



## Official Information Act requests involving Ministers

This guide is to be used for Chief Executive Official Information Act requests involving Ministers and the Ministry of Social Development and is based off the Ombudsman's Model Protocol.<sup>1</sup>

More detailed information about OIA requests involving Ministers is available on the Ombudsman's website at:

[www.ombudsman.parliament.nz/sites/default/files/2019-08/OIA%20requests%20involving%20Ministers%20August%202019.pdf](http://www.ombudsman.parliament.nz/sites/default/files/2019-08/OIA%20requests%20involving%20Ministers%20August%202019.pdf)

### 1. Principle

- a. The principle of the Official Information Act (OIA) is *availability*, meaning that information should be made available unless there is a good reason not to.

### 2. Notification of requests

- a. The Ministry of Social Development (the Ministry) will notify the Minister's office, of any *OIA request involving the Minister*, including where the requested information:
  - relates to their Ministerial functions or activities or delegated functions or activities
  - could impact on the Minister's functions or activities or delegated functions or activities
  - was generated by or on behalf of a Minister
  - is sensitive or controversial
  - is likely to be published in the news media, or
  - debated in the House.

### 3. Transfer

- a. The Ministry will transfer all or part of an OIA request to the Minister's office, when the requested information is not held by the Ministry but is believed to be held by the Minister's office, or when the requested information is more closely connected with the functions of the Minister's office.
- b. The Minister acknowledges that, in the absence of these circumstances, transfer is not permitted and responsibility for deciding on the request rests with The Ministry.

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<sup>1</sup> The Ministry services a number of different Minister's offices but for the purpose of this guidance, we will refer to the 'Minister's office' in singular.

- c. The need for transfer will be determined on the facts of the particular case, with regard to the specific information at issue.
- d. The Minister's office will likewise transfer all or part of an OIA request to the Ministry when that is required under [section 14](#) of the OIA.

#### **4. Consultation**

- a. The Ministry will work with the Minister's office to identify requests requiring consultation. The Minister's office will be consulted when the request is covering reports which were prepared for the Minister, and on other requests as agreed – the criteria listed under 'notification of requests' *may* be reasons for consultation.
- b. The Ministry will provide the Minister's office with all information necessary for informed consultation. The Ministry will allow five working days for consultation to take place, unless a different timeframe has been agreed for a particular request.
- c. The Minister's office will respond to all consultations as expeditiously as possible. The Minister's office will let the Ministry know if more time is required, so that the Ministry can consider whether it is necessary to extend the maximum 20 working days for making a decision on the request.
- d. The Minister's office will provide appropriate input in response to the Ministry requests for consultation. Appropriate input means comments and suggestions regarding:
  - the proper application of the withholding grounds and the public interest test
  - the release of additional information, to place the information that is being released in its proper context
  - the proactive release of the same information to others, provided there is no undue delay in providing that information to the requester.
- e. The Minister's office will not provide inappropriate input, such as raising irrelevant considerations (like political embarrassment) or asking or instructing the Ministry to act in a way that would be contrary to the requirements of the OIA, including withholding or delaying release of official information without any proper statutory basis.
- f. The Ministry will consider the input of the Minister's office on an OIA request in good faith and with an open mind, before deciding whether that input provides a reasonable basis for changing its proposed decision on the request. The Ministry may proceed to make a decision on an OIA request if the Minister's office does not respond to the consultation or advise that further time is required.
- g. Following appropriate consultation with the Minister's Office, the final decision on whether to release information or not remains the responsibility of the Ministry.

## **5. Informing the Minister's office about OIA decisions ('fyi')**

- a. The Ministry will work with the Minister's office to identify decisions requiring the Minister's office to be informed about a decision. This may be required when the requested information is, for example:

- sensitive or controversial in nature, or
- likely to be published in the news media or debated in the House.

Informing the relevant Minister's office will be done in parallel with the Ministry's final sign-out process, unless a different timeframe has been agreed for a particular request.

- b. The Ministry will discuss and agree with the Minister's office if they wish to receive a final version of the OIA response if there are any significant changes in the sign-out process.
- c. The Ministry will be clear, through naming of email subject lines for example, if a request was sent to the Minister's office for 'consultation' or as an 'FYI'.

## **6. Record keeping**

- a. The Ministry and the Minister's Office will keep full and accurate records of interactions in relation to OIA requests, as required by [section 17\(1\)](#) of the Public Records Act 2005.

## **7. Disputes**

- a. Where an escalation is required regarding the proper application of the OIA, or where there is lack of clarity or questions, please contact the General Manager, Ministerial and Executive Services.

For any other assistance, please contact the Ministry's OIA team at [OIA requests@msd.govt.nz](mailto:OIA_requests@msd.govt.nz).