occasion I may look at material from outside the investigation period where particular issues warrant further investigation. [↑](#footnote-ref-5)
5. See pages 3, 10, 14, 19, 22-23, 30, 32, 39, 41, 45, 48-49, 51-52, 58, 67, 81, 84, 86, 91, 94-95, 103, 105, 109-111, 117, 126, 128 and 199 [*Annual report 2020*](https://www.acc.co.nz/assets/corporate-documents/annual-report-2020-acc8234.pdf)

   See pages 5, 8, 12-13, 18-19, 20-21, 24, 26-28, 32-33, 37 and 40 [*Statement of intent 2018-2022*](https://www.acc.co.nz/assets/corporate-documents/f23bf80b2d/acc7849-statement-of-intent-2018-2022.pdf)

   See pages 9, 11-12, 17, 20, 22, 25, 27-29, 36, 42, 70, 78-80 and 88 [*Service agreement 2020-2021*](https://www.acc.co.nz/assets/corporate-documents/service-sgreement-2020-2021-acc8124.pdf)

   See pages 6, 8-11, 15, 19-20 [*Briefing to the Incoming Minister - November 2020*](https://www.acc.co.nz/assets/corporate-documents/Briefing-to-the-Incoming-Minister-November-2020-.pdf) [↑](#footnote-ref-6)
6. Net trust score is defined in the [*Statement of intent 2018-2022*](https://www.acc.co.nz/assets/corporate-documents/f23bf80b2d/acc7849-statement-of-intent-2018-2022.pdf) as ‘A measure of the extent to which respondents have trust and confidence in ACC on a 0-10 scale grouped into four categories (low trust and confidence, medium trust and confidence, high trust and confidence, and don’t know/refused). The new trust score is the proportion of respondents with high trust and confidence (score 9-10) less the proportion of respondents with low trust and confidence (score 0-6). Score ranges from -100 to +100.’ [↑](#footnote-ref-7)
7. Link to ACC’s [What we do](https://www.acc.co.nz/about-us/who-we-are/what-we-do/) webpage [↑](#footnote-ref-8)
8. Link to ACC’s [OIA requests](https://www.acc.co.nz/contact/official-information-act-requests/) webpage [↑](#footnote-ref-9)
9. There were 205 total responses to the initial staff survey compared to 80 total responses to the post-lockdown staff survey. Any findings should be balanced against the total number of staff (approximately 3,800) employed by ACC. [↑](#footnote-ref-10)
10. Numbers may not add up to 100 as they have been rounded to the nearest percentage. [↑](#footnote-ref-11)
11. Numbers have been rounded to the nearest percentage. [↑](#footnote-ref-12)
12. Link to ACC’s [OIA requests](https://www.acc.co.nz/contact/official-information-act-requests/) webpage [↑](#footnote-ref-13)
13. Link to ACC’s [Resources](https://www.acc.co.nz/resources#/category/12) webpage filtered by OIA responses [↑](#footnote-ref-14)
14. Link to the Ministry of Justice [Charging guidelines for OIA requests](https://www.justice.govt.nz/about/official-information-act-requests/directory-of-official-information/charging-guidelines-for-oia-requests/) [↑](#footnote-ref-15)
15. Link to the Te Kawa Mataaho [Official Information webpage](https://www.publicservice.govt.nz/guidance/official-information/) [↑](#footnote-ref-16)
16. Link to the [Directory of Official Information](https://www.justice.govt.nz/about/official-information-act-requests/directory-of-official-information/) [↑](#footnote-ref-17)
17. See p 6 of the Office of the Ombudsman’s [The OIA for Ministers and agencies: A guide to processing official information requests](https://www.ombudsman.parliament.nz/resources/oia-ministers-and-agencies-guide-processing-official-information-requests) [↑](#footnote-ref-18)
18. Promapp is a business process mapping software tool [↑](#footnote-ref-19)
19. A request can be made for this information under s 22 OIA 1982. [↑](#footnote-ref-20)
20. Link to [*Not a Game of Hide and Seek*](https://www.ombudsman.parliament.nz/resources/oia-report-not-game-hide-and-seek)(December 2015): 65. [↑](#footnote-ref-21)
21. Numbers may not add up to 100 as they have been rounded to the nearest percentage. [↑](#footnote-ref-22)
22. The *Information Requests* module covers both the OIA and the Privacy Act 2020. [↑](#footnote-ref-23)
23. Numbers may not add up to 100 as they have been rounded to the nearest percentage. [↑](#footnote-ref-24)
24. Numbers have been rounded to the nearest percentage. [↑](#footnote-ref-25)
25. Te Pātaka webpages include *Government Services Hub*; *OIA Services*; *ACC’s OIA Polic*y; *Ministerial Services*; and *OIA processing guides*. [↑](#footnote-ref-26)
26. OIA template letters include the *cover memo*; *Transfer agency*; *Transfer requestor*; *Extension*; *Letter Response*; and *Remote Claims response*. OIA template emails include the *Acknowledgement*; *Commissioning*; *External consultation*; *Consultation on release of staff names*; and *Response*. [↑](#footnote-ref-27)
27. In accordance with section 15(1) of the OIA [↑](#footnote-ref-28)
28. Link to the Office of the Ombudsman [The OIA for Ministers and agencies](https://www.ombudsman.parliament.nz/resources/oia-ministers-and-agencies-guide-processing-official-information-requests) guide [↑](#footnote-ref-29)
29. See s 5 OIA 1982 [↑](#footnote-ref-30)
30. See s 15(1) OIA 1982 [↑](#footnote-ref-31)
31. Further, in relation to ACC’s templates for OIA transfers, the *OIA Transfer agency template* should include who at the agency accepted the transfer and the date it occurred. The *OIA* *Transfer requestor* *template* could include the contact details of the agency to which the OIA request is being transferred. [↑](#footnote-ref-32)
32. Link to the Ministry of Justice [Charging guidelines for OIA requests](https://www.justice.govt.nz/about/official-information-act-requests/directory-of-official-information/charging-guidelines-for-oia-requests/) [↑](#footnote-ref-33)
33. Link to the Office of the Ombudsman [Charging guide](https://www.ombudsman.parliament.nz/resources/charging-guide-charging-official-information-under-oia-and-lgoima) [↑](#footnote-ref-34)
34. See s 16 OIA 1982 [↑](#footnote-ref-35)
35. Link to the Office of the Ombudsman [Names and contact details of public sector employees](https://www.ombudsman.parliament.nz/resources/names-and-contact-details-public-sector-employees) guide and [Processing requests for names of public sector employees work sheet](https://www.ombudsman.parliament.nz/resources/processing-requests-names-public-sector-employees-work-sheet) [↑](#footnote-ref-36)
36. Link to the Office of the Ombudsman [Proactive release: Good practices for proactive release of official information](https://www.ombudsman.parliament.nz/resources/proactive-release-good-practices-proactive-release-official-information) guide [↑](#footnote-ref-37)
37. Link to the [Public Records Act 2005](https://www.legislation.govt.nz/act/public/2005/0040/latest/DLM345529.html) [↑](#footnote-ref-38)
38. See s 18A(1)(a) and (b) OIA 1982 [↑](#footnote-ref-39)
39. The *OIA cover* *memo* *template* sections are ‘Request’; ‘Background’; ‘Steps taken’; ‘Rationale for any withheld information’; ‘Any public interest considerations’; and ‘Consultation’. [↑](#footnote-ref-40)
40. A staff meeting attendee explained that each OIA request has a SharePoint folder where all the records specific to that request are stored. [↑](#footnote-ref-41)
41. See ss 15(1AA) and (1AB) OIA 1982 [↑](#footnote-ref-42)
42. See ss 15A(1)(a) and (b) OIA 1982 [↑](#footnote-ref-43)
43. Link to the Office of the Ombudsman [Template letter 1: Acknowledgement letter](https://www.ombudsman.parliament.nz/resources/template-letter-1-acknowledgement-letter) [↑](#footnote-ref-44)
44. Link to the Office of the Ombudsman [FAQs about official information requests during COVID-19](https://www.ombudsman.parliament.nz/resources/faqs-about-official-information-requests-during-covid-19) [↑](#footnote-ref-45)
45. Link to Te Kawa Mataaho [OIA statistics webpage](https://www.publicservice.govt.nz/guidance/official-information/oia-statistics/) [↑](#footnote-ref-46)
46. Link to the [Open Government Partnership website homepage](https://ogp.org.nz/) [↑](#footnote-ref-47)
47. See the Office of the Ombudsman [Template letter 6: Letter communicating the decision on a request](https://www.ombudsman.parliament.nz/resources/template-letter-6-letter-communicating-decision-request) [↑](#footnote-ref-48)
48. See s 15(1) OIA 1982 [↑](#footnote-ref-49)
49. Link to paragraph 3.22 [Cabinet Manual](https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/3-ministers-crown-and-2) [↑](#footnote-ref-50)
50. See s 15(1) OIA 1982 [↑](#footnote-ref-51)
51. Link to the Office of the Ombudsman [Dealing with OIA requests involving Ministers](https://www.ombudsman.parliament.nz/resources/dealing-oia-requests-involving-ministers-guide-transfer-consultation-and-notification) guide [↑](#footnote-ref-52)
52. Link to the Digital government [Web Accessibility Standard 1.1 webpage](https://www.digital.govt.nz/standards-and-guidance/nz-government-web-standards/web-accessibility-standard-1-1/) [↑](#footnote-ref-53)
53. 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](https://www.ombudsman.parliament.nz/resources/proactive-release-good-practices-proactive-release-official-information) [↑](#footnote-ref-54)
54. Link to [ACC’s Resources webpage](https://www.acc.co.nz/resources#/category/12) filtered by OIA responses [↑](#footnote-ref-55)
55. See s 15A(1)(a) and (b) OIA 1982 [↑](#footnote-ref-56)
56. This includes the date ACC received the OIA request, the information the requester is seeking, the latest possible date for a decision to be made and communicated (barring an extension), whether the OIA request has been deemed ‘noteworthy’, and the current status of the request (such as open or closed). [↑](#footnote-ref-57)
57. Other attendees of the issues management group include staff from the OIA Services team, Ministerial Services team, Privacy team, the Office of the Chief Executive, Legal, Media, Operations, and Customer. [↑](#footnote-ref-58)
58. Link to the Te Kawa Mataaho [OIA statistics webpage](https://www.publicservice.govt.nz/guidance/official-information/oia-statistics/) [↑](#footnote-ref-59)
59. See sections 13(1) and 13(3) of the Ombudsmen Act 1975 (OA). [↑](#footnote-ref-60)
60. Formal recommendations under the OA will only be made if the Chief Ombudsman forms an opinion that a decision, recommendation, act, or omission by the agency was unreasonable or contrary to law under section 22 of the OA. [↑](#footnote-ref-61)
61. ‘The Act’ refers to the Official Information Act 1982 [↑](#footnote-ref-62)
62. This indicator is also relevant to performance monitoring and learning. [↑](#footnote-ref-63)