

Ombudsman releases four OIA practice reports

27 September 2018

The Chief Ombudsman says agencies have responded positively to his self-initiated investigation of their official information practices.

In April, the Chief Ombudsman announced investigations into four agencies (the Ministry for Culture and Heritage, the Ministry for the Environment, the Department of Conservation, and Land Information New Zealand) as part of a long-term strategy to raise the quality of official information delivery from the public sector.

“I was heartened to see that these agencies want to make changes to become more transparent and accountable, in particular through the development of proactive release policies,” said Chief Ombudsman Peter Boshier.

“It was interesting to see the many common areas for improvement, and these findings are useful for the public sector as a whole. I would encourage other agencies to read these reports and consider making proactive changes to their own processes and policies.”

Mr Boshier noted that the investigations were an important way to ensure the public has trust and confidence in government agencies.

“Best practice in the dealing with official information requests has two benefits – it means people have a better opportunity to take part in the process of government, and it informs agencies about where they need to make changes to ensure compliance, and to identify opportunities to promote the principle and purposes of the OIA.”

The investigations identified a number of areas that could be improved to help the agencies concerned discharge their OIA responsibilities more effectively. These included clearer messaging from senior leaders, improving their web presence for official information, clarification of the role of the Minister in departmental OIA responses, and how media requests were a key part of agency’s OIA statistics and record-keeping.

“I am very grateful to the four agencies for their cooperation and openness during these investigations, and also for the considered feedback they gave us on these reports.”

ENDS

For further information, Mark Torley, 027 275 5733.

Background

The investigations were conducted under the Ombudsmen Act 1975. Under the Act, an Ombudsman may investigate the administrative acts, decisions, omissions and recommendations of the agencies subject to it and form an independent opinion on whether any aspect of their conduct was wrong, unreasonable or contrary to law.

The initiative was flagged in the Office's *Strategic Intentions 2017/21*, and for local government in the *Strategic Intentions 2018-22*, and was made possible by funding from Parliament.

The four agencies chosen for this tranche of self-initiated investigations all have some involvement with the environment or New Zealand culture. With environmental and cultural issues being highly visible to the public, supporting these agencies to develop better OIA processes will help them better serve the public.

Process

The investigations took place between April and June 2018, and the agencies were offered an opportunity to comment on the provisional opinion. The final opinions published today have incorporated the agency's comments and feedback.

The agencies were measured against criteria we believed they needed to achieve the purposes of the OIA – leadership and culture, organisation structure, staffing and capability, internal policies, procedures and resources, current practices, and performance monitoring and learning.

The majority of the action points suggested by the Chief Ombudsman were accepted by the agencies, and work is being done by all of them to incorporate the suggestions into their processes for improvement in the development of agencies work programmes.

In the course of the investigations, we sought the public's input into the process, had a survey for stakeholders who had recently made a request to for information from the agencies, talked extensively to agency staff and reviewed many of the agencies' documents.

What happens next?

For the agencies involved, there will be quarterly follow-ups with the Office of the Ombudsman to assess progress and to see what advice and guidance is needed.

In October, the second group of four agencies for these self-initiated investigations will be announced, with the results likely to be published in the first quarter of 2019.

The Chief Ombudsman intends to carry out self-initiated investigations of official information practices on a regular basis, and it is anticipated that over time up to 12 official information practice investigations will be carried out on public sector agencies (both central and local government) annually.

Further information can be found [here](#).

The media release from April 6 announcing the investigations can be found [here](#).

Ministry of Culture & Heritage – Chief Ombudsman’s assessment of Official Information Act 1982 (OIA) compliance and practice.

I have assessed the Ministry’s leadership and culture, organisational systems, policies, practices and procedures needed to achieve the purposes of the OIA, and I have not identified any conduct that was wrong, unreasonable or contrary to law in OA terms. As such, there are no formal recommendations.

Leadership and culture

- Positive culture around the importance of the OIA, and openness generally, exists.
- Need for formal and consistent messaging from senior leaders about importance of OIA.
- Opportunity for Ministry to be a leader in the proactive release of information.
- Room for improvement in visibility and accessibility of OIA content on Ministry’s website.

Organisation structure staffing and capability

- Uses a ‘mixed’ model of OIA handling, apt given its size and number of requests received.
- Consider ongoing training for specific staff charged with preparing responses to OIA requests.
- Some concerns about Ministry’s capacity during busy periods, or in the absence of key staff.
- Confirm and clarify Chief Executive’s delegated authority for OIA decision makers.

Internal policies, procedures and resources

- Generally good OIA guidance for its staff, along with other useful OIA response tools.
- A number of areas of practice lack a formalised process and occur only on an ad hoc basis.
- Given its size, the departure or absence of a single, key staff member may have a disproportionate impact on the Ministry’s ability to respond to requests.
- Survey training needs of its staff in relation to searching for documents requested under the OIA.

Current practices

- Generally, Ministry implements its policies in such a way that adheres to its OIA obligations.
- Some concerns around its practice in relation to interactions with Ministers’ offices on departmental OIA requests, specifically the impact of this practice on the Ministry’s obligation to provide information to requesters as soon as reasonably practicable.
- Some concerns around record keeping in relation to OIA decision making, and the Ministry’s use of extensions to manage the OIA workload.
- Ensure all media information requests are handled in accordance with the provisions of the OIA.

Performance monitoring and learning

- Ministry taking steps to use performance monitoring and learning to enhance OIA performance.
- Ministry could benefit from collecting more OIA performance data, better analysing it, implementing performance measures, and improving recording of its decision making process.
- Include OIA requests handled by the Communications team in OIA statistical reporting.
- Peer review processes at the Ministry can be reinforced, as can processes around disseminating information such as Ombudsman and States Services Commission guidance.

Land Information New Zealand – Chief Ombudsman’s assessment of Official Information Act 1982 (OIA) compliance and practice.

I have not identified any conduct by Land Information New Zealand (LINZ) that was wrong, unreasonable or contrary to law in terms of the Ombudsmen Act, and as such have not made any formal recommendations. However, I have identified some good practices, as well as some opportunities for LINZ to improve its ability to discharge its OIA responsibilities more effectively.

Leadership and culture

- Positive culture, led by senior leaders who promote openness and transparency.
- The Chief Executive and other senior leaders should use more explicit internal messaging, referencing the importance of the OIA to LINZ staff.
- LINZ would benefit from developing a policy for stakeholder engagement and incorporating this into strategic documents.

Organisation structure, staffing and capability

- LINZ operates a ‘mixed’ model of processing OIA requests which I consider suitable for the size of the agency and the number of requests it receives.
- Clear and formal delegations; there is room for improvement in clarifying the sign-out process.
- LINZ should ensure that the training programme includes targeted training for decision makers, the Strategic Communications team and Client Service Advisors.

Internal policies, procedures and resources

- LINZ has some sound and user-friendly guidance, resources, templates and tools available to staff in relation to the OIA.
- It should take steps to streamline the guidance available, and update some of the older documents, so that it is clearer and easier for staff to access.
- LINZ has a draft set of principles that will sit behind a proactive release policy, and I would encourage it to make the completion of its proactive release policy a priority in 2018/19.

Current practices

- LINZ has some commendable OIA practices that demonstrate staff have good, technical knowledge of the OIA.
- It also has strong compliance with its information management policies and procedures.
- I hold some concerns around its practice in relation to interactions with its Minister’s office on departmental OIA requests and its record-keeping in relation to OIA decision making.

Performance monitoring and learning

- LINZ collects a comprehensive suite of data in relation to OIA requests, and is taking some steps to use performance monitoring and learning to enhance its OIA performance.
- LINZ should ensure that senior leadership receive regular reporting on compliance capabilities in handling OIA requests, apparent themes or trends in the requests being received, sensitive issues and opportunities for proactive release of information.
- LINZ should reinforce the existing peer review and quality assurance processes.
- LINZ should improve record keeping on OIA requests; if the final decision is to refuse, the record should include the basis for the decision, and the outcome of any consultations involved

Ministry for the Environment – Chief Ombudsman’s assessment of Official Information Act 1982 (OIA) compliance and practice.

I have identified a number areas of practice which are going very well for the Ministry, particularly in the areas of leadership and culture. I have also identified some good practices and some opportunities for the Ministry to improve its ability to discharge its OIA responsibilities more effectively.

Leadership and culture

- Senior leaders have a strong commitment to the principle and purposes of the OIA, and to openness and transparency more generally.
- Good internal messaging about OIA, however, its external messaging could be improved.
- Ministry has a positive approach to the proactive release of information, and public consultation.
- The Ministry would benefit from the provision of a system for staff to identify and communicate opportunities for improvements to OIA policies, practice and proactive release of information.

Organisation structure, staffing and capability

- Each OIA request goes through a review and sign-out process, and the ministry should consider whether the number of steps in sign-out process is required for all responses.
- OIA training is offered to all staff at induction, and this appears to be a good ‘beginners guide’, however, the Ministry should consider the development of more in-depth training for analysts and the Communications team, and specialised training for OIA decision makers.
- Consider a process to have business units share resources when there are spikes in OIA demand.

Internal policies, procedures and resources

- Ministry has some sound and user-friendly OIA guidance, resources, templates and tools. The guidance could be improved by providing links from the one-page guidance document to a more robust policy.
- The record keeping policy could be improved by including specific guidance on the retention of texts, instant messaging and other forms of communication.
- Develop a proactive release of information policy to support the current practice of proactive release.
- The Ministry has a good peer review, or buddy, system in place to support staff who are new to processing OIA requests. There is scope to improve this system by publicising the role of buddies.

Current practices

- In recent times, the Ministry has improved its level of adherence to response timeliness of the OIA.
- It has some commendable practices in relation to recording its decision making processes.
- The Ministry would benefit from ensuring systems and training to ensure all media requests are handled in accordance with the OIA.

Performance monitoring and learning

- Chief Executive has introduced a timeliness target of 100 percent timeliness for all OIA requests.
- The Ministry would benefit from collecting more OIA performance data, and including media information requests in its OIA statistical reporting.
- While its practices in this area are commendable, the record keeping of decision making on requests could be improved further by including records of internal and external consultations.
- Ministry should consider implementing a standardised framework for assessing OIA response quality.

Department of Conservation – Chief Ombudsman’s assessment of Official Information Act 1982 (OIA) compliance and practice.

A number of areas of practice are going well for the Department, and there are also some opportunities for the Department to improve its ability to discharge its OIA responsibilities more effectively.

Leadership and culture

- Significant improvements being made in OIA compliance by improving the timeliness standards.
- Some good examples of the Department’s leaders communicating positive OIA messages to staff, but need to make clear, visible and regular statements to all staff about the role of the OIA.
- Good messaging about transparency demonstrated in its external strategic documents.
- Scope for improving proactive release of information by providing more guidance.
- Consider having the OIA webpage include visible and strong messaging about the OIA.

Organisation structure, staffing and capability

- Department has a ‘mixed model’ of processing OIA requests, appropriate for its structure.
- Process to assess and make decisions on requests is clear, understood, up-to-date, and applied.
- No internal training for staff on the OIA, a risk in terms of quality, capability and resilience.
- Review capacity of Government Services Unit to ensure it can support the Department in meeting its obligations under the OIA.

Internal policies, procedures and resources

- OIA guidance and information management policies are reasonably comprehensive and accessible.
- Opportunity for improvements to the OI Guidelines, template response letters and the help-sheet.
- Review tools for considering the public interest test and preparing responses for release.
- Ensure guidance is accessible to staff and the most current OIA guidelines are on the intranet.
- Staff reported difficulty in identifying, accessing and collating information requested under OIA.

Current practices

- Department has made impressive improvements to its compliance with OIA timeliness obligations
- Good practice in relation to proactive release of information, including selected OIA responses.
- Department staff regularly engage with requesters, a pleasing aspect.
- Undertake a review of protocols around interactions with the Minister’s office.
- Understand requests handled by media and other teams are subject to the provisions of the OIA.

Performance monitoring and learning

- Timeliness target of 100 percent introduced, and has strengthened key performance indicators.
- Could benefit from collecting more OIA performance data, and better analysis of it.
- Include OIA requests handled by the Media and Communications team.
- Consider implementing stronger peer review or quality assurance methods to track the quality and consistency of OIA decisions.