

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 10 November 2017

Title: Proactive Release of Official Information

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

This document has been proactively released. Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.



SSC Report: Proactive release of official information

| | | | |
|-----------------|-----------------------------------|-------------------|-----------------|
| Date: | 10 November 2017 | Report No: | SSC2017/575 |
| Contact: | Erik Koed, Assistant Commissioner | Telephone: | 9(2)(a) privacy |

| | Action Sought | Deadline |
|---|---|----------|
| Minister of State Services (Hon Chris Hipkins) | <p>Note the proposal to increase the range and scope of information available to the public by mandating the routine release of Cabinet papers and key policy papers.</p> <p>Provide feedback to SSC officials on the proposal.</p> <p>Note that following your feedback, and subject to your agreement, SSC will prepare a draft Cabinet paper for your review.</p> <p>Forward a copy of this paper to the Associate Minister of State Services.</p> | None. |

Enclosure: No

Executive Summary

The purpose of this report is to propose options to increase the range and scope of information available to the public by mandating the routine release of Cabinet papers and key policy papers.

One of the key purposes of the Official Information Act 1982 (the OIA) is to increase the availability of official information. Proactive release of official information is one way that that availability of information can be increased. Proactive release promotes good government, openness and transparency and fosters public trust and confidence in agencies.

Currently, Cabinet papers and key briefings to support policy decisions made by Cabinet are proactively released on an ad hoc basis. Decisions about proactive release of Cabinet papers are dependent on Ministerial preference and there is inconsistency of practice across agencies in relation to proactively releasing policy papers and background analysis.

We consider that Cabinet adopting a policy that Cabinet papers and key associated policy advice is routinely released will lift practice in relation to proactive release and systematically increase the range and scope of information available to the public.

The policy will augment existing expectations on agencies to establish internal policies and practices that support increased proactive release of official information more generally.

Such a policy could include:

1. all Cabinet policy papers being released (in part or in full) within six weeks of a Cabinet decision being made as a default (subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances); and
2. key policy advice as suitably defined in guidance provided to Ministers to support Cabinet decisions being released (in part or in full) within six weeks of a Cabinet decision being made as a default (subject to risk assessment procedures or a decision not to release in specific circumstances).

We have consulted with the Department of the Prime Minister and Cabinet (including the Cabinet Office) and the Ministry of Justice on the proposal. We consider that the policy would need to reflect that Cabinet papers are Minister's papers and be supported by clear definitions of the scope of papers to be included and guidance on its implementation.

If you wish to progress this proposal, consultation with the Prime Minister should occur, given that it concerns Cabinet papers and Cabinet process.

SSC officials are available to discuss the proposal with you at the weekly officials' meeting on Monday 13 November 2017. Following your feedback, and subject to your agreement, SSC will prepare advice on the scope of the policy and a draft Cabinet paper for your review.

Recommended Action

We recommend that you:

- a **note** that SSC considers that there is an opportunity to systematically increase the range and scope of official information available to the public through mandatory proactive release requirements

Yes/No.

- b **note** that SSC considers that Cabinet adopting a policy that Cabinet papers and key associated policy advice is routinely released will lift practice in relation to proactive release and systematically increase the range and scope of information available to the public

Yes/No.

- c **note** that such a policy could include:

- a. all Cabinet policy papers being released (in part or in full) within six weeks of a Cabinet decision being made as a default (subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances); and
- b. key policy advice as suitably defined provided to Ministers to support Cabinet decisions being released (in part or in full) within six weeks of a Cabinet decision as a default (subject to risk assessment procedures or a decision not to release in specific circumstances).

Yes/No.

- d **provide** feedback to SSC officials on the proposal, including any modifications or areas you wish to explore further

Yes/No.

- e **note** that that following your feedback, and subject to your agreement, SSC will prepare advice on the scope of the policy and a draft Cabinet paper for your review

Yes/No.

- f **refer** a copy of this paper to the Associate Minister of State Services.

Refer/not referred.

Chris Hipkins
Minister of State Services

RELEASED BY THE MINISTER OF STATE SERVICES

Purpose of Report

- 1 The purpose of this report is to propose options to increase the range and scope of information available to the public by mandating the routine release of Cabinet papers and key policy papers.

Background

- 2 The State Services Commissioner has an overarching role in the State services in relation to leadership and promotion on matters of integrity and transparency, together with more particular interests in chief executive and departmental performance and specific interests in relation to the code of conduct.
- 3 The Commissioner is leading a programme of work to improve government agencies' official information capability. The aim of the programme is to improve agencies' official information practices, and to deliver on the Open Government Partnership National Action Plan (Commitment 2). The programme has the full support of Public Service chief executives.
- 4 To support the Commissioner's work in this area, the Ministry of Justice has delegated its responsibilities under section 46 of the Official Information Act 1982 (the OIA) which provides that the State Services Commission (SSC) may "*furnish advice or assistance or both*" to assist "*any other department or any organisation to act in accordance with this Act*".

SSC's proactive release work programme

- 5 As part of our Official Information work programme, SSC is encouraging proactive release of official information, including Cabinet papers and related material, building on existing good practice.
- 6 In July 2017, we published guidance to assist agencies to develop internal policies and practices in relation to the proactive release of official information, including the publication of responses to requests for information under the OIA. In August, we held a forum focused on proactive release with OIA practitioners.
- 7 We are currently surveying agencies to establish baseline information on proactive release policies and practices and will run workshops for agencies in early December on preparing a proactive release policy. Other activities planned over the next three to six months include case studies and targeted hands-on support with a small number of agencies to help them develop and implement proactive release policies.
- 8 By March 2018, we can expect to see a more significant increase in the number of agencies with proactive release policies in place and a continuing increase in the number of agencies publishing OIA responses and other official information.

Current practice

- 9 Currently, Cabinet papers and supporting material (including key briefings to support policy decisions) are proactively released on an ad hoc basis.
- 10 The 2017 changes to the Cabinet Manual included an expectation that Cabinet material on significant policy decisions should be released proactively once decisions have been made. However, decisions about proactive release of Cabinet papers remain with individual Ministers.

- 11 Supporting material for Cabinet papers (for example, briefings or reports that provide background to Cabinet decisions) are published at each agency's discretion. Some agencies have publishing protocols and proactive release policies that provide for information to be released in accordance with the agency's risk assessment framework.
- 12 However, there is inconsistency of practice across agencies in relation to proactive release of briefing papers.
- 13 In line with the purpose of the OIA to make official information more freely available, SSC considers that there is an opportunity to systematically increase the range and scope of official information available to the public.

Proposal

- 14 We consider that Cabinet adopting a policy that Cabinet papers and key associated policy advice is routinely released would lift practice in relation to proactive release.
- 15 The policy would augment existing expectations on agencies to establish internal policies and practices that support increased proactive release of official information more generally.
- 16 Such a policy could include:
 - a. all Cabinet policy papers being released (in part or in full) within six weeks of a Cabinet decision being made as a default (subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances); and
 - b. key policy advice as suitably defined in guidance provided to Ministers to support Cabinet decisions being released (in part or in full) within six weeks of a Cabinet decision being made as a default (subject to risk assessment procedures or a decision not to release in specific circumstances).
- 17 We have consulted with the Department of the Prime Minister and Cabinet (including the Cabinet Office) and the Ministry of Justice on the proposal. We consider that the policy would need to reflect that Cabinet papers are Minister's papers and be supported by clear definitions of the scope of papers to be included and guidance on its implementation.
- 18 If you wish to progress this proposal, consultation with the Prime Minister should occur, given that it concerns Cabinet papers and Cabinet process.
- 19 We propose that the requirements could commence from the end of February 2018, and apply retrospectively to all Cabinet material from the start of the new administration on 26 October 2017.
- 20 It is proposed that the requirements on agencies would apply to all agencies currently subject to the OIA.

Benefits and risks

- 21 A Cabinet policy to release Cabinet papers and key policy papers will lift agency practice in relation to proactive release and systematically increase the range and scope of information available to the public. While the proposal includes a six week window for the release of papers, it may often be desirable for papers to be released early in that timeframe, for example when a decision is announced.

- 22 It will be important to provide clarity on the scope of the material to be released to ensure that the right balance is struck between promoting the accountability of Ministers and officials, while also supporting the exchange of free and frank expression of opinions between participants in the public policy making process. We consider that this can be achieved through guidance on the scope of the policy and its implementation.
- 23 It will also be important to provide guidance to agencies on assessing material for release (including consulting with Ministers in accordance with the “no surprises” principle).
- 24 Under section 48 of the OIA, agencies and other people are protected from liability that may otherwise result from making information available in good faith “pursuant to the OIA” (including consequences that follow from the making available of that information).
- 25 However, the protections in section 48 do not extend to the proactive publication of information. Agencies need to consider any potential liability, whether civil or criminal, that might result from the proactive publication (in part or in full) of a Cabinet paper or policy paper, (for example, defamation, copyright, privacy or breach of contract) and consider whether or not to release the material.
- 26 SSC is currently working with agencies to support them to develop broader proactive release policies and processes, including guidance on how to manage the risks associated with the publication of policy material.

Implementation arrangements

- 27 If you agree to progress the proposal, SSC will work with the Department of Prime Minister and Cabinet and Ministry of Justice to develop the detailed implementation arrangements to support the proactive release improvements, including:
- 27.1 definitions and guidance on the scope of the policy and on processing material for release
- 27.2 what changes to CabGuide and the Cabinet paper template may be needed
- 27.3 whether changes to CabNet are desirable to include new functionality for ministerial approval for proactive release and subsequent publication (will incur additional cost)
- 27.4 where Cabinet papers and policy papers would be published (we propose that current practice is initially followed, whereby material is published on relevant agency websites, but options to establish a centralised website for proactive release will also be considered).

Next Steps

- 28 SSC officials are available to discuss the proposal with you at the weekly officials’ meeting on Monday 13 November 2017. Following your feedback, and subject to your agreement, SSC will prepare advice on the scope of the policy and a draft Cabinet paper for your review.

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 6 December 2017

Title: Draft Cabinet paper - Strengthening Proactive Release Requirements

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

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Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.



SSC Report: Draft Cabinet paper - Strengthening Proactive Release Requirements

| | | | |
|-----------------|--------------------|-------------------|-----------------|
| Date: | 6 December 2017 | Report No: | SSC2017/757 |
| Contact: | Catherine Williams | Telephone: | 9(2)(a) privacy |

| | Action Sought | Deadline |
|--|--|-----------------|
| Associate Minister of State Services (Open Government) (Hon Clare Curran) | Agree the options to be included in the recommendations of the draft Proactive Release Cabinet Paper. | 6 December 2017 |
| Minister of State Services (Hon Chris Hipkins) | Note the contents of this Cabinet Paper | 6 December 2017 |

Recommended Actions

- 1 Please select which of the optional recommendations you want to be included in the draft Cabinet paper *Strengthening Proactive Release Requirements*:

| | Option 1 | Option 2 | Option 3 |
|--------------------------------|--|---|--|
| Which papers to release | Cabinet papers and associated minutes (6.1 below). | Cabinet papers and associated minutes and strongly encourage agencies to release related key policy papers (6.2 and 6.3 below). | Cabinet papers and associated minutes and agencies key policy papers (option 6.4 below). |
| | Agree/disagree | Agree/disagree | Agree/disagree |

| | Option 1 | Option 2 |
|---|-----------------------------------|----------------------------------|
| Maximum time in which selected papers must be released | Default of six weeks (8.1 below). | Within three months (8.2 below). |
| | Agree/disagree | Agree/disagree |

Hon Claire Curran

Associate Minister of State Services (Open Government)

Purpose

- 2 Following feedback on the draft Cabinet paper *Strengthening Proactive Release Requirements*, the State Services Commission has drafted recommendations with options for Cabinet that can be included in the paper for your consideration.
- 3 Subject to your views on the draft recommendations, the draft Cabinet paper will need to be reframed to take account of the choices that Cabinet will be presented with.

Draft recommendations for your consideration

- 4 The proposed recommendations fall into two categories:
 - 4.1 Which papers are to be released
 - 4.2 The proposed timeframe for papers to be released.
- 5 Depending on your views, you may wish to include in the Cabinet paper provision for a review period, at which time changes to the settings could be made.

Which papers

- 6 The options in the relevant recommendation could look like:
 - 6.1 **agree** that by default, Cabinet papers and associated minutes are released in part or in full, subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances.

OR

- 6.2 **agree** that by default, Cabinet papers and associated minutes are released in part or in full, subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances; and
- 6.3 **agree** that agencies are strongly encouraged to release key policy papers provided to Ministers to support Cabinet decisions in part or in full, subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances.

OR

- 6.4 **agree** that by default, Cabinet papers, associated minutes, and key policy papers provided to Ministers to support Cabinet decisions are released in part or in full, subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances.

The proposed timeframe for papers to be released

- 7 The options are a choice about the default deadline for the release. The options are within six weeks or within three months.
- 8 The relevant recommendation could look like:
 - 8.1 **agree** that [*insert the relevant papers*] are released in part or in full within six weeks of a Cabinet decision subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances)

OR

- 8.2 **agree** that by default, [*insert the relevant papers*] in part or in full within three months, subject to risk assessment procedures or a Ministerial decision not to release in specific circumstances.

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 14 December 2017

Title: Draft Proactive Release Cabinet Paper and implementation timeline

Author: State Services Commission

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Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory note for this proactive release

The attachment to the document is not part of the release.



SSC Report: Draft Proactive Release Cabinet Paper and implementation timetable

| | | | |
|-----------------|--------------------|-------------------|-------------|
| Date: | 14 December 2017 | Report No: | SSC2017/806 |
| Contact: | Catherine Williams | Telephone: | 9(2)(a) |

| | Action Sought | Deadline |
|--|--|-------------------------|
| Associate Minister of State Services (Open Government) (Hon Clare Curran) | Provide feedback on the updated draft Cabinet paper and agree the implementation table | Monday 18 December 2017 |
| Minister of State Services (Hon Chris Hipkins) | For your information. No action required. | Monday 18 December 2017 |

Enclosure: Yes (attached)

Recommended Action

We recommend that you:

- a **provide** feedback on the updated draft Cabinet paper;
- b **advise** if the recommendation that you and the Prime Minister and the Minister of Justice be given Cabinet authorisation for the Cabinet Office circular be revised to you and the Prime Minister and the Minister of Justice bringing a draft Cabinet Office circular to support the proactive release policy to Cabinet for agreement; and
Revise/not revise
- c **agree** to the implementation timetable leading to Ministerial consultation.
Agree/disagree.

Hon Clare Curran

Associate Minister of State Services (Open Government)

SSC Report: Updated draft Proactive Release Cabinet Paper and timeline

Purpose of Report

- 1 This paper seeks your feedback on the updated draft Cabinet paper on *Proactive Release* and your agreement to the timeline leading to Ministerial consultation.

Proactive release draft Cabinet paper

Feedback on the first draft

- 2 Feedback from on the first draft of the *Proactive Release* Cabinet paper raised three key issues:
 - **Options** – your Office asked for the paper to provide options for Cabinet to discuss.
 - **Free and Frank advice** - the requirement on officials to provide free and frank advice is not altered by the proposed proactive release policy.
 - **Clarity** – some of the Official Information Act 1982 (OIA) references confused readers given that the proposed proactive release regime is not covered by the OIA.
- 3 The State Services Commission (SSC) has reshaped the draft Cabinet paper, taking account of these issues. In particular, we have included options on:
 - 3.1 the scope of papers covered by the proposed proactive release policy; and
 - 3.2 the timing for release of proactive information - within six weeks, or within three months.
- 4 We have worked with the Department of Prime Minister and Cabinet on this paper. The Chief Executive has raised with us his view that the release of key policy papers should be considered when the release of those papers would support increased public understanding of the Cabinet papers, rather than for every Cabinet paper. Mr Kibblewhite would be happy to come and discuss his view with you, should you wish to explore this option further. It is not currently reflected in the paper.

Other changes made to the draft paper

- 5 Other important changes SSC has made to the draft Cabinet paper are discussed below.
- 6 Under the OIA, departments 'hold' information provided to Ministers. In lieu of any legal framework or Cabinet decision, Ministers and departments have pragmatically applied this OIA holding principle to proactive release policies and decisions. However, if Cabinet agrees that key advice papers departments provide to Ministers are included in the policy, a recommendation has been included that the decision on the release of these papers rest with the relevant Minister, with the department providing advice. The key advice papers and final decisions are intimately linked and it makes sense for the papers selected for possible release to be considered as a package. This will require departments to review and update current procedures on proactive release where key policy papers are involved.
- 7 At the request of the Department of Prime Minister and Cabinet and, separately, the Ministry of Justice, there is a recommendation that Cabinet authorise a group of Ministers comprising the Prime Minister, the Minister of Justice and you to approve a

new Cabinet Office Circular on the proactive release requirements. This is because of the implications for Cabinet in the case of the Prime Minister and the close relationship between proactive release and Minister Little's responsibility for the OIA, the case of the Minister of Justice. However, in light of advice from DPMC that the decision to release policy papers likely rests with Ministers, you may want to recommend that the paper be changed to say that you will bring a draft Cabinet Office circular to support the proactive release policy to Cabinet for agreement.

- 8 We have included a recommendation that the proactive release regime and its associated guidance be reviewed after a year and the findings of the review reported back to Cabinet. The purpose of a review is to determine whether the objectives of the policy are being met and if changes are required to improve the effectiveness or clarity of the policy and procedures.

Implementation timetable

- 9 Below is the proposed implementation timetable. Note this could change depending on decisions (for example, the approach for the Cabinet Office Circular (recommendation b) or available Committee dates).

| Date | Action |
|------------------------------|--|
| 12-13 December 2017 | SSC finalising updated draft of the Cabinet paper in response to feedback. |
| 14 December 2017 | Updated draft Cabinet paper provided to Minister Curran for comment. |
| 18 December 2017 | Updated draft Cabinet paper sent to departments for review, feedback due 10 January. |
| 10 January – 17 January 2018 | Final departmental feedback incorporated into the Cabinet paper. Talking points for Ministerial consultation drafted. |
| 18 January 2018 | Draft paper and talking points provided to Minister Curran for Ministerial consultation. |
| 23 January – 8 February 2018 | Ministerial consultation. |
| 12 February 2018 | Final Cabinet paper provided to Minister for lodging. |
| Week of 19 February 2018 | Cabinet paper considered by Cabinet Committee. |
| 26 February 2018 | Cabinet paper considered by Cabinet. |
| 27 February – 26 March 2018 | Consultation on draft Cabinet Office circular. |
| 28 March 2018 | Cabinet Office Circular agreed and issued. |
| 29 March 2018 | Policy commences for all selected papers where final Cabinet decisions have yet to be taken. |
| 30 June 2018 | All selected papers from 26 October 2017 to 29 March 2018 must be released by 30 June 2018. |

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 19 January 2018

Title: Proactive release draft Cabinet paper

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

This document has been proactively released. Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory note for this proactive release

The attachments to this document are not part of the release.



Proactive release draft Cabinet paper

Date: 19 January 2018

Report No: SSC2018/7

Contact: Dallas Welch, Deputy Commissioner, System and Agency Performance

Telephone: 9(2)(a) privacy

| | Action Sought | Deadline |
|-------------------|---|-----------------|
| Hon Clare Curran | Agree to the draft paper and undertake consultations. | 25 January 2018 |
| Hon Chris Hipkins | For your information and so you can provide any feedback to Minister Curran on the draft Cabinet paper. | 25 January 2018 |

Enclosure: Yes (attached)

Executive Summary

- 1 The State Services Commission (SSC) has updated the draft Cabinet paper following your discussion with Andrew Kibblewhite prior to Christmas.
- 2 This report gives a summary of the feedback we have received during departmental consultation and next steps.
- 3 Departments continue to support the intent of the proposed new policy. Concerns have again been raised around the ambitious scope of the policy, implementation timeframes, resourcing implications, accessibility of the released information, the need for robust guidance and the potential cost.
- 4 The Treasury, The Department of the Prime Minister and Cabinet (DPMC) and the Ministry of Justice have proposed different approaches to mitigate these types of concerns.

Recommended Action

We recommend that you:

- a **consider** the attached draft Cabinet paper;
- b **consult** your Ministerial colleagues on the draft Cabinet paper;
- c **advise** if you would like the State Services Commissioner to attend the meeting with the Chief Ombudsman; and
- d **discuss** the draft Cabinet paper with the Chief Ombudsman.

Agree / disagree

Hon Minister Curran
Associate Minister of State Services
(Open Government)

Strengthening Proactive Release Requirements

Purpose

- 5 This report advises you of the feedback we have received during our departmental consultations and provides you with an updated draft of the Strengthening Proactive Release Requirements Cabinet paper for your consideration.

Discussion with Mr Andrew Kibblewhite

- 6 Following your discussions with Mr Andrew Kibblewhite (Chief Executive, the Department of the Prime Minister and Cabinet) in late December 2017, the draft Cabinet paper has a fifth option for which papers to include in the scope of the policy. All five options are in the table below.

Options Table

| Papers in scope of release once a Cabinet decision has been taken, and subject to a risk assessment | Options | | | | |
|---|---------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 |
| Cabinet material on significant policy decisions – as per the 2017 Cabinet Manual general expectation | ✓ | ✓ | | | |
| All Cabinet material where decisions are taken | | | ✓ | ✓ | ✓ |
| Key departmental advice papers provided to Ministers by departments | | ✓ | | ✓ | |
| The papers that informed the final Cabinet paper only where this supports the public understanding of the decisions being taken | | | | | ✓ |

- 7 All options, to a greater or lesser extent will support the objectives of:
- 7.1 enabling the public to understand decision-making; and
 - 7.2 strengthening the accountability of decision-makers and advisors.
- 8 The draft paper retains your preference for Option 4. Together this suite of papers allow the public to better understand how decisions were taken and makes no assumptions on what the public is, or will be, interested in. The releases may also aid understanding of how Government operates and how the public might get involved in current and future policy development.
- 9 Aside from the changes to incorporate Option 5 following your discussions with Mr Andrew Kibblewhite, the paper has not been substantively changed following departmental feedback. The guidance release and policy implementation date remain 29 March 2018.

Feedback from departments

- 10 Departments continue to welcome and support the intent of this policy. Eleven departments have provided further feedback on this paper during the second round of consultation. Concerns continue to be raised around implementation timeframes, resourcing implications, accessibility of the released information, the need for robust guidance and the potential cost.

- 11 Concerns raised around the speed of implementation and the need for robust guidance prior to this, are particularly important to note. The Treasury and DPMC feedback especially (though others have also raised similar concerns) focus on how important it is to get this right to ensure the policy is as effective as possible in delivering against its intent.
- 12 Treasury have drawn on experience from their work on regulatory impact analysis (RIA) and have concerns that the current timeframes are not sufficient to mitigate the risks below, which include issues experienced in the RIA requirements work;
- more oral items to Cabinet;
 - greater use of other Ministerial decision-making fora;
 - reduction in the willingness of Ministers to identify risks and alternative views or advice in their papers (since redactions for proactive release will be obvious and likely lead to OIA requests);
 - reducing the extent to which Cabinet committees get the information they need to take fully informed decisions;
 - departmental willingness to commit free and frank views to paper; and
 - material being released by mistake.
- 13 Both Treasury and DPMC propose that the paper should take a staged implementation approach and question the need for options.
- 14 Treasury's view is that the paper should be a clear statement of policy intent and direction with some initial actions to commence now. Progressively, the policy and supporting arrangements can be improved and expanded.
- 15 DPMC go further, and propose to pursue what is now Option 5. The Ministry of Justice are also of this view. The idea is to:
- 15.1 initially operationalise the current Cabinet Manual expectation that Cabinet material on significant policy decisions be proactively released once decisions are made; and
- 15.2 set out a staged timeframe for further release.
- 16 Further Treasury feedback and the feedback from multiple other agencies focused on the costs associated with this policy. The paper notes the difficulty in estimating the financial implications of this shift, which will depend upon a number of variables. The paper also notes that, in the first instance, any increased costs will need to be absorbed in agency baselines.

Ministerial consultation

- 17 Subject to your views on the draft paper, the next step is for you to socialise the draft Cabinet paper with your Ministerial colleagues.
- 18 Attached is an aide memoire to assist you with this.

Discussion with the Chief Ombudsman

- 19 You have indicated you will discuss the paper with Chief Ombudsman, Mr Peter Boshier. A meeting has not yet been set-up for this.
- 20 We expect that the Chief Ombudsman will be most interested in the proposed proactive release policy similarities and differences with the Official Information Act 1982 (OIA), the workability of the proposals, and the guidance to be drafted post Cabinet decisions.

- 21 We recommend, in particular, that you discuss with the Chief Ombudsman:
- 21.1 **The interaction between this policy and s18(d) of the OIA.** Section 18(d) allows for an OIA request to be refused if the information requested is or will soon be publicly available. We are keen to know the Chief Ombudsman's definition of the "soon be publicly available" caveat under s18(d). This will allow us to provide clear guidance to Ministers, their Offices, and to departments on whether or not s18(d) can be used in response to OIA requests for information scheduled for proactive release.
- 21.2 **Free and frank advice.** The Chief Ombudsman is thinking about when free and frank advice may be withheld under the OIA. This thinking may assist with the proactive release guidance.
- 22 Attached is an aide-memoire to assist you in your discussion with Mr Boshier.
- 23 Please advise if you would like officials to support you at the meeting with Mr Boshier

Draft Press Release

- 24 SSC have started preparing for the post-cabinet announcement of the policy. An early draft press release is attached for your consideration.

Hon Chris Hipkins
Minister for State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 6 April 2018

Title: Proactive release of Cabinet material and key advice and attachment
Proactive Release of Cabinet material and key advice

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

Explanatory note for this proactive release

Note 1 – The attachment is part of this release.

Note 2 – In the attachment there is a section titled "Could Ministers be legally liable." The second sentence is: "The proposed review of the OIA may consider whether changes should be made to ensure that appropriate protections apply to proactive release." Subsequently, the question of a review of the OIA was resolved by the Cabinet Business Committee, whose paper of 20 August 2018 states, in paragraph 36, that: "The Minister of Justice intends to carry out targeted engagement to inform a decision on whether to progress a formal review of the OIA. Any formal review could consider whether protections from liability should be applied to proactive releases."



AIDE-MÉMOIRE

Proactive release of Cabinet material and key advice

Date: 6 April 2018 **Security Level:** In-Confidence

For: Hon Clare Curran, Associate Minister of State Services (Open Government)

Report No: SSC2018/350

Proactive release of Cabinet material and key advice

Purpose This Aide-Memoire provides you with background information ahead of your meeting with Hon Chris Hipkins, Hon Dr David Clark, Hon Stuart Nash, and Hon James Shaw on Monday 9 April. We understand that Hon Tracey Martin is unable to attend.

The meeting is to discuss the proposed policy to proactively release Cabinet material and key advice. The attached A3 summarises the proposed policy, and is intended to support your discussions at the meeting.

Note that Deputy State Services Commissioner Debbie Power and Assistant Commissioner Erik Koed will be available as support from the SSC.

Key points The A3 is split into three sections, which contain the following information:

- The proposal: this section sets out why the policy is needed. It also provides detailed definitions for key terms, and describes the proposed shift with respect to current settings. There is also a description of the guidance we will develop to assist decision-makers, including a non-exhaustive list of examples of what would not be released under this policy.
- What it means in practice: this section contains information on the volume of information that we anticipate would be released, the cost implications, the release approval process, and the potential legal liability of Ministers.
- How to do it: this section proposes a start date of 1 July 2018 without retrospective application, and includes options for discussion on how quickly papers should be released. It also sets out a sliding scale that shows the extent to which the policy could apply (see below).

Changes from original proposal The A3 contains a number of changes from the original policy proposal:

- The option to split decision-making between Ministers and departments for the approval of information release has been removed. This is clearer, simpler, and reflects the fact that key advice papers are closely related to Cabinet decisions and Ministerial functions.
- Exceptions to the 30 working day release timeframes have been clarified – for example, for national security or Treaty settlement negotiation reasons, or if a major policy or APH announcement is planned for after the 30 day period. These exceptions will be detailed in full in the

Guidance for the proposed policy.

- The policy is now proposed to take effect from 1 July 2018 without retrospective application. This will give Ministers and officials sufficient time to prepare for successful implementation, while demonstrating the commitment to take timely action on this issue.
- We have also included a sliding scale that shows the extent to which the policy could apply:
 1. **Existing expectation:** improve how we implement the existing requirement in the Cabinet Manual (that Cabinet material on significant policy decisions should be released proactively once decisions have been made)
 2. **Extend current settings:** improve how we implement the existing expectation in the Cabinet Manual, PLUS require proactive release of all Cabinet material (not just those on significant policy decisions)
 3. **Further extend current settings:** improve how we implement the existing expectation in the Cabinet Manual, PLUS require proactive release of all Cabinet material, PLUS promote the optional release of key advice papers.

Consultation on the updated proposal

The A3 has been circulated to the SSC's core working group for the proactive release policy (DPMC, Crown Law, the Ministry of Justice, and the Treasury). We have also provided a copy to the Ministry of Health and the New Zealand Police. In discussion with DPMC, Andrew Kibblewhite indicated that he was comfortable with the proposed definition of 'key advice'.

Next steps

Feedback from you and your colleagues will be used to update the proposed policy, which is planned to go direct to Cabinet in May.

Author: Lily Clark, Analyst, Strategy and Policy

Responsible Manager: Catherine Williams, Deputy Commissioner, Integrity, Ethics and Standards

PROACTIVE RELEASE OF CABINET MATERIAL AND KEY ADVICE

The proposal to proactively release Cabinet material and key advice supports the Government's ambition to grow an open, trusted, modern democracy that allows all New Zealanders to thrive. This page sets out key information about the proactive release policy, including several options in yellow for how it can be carried out.

THE PROPOSAL

Why do we need this policy?

Trust in government is vital for democracies. There is demand from the public, commentators, and academics for greater openness and transparency.

This is an opportunity to:

- increase public understanding of democratic processes and how to participate in Government decision-making
- build our reputation of international leadership by setting another example of openness and transparency
- strengthen the public accountability of decision makers and advisors

Definitions

There are two kinds of information covered by this policy.

1. **Cabinet Material:** The Cabinet Manual already includes a **general expectation that Cabinet material on significant policy decisions should be released proactively once decisions have been made.**
 - **So what's the proposed change?** Most Cabinet decisions could be described as significant, but not all will be policy decisions. This is an opportunity to build on the Cabinet Manual by including all Cabinet material (Cabinet and Cabinet Committee papers and minutes) where decisions are taken – not just policy decisions.
2. **Key advice papers:** Key advice papers are **only** those that are addressed to the Minister taking the item to Cabinet, from their department and seek **agreement** from the Minister to recommendations that have subsequently been **decided by Cabinet.** Key advice does not include papers that only contain noting recommendations, second opinion advice, or background information. It does not include all OIAs received, or advice provided to the Minister from sources other than the lead department.
 - **So what's the proposed change?** This is a new proposal – there is no current expectation that key advice papers should be proactively released.

Guidance

There will be some material (in part or in full) that may not be appropriate for proactive release under this policy due to sensitivities around timing, content, or other matters. **Material that wouldn't be released under the OIA will not be released under this policy.**

We will develop Guidance to assist decision-makers with this. A non-exhaustive list of examples of what would not be released is provided below:

- ✗ legally privileged papers
- ✗ APH appointment papers
- ✗ papers that are commercially sensitive
- ✗ papers that are subject to ongoing Treaty settlement negotiations
- ✗ papers that contain information about privileged national security matters

WHAT IT MEANS IN PRACTICE

What volume of information will be released in practice?

In 2016/17 there were about 1,200 non-APH Cabinet papers and 1,700 Cabinet minutes (comparison: 26,000 OIA requests received by departments for the same period). We are undertaking work to understand the volume of 'key advice' papers in scope, but it will likely be more than the volume of Cabinet papers and Cabinet minutes.

What are the cost implications?

We are undertaking further work to better understand the cost implications. This depends on a number of factors, including the number and complexity of papers generated by the Minister, the maturity of proactive release policies and implementation within departments and Ministers' offices, and the level of consultation required to assess papers for proactive release.

How will the release of material be approved?

Ministers will approve the release of the entire package of material (both Cabinet papers and key advice papers). This is simple and clear because there is only one decision required, and will allow Ministers to consider the whole package when making a decision. Only Ministers can release Cabinet material, and this approval process reflects the fact that key advice papers are closely related to Cabinet decisions and Ministerial functions.

Could Ministers be legally liable?

Current OIA protections do not apply to the proactive release of official information. That means decision-makers, including Ministers, may be liable for legal issues arising from the proactive release under this policy. The proposed review of the OIA may consider whether changes should be made to ensure that appropriate protections apply to proactive release. In the interim, there are ways to mitigate against this risk – for example, by carrying out a risk assessment based on the criteria in the Guidance before making official information available. Similar judgement is already exercised when releasing Cabinet and departmental material. Although the proactive release policy will mean that a greater volume of material is being considered but it will use principles and processes that are already well understood.

HOW TO DO IT

How quickly should papers be released?

There are two options for when papers are released (note 20 Dec to 20 Jan do not count as working days):

OPTION ONE (PREFERRED): As soon as practicable but no later than 30 working days following the Cabinet decision

- recognises that timeliness is a vital element in keeping the public informed and engaged in government matters
- is similar to the 20 working day release requirement under the OIA
- there may be exceptions if the release is made after 30 working days – for example for national security or Treaty settlement negotiation reasons, or if a major policy or APH announcement is planned for after the 30 day period

or

OPTION TWO: As soon as practicable but no later than 60 working days following the Cabinet decision

- easier to achieve administratively but less timely, and therefore does not meet policy objectives as well as Option One

When will the policy commence?

The new policy will take effect from 1 July 2018, without retrospective application. This will give Ministers and officials sufficient time to prepare for successful implementation, while demonstrating the commitment to take timely action on this issue.

How far to go

Improve how we implement the **existing requirement in the Cabinet Manual** (that Cabinet material on significant policy decisions should be released proactively once decisions have been made) **this is an existing expectation**

Improve how we implement the existing expectation in the Cabinet Manual, **PLUS require proactive release of all Cabinet material** (not just those on significant policy decisions) **this would extend current settings**

Improve how we implement the existing expectation in the Cabinet Manual, **PLUS require proactive release of all Cabinet material, PLUS promote the optional release of key advice papers** **this would further extend current settings**

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 4 May 2018

Title: Draft Strengthening Proactive Release Requirements Cabinet paper

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

This document has been proactively released. Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory notes for this proactive release

Note 1 - The date of report is incorrectly stated as 4 May 2017. The report should be dated 4 May 2018.

Note 2 - Paragraph 2 of the document notes that the Minister for Open Government and Minister Little intend to take a paper to GOV in June 2018 on amending the OIA to provide for some protections from civil and criminal liability when proactively releasing information." Subsequently, the question of a review of the OIA was resolved by the Cabinet Business Committee, whose paper of 20 August 2018 states, in paragraph 36, that: "The Minister of Justice intends to carry out targeted engagement to inform a decision on whether to progress a formal review of the OIA. Any formal review could consider whether protections from liability should be applied to proactive releases."

Note 3 - The attachment to the document is not part of the release.

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Draft Strengthening Proactive Release Requirements Cabinet paper

Date: 4 May 2017

Report No: SSC2018/456

Contact: Catherine Williams, Deputy Commissioner, Integrity, Ethics and Standards

Telephone: 9(2)(a) privacy

| | Action Sought | Deadline |
|--|--|---------------------------|
| Hon Clare Curran Associate Minister of State Services (Open Government) | Feedback on the draft Cabinet paper | Midday, Monday 7 May 2018 |
| Hon Chris Hipkins Minister of State Services | For information | |

Enclosure: No/Yes (attached)

Comment

What the Cabinet paper says

- 1 The draft Cabinet paper is based on the following parameters:
 - 1.1 All Cabinet material where final decisions have been made are in scope of the policy.
 - 1.2 Ministers can also proactively release key advice papers with the Cabinet material that final decisions have been taken on.
 - 1.3 The default timeframe for releases is 30 working days, subject to an assessment against the Official Information Act 1982 (OIA) criteria and a supplementary assessment to mitigate risks of proactive releases not attracting any legal protections against liability.
 - 1.4 The working day definition includes an extra five days over the Christmas/New Year period when compared to the OIA. We understand this was discussed by Ministers at the 13 February 2018 Cabinet Government Administration and Expenditure Review Committee (GOV).
- 2 The paper notes that you and Minister Little intend to take a paper to GOV in June 2018 on amending the OIA to provide for some protections from civil and criminal liability when proactively releasing official information.

Financial and publicity sections not complete in the draft Cabinet paper

Financial section

- 3 We are working on assumptions for the financial implications of this policy. We intend to add in this information, subject to discussion with the Treasury, post the departmental consultations on the draft paper. This information will not change the recommendation that any costs will need to be absorbed within agency baselines.

Publicity section

- 4 We are seeking your advice on when you will announce this policy and proactively release the Cabinet paper, Cabinet minute, and associated material. We see the options, which exclude redacting material from the Proactive Release Cabinet paper, as:

4.1 Post Cabinet decisions on the proactive release policy. This options means that you will also be announcing the work to look at a possible amendment to the OIA so that some protections might apply to people involved in proactive release.

OR

4.2 After Cabinet has decided if the OIA should be amended so that some protections apply to proactive release. We expect this to be just inside the 30 working days of the final Cabinet decisions on the proactive release policy.

When to inform the Chief Ombudsman of the proactive release policy

- 5 We are seeking your advice on when and who will inform the Chief Ombudsman of the proactive policy. The options are:

5.1 You inform the Chief Ombudsman either:

5.1.1 before the paper is lodged; or

5.1.2 after Cabinet decisions have been taken but before any announcement.

OR

5.2 The State Services Commission informs the Chief Ombudsman either:

5.2.1 before the paper is lodged; or

5.2.2 after Cabinet decisions have been taken.

Next steps

- 6 Subject to your views, we intend to consult departments on the draft Cabinet paper from 7 – 14 May 2018.

Recommended Action

We recommend that you:

- a **provide** feedback the State Services Commission by midday Monday 7 May so that we can commence consultation with departments.

Hon Clare Curran

Associate Minister of State Services (Open Government)

RELEASED BY THE MINISTER OF STATE SERVICES

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 1 June 2018

Title: Draft Proactive Release Cabinet paper for consultation

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

This document has been proactively released. Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory notes for this proactive release

Note 1 - The Ministry for Culture and Heritage now has access to a redaction tool. This was not the case when paragraph 20 of this document was written.

Note 2 - The attachments to the document not part of the release.



Draft Proactive Release Cabinet paper for consultation

Date: 1 June 2018

Report No: SSC2018/480

Contact: Catherine Williams, Deputy Commissioner, Integrity, Ethics and Standards

Telephone: 9(2)(a) privacy

| | Action Sought | Deadline |
|--|--|----------------|
| Hon Clare Curran Associate Minister of State Services (Open Government) | Agree the content of the draft Cabinet paper and draft Cabinet Office Circular for consultation. | Tuesday 5 June |
| Hon Chris Hipkins Minister of State Services | For information | |

Enclosure: Yes (attached)

Executive summary

1. A draft Cabinet paper and a draft supporting Cabinet Office Circular are attached for your consideration. These documents take account of feedback you have received and further work the State Services Commission has undertaken. Including the draft Cabinet Office Circular in the consultation material provides an opportunity to test whether the right balance of guidance has been achieved and may negate the need for Cabinet to establish a small Ministerial group to approve the Circular. We also want to discuss with you the principles for the formatting of key advice papers that Ministers can choose to publish with the Cabinet material; something the draft Cabinet Office Circular is currently silent on.
2. You have consulted on the release of all Cabinet material where final decisions have been made. This excludes Cabinet papers that only have noting recommendations. The Department of the Prime Minister and Cabinet had not appreciated until very recently the distinction being drawn between Cabinet decisions and Cabinet noting something. We recommend that you retain this distinction.
3. The draft Cabinet paper now goes some way to addressing the Treasury's concern that there was no financial impact information in the Cabinet Committee paper. This analysis, which is based on the 2016/17 financial year workforce and Cabinet submission data, is indicative and imprecise given the number of assumptions and variables.

4. Through the financial analysis process, we learnt that a group of agencies we had not considered before, including the Office of the Clerk and the Parliamentary Service, had been involved in a very small number of Cabinet submissions. We recommend that you include the Speaker of the House of Representatives in your consultation process. Subject to those discussions, we recommend that Cabinet invite the Speaker of the House of Representatives to consider for release any submissions the Speaker takes to Cabinet.
5. A new inclusion in the draft Cabinet paper is the link between the release of official information and the Public Records Act 2005.
6. The Treasury and the Ministry of Justice preference remains that all the material to be released under the proactive release policy be published centrally. Our view remains that starting this new policy and learning from it is more important than getting the perfect IT solution in place.
7. Attached is a draft memo you can send to your colleagues with the draft Cabinet paper and draft Cabinet Office Circular.
8. Also attached is the aide memoire you requested on proactive release and liability.
9. We recommend that the policy commence on 1 October 2018 as this allows time for Ministers, their offices and agencies to prepare for the change.
10. We have included a proposed timetable from consultation through to announcements.
11. We are seeking your advice on when and who will inform the Chief Ombudsman of the proactive policy.

Minister's office comments

Comments:

| | |
|-----------------------|--|
| Date returned to SSC: | |
|-----------------------|--|

Recommended Action

We recommend that you:

- a **confirm** that the scope of the proactive release policy remains Cabinet material where Cabinet has taken decisions;

Confirmed/Not confirmed

- b **agree** to consult the Speaker of the House of Representatives on the proposed proactive release policy;

Agree/disagree.

- c **agree**, subject to the discussion with the Speaker, that Cabinet invite the Speaker of the House of Representatives to consider for release any submissions the Speaker takes to Cabinet;

- d **discuss** with the State Services Commission the principles for the formatting of key advice papers that Ministers can choose to publish with Cabinet material;

Discuss/do not discuss.

- e **agree** to include in the consultation the draft Cabinet Office Circular;

Agree/disagree.

- f **agree** that the commencement date for the policy is 1 October 2018;

Agree/disagree.

- g **agree** the proposed timetable for consultation, Cabinet consideration and the announce of the policy as follows:

| Action | Timing |
|--|-------------------|
| State Services Commission pre consultation with the Treasury, the Ministry of Business, Innovation and Employment and the Department of Conservation on the financial model. | 5 – 8 June |
| Consultation period for Ministers, the Speaker of the House, agencies. | 11 June – 19 June |
| Paper lodged for Cabinet with Cabinet Office Circular attached. | 28 June |
| Cabinet consideration. | 2 July |
| Announcement of policy. | 3 July |

- h **note** the Treasury and the Ministry of Justice preference remains that all the material to be released under the proactive release policy be published; centrally;

Noted.

- i **agree** that you inform the Chief Ombudsman about the proactive release policy and the Cabinet Office Circular either:

- a. before the paper is lodged

Agree/disagree.

OR

- b. after Cabinet decisions have been taken but before any announcement

Agree/disagree.

OR

agree that the State Services Commission informs the Chief Ombudsman about the proactive release policy and the Cabinet Office Circular either

- c. before the paper is lodged

Agree/disagree.

OR

- d. after Cabinet decisions have been taken but before any announcement; and

Agree/disagree.

- j **agree** that this briefing and the four attachments not be published at this time as a new proactive release policy for Cabinet and associated material is still under active consideration.

Agree/disagree.

Hon Clare Curran
Associate Minister of State Services (Open Government)

SSC Report: Draft Proactive Release Cabinet paper for consultation

Purpose of Report

12. We are seeking final decisions on the content of the draft Cabinet paper and a supporting draft Cabinet Office Circular so that consultation can be undertaken.

Background

13. The proactive release Cabinet paper was discussed at the GOV Cabinet Committee on 13 February 2018. Using the feedback you received during GOV, the cross-party consultations, and our work with selected departments (the Department of the Prime Minister and Cabinet (DPMC), the Ministry of Justice, the Crown Law Office, the Treasury, the Ministry of Health and the New Zealand Police) we have edited the Cabinet paper. The parameters of the draft Cabinet paper are:

- 13.1 All Cabinet material where final decisions have been made are in scope of the policy.
- 13.2 Ministers can also proactively release key advice papers with the Cabinet material that final decisions have been taken on.
- 13.3 The default timeframe for release is 30 working days, subject to an assessment against the Official Information Act 1982 (OIA) criteria and a supplementary assessment to mitigate risks of proactive releases being covered by any legal protections against liability.
- 13.4 The working day definition includes an extra five days over the Christmas/New Year period when compared to the OIA as discussed at GOV.

Question on scope of the policy for Cabinet material

14. To date, the policy has been framed and discussed with Ministers and agencies as being the release of Cabinet material where final decisions have been made. This excludes Cabinet papers that only have noting recommendations. In recent feedback, DPMC have queried this framing because the intention of 2017 Cabinet Manual expectation on proactive release "Cabinet material...on significant policy decisions", was not intended to distinguish between "agree" recommendations and "noting" recommendations.
15. On plain reading of the Cabinet Manual, we had excluded noting only submissions because a noting recommendation simply records awareness of a matter rather than a decision by Cabinet to take action on a matter. Substantive matters of Government can be included in noting recommendations. For example, a Cabinet submission that is currently excluded from the policy is where a Minister has a statutory power and is advising Cabinet of the proposed exercise of that power. In this type of case, the Minister can choose to then release the related Cabinet material. We expect in many cases the act of using that power will be made public.
16. You may wish to consider either:
 - 16.1 including noting decisions (excluding Cabinet Appointment and Honours submissions) in scope of the policy; or
 - 16.2 starting the policy as has been consulted on with the possibility to expand the policy at a later stage to include noting decisions (excluding Cabinet Appointment and Honours submissions).

17. We favour the approach that has already been consulted on and looking to a possible extension of the policy during the review that is proposed to take place after a year.

New financial information in the Cabinet paper as requested by the Treasury

18. DPMC was able to provide us with information on Cabinet submissions and minutes (generated in the 2016/17 financial year by agency. Combining this information with average salary information from the State Services Commission's 2016/17 Public Service Workforce Data we were able to develop a model that allows us to calculate a very broad cost to the system of this policy, and then do the same by agency.
19. The analysis is imprecise as it contains a number of assumptions and variables. It does not include an estimation of how the costs may be offset by things such as changed business practices or a decrease in broad ranging Official Information Act requests.
20. Agencies are gearing up for this policy. We understand that at least three agencies (Culture and Heritage, Education Review Office and Te Puni Kokiri) are still manually preparing official information for publication. We have also been advised by agencies that use software redaction tools that the way the licensing of these tools is structured may be prohibitive to changing practice. We intend to discuss this with the office of the Government Chief Digital Officer.
21. The proposal in the draft Cabinet paper remains that any additional costs be absorbed within agency baselines.

Scope of application

22. The data provided by DPMC for 2016/17 revealed that five Crown entities (ACC, the Tertiary Education Commission, Sport and Recreation New Zealand, Housing New Zealand Corporation, New Zealand Trade and Enterprise), the Parliamentary Counsel (PCO), the Office of the Speaker, the Office of the Clerk, and the Reserve Bank also produced 1-3 Cabinet submissions.
23. We recommend that you include the Speaker of the House of Representatives in your consultations and that the Cabinet paper include a recommendation to invite the Speaker to consider releasing the same material. We will speak with PCO, the Office of the Clerk, and the Parliamentary Service to bring them up to speed.
24. We are not proposing that all Crown entities and other agencies be consulted on the policy given the low numbers of submissions. We will factor into a communications plan the requirement for monitoring departments to advise other agencies about the policy.
25. This broader scope is reflected in the draft Cabinet paper and draft Cabinet Office Circular.

Official information release and the Public Records Act 2005

26. The draft Cabinet paper now shows the link between the release of official information and the Public Records Act 2005. A core purpose of the Public Records Act 2005 is to create full, accurate and accessible records to enable the Government to be held to account.

Centralisation of releases

27. The Treasury and the Ministry of Justice preference remains that all the material to be released under the proactive release policy be published centrally. Our view remains that starting this new policy and learning from it is more important than getting the perfect IT solution in place. Ministers and agencies are already publishing Cabinet and other material on departmental websites.

Commencement of the policy

28. The draft Cabinet paper proposes that the policy commence on 1 October 2018. This will give Ministers, their offices, and agencies plenty of lead in time to make any required changes to their business practices. It will also give us time to develop a fit-for-purpose response calculator given the different working day calculation required for this policy from the Official Information Act 1982 and the Privacy Act 1983.

Draft Cabinet Office Circular

29. We have written a draft Cabinet Office Circular with the assistance of the selected agencies. Consulting on the draft Cabinet Office Circular at the same time as the draft Cabinet paper may negate the need for Cabinet to authorise the Prime Minister, the Minister of Justice, and yourself to approve the Circular at a later date, as was proposed in the GOV paper.
30. Having the draft Cabinet Office Circular available with the Cabinet paper allows us to test with all agencies whether the Circular goes far enough in providing the necessary format and presentation guidance; something the Treasury is particularly concerned about.
31. We also want to discuss with you the principles for formatting of key advice papers that Ministers can choose to publish with the Cabinet material. Agencies generally publish a clean version of papers that have been provided to Ministers. This is a version that does not contain any handwriting and is text searchable. A PDF with handwriting is not text searchable but will show the decisions that the Minister has taken. Currently, the draft Cabinet circular is silent on this matter.

Next Steps

32. We recommend that you commence consultation with your Ministerial colleagues and the Speaker of the House of Representatives on the draft Cabinet paper and the draft Cabinet Office Circular.
33. To assist you with consultations with your colleagues we have attached:
 - 33.1 A draft memo that explains the changes to the Cabinet paper and introduces the draft Cabinet Office Circular.
 - 33.2 An aide memoire you can use to discuss criminal and civil liability when they decide to release material proactively. Having a reliable, robust and thorough process to review material to be proactively released will reduce the risk of successful legal proceedings.

Proposed timetable

34. Below is a proposed timetable for consultation and Cabinet consideration.

| Action | Timing |
|--|-------------------|
| State Services Commission pre consultation with the Treasury, the Ministry of Business, Innovation and Employment and the Department of Conservation on the financial model. | 5 – 8 June |
| Consultation period for Ministers, the Speaker of the House, agencies | 11 June – 19 June |
| Paper lodged for Cabinet with Cabinet Office Circular attached. | 28 June |
| Cabinet consideration | 2 July |
| Announcement of policy | 3 July |

When to inform the Chief Ombudsman of the proactive release policy

35. We are seeking your advice on when and who will inform the Chief Ombudsman of the proactive policy. The options are:

35.1 You inform the Chief Ombudsman either:

35.1.1 before the paper is lodged; or

35.1.2 after Cabinet decisions have been taken but before any announcement.

OR

35.2 The State Services Commission informs the Chief Ombudsman either:

35.2.1 before the paper is lodged; or

35.2.2 after Cabinet decisions have been taken.

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 18 June 2018

Title: Proactive release policy draft consultation material

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

This document has been proactively released. Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory note for this proactive release

The attachments to the document not part of the release.



Proactive release policy consultation material

Date: 18 June 2018
Report No: SSC2018/643
Contact: Catherine Williams, Deputy Commissioner, Integrity, Ethics and Standards
Telephone: 9(2)(a) privacy

| | Action Sought | Deadline |
|---|--|--------------|
| Hon Clare Curran Associate Minister of State Services (Open Government) | Agree to the package of material to be used for consultations on the proactive release policy. | 20 June 2018 |
| Hon Chris Hipkins Minister of State Services | For information. | |

Enclosure: Yes

Summary

1 Following our discussions with you on 13 June 2018 the attached draft Cabinet paper and the draft Cabinet Office Circular have been amended as follows:

| Change | Where | |
|---|----------------|--------------|
| | Paper | Circular |
| A statement that final decisions by Cabinet cover all types of decisions Cabinet makes. | Paragraph 20 | Paragraph 5 |
| Cabinet Appointments and Honours papers are the only Cabinet material not included in the policy. | Paragraph 23 | Paragraph 4 |
| To underline the importance of the review process the following sentence has been added: "All material proposed for proactive release must be treated with care and subject to a considered, reliable, robust, and thorough review process." | Paragraph 31 | Paragraph 13 |
| The option for a summary of the contents of the Cabinet material or key advice papers to be published instead of the Cabinet material. This is proposed following our discussion with Crown Law on 14 June 2018 on the look and feel of releases where much of the information is redacted. This is in line with the Official Information Act 1982. | Paragraph 35 | Paragraph 14 |
| An expectation that the official information released will be text searchable and options on how to release important contextual information that is handwritten onto a key advice paper. | Not applicable | Paragraph 22 |

2 Also attached is:

2.1 An amended cover memo that identifies for Ministers the changes you have made to your proposals since the proactive release policy was considered by the Cabinet Government Administration and Expenditure Review Committee in February 2018.

2.2 A draft letter that can be used for your consultation with the Speaker of the House of Representatives.

Minister's Office Comments

| | |
|-----------------------|--|
| Comments: | |
| Date returned to SSC: | |

RELEASED BY THE MINISTER OF STATE SERVICES

Recommended Actions

We recommend that you:

- a **agree** to the package of information for your consultation with Ministers and the Speaker of the House of Representatives on your proactive release policy.

Agree/disagree.

- b **agree** that this briefing not be published at this time due to the proactive release policy still being under active consideration.

Agree/disagree.

Hon Clare Curran

Associate Minister of State Services (Open Government)

RELEASED BY THE MINISTER OF STATE SERVICES

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 24 July 2018

Title: Proactive release Cabinet paper

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

This document has been proactively released. Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory notes for this proactive release

Note 1 - The Information in the last paragraph on the first page, and paragraphs 6 and 7 on page 6 reflects an official's interpretation of an initial oral discussion with the Deputy Ombudsman. However after consulting the Deputy Ombudsman on 9 August 2018, she has confirmed her advice in the oral discussion was that a decision to release information under the proposed proactive release policy will be a relevant consideration when making a decision on any contemporaneous OIA request to refuse under section 18(d). The Deputy Ombudsman's advice is also reflected in paragraphs 2-4 in the report of 27 July 2018. In relation to section 18(d) of the Official Information Act 1982, that advice is: "Where the Minister already has a clear plan to proactively release the information requested within the 30 business days default timeline, and there is a high certainty that this will occur on a case-by-case basis section 18(d) of the OIA may justify refusing the request on the grounds that the same information is soon to be publicly available.

Note 2 - The attachments to the document not part of the release.



Proactive release Cabinet paper

Date: 24 July 2018
Report No: SSC2018/752
Contact: Erik Koed, Assistant Commissioner
Telephone: 9(2)(a) privacy

| | Action Sought | Deadline |
|---|---|---|
| Hon Clare Curran Associate Minister of State Services (Open Government) | Agree the material to be used for Ministerial consultation. | For discussion at agency meeting 25 July 2018 |
| Hon Chris Hipkins Minister of State Services | For information | |

Enclosure: Yes (attached)

Executive Summary

The State Services Commission has completed agency consultations on the proactive release policy. The majority of the feedback is centred on improving the clarity of the details of the policy, the flow and content of the Cabinet paper (as compared to the Cabinet Committee paper) and reducing any possible confusion between the Official information Act 1982 (OIA) and the proactive release policy.

Two agencies questioned whether the key advice information should be removed from the policy or changed to 'encouraging' Ministers to release key advice. We are recommending that the information remain as drafted to ensure consideration is given to releasing contextual information.

Two agencies raised centralising of the releases on one platform. We have clarified in the body of the Cabinet paper, and in an associated noting recommendation, that this work is ongoing.

Two agencies indicated a preference for a 60 day business default timeline to manage the impact of the policy.

The Deputy Ombudsman Bridget Hewson is generally comfortable that an OIA request may be declined under s18(d) of the OIA, as the information will be available soon under the proposed proactive release policy. This is based on a 30 business day default time. **Refer to Explanatory Note 1**

We would like to discuss with you the possibility of briefing the Chief Ombudsman about the proactive release policy.

Attached is a draft letter from you to the Speaker of the House of Representatives seeking the Speaker's views on the proactive release of Cabinet submissions the Leader of the House presents to Cabinet on behalf of the Speaker.

Attached is a draft memo to support you consulting Ministers on the draft Cabinet paper and draft Cabinet Office Circular.

Minister's Office Comments

| | |
|-----------------------|--|
| Comments: | |
| Date returned to SSC: | |

RELEASED BY THE MINISTER OF STATE SERVICES

Recommended Action

We recommend that you:

- a **agree** to the content of the draft Cabinet paper and draft Cabinet Office Circular for Ministerial consultation on the proactive release policy

Agree/disagree

- b **note** that the draft Cabinet paper includes the Deputy Ombudsman's view on the relationship of section 18(d) of the Official Information Act 1982 to the proposed proactive release policy, but that the Chief Ombudsman's authorisation will be required before the Cabinet paper and Cabinet Office Circular are lodged for Cabinet consideration

Noted

- c **agree** that the draft Cabinet paper include the Deputy Ombudsman's view on the relationship of section 18(d) of the Official Information Act 1982 to the proposed proactive release policy

Agree/disagree

- d **discuss** with the State Services Commission the possibility of the Chief Ombudsman being briefed on the totality of the proactive release policy prior to any announcement of the policy

Agree/disagree

- c **agree** that the information on key advice papers being released remain in the draft Cabinet paper and the draft Cabinet Office Circular as it alerts people to consider releasing supporting material and because it provides information on how to publish information related the Cabinet material

Agree/disagree

- d **sign** the attached letter to the Speaker of the House of Representatives inviting the Speaker to consider releasing, once final Cabinet decisions have been made, submissions the Speaker prepares for Cabinet

- e **agree** the memo to support your consultations with Ministers on the draft Cabinet paper and draft Cabinet Office Circular

Agree/disagree

- f **agree** subject to final Cabinet decisions being taken and an announcement of the proactive release policy being made, that the State Service Commission release this briefing in full with the Cabinet material.

Agree/disagree.

Hon Clare Curran
Associate Minister of State Services (Open Government)

RELEASED BY THE MINISTER OF STATE SERVICES

SSC Report: Proactive release Cabinet paper

Purpose of the report

- 1 This report advises you on the outcome our consultations with agencies on the draft Cabinet paper and draft Cabinet Office Circular and seeks your agreement on the package of information to be provided for Ministerial consultation.

Feedback from agencies

- 2 Sixteen of the 36 agencies consulted provided feedback on the proactive release documents. Key changes made to the documents as a result of this feedback are:
 - 2.1 We have clarified what constitutes a final Cabinet decision and provided examples of when Ministers may choose to delay releasing Cabinet material as these areas are not well understood by agencies.
 - 2.2 "Working days" has been amended to "business days" to avoid confusion with the Official Information Act 1982 (OIA) and because the proactive release default timeframe differs from the OIA.
 - 2.3 The risks and mitigations section and the review and monitoring section have been expanded, and an appendix on proactive release in other countries added, so that Cabinet is considering similar detailed information to that considered by the Cabinet Committee in February 2018.
 - 2.4 The financial section in the Cabinet paper includes slightly more information on the costing variables and assumptions however, as the paper notes, this information remains indicative only.
 - 2.5 There is now information in the disability perspective section of the Cabinet paper on the accessibility of material released and the Cabinet Office Circular refers people to the New Zealand Web Accessibility Standard.
 - 2.6 The requirement for agencies to always amend published information should more be released at a later date, which is possibly quite onerous and may grow over time, has been amended to "agencies may consider" amending published information.
 - 2.7 To assure agencies that work on a centralised platform is ongoing this is clearly stated in the Cabinet paper and in a related noting recommendation. We have not gone as far as including possible options and costings for the platform (as suggested by the Ministry for Business, Innovation and Employment) as we now need to leverage the work the Department of Internal Affairs is undertaking on a whole of government portal.
 - 2.8 More detail is provided in the Cabinet Office Circular on the due diligence process that must be undertaken prior to any released being made.
 - 2.9 The flow of both documents has been improved.
- 3 The Treasury and the Ministry of Social Development commented that it was not clear why key advice remains part of the proposed policy given the release of the key advice is a choice for Ministers, some Ministers already release more than key advice papers, and the policy is silent on whether the release of key advice is encouraged or not. We recommend leaving the Cabinet paper and Cabinet Office Circular as drafted as it alerts people to consider releasing supporting material and because it provides information on how to publish contextual information.

- 4 The Ministry of Social Development and the Department of Internal Affairs both indicated a preference for a 60 business day default deadline due to the impact of the policy on their agencies.
- 5 The Office of the Speaker of the House of Representatives and the Parliamentary Service agreed with the proposal to invite the Speaker to consider for release, once final Cabinet decisions have been made, any Cabinet submissions from the Speaker. Attached is a consultation letter for the Speaker on this matter.

Meeting with the Ombudsman on s18(d) of the Official Information Act

- 6 We spoke with Deputy Ombudsman Bridget Hewson on section 18(d) of the Official Information Act 1982 (OIA). This section of the OIA allows for requests to be refused on the grounds that the information will soon be available. **Refer to Explanatory Note 1**
- 7 Ms Hewson has indicated that where there is a clear plan to publish the material within the 30 business day default timeline, and a high certainty that this will happen, then the section 18(d) test is likely to be met. We are seeking your advice on whether you would like this information to appear in the draft Cabinet paper for Ministerial consultation (refer to paragraph 26 of the draft Cabinet paper). Should this information be in the paper and Cabinet Office Circular for consideration by Cabinet we will need to consult with the Chief Ombudsman on the proposed wording. **Refer to Explanatory Note 1**

Chief Ombudsman

- 8 We would like to discuss with you the possibility of the Chief Ombudsman being briefed on the totality of the proactive release policy.

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 27 July 2018

Title: Strengthening Proactive Release Requirements Ministerial consultation

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

This document has been proactively released. Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to reaction code

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory note for this proactive release

The attachments to the document not part of the release.



Strengthening Proactive Release Requirements Ministerial consultation

Date: 27 July 2018
Report No: SSC2018/777
Contact: Catherine Williams, Deputy Commissioner, Integrity, Ethics & Standards
Telephone: 9(2)(a) privacy

| | Action Sought | Deadline |
|---|---|--------------|
| Hon Clare Curran Associate Minister of State Services (Open Government) | Agree the material for Ministerial consultation | 27 July 2018 |
| Hon Chris Hipkins Minister of State Services | | |

Enclosure: Yes (attached)

Executive Summary

Targeted engagement on the Official Information Act 1982 (OIA)

- Information on the Minister of Justice's targeted engagement on the OIA has been added to the draft Cabinet paper (paragraph 36) with an associated new noting recommendation (recommendation 10).

Discussion with Office of the Ombudsman

- We discussed the relationship between the proposed proactive release policy and requests received under the OIA.
- Working with the Office of the Ombudsman, the following information has been added into the draft Cabinet paper (paragraph 27) and the draft Cabinet Office Circular (paragraph 19):

It is possible that from time to time material in scope of this policy may be requested under the OIA, and be due a response, before it has been proactively released. Where the Minister already has a clear plan to proactively release the information requested within the 30 business days default timeline, and there is a high certainty that this will occur, the Ombudsman's advice is that on a case-by-case basis:

- section 18(d) of the OIA may justify refusing the request on the grounds that the same information is soon to be publicly available; or

- *if the requester is notified within the OIA's maximum statutory time limit for responding that the Minister has decided to grant the request, then the section 28(5) requirement in the OIA to release information without undue delay may be satisfied if the information is released to the requester at the same time it is published proactively.*

4 As a result of our discussion with the Office of the Ombudsman, we have made clearer that Ministers can choose to release Cabinet material earlier than the 30 business day default timeline (see Cabinet paper paragraph 23 and Cabinet Office Circular paragraph 18).

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| Comments: | |
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| Date returned to SSC: | |
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RELEASED BY THE MINISTER OF STATE SERVICES

Recommended Action

We recommend that you:

- a **note** the information on Minister of Justice's targeted engagement on the Official Information Act 1982 has been added to the material for Ministerial consultation

Agree/disagree.

- b **agree** that the wording proposed by the Office of the Ombudsman and the State Services Commission on the relationship between the proactive release policy and requests under the Official Information Act 1982 be included in the material for Ministerial consultation

Agree/disagree.

- c **note** that the draft Cabinet paper and draft Cabinet Office Circular have been edited to make clearer the point that Ministers can choose to release Cabinet material earlier than the 30 business day default timeline

Noted.

- d **agree** that this briefing and the attachments not be published as Ministers, the intended recipients of the information, are entitled to see the proposals and consider and comment on them before they are lodged for Cabinet consideration and Cabinet is entitled to discuss the proposals before any public announcement of the final policy is made.

Agree/disagree.

Hon Clare Curran
Associate Minister of State Services (Open Government)

Hon Chris Hipkins
Minister of State Services

Strengthening Proactive Release
Requirements Date of issue: 18 09 2018

Date: 2 August 2018

Title: Strengthening Proactive Release Requirements Cabinet Paper

Author: State Services Commission

This is one of a suite of documents released by the Hon Chris Hipkins, Minister of State Services that has informed the Government's proactive release of information policy.

Some parts of this document would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Information withheld with relevant section(s) of the Act

Page 1

Telephone number, s9(2)(a) – to protect the privacy of natural persons.

Explanatory notes for this proactive release

Note 1 - The Cabinet paper and the draft Cabinet Office circular were not considered by Cabinet. It was decided that the documents would first be considered by the Cabinet Business Committee on 20 August 2018.

Note 2 - The attachments to the document not part of the release.



Strengthening Proactive Release Requirements Cabinet Paper

Date: 2 August 2018
Report No: SSC2018/770
Contact: Erik Koed, Assistant Commissioner,
Telephone: 9(2)(a) privacy

| | Action Sought | Deadline |
|---|---|------------------------------------|
| Hon Clare Curran Associate Minister of State Services (Open Government) | Lodge the proactive release Cabinet paper and Cabinet Office Circular for consideration at the 6 August 2018 Cabinet meeting. | 10.00am, Thursday 2 August 2018 |
| Hon Chris Hipkins Minister of State Services | For information | |

Enclosure: Yes (attached)

Summary

- 1 This paper recommends you agree the content of the proactive release Cabinet paper and Cabinet Office Circular for consideration by Cabinet on 6 August 2018.

Amendments made to the Cabinet papers

- 2 The following amendments have been made to the Cabinet paper.
- 3 **Timing of an announcement of the policy and timing of the proactive release of the Cabinet material** – The publicity section of the Cabinet paper no longer contains the statement that you will announce the policy the day after Cabinet. This is because when the announcement will occur is under discussion between your office and the Prime Minister's Office, you are considering speaking on the proactive release policy at an event, and the release of the Cabinet material needs to be coordinated with Minister Little announcing the targeted engagement on the Official Information Act 1982 (OIA).
- 4 **When to start counting the 30 business days from** – Advice from the Department of the Prime Minister and Cabinet (DPMC) was that it is much cleaner for the 30 business days to commence from the date of the Cabinet meeting where the final decisions were made (as was in an early version of the paper) rather than when the Cabinet minute is available as minutes are released progressively. We agree with this approach.

Other information that has not altered the paper or circular

- 5 **Ministers noting the decision not to release information in the Cabinet paper** - The Green Party of Aotearoa New Zealand recommended that if a Minister is proposing not to proactively release information this should be an agree/disagree recommendation (rather than a noting recommendation) in the paper and be discussed at Cabinet. We have not recommended this amendment as the policy is based on the portfolio Minister having the decision rights on what official information will be released in their portfolio.
- 6 **OIA targeted engagement** - The Ministry of Justice has confirmed the wording on the OIA targeted engagement that was in the Ministerial consultation version of the Cabinet paper. On 1 August 2018, the Office of the Ombudsman was advised of the Minister of Justice's intention to undertake targeted engagement on the OIA and a copy of the draft Cabinet paper that contained this information was provided to the Office.
- 7 **On Ministerial travel Cabinet material:** DPMC suggested that Ministerial travel Cabinet material be published in one place and thought the Department of Internal Affairs (DIA) website might be appropriate. DIA was supportive of the idea, however, DIA's initial scoping was that this would involve quite a bit of material (for example in 2016/17 there were 231 travel submissions) and would have cost and resource implications over and above those already signalled in the Cabinet paper. Given this, the proposal in the Cabinet paper that all Cabinet papers be published on agency websites is not altered from your earlier decision.
- 8 **Who is involved in OIA targeted engagement** - the Green Party of Aotearoa New Zealand has requested information on who the targeted engagement will be with. The Party has also noted they want to be part of this discussion and will be advocating for OIA reform. The State Services Commission has passed this information to the Ministry of Justice.

Minister's Office Comments

| | |
|-----------------------|--|
| Comments: | |
| Date returned to SSC: | |

Recommended Action

We recommend that you:

- a **agree** to the amendment to the publicity section of the Cabinet paper
Agree/disagree.
- b **agree** that the commencement of the 30 business days revert to starting on the day of the Cabinet meeting that the final decisions were taken at
Agree/disagree.
- c **agree** that the decision to withhold papers remains with the relevant portfolio Minister
Agree/disagree.
- d **agree** that Ministerial travel Cabinet material be published on agency websites
Agree/disagree.
- e **Note** that the Office of the Ombudsman has been advised of the targeted engagement on the Official Information Act 1982
Noted.
- f **Note** that the State Services Commission has advised the Ministry of Justice of the the Green Party of Aotearoa New Zealand feedback on the targeted engagement on the Official Information Act 1982
Noted

Hon Clare Curran
Associate Minister of State Services (Open Government)