



13 December 2023

Tēnā koe

On 1 November 2023, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

- *I am seeking a copy of all documents relating to the central processing unit's policy to withhold and refuse confidential address requests for Tenancy Tribunal orders and debt collection.*
- *Please include all policies.*
- *Please also include internal communications (emails or otherwise) between any relevant parties who requested the implementation of this policy and copies of any legal advice provided.*
- *Please also provide any communication (emails or otherwise) that were provided to the Minister responsible advising the Minister of such a policy.*

For the sake of clarity, I will respond to your requests in turn.

- *I am seeking a copy of all documents relating to the central processing unit's policy to withhold and refuse confidential address requests for Tenancy Tribunal orders and debt collection.*
- *Please include all policies.*

Please see **Appendix One** containing the page from the Ministry's internal intranet which provides the Central Processing Unit staff with the guidance for when a request for Tenancy Tribunal orders and debt collections or Civil Court proceedings, are received.

The Ministry acknowledges that the guidance has not been reviewed in full since 29 November 2020. This has been escalated to the relevant team, and is on the work programme to be refreshed.

Some information is withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

The Ministry also takes direction from the Ombudsman's Guide. For convenience, please find the relevant guidance on page 3 at the following link: www.ombudsman.parliament.nz/sites/default/files/2022-02/Address%20information%20for%20the%20purposes%20of%20civil%20court%20proceedings.pdf.

- *Please also include internal communications (emails or otherwise) between any relevant parties who requested the implementation of this policy and copies of any legal advice provided.*
- *Please also provide any communication (emails or otherwise) that were provided to the Minister responsible advising the Minister of such a policy.*

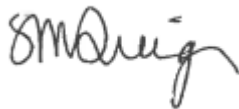
Your request for this information is refused under section 18(e) of the Act as this document does not exist or, despite reasonable efforts to locate it, cannot be found.

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

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

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

Ngā mihi nui



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Magnus O'Neill
General Manager
Ministerial and Executive Services

Official Information RFI's

This page describes the process and practice that is followed by Centralised Services in response to Official Information Request for Address Information.

On this Page:

Introduction

Background

Requests for address information are sent to Centralised Services via post or email under the Official Information Act (OIA) for people who are being sought to enforce a court judgement order.

These requests are known formally as Official Information Act Requests for address information, or more commonly known to CPU as OIA requests.

Our Role

We will respond to OIA requests for address information received via the [CPU@msd.govt.nz \[mailto:CPU@msd.govt.nz\]](mailto:CPU@msd.govt.nz) email newsgroup or post. We will locate the debtor on our system and make a decision, based on the information received, whether the address information should be made available or whether there is a good reason to withhold the information.

As we are dealing with address requests only, we are unlikely to withhold any information.

Timeliness

We have 20 working days to respond to a request for information. This is a legislative requirement.

Official Vs Personal Information

Official Information Act 1982

The guiding principal of the Official Information Act 1982 (OIA) is that all information should be made available unless there is good reason to withhold it.

As public servants we have a duty to help people access official information they request. As we already know, personal information is also official information, therefore OIA allows people to request personal information from MSD.

The OIA contains guidelines about how to handle requests including when those requests should be declined. The OIA is reviewed by the Ombudsmen.

Official Information is all information held by the Ministry of Social Development (MSD) including;

Personal information

Training manuals

Policy advice

Emails

Information held in a staff members mind

Information held by independent contractors

Any advice to the Minister

Memos

Contracts

Reasons for any decision affecting a person

Privacy Act 1993

The Privacy Act controls the way the Ministry collect, store, disclose and the use of peoples' personal information.

One of the principles of the Privacy Act is that everyone should be able to access their own personal information unless there is a good reason not to provide them with this information.

Intent of the privacy act

To promote and protect individual privacy;

To establish principles regarding the collection, storage, use and disclosure of information about identifiable individuals;

To provide for individuals access to and control of personal information

Identification is crucial. Personal information should never be released unless you are satisfied you have identified the person requesting it.

The Privacy Act does not cover the fact that someone is physically located in a place. For example, the fact that someone is standing in the reception area at the Wairoa Service Centre is not protected by the Privacy Act, but it does cover their personal information on SWIFTT.

The Privacy Act is reviewed by the Privacy Commissioner.

Personal Information is any information about one particular person; any information that identifies an individual. For example;

Address

Date of birth

Employer's name

Physical markings i.e. tattoos, unusual hairstyles/hair colours

Social associations i.e. club memberships

Family members

Any unique achievement such as writing an article or book, or a sporting achievement

ALL PERSONAL INFORMATION IS OFFICIAL INFORMATION

Each request for **personal information** you receive from someone who is not the person that the information is about is a request under the **Official Information Act**.

Each request for **personal information** under the Official Information Act must be assessed on its own merits by weighing up the public interest in having the information released against the protection of the person's privacy.

Which Act Applies?

When deciding which act to use, we need to know the following;

Who is requesting the information? **AND**

What information are they requesting?

Privacy Act 1993 - Where someone (or their authorised agent) is asking for information about themselves

The Privacy Act will permit the release of personal information where it is necessary for the conduct of court proceedings.

In the cases where a judgement has been made and the creditor wants to enforce that judgement through the courts, then the debtor's address may be released to the courts (with a clear explanation that it will only be used to service the court proceedings on the debtor).

Official Information Act 1982 - Where someone is asking for any information that is not about them.

The first principle of the Official Information Act is that information should be made available unless there is a good reason for withholding it.

"Good reason" means one of a number of reasons specified in the Official Information Act. Good reason can exist for withholding official information when it is necessary to protect the privacy of individuals (including people who are now deceased).

However, sometimes there are other considerations which make it desirable, in "the public interest," to make that personal information available. When looking at such reasons, we need to weigh the privacy of a person against the public interest (e.g. the conduct of court proceedings).

The Process

When an OIA request is received, it is our responsibility to search, locate (where possible), and respond by letter with the outcome (or by email in some instances) to the requestor with the appropriate information. At the end of each day you should then send your "accepted" address information to the Ministry of Justice (MOJ).

The identification process

In all cases we should be completing an identification check i.e. locating the client by using the identifiers provided by the requestor. The requestor must provide a minimum of 2 identifiers in order for us to confidently identify the correct person on our system.

Where the requestor has not provided us sufficient information, we should 'pend' the request in the OIA register and request further identifiers from the requestor.

What information do we provide?

Where we have confirmed that under the OIA we are able to disclose information, we will need to provide the address details **only**; where the requestor seeks additional information we should advise them by phone or email that we cannot provide this information, and then note this in the OIA register.

Unable to locate the debtor (client)

Where we are unable to locate the debtor (client) on our system we will 'decline' the request by sending a decline letter and noting the OIA register, "unable to be located."

What to check

There are several steps which need to be completed before we can provide information requested under the Official Information Act 1982;

Check that in fact a court judgement against the debtor has been made and we have a copy of that judgement

Confirmation that the creditor has first checked other available sources to locate the debtor e.g. checking electoral roles, phone directories, e.t.c.

Check the date on the judgement order (how old is it?)

s9(2)(h)

What the requestor must provide

The requestor must provide in all instances the following documentation;

A signed request to release address information from the requestor

A copy of the court judgement, application of judgement order or disputes tribunal order

Confirmation of what other available sources the requestor has checked to locate the debtor

Name and contact details for the requestor

Name and personal details (last known address, D.O.B. e.t.c.) of the debtor

Other steps taken by requestor to locate debtor

It is a requirement that the requestors advise us what other steps (prior coming to MSD) they have taken to locate the debtor;

Companies with access to VEDA Advantage

Most companies have access to VEDA, if they mention they have checked this avenue then we can consider that they have completed this step.

Individual requestors (not a company)

Some of our individual requestors (e.g. small business owners) may not know what other avenues to find the debtors address details.

Accepting OIA requests

<p>Client's benefit current, or address updated, in the last 6 months</p>	<p>Where client's benefit is not current now, but has been in the last 6 months and they meet all other criteria, we can release address information.</p> <p>We can also provide address information if we can see in CMS that the address has been updated in the 6 month period. This could happen where the client has advised us of a change in their address via our Online Services. Or the client may have applied for assistance that was declined - at this stage, the clients contact details are updated based on the application which means this is the most recent information.</p> <p>Note: "6 months" is just a guideline. If client's benefit was current 6 months and 2 weeks ago, and the other criteria is met, we can still release the information.</p>
<p>Address in CMS</p>	<p>Where the addresses provided by the requestor do not match any addresses in the client's CMS history, and other criteria are met, we can release address details.</p>

Declining OIA requests

<p>Is the request tenancy related?</p>	<p>Where the request is related to a tenancy matter, we will refer the requestor to the Ministry of Business, Innovation and Education.</p>
<p>Benefit not current during the last 6 months OR client in prison</p>	<p>Decline the request, note the OIA register with reasons why, and send the decline letter to the requestor.</p>
<p>Debtor's CMS address matches the requestor's details</p>	<p>If the client's benefit is current and the address on any of the documentation provided by the requestor match what is currently on file, we will immediately decline the request.</p> <p>Add a Must View Note as follows:</p>

Business Group: Service Delivery
Event Type: Change in Circumstances
Sub-Type: Change of Address

CPU has received notification from a third party that the above-named client is not residing at the address we have in CMS.

As this information has come from an outside agency CPU has not taken further action.

For the next person who talks to the client, please confirm address details on our system are up to date. Once done, please remove MVN. Thank you.

Pending requests

Once we have updated the OIA register with our decision and any applicable correspondence has been sent, we will place the pending request in the OIA "holds" cubby.

If we have not received requested document(s) from the requestor after a week, we should follow up again with the requestor. This can include emailing or calling the requestor on the phone.

The following scenarios are common reasons for pending an OIA request and the process we should follow;

<p>No judgement order has been provided</p>	<p>We cannot process an OIA request without a judgement order. Send the "Request a copy of order" letter to the requestor.</p> <p>Note: Where the requestor has attached an "Application for judgement" instead of a judgement order (e.g. attachment order) we cannot approve and disclose the requested address details under the OIA.</p> <p>The requestor must follow the process for requests under the OIA. When this process is followed, a judgement order will be made available.</p>
<p>Other steps taken to locate client – requestor has not provided this information</p>	<p>We should try phoning or calling requestor first to seek clarification.</p> <p>If we are unable to get this information from requestor immediately, we should 'pend' the request and await feedback, then note the OIA register with 'pending'; comments should reflect that a phone call/email has been made/sent, and that we are waiting on a response.</p> <p>Note: In some instances, requestors may not know where they can check to find the debtors address information before they apply to us. The following are examples of where requestors can check;</p> <ul style="list-style-type: none"> • White pages • Other government departments • VEDA advantage (costs may apply) • Electoral roles • Companies office database

Completing requests

After we have assessed whether or not we can release the address information for the debtor we must ensure that we are completing our letters to advise the requestor of the outcome. We will need to complete one of the following letters based on our decision;

Accepted letter - where we have assessed the information *can* be provided

Declined letter - where we have assessed that the information *cannot* be provided

MBIE transfer - when the request is for a tenancy related matter

Request a copy of order - when we require a copy of the court judgement as it has not yet been provided

Request to contact us - when we require the requestor to make contact with us

In most instances we will post our letters to the requestor, however, for some creditors we can email our response directly to them. Their email details can be found on their request forms or reply directly to the email.

Completed requests

We only need to add notes regarding our action in the OIA register. We can also send letters directly from the OIA register.

All OIA request forms and letters sent to the requestor with the outcome are batched.

RELEASED UNDER THE
OFFICIAL INFORMATION ACT