



**Te Kawa Mataaho**  
Public Service Commission

6 April 2021

9(2)(a)  
privacy

Dear 9(2)(a) privacy

**Official Information Request**  
**Our Ref: OIA 2021-0014**

I refer to your official information request received on 7 March 2021 where you have asked:

*“Has the Commissioner issued any minimum standards of integrity and conduct, or guidelines, or advice or other publication:*

*a) about fulfilling requests for Documents (as per the definitions supplied in the Privacy Act) pursuant to Official Information Act and Privacy Act; and*

*b) on whether a deliberate refusal to comply with*

*i) A Ministerial delegation to provide disclosure pursuant to Official Information Act or the Privacy Act requests ; and/ or*

*ii) A request to provide disclosure pursuant to Official Information Act or the Privacy Act requests*

*which conceals requested information or detrimentally misrepresents something else as being the requested information is considered breaking a NZ Law*

*c) on the types of disciplinary action and any resulting penalty for a Public service employee or contractor by any Department / Ministry or other Government body if the employee or contractor has broken a NZ Law in the course of their work for the Department / Ministry or other Government body.*

*d) on advice for any Department / Ministry or other Government body if their employee is taken to Court by a government or private prosecution*

*e) (i) on what will be the range of possible penalties including who pays for the defence if the employee is found innocent*

*(ii) on what will be the range of penalties including who pays for the defence if the employee had inadvertently breached the law (and therefore their conditions of employment) but was found guilty*

*(iii) on what will be the range of penalties including who pays for the defence if the employee has done deliberate illegal actions (and therefore they deliberately breached their conditions of employment) and was found guilty”*

## Information publicly available

Te Kawa Mataaho Public Service Commission (the Commission) provides Official Information Act (OIA) guidance for agencies, which includes information in relation to ‘managing OIA requests’ and ‘managing agency OIA systems and processes.’

Stated in our guidance is the guiding principle of the Official Information Act is that information must be made available if requested, unless a reason exists under the Act for withholding it.

Please find links to the information available in the table below.

Item	Document Description	Website address
1	OIA guidance for agencies	<a href="#">OIA guidance for agencies   Te Kawa Mataaho Public Service Commission</a>
2	Standards of integrity and conduct	<a href="#">Standards of integrity and conduct</a>
3	Understanding the code of conduct	<a href="#">Understanding the code of conduct - Guidance for State servants   Te Kawa Mataaho Public Service Commission</a>

We are therefore refusing this part of your request under section 18(d) of the Official Information Act 1982, on the grounds that the information is publicly available.

The Commission does not provide specific guidance in relation to whether refusal of information under the Privacy Act or the Official Information Act would be considered breaking NZ law. It is the role of the Privacy Commissioner and the Ombudsman to monitor and enforce compliance with the Privacy Act and the Official Information Act. Requestors have the right to seek an investigation and review by the Privacy Commissioner and the Ombudsman on agencies’ decisions.

The Commissioner has not issued any guidance or advice on the following:

- types of disciplinary action and resulting penalty for Public Service employees
- if an employee is taken to Court by a government agency
- the range of possible penalties and who pays for the defence if the employee is found innocent
- the range of possible penalties and who pays for the defence if the employee had inadvertently breached the law but was found guilty
- the range of possible penalties and who pays the defence if the employee has done deliberate illegal action and found guilty

We are therefore refusing those parts of your request under section 18(e) of the Official Information Act 1982 on the basis that the information requested does not exist.

## Workplace policies

Any disciplinary action required for a public service employee would be the responsibility of each individual agency. Employers should have procedures (which includes the disciplinary process and the types of warnings etc), along with the types of action that might be viewed as misconduct or serious misconduct set out in writing and available to all parties. This might be in the employment agreement or in the workplace policies and procedures so that everyone knows where they stand as far as this is possible, ahead of any issues coming up.

Further information in relation to [workplace polices](#) and [resolving problems between employers and employees](#) can be found on the Employment New Zealand website.

If you wish to discuss this decision with us, please feel free to contact [Ministerial.Services@publicservice.govt.nz](mailto:Ministerial.Services@publicservice.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) on the Te Kawa Mataaho Public Service Commission's website.

Yours sincerely



Nicky Dirks  
**Managing Principal – Ministerial Services**  
**Te Kawa Mataaho Public Service Commission**