

Transferring Information Requests — Section 14



PRACTITIONER GUIDANCE

This guidance is intended to provide a useful starting point for agencies to determine which requests they must transfer and how to make that transfer.

WHAT DOES THE OIA REQUIRE?

[Section 14](#) of the OIA requires agencies to transfer requests if:

- Some or all of the information is not held by the agency, but is believed by the person dealing with the request to be held by another agency subject to the OIA or Local Government Official Information and Meetings Act 1987 (LGOIMA), or Minister; or
- The person dealing with the request believes that some or all of the information is more closely connected with the functions of another agency, or Minister.

These are the only circumstances in which you can transfer a request.

The OIA does not support agencies applying a policy of transferring all requests from a particular source (for example, media requests), or all requests about a particular subject. You must assess the specific information requested on a case by case basis to determine if there are grounds to fully or partially transfer a request.

The Ombudsman has listed the following factors as a guide for deciding whether information is more closely connected with the functions of another agency or Minister.

- The author of the information - did another agency or Minister create the information, or provide the information to your agency?
- The subject of the information - does the information relate to another agency, or Minister's activities or functions?
- The context of the information - does another agency, or Minister have overall responsibility or leadership for

CONSULTING ABOUT THE PROPOSED TRANSFER

It is a good idea to consult the agency or Minister's office before transferring a request to them. Consulting helps determine whether or not the transfer should go ahead. The questions you may wish to ask are:

- Have they already received the same request?
- Are they the right agency to receive the transfer?
- Who within the other agency should the transfer be addressed to?
- Does your agency need to transfer any information it holds along with the request, or does the other agency already hold all the relevant information?

Consulting will also minimise the risk of 'bounce-backs', if the other agency or Minister disagrees that the information is more closely connected with its functions and returns the request to you.

CONSULT THE REQUESTER

Sometimes it can also be useful to consult the requester before you transfer the request. They may be able to clarify why they made the request to your agency, and what information they hoped to obtain. They may be interested in knowing what information your agency holds in connection with its functions, and not what information the 'lead agency' on a particular issue holds.

WHICH AGENCY MAKES THE DECISION ON WHETHER TO TRANSFER A REQUEST?

Sometimes agencies disagree about whether a request should be transferred. There is nothing in the OIA that allows an agency to refuse a lawful transfer of a request. The agency who received the original request is responsible for deciding whether or not to transfer the request.

PARTIAL TRANSFERS

Agencies can transfer parts of requests. The transfer should make it clear what parts of the request are being retained by the original agency, and what parts are being transferred.

What if another agency or Minister already has the same request?

Sometimes your consultation about a proposed transfer will reveal that another agency or Minister is already dealing with exactly the same request. To manage this issue, the following factors are relevant.

- If you don't hold any information, but believe another agency or Minister does, then you must transfer the request.
- If you do hold some information, you will need to decide whether the request is more closely connected with the functions of another agency or a Minister. If you believe it is, you must transfer the request. If not, you must make a decision on the request for the information you hold, but you could discuss whether one agency will coordinate responses to the requester.
- Where it is agreed to coordinate responses, you could discuss your proposed decision with the other agencies that hold any of the requested information including any additional information within the scope of the request and work with those agencies in making your decision. Be careful of timeframes and remember that unless you transfer, you remain accountable for making the decision and communicating it to the requester.
- You could try discussing the situation with the requester. If your agency does hold additional information that the other agency or Minister doesn't have, you could ask the requester to refine their request to just this information.
- If your agency doesn't hold any additional information, you should advise the requester of this, and that you are aware that the other agency or Minister will be responding to their request. The requester may then decide to withdraw their request. If the request is not withdrawn you will need to decide whether the request is required to be transferred or must be answered by you.

WHO CAN YOU TRANSFER A REQUEST TO?

Transfers can only be made between agencies subject to the OIA or LGOIMA, including Ministers, central government agencies and local government agencies. Even if you know there is an organisation that would be better placed to respond to the request, you can't transfer the request to them if their decision on the request can't be investigated by the Ombudsman.

If you are considering a transfer and are not sure whether the agency is subject to the OIA or LGOIMA, you can contact the [Office of the Ombudsman](#) to check.

TIME LIMITS

What if another agency or Minister already has the same request?

If you decide to transfer a request to another agency (whether in full or part), you must transfer the request promptly and no later than ten working days after your agency received the request. You must inform the requester that you have transferred the request. The OIA is clear - the need to transfer a request is something the agency must identify and action as early as possible. An agency may extend the maximum time limit of ten working days for transfer. (See SSC guidance on [extending time limits](#)).

Agency that has a request transferred to it

When you receive a transferred request, it is effectively a new request made to your agency under the OIA. The working day count, in terms of the maximum time limit for making and communicating a decision, begins again. The receiving agency is also able to extend time limits and transfer the request.

TRANSFERS OUT OF TIME

If you transfer a request outside the maximum (or extended) time limit, this could be the subject of a complaint to the Ombudsman under the Ombudsman Act 1982, and a finding that the agency had acted 'contrary to law'.

Even if you transfer a transfer later than the ten working day time limit (or extended time limit) it still has the effect of shifting the responsibility for reaching a decision on the request to the most appropriate agency. That is, after all, what the transfer provision is about - ensuring that the agency that holds the information, or is best placed to know whether there are valid concerns about disclosure, makes the decision on the request.

If your agency identifies the need to transfer all or part of a request outside the ten working days (or extended time period), you should consider contacting the requester to explain the reason for the delay and the need for the transfer. Requesters will appreciate being kept informed, and may be more understanding if the agency ends up in breach of the time limit.

EXTENSIONS AND TRANSFERS

[Section 14](#) of the OIA specifies that a transfer must be made promptly and no later than ten working days after the date on which the agency receives the request.

[Section 15A](#) allows you to transfer a request outside of the ten working day limits, if you make a valid extension within 20 working days of the original request. This means the original agency extended the time limits to either allow consultation to occur or to undertake a search of the records.

TRANSFERS TO MINISTERS

In determining whether information is more closely connected with a Minister's or an agency's functions, it can be helpful to consider the role of the Minister. As the Cabinet Manual states, Ministers:

- take significant decisions and determine government policy collectively, through the Cabinet decision-making process;
- exercise statutory functions and powers under legislation within their portfolios, within the collective Cabinet decision-making context;
- determine both the policy direction and the priorities for their agencies;
- have a political role in maintaining government stability, which requires maintaining close working relationships with all other parties as issues arise.

If the requested information relates to executive government decision-making functions, and release could prejudice Cabinet's or the Minister's ability to perform those functions, transfer to the Minister may be justified. If the information relates more closely to operations and policy implementation, then the agency should probably be responsible for deciding on the request.

IF THE INFORMATION IS NOT HELD AND THE REQUEST CAN'T BE TRANSFERRED

Sometimes agencies receive requests for information that they don't hold, and:

- Enquiries reveal that no other agency/Minister holds the information, and
- The information that the request relates to is not more closely connected with the function of any other agency or Minister.

In these circumstances the agency can refuse the request under section [18\(e\)](#) because the requested document does not exist, or section [18\(g\)](#) because the information is not held by the agency and it is unable to transfer the request.