OIA Forum for LEADERS

Monday 14 August. 1:30pm – 3:30pm.

Ministry of Justice meeting rooms ks3.3, 3.4 and 3.5. 19 Aitken Street, Wellington
Facilitator: Michael King, Senior Advisor, SSC

AGENDA:

1:30	**Welcome and opening remarks** Debbie Power, Deputy State Services Commissioner and CE, SSC
1:50	**Proactive Release: the Cabinet Manual and Cabinet Guide** Anna Fleming, Cabinet Office Legal Advisor, DPMC
2:05	**Proactive Release: Guidance for Agencies** Morag McConville, OIA Project Team, SSC
2:20	**Proactive Release: Agency Experiences** Agencies: Police, Statistics NZ, DPMC
3:10	**Future OIA Forums** Generate a list of items/actions people would like to see/do.
3:25	**Next steps, feedback, close.**

OIA Forum – 14 August 2017

Deputy State Services Commissioner – Debbie Power

Summary of Speaking Points

Setting the scene – thanked participants for devoting time to improving how information is released across the State services.

At the first forum facilitated by SSC in January, those present expressed the view that it would be helpful if the forum ran as two streams: one for Practitioners and one for agency Leaders. The Practitioners' stream focuses on day-to-day issues of implementing the Act while the Leaders' forum focusses on leadership issues and driving agency change. This is the first OIA forum for Leaders.

We set out to widen the reach for this forum and extended the invitation list to all 111 departments and statutory Crown entities subject to the OIA. We are delighted to have representation from each class of agency here today.

- Public Service Departments
- Non-Public Service Departments
- Autonomous Crown Entities
- District Health Boards
- Crown Agents (who are not DHBs)
- Independent Crown Entities.

Statistics being released

We are currently reviewing the data for the next release of stats next month, which show improvements have been made. Early analysis shows that over the past year:

- the volume of requests has grown slightly. A total of 41,842 requests were handled in 2017/16, up 3.9 percent on the 40,273 requests handled in 2015/16.

- timeliness is improving. Agencies handled 92.9 percent of their OIA requests within the legislated timeframes. This represents an improvement of 5.3 percentage points from 87.6 percent in 2015/16. There is more work to do in this regard.

There is also some insight regarding the rates of **complaints**.
- About 1 in 80 OIA responses result in a complaint being made to the Ombudsman and reported back to the agencies. In all, 531 complaints were notified across 65 agencies

- In the period surveyed, the Ombudsman upheld 114 complaints against 33 agencies. This represents 0.27 percent of all OIA requests handled.

And, we have work to do in the area of proactive release.
- total number of published OIA responses was 553, or only 1.32% of OIA requests handled.

- number of OIA responses published on websites ranged from 0 to 263 with only 15 of 111 agencies publishing OIA responses.

Clearly, this is an area for improvement, and judging by the turn out today, it's also an area of great interest.

Conclusion statement

There is a lot of complexity in this area – what to release, when, and how.
The guidance we've produced will go some way toward helping you navigate this territory.

These forums are just one part of a whole programme of work aimed at improving capability and compliance with the OIA.

The OIA work program within the SSC, of which this forum is a part, is aimed to support your efforts in improving practices and performance.

Thank you again for coming today, and I acknowledge the important role you playing in building and maintaining the trust and confidence of New Zealand and New Zealanders through the administration of the OIA.

Cabinet Office Presentation to OIA Forum - 14 August 2017

General

- [Revised Cabinet Manual](#) signed off by Cabinet in March and was launched in June.

- Last time it was reviewed was 2008. Most of the changes were updates, a few chapters needed to be substantively changed in some parts to reflect changes in law.

Chapter 8

- Chapter 8 covers Official Information and Public Records.

Proactive release

- There are a few new paragraphs on proactive release in Chapter 8.

- More generally, it states that the type of information that might be appropriate for proactive release will be policies, procedures, research and information that might assist the public to participate in government decision-making and information that is likely to be the subject of OIA requests.

- In relation to Cabinet material, the Manual has included the general expectation that Cabinet material on significant policy decisions will be released proactively.

- This reflects the comments that the former PM made at the launch of the Policy Project frameworks last year.

- The Minister is the only person who can authorise the proactive publication of Cabinet material.

- The intention to proactively publish a paper should be noted in the publicity section of the paper. It doesn't need to come with a separate recommendation.

- There generally won't be any need to consult the Cabinet Office.

- CabNet has led to a few practical changes in terms of accessing Cabinet papers that will be reflected in how you proactively publish papers that have been generated since it came into being.

- There have also been a couple of changes in practice in the last few years:

  o Where you are releasing Cabinet material proactively, it is the submission and the Minute that should be released.

  o Cabinet Committee Minutes should not be released until they have been confirmed by Cabinet.

  o Minutes and submissions should be provided together wherever possible, to provide context for readers. The final versions of papers should always be the ones that are released.

- o CabNet Minutes no longer include the physical signature of the Cabinet secretary, but no longer necessary to withhold those. Likewise, the distribution list can be released, unless there is good reason to withhold.

- o The watermark should remain.

- We have recently published updated guidance on CabGuide about the proactive release of Cabinet material.

- Doesn't apply to records of a previous administration – the convention on access to Cabinet records of a previous administration will apply.

OIA

- While talking about the Cabinet Manual changes, I thought it might be worth mentioning a couple of the other main changes relating to the OIA section of Chapter 8.

- The section on OIA consultation has been updated.

- The main change is to clarify the difference between notification and consultation with Ministers. Departments need to be clear whether they are consulting a Minister on an OIA request or notifying them of a request or a response to a request.

- If consulting, adequate time needs to be allowed. Make it clear that the Minister is being consulted and allow time for any concerns to be taken into account. Of course, the decision is still the departments and the Minister's view should not be determinative.

- 'No surprises' principle will apply to the release of information requested under the OIA.

- It is good practice for Ministers and Chief Executives to agree on how consultation and notification should happen generally.

Proactive Release: Guidance for Agencies

See PowerPoint Slides.

See [Proactive Release of Official Information Agency Guidance](#)

Proactive Release – Agency Experiences

NZ Police Presentation to OIA Forum – 14 August 2017

Summary of speaking points

Police has a project underway – the Public Engagement: OIA Action Plan project. Developing a policy around the proactive release of information is one of the key deliverables of this programme of work. Proactive release goes to the heart of Police's vision around having the trust and confidence of all by being open and transparent.

Where is Police at with this work?

- Paper prepared on proposed principles for the proactive release of information, the next phase of developing national guidelines and an assessment process, including such things as an approvals process, any resource implications, and technology constraints.
- Next step is to develop options for implementation of the agreed approach.

Challenges:

- Police receives over 11,500 OIAs per year, not including media requests.
- Need to consider what will the public get the most value from.
- Like other agencies Police needs to consider section 48 of the Official Information Act and any implications.
- Police operates a decentralised model for responding to OIAs and any policy/procedures guidelines needs to consider this for example as part of an approvals process.
- No decisions yet on what Police might publish. Options for consideration could include requests that are demand driven or related to statistics that are already published on Police's external website or information that was part of planned publication.

Other practicalities to consider:

- Currency of published responses and how long to remain posted
- Keeping a record of what is posted to meet external reporting requirements
- Advising requestors that requests may be published and timing of this advice

Statistics NZ Presentation to OIA Forum – 14 August 2017

Summary of speaking notes

Guiding factors in our OIA process

There are a couple of things worth keeping in mind when we consider how Stats NZ looks at Official Information Act requests. The first is that providing information and insights to the public is a key part of our business – not an important but additional task like many other public service bodies. While we have a relatively low number of OIA requests each year, we received 950 requests in 2016/17 for customised data, and over 11,000 statistical or data related enquiries.

While these are treated through separate processes, they are still responded to consistent to the Official Information Act. For the purposes of this presentation, I'm talking about the smaller group of requests we lodge and treat as OIAs.

The second is that the Stats NZ commitment to making data open, and especially our commitment to the Open Government Partnership mean that we aim to release information where it is safe and appropriate to do so. Commitment 2 of the OGP relates to improving official information practices, to make government information more accessible.

These things really guide us in our approach to proactively publishing OIA requests.

When do we release responses to OIA?

In terms of our process for proactively releasing information, we work on an exception basis. We always begin with the assumption that when responding to a request, we will make the response publically available via our website. We don't have a written policy for proactively releasing our responses. Because we have relatively few OIAs we can be agile and treat each request on a case by case basis.

On every response, we include a standard line indicating to the requester that Stats NZ intends to publish the response on our website. This states the response letter, with personal details removed, is published in its entirety. We also indicate that publishing responses increases the availability of information to the public and helps promote balanced public debate. And it hopefully means less work for us down the road, as we will have fewer requests for the same information.

Stats NZ tends to take a pretty cautious approach to releasing data – we take the privacy and trust of New Zealanders very seriously. The flipside of this, is that when an OIA response has been made, we operate on the assumption that the information has entered the public sphere, and is publicly available. This is particularly true for OIAs made through FYI.org. This means we can be more confident in our decision to publish OIA responses after releasing them.

How do you time the publishing of an OIA response?

Generally we aim to publish responses to OIAs soon as practical, allowing time for the response to enter the public domain. More often than not how soon we publish the response after it has been sent to the requester is guided by the current workload of the team.

Ideally we aim to publish all responses within a week of sending it to the requester. Within the team we have spoken about waiting a 'respectful' length of time before publishing for requests that might have a high media interest, or to give requesters time to make sense of the response. We haven't come across a situation where this might apply yet.

DPMC Presentation to OIA Forum – 14 August 2017

Summary of speaking notes

Development of Proactive Release Policy

- A very recent refresh. Signed off by the CE last week after presentation to our ELT.
- Previous policy included both principles and process and didn't specifically cover proactive release
- Refreshed policy:
    - is solely focused on principles, leaving process to be determined and able to be changed over time
    - covers OIA responses and proactive release of both OIA responses and release of information not covered by a request
    - policy will be published on our external website
- ELT is very supportive of our new policy.
- A procedures document is in the process of being developed and will be presented to ELT for their consideration soon.
- Clear support for greater transparency (via increased amounts of proactively released information.)

Implementation – next steps / considerations

- Our next step is the implementation of the refreshed policy.

    #### OIA responses

    - Update our OIA response templates to reference that information may be published, excluding the requestor's name
    - We expect to publish only a selection of responses
    - We're aiming for our first published release by 30 Sept.

    #### Proactive release without a request
    - Planning some promotion of the refreshed policy via our intranet.
    - We are planning to engage directly with business units to promote the Ministerial Services Team, but also how we can support them in the area of proactive release.
    - We will do any redactions using the OIA grounds, as we think it is more efficient to do this once.