



Proactive release of Cabinet papers: six-monthly data

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| Date: | 7 March 2023 | | |
| To: | Hon Andrew Little, Minister for the Public Service | | |
| Action Sought: | Agree to proactively release this briefing | Due Date | 10 March 2023 |
| Report No: | 2023-0045 | | |
| Contact: | Olivia Cross, Acting Manager, Integrity, Ethics and Standards | | |
| Encl: | Yes | Priority: | Medium |
| Security Level: | IN CONFIDENCE | | |

Executive Summary

1. In May 2022, Cabinet agreed that departments will report to Te Kawa Mataaho Public Service Commission every six months on the number of Cabinet papers proactively released and that Te Kawa Mataaho report this information to the Minister for the Public Service.
2. This report provides you with the data from the first six-monthly collection, recording the period July – December 2022.
3. In total 526 papers were approved for release (i.e that was the stated intention in the paper's proactive release section). Please note some papers may have been approved for release, but the 30-day period for release falls outside of the reporting timeframe, creating a lag. For example, papers that went to Cabinet on or after 14 November 2022, are not required to be released within the current reporting period.
4. As this is the first six-monthly collection round, we believe consistency in reporting practices as well as data utility will improve in future rounds as the reporting processes are embedded and the lag is caught up and captured. Given these limitations we have focused our analysis on the papers that have been both approved *and* released over the July – December period.
5. 305 papers were proactively released during this period. A further 195 were being prepared for release as of 31 December.
6. In total 229 papers (75.1%) have been proactively released within policy (i.e either released within 30 working days or had a reason under the policy for delayed release).
7. A breakdown of the statistics by portfolio is provided in appendix one. There are a number of caveats regarding the data, including the reasons why a paper may not have been released and the lag between approval for proactive release and the subsequent release. These caveats are set out in appendix one and discussed in further detail below.

Recommended Action

We recommend that you:

- a **note** the proactive release of Cabinet papers data and caveats on the data provided in appendix one
- b **agree** that Te Kawa Mataaho release this briefing in full once it has been considered by you
 Agree, disagree.
- c **agree** to proactively release the data captured in appendix one outlining the Cabinet paper proactive release data broken down by portfolio
 Agree, disagree.
- d **discuss** with Te Kawa Mataaho if you would like to release a media statement alongside the data.
 Agree, disagree.
If this is still considered necessary



Hon Andrew Little
Minister for the Public Service

15/3/23

Proactive release of Cabinet papers: six-monthly data

Purpose of Report

8. This report provides you with data on the proactive release of Cabinet papers by portfolio for the period 1 July 2022 – 31 December 2022 and summarises the findings from, and limitations of, the data

Background

9. In May 2022, Cabinet agreed that departments report to Te Kawa Mataaho Public Service Commission every six months on the number of Cabinet papers released, and that Te Kawa Mataaho report this information, by portfolio, to the Minister for the Public Service [CAB-22-MIN-0168.01 refers].
10. This decision follows Cabinet’s 2018 agreement that Ministers will proactively release, and publish online, Cabinet material (except APH papers) within 30 days of final decisions being made, unless there is a good reason not to publish [CAB-18-MIN-0418 and CO (18) 4 refers].
11. The policy provides examples of good reasons not to publish or to delay the release including national security, commercial, trade or travel sensitivities, public announcements or for a Bill to be introduced.
12. The data covering the period of 1 July 2022 – 31 December 2022 is the first six-monthly collection since Cabinet’s decision May 2022 decision. Collections will continue at six-monthly intervals alongside the existing Official Information Act data collection.

Key Findings

13. What the data shows:
- all departments appear to have publishing processes in place to meet the release expectations of their Ministers. All have either proactively released or are in the process of releasing papers subject to the proactive release policy.
 - 526 papers were approved for release (i.e that was the stated intention in the paper’s proactive release section)
 - the number of papers proactively released between 1 July and 31 December 2022, was 305. A further 195 were being prepared for release as at 31 December
 - in total 229 papers (75.1%) were either released within policy. 169 papers (55.4%) were released within 30 working days
 - 78 papers were delayed without a reason being provided to Te Kawa Mataaho through the data collection process or for reasons not envisioned by the policy such as administrative delays or awaiting internal or Ministerial consultation
 - numbers approved for release, released, and being prepared for release may not add up due to some papers being approved for release at a yet to be determined time, and papers currently being prepared for release from Cabinet meetings prior to 1 July 2022.

Caveats

14. There are a range of legitimate reasons under the policy for why a paper may not have been released within the 30-day window, as set out above. In addition, not all departments provided a breakdown of the reasons for delay, meaning there may be more papers that were released within policy that are not counted in the above numbers.
15. There can be a lag of up to 30 days, due to papers still being within the policy's timeframe for release at the end of the reporting period. A paper that went to Cabinet on or after 14 November 2022 would be recorded as a paper that has been approved for proactive release but may not have been released by 31 December. The number of papers being prepared for release may also include papers that had been approved for release in the previous six-month period.
16. The lag means a comparison between the number of papers approved for release and the number of papers actually released would not be a meaningful exercise. We have instead focused on papers that have already been released.
17. This is the first centralised data collection. We anticipate there will be increased consistency in the information provided to Te Kawa Mataaho in future rounds as the collection process embeds. For example, in the current round not all departments provided the reasons why a paper may have been released outside of 30 days. This means some papers that may have had a legitimate reason for delay could not be recorded as such in our analysis. We are considering minor changes to some of the questions asked through the collection process. Those changes will give additional clarity to departments on the level of detail expected and enable greater differentiation between papers impacted by the lag or not. We anticipate these changes will support the utility of data in future rounds.
18. Due to the caveats set out above, any conclusions that can be drawn from the data are limited and should be viewed with caution. We anticipate these issues will be ironed out over time, as the data collection process matures.
19. If you wish to proactively release the current data, we suggest you do so in an aggregated form with the caveats set out. Descriptions of how the data was collected and the caveats are included in the attached spreadsheet. If you wish to release the data, we will work with your office to do so in an appropriate format and inform departments.

Commentary on findings

20. Between 1 July and 31 December 2022, the number of papers proactively released was 305, with a further 195 being prepared for release. A total of 526 papers were approved for proactive release (i.e. that was their Minister's stated intention in papers where Cabinet made final decisions).
21. Of the 305 papers released, 229 (75.1%) were released within policy (released within 30 working days or released following a delay for a reason envisioned by the policy, with the reason being provided to Te Kawa Mataaho).
22. Please note there may be further papers that had a legitimate reason for a delayed release, as not all departments have been able to break down the reasons for this collection round. Therefore, we may have undercounted the number of papers that were within policy. We anticipate improvements as the collection process matures and the potential changes outlined above are implemented.

23. Departments reported 169 (55.4%) were proactively released within the 30 working days of the final decision by Cabinet.
24. Of the 195 papers being prepared for release, a number will still be within the policy's 30 working day timeframe as explained above. This category also includes papers that have a delayed release date for reasons allowed under the policy and some papers where Cabinet made final decisions prior to 1 July.
25. In some cases, additional papers have been released in January 2023, however those papers are not included in the release statistics.
26. The most common reasons for a delay in release reported were ongoing policy decisions, to align with a planned public announcement, or further steps were required before release could occur. Some departments identified administrative, capacity or consultation reasons (internal, cross-agency and with Ministers) as the reason for the delay, however these are not reasons that were envisioned by the policy.

Changes to data collection for future reporting

27. Te Kawa Mataaho is considering making changes to the questions asked through the data collection process. We believe this would improve the usability of the data, for example, by differentiating between papers approved for release and due for release, and papers approved but not yet past the 30-day timeframe. We are also considering changes to ensure we consistently capture the reasons for a delay in release.
28. Any changes to the scope of collection will be discussed with relevant departments ahead of the next data collection.
29. Additionally, the New Zealand Defence Force was not included in the six-monthly statistics. This was an oversight and will be rectified in future collection rounds.

Cabinet paper publication statistics

Papers subject to final Cabinet decisions from 1 July - 31 December 2022

What agencies were asked to report

For the period of 1 July to 31 December 2022

- Number of papers approved for proactive release (i.e. that was the stated intention in the paper's proactive release section)
- Number of papers proactively released
- Number of papers proactively released within 30 working days of the final decision by Cabinet
- Number being prepared for release
- Any other comments (such as the reason behind a delayed release etc)
- Where papers were joint papers, agencies were asked to only include papers where their Minister's portfolio was the lead portfolio.

Understanding the data

Reporting for the policy on the proactive release of Cabinet papers was agreed by Cabinet on 9 May 2022 (CAB-22-MIN-0168.01 refers). Cabinet agreed data would be collected six-monthly by the Commission at the same time it collects OIA data from agencies. As a result of this decision, the Commission asked agencies to record data from 1 July 2022 on papers where Cabinet reached final decisions and Ministers had stated their intention in the paper to proactively release it.

The proactive release policy states that papers should be released within 30 working days of Cabinet's final decision, unless there is a good reason not to. **At the time of the reporting (31 December 2022) papers considered by Cabinet after 14 November were still within the policy's 30 working day recommended timeframe.** Papers considered by Cabinet on or before 14 November may also be subject to ministers' decisions to delay their release, as allowed for under the policy.

There is a lag of up to 30-working days/six-weeks between a paper being approved for release and the actual release date.

Conclusions that can be reached from the set of data are limited, due to the lag period, as well as the difficulty differentiating between papers that may have been delayed for reasons provided for under the policy.

The first full set of data where the effect of the lag will be minimised will be 1 January-30 June 2023, as papers subject to final Cabinet decisions at the end of 2022 are finalised and published in the first half of 2023.

Numbers approved for release, released, and being prepared for release may not add up due to papers approved for release but at a yet to be determined time, and papers currently being prepared for release from earlier Cabinet meetings.

More than one agency may have been responsible for submitting papers on behalf of a Minister. For example the COVID-19 response portfolio has 11 papers recorded. 5 were the responsibility of DPMC, 1 MBIE and 5 Ministry of Health.

There are a number of reasons why papers approved for release may be released after 30 working days, including on dates yet to be confirmed. These include:

- to align with a planned public announcement
- subject to introduction of Bill, or other actions required prior to publication, eg gazetting of regulations
- the availability of a minister (eg the minister is overseas)
- ongoing consideration by Cabinet and/or subsequent Cabinet decisions, including Budget decisions
- awaiting select committee proceedings

| Primary portfolio | Number of papers approved for proactive release (i.e. that was the stated intention in the paper's proactive release section) | Number of papers proactively released | Number of papers proactively released within 30 working days of the final decision by Cabinet | (If known) number being prepared for release |
|---|---|---------------------------------------|---|--|
| ACC | 9 | 7 | 6 | 2 |
| Agriculture | 8 | 6 | 0 | 2 |
| Agriculture (Animal Welfare) | 2 | 1 | 1 | 1 |
| Arts, Culture and Heritage | 4 | 4 | 4 | 0 |
| Biosecurity | 1 | 1 | 0 | 0 |
| Broadcasting and Media | 2 | 2 | 1 | 0 |
| Building and Construction | 3 | 3 | 2 | 0 |
| Children | 4 | 2 | 1 | 3 |
| Climate Change | 18 | 7 | 3 | 3 |
| Commerce and Consumer Affairs | 19 | 13 | 10 | 6 |
| Community and Voluntary Sector | 1 | 1 | 1 | 0 |
| Conservation | 1 | 0 | 0 | 2 |
| Corrections | 2 | 1 | 1 | 1 |
| COVID-19 Response | 11 | 3 | 1 | 8 |
| Courts | 1 | 1 | 1 | 0 |
| Customs | 5 | 5 | 4 | 0 |
| Defence | 10 | 4 | 1 | 6 |
| Deputy Prime Minister | 5 | 3 | 2 | 2 |
| Digital Economy and Communications | 12 | 4 | 1 | 8 |
| Disability Issues | 1 | 1 | 1 | 0 |
| Disarmament and Arms Control | 5 | 5 | 3 | 0 |
| Diversity, Inclusion and Ethnic Communities | 0 | 0 | 0 | 0 |
| Economic and Regional Development | 9 | 5 | 3 | 4 |
| Education | 39 | 23 | 9 | 3 |
| Emergency Management | 3 | 1 | 0 | 2 |
| Energy and Resources | 18 | 15 | 11 | 3 |

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|------------------------------------|----|----|----|----|
| Environment | 26 | 4 | 0 | 16 |
| Finance | 18 | 5 | 0 | 11 |
| Fisheries | 8 | 5 | 2 | 3 |
| Food Safety | 4 | 4 | 1 | 2 |
| Foreign Affairs | 27 | 25 | 19 | 2 |
| Forestry | 5 | 3 | 0 | 2 |
| GCSB | 1 | 0 | 0 | 0 |
| Health | 22 | 8 | 5 | 12 |
| Housing | 15 | 11 | 6 | 4 |
| Housing (Māori Housing) | 1 | 1 | 0 | 0 |
| Housing (Homelessness) | 0 | 0 | 0 | 0 |
| Immigration | 9 | 2 | 1 | 7 |
| Infrastructure | 2 | 1 | 0 | 0 |
| Internal Affairs | 10 | 3 | 2 | 7 |
| Justice | 12 | 12 | 5 | 4 |
| Land Information | 3 | 1 | 1 | 2 |
| Local Government | 12 | 6 | 4 | 6 |
| Māori Development | 5 | 2 | 1 | 3 |
| Ministerial Services | 0 | 0 | 0 | 0 |
| National Security and Intelligence | 3 | 2 | 0 | 1 |
| Pacific Peoples | 1 | 1 | 0 | 0 |
| Police | 7 | 1 | 0 | 5 |
| Prime Minister | 15 | 10 | 4 | 5 |
| Public Service/State Services | 8 | 6 | 5 | 0 |
| Racing | 2 | 0 | 0 | 2 |
| Research, Science and Innovation | 2 | 0 | 0 | 2 |
| Revenue | 20 | 15 | 11 | 5 |
| Seniors | 0 | 0 | 0 | 1 |
| Small Business | 6 | 4 | 3 | 2 |
| Social Development | 8 | 8 | 4 | 8 |
| Sport and Recreation | 2 | 2 | 2 | 0 |
| State Owned Enterprises | 1 | 0 | 0 | 1 |

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|---------------------------------------|----|----|----|----|
| Statistics | 4 | 4 | 4 | 0 |
| Tourism | 7 | 5 | 5 | 2 |
| Trade and Export Growth | 16 | 12 | 10 | 4 |
| Trade and Export Growth (Māori Trade) | 1 | 1 | 1 | 0 |
| Transport | 29 | 11 | 1 | 10 |
| Veterans | 0 | 0 | 0 | 0 |
| Women | 5 | 3 | 0 | 2 |
| Workplace Relations and Safety | 16 | 9 | 5 | 7 |
| Youth | 0 | 0 | 0 | 0 |