

**Official Information Act  
compliance and practice**

**Department of Conservation  
Te Papa Atawhai**





# OIA compliance and practice in the Department of Conservation

Opinion of the Chief Ombudsman

September 2018

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### **Appendix 3. Aggregate data from my survey of Departmental staff**

## Foreword

The Department of Conservation, Te Papa Atawhai, (the Department) was formed in 1987. The Department is the government agency tasked with protecting and caring for the natural environment of New Zealand, together with our historic and cultural heritage. It has a wide range of functions, including managing conservation land and waters, and protecting marine mammals, native wildlife, and approximately 13,000 historic sites. These functions help the Department achieve its overarching goal of conserving New Zealand's natural and historic heritage. The Department is responsible to the Minister of Conservation, Hon Eugenie Sage. It services a small number of statutory bodies, and administers 25 Acts of Parliament. It currently employs around 1990 staff.

In the 2017-18 financial year, the Department received 580 Official Information Act (OIA) requests, of which 93.6 percent were responded to within legislative timeframes.

In July 2018, the Department was given an opportunity to comment on my provisional opinion.

The Department advised me that it will use my report as the basis for a system-wide approach to improve official information practice and processes. This is intended to promote cultural change throughout the organisation. The importance of building a positive culture around official information, transparency and public engagement cannot be overstated, and indeed it is highlighted in the [‘Leadership and culture’](#) section of this report. I applaud this initiative by the Department and I look forward to seeing the outcomes of this exciting and ambitious project. I will be in contact with the Department on a quarterly basis to follow its progress in implementing my suggested action points.

I acknowledge the Department for the positive and open way it engaged with my staff during the investigation, and for the time it devoted to respond to my survey of the agency. I would also like to thank Department staff, particularly those in the Government Services Unit, for the time given to prepare responses and meet with investigators from my Office.

Peter Boshier  
Chief Ombudsman

## Executive summary

This report provides my opinion of the Official Information Act 1982 (OIA) compliance and practice within the DOC.

My investigation was conducted under the Ombudsmen Act 1975 (OA). An Ombudsman's function under that Act is to investigate the administrative acts, decisions, omissions and recommendations of the agencies subject to it,<sup>1</sup> and to form an independent opinion on whether any aspect of their conduct was wrong, unreasonable or contrary to law.<sup>2</sup> If an Ombudsman forms an opinion to that effect, they can make recommendations to the agency as they see fit.

I have assessed the Department's leadership and culture, organisational systems, policies, practices and procedures needed to achieve the purposes of the OIA, with reference to a set of indicators, grouped around the following dimensions:

- Leadership and culture
- Organisation structure, staffing and capability
- Internal policies, procedures and resources
- Current practices
- Performance monitoring and learning.

I have identified a number of areas of practice that are going well for the Department and some opportunities for the Department to improve its ability to discharge its OIA responsibilities more effectively.

### Leadership and culture

The Department's leaders have shown some commitment to the OIA. Significant improvements have been made in OIA compliance by improving the timeliness standards and providing extra resources to the Government Services Unit (GSU). There are some good examples of the Department's leaders communicating positive OIA messages to staff. The responses to the staff survey reflect a positive perception about messaging from the Director-General and the senior leadership team. While this suggests the beginnings of a cultural shift, it is not evident that the message about the OIA's role of enabling more effective participation in government and promoting accountability through openness and transparency has been communicated to all staff effectively.

The Department has demonstrated good messaging about transparency in its external strategic documents. It shows good support for the principles of openness and transparency through

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<sup>1</sup> See s 13(1) OA.

<sup>2</sup> See s 22(1) and (2) OA.

the proactive release of information on its website. However, there is scope for improving the proactive release of information by providing more guidance and expanding the practice.

There are opportunities for improvement in the Department's culture in relation to the OIA. One suggestion is that the Department strengthen its internal messaging in order to link positive OIA practices to the role of the OIA in promoting good government through increased participation and accountability. I also consider the OIA webpage should include visible and strong messaging about the OIA. A system for staff to identify improvements to OIA policies and practice would also be of benefit to the Department.

#### Action points

1. Senior leaders should make clear, visible and regular statements to all staff about the role of the OIA in enabling more effective participation in government and promoting accountability through openness and transparency.
2. Review OIA webpage content and accessibility.
3. Consider in the Department's *Better Government Services* project, a system for staff to identify and communicate opportunities for improvements to OIA policies and practice, or proactive release.

## Organisation structure, staffing and capability

The Department has a 'mixed model' of processing OIA requests which is appropriate for its size and structure. The process for staff to assess and make decisions on OIA requests is clear, understood and up-to-date, and is applied. Allocation, tracking, and quality control of OIA requests is performed by staff in an OIA hub; the GSU. Decision making and processing takes place in the relevant business units.

There is no internal training for staff on the OIA. This lack of training for those who have to deal with OIA requests (particularly decision makers and those who deal with requests 'informally') is a risk for the Department in terms of quality, capability and resilience. The structure of the Department, with so many staff working out in the field and in the regions, means training needs will vary widely.

The GSU has recently been reformed with increased resourcing allocated to the OIA function. However, there are currently only 1.5 staff members in the GSU team who deal with OIA requests. Considering the size of the Department and the number of OIA requests it receives, this number is significantly lower than I would expect. At face value, it is difficult to see how a unit with such limited resources can effectively fulfil the functions expected of it, especially given that the structure of the Department means that so many staff rely on its expertise.

There is also little resilience in this structure and there is a risk if staff are away, leave the Department, or if there is a surge in requests. Training, along with mechanisms such as 'buddy' or 'OIA Champion' systems can strengthen an agency's resilience and capability and I suggest the Department consider them.



The Department does not track time taken by staff working on OIAs and this is a lost opportunity to inform resourcing decisions and to assess the effectiveness of proactive release of information on the number of OIA requests.

#### Action points

1. Consider developing training programmes tailored to the needs of all staff; develop specific and targeted training for the Media and Communications team and decision makers.
2. Review capacity of the GSU to ensure it can effectively support the Department in meeting its obligations under the OIA.
3. Establish and formalise mechanisms to improve and ensure structural resilience.
4. Consider tracking how much time is spent by all staff in handling OIA requests.

## Internal policies, procedures and resources

The Department's OIA guidance and information management policies are reasonably comprehensive and accessible. There are some opportunities for improvements to the OI Guidelines, the template response letters and the help-sheet. Tools for considering the public interest test and preparing responses for release could be more effective. Improvements could also be made to ensure the guidance is accessible to staff and that only the most current OIA Guidelines are on the Department's intranet.

While the information management policies are generally good, there are opportunities to improve staff training in relation to naming, storing and searching for documents. An issue has also been identified with an insufficient number of licences for redaction software available across the Department.

While the Department shows some good proactive release practices, there is no policy supporting such practice. The GSU is driving the development of a policy in this area and has prepared a draft. I commend this initiative, and urge that a timeframe for implementation of the policy be developed and that accountability for this policy within the senior leadership team be clearly understood and signalled.

#### Action points

1. Survey training needs and staff compliance in relation to naming, storing and searching for documents, then provide appropriate training/guidance.
2. Revise OIA guidelines, response template letters and help-sheet, incorporating my suggestions.
3. Ensure staff include all required documentation when assigning OIA requests through the workflow management system.
4. Ensure only the most current OIA Guidelines are on the Department's intranet.
5. Ensure that all staff who require it have access to redaction software.
6. Establish a timeframe for developing and publishing a comprehensive proactive release policy, ensure a senior leader has clear accountability for its implementation.

A significant problem is that a number of staff reported difficulty in identifying, accessing and collating information that has been requested under the OIA.

In particular, staff raised concerns about the accessibility of documents which require a 'permission' to access. While the Chief Information Officer advised that these documents should still be visible by title in search results even if the staff member lacks permission to open it, staff advise that this is not the case in practice. As a result, staff were not always confident that all information within the scope of an OIA request has been identified.

As a result of my opinion the Department has acknowledged that it is aware of this problem and has committed to addressing it through improving its communication to staff about the support systems in place to assist in document searches, and will conduct audits to ensure these measures are effective. Accordingly, it is not necessary for me to make a formal recommendation on this issue.

## Current practices

The Department has recently made impressive improvements to its compliance with OIA timeliness obligations, and employs some good practice in relation to the proactive release of information, including selected OIA responses, on its website.

The GSU has raised awareness within the Department of the importance of consulting with requesters where refinement or clarification of their request is required, and it is pleasing to see that Department staff regularly engage with requesters.

A key concern in relation to the Department's current practice is its interaction with the Minister's office on departmental OIA requests, specifically, the length of time it allows the Minister's office to review OIA responses in advance of the statutory timeframe to make and communicate a decision to the requester.

The Department could improve its practice around documenting its decision-making, and the administrative steps required in processing OIA requests. It should be mindful that requests handled by the media and other teams are also subject to the provisions of the OIA and need to comply with its requirements. There are also opportunities for the Department to review its practice in relation to fixing a charge for the supply of information to ensure this administrative tool is used to progressively increase the availability of information.

### Action points

1. Undertake a review of protocols around interactions with the Minister's office.
2. Record reasons for OIA decisions, including consideration of the public interest if applicable, for example in a covering memo or file note which is accessible to staff.
3. Record administrative steps behind OIA responses where this may be necessary.
4. Review charging practice to be sure this administrative tool is used appropriately to progressively increase the availability of information.
5. Ensure that all media and other information requests are handled in accordance with the OIA.

## Performance monitoring and learning

The Department is taking some steps to use performance monitoring and learning to enhance its OIA performance, such as the collection of data relating to timeliness and the reporting of this data to its Senior Leadership Team on a quarterly basis. The Director-General has also introduced a timeliness target of 100 per cent for the Department's OIA work, and has strengthened this with the induction of timeliness key performance indicators (KPIs) for Deputy-Director Generals.

There are opportunities for improvement; the Department could benefit from collecting more OIA performance data, better analysis of this data, the implementation of performance measures, and an improved record of its decision making process. There is also room for improvement in the process for learning from Ombudsman and State Services Commission decisions.

### Action points

1. Collect more comprehensive data on the Department's handling of OIA requests so that opportunities for improvement can be identified; report regularly to senior leadership.
2. Include OIA requests handled by the Media and Communications team.
3. Implement measures to track OIA performance by the Department as a whole, and for individuals in key roles, such as third-tier managers.
4. Consider implementing stronger peer review or quality assurance methods to track the quality and consistency of OIA decisions.
5. Consider improving the record keeping on OIA requests; if the final decision is to refuse, this reasoning should include the basis for the decision, and the outcome of any consultations involved.
6. Formalise the process for learning from Ombudsman and State Services Commission guidance, and Ombudsman investigations and reflect this in OIA policies and procedures.

## Introduction

The OIA allows people to request official information held by Ministers and specified government agencies. It contains rules for how such requests should be handled and provides a right to seek an investigation by way of a complaint to the Ombudsman in certain situations.

### Key principle and purposes of the OIA

#### Principle of availability

The principle of availability underpins the whole of the OIA. That is:

*The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that the information shall be made available unless there is good reason for withholding it.*<sup>3</sup> (emphasis added)

#### Purposes of the Act

The key purposes of the OIA are to:<sup>4</sup>

- progressively increase the availability of official information to the people of New Zealand to:
  - enable more effective public participation in the making and administration of laws and policies; and
  - promote the accountability of Ministers and officials;and so enhance respect for the law and promote good government; and
- protect official information to the extent consistent with the public interest and the preservation of personal privacy.

### Official information practice investigations

As Chief Ombudsman, I am committed to improving the operation of the OIA to ensure the purposes of that Act are realised.<sup>5</sup> Key to achieving this is Parliament's expectation that I conduct self-initiated investigations of agencies' official information practices and capabilities on a regular basis.

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<sup>3</sup> See s 5 OIA.

<sup>4</sup> See s 4 OIA.

<sup>5</sup> *Strategic Priorities for 2016-2020* for improving the operation of the OIA: [http://www.ombudsman.parliament.nz/system/paperclip/document\\_files/document\\_files/2562/original/oia\\_strategy.pdf?1521410886](http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/2562/original/oia_strategy.pdf?1521410886).

Reporting the outcome of these investigations will assist Parliament to hold government to account, and provide the public with continuing trust and confidence in public sector agencies' ability to operate effectively this cornerstone of New Zealand's democracy.

This programme of work gives effect to recommendation 48 in our report *Not a game of hide and seek*.<sup>6</sup>

## **Purpose of this investigation**

This self-initiated investigation was conducted under the Ombudsmen Act 1975 (OA) into the official information policies and practices in the Department.<sup>7</sup> My role under that Act is to investigate the administrative acts, decision, omissions and recommendations of the agencies subject to it and to form an independent opinion on whether any aspect of their conduct was wrong, unreasonable or contrary to law. If I form an opinion to that effect, I can make recommendations as I see fit.

My investigation has covered how the Department works to meet the requirements of the OIA and achieve its purposes through its processing and decision making on requests for access to information it holds.

My investigation has included consideration of the Department's supporting administrative structures, leadership and culture, process and practices, including information management, public participation, and proactive release of information to the extent that these relate to achieving the purposes of the OIA.

I have evaluated the Department's OIA compliance and practice with reference to a set of indicators, grouped around the following dimensions:

1. Leadership and culture
2. Organisation structure, staffing and capability
3. Internal policies, procedures and resources
4. Current practices
5. Performance monitoring and learning

My assessment is based on the key indicators of good practice included in Appendix two of this report. These indicators are not exhaustive and do not preclude an agency demonstrating that good practice in a particular area is being met in other ways.

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<sup>6</sup> Report of Chief Ombudsman Dame Beverley Wakem, *Not a game of hide and seek – Report on an investigation into the practices adopted by central government agencies for the purpose of compliance with the Official Information Act 1982*, 2015 available at: [http://www.ombudsman.parliament.nz/system/paperclip/document\\_files/document\\_files/1573/original/not\\_a\\_game\\_of\\_hide\\_and\\_seek\\_-\\_review\\_of\\_government\\_oia\\_practices.pdf?1466555782](http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/1573/original/not_a_game_of_hide_and_seek_-_review_of_government_oia_practices.pdf?1466555782).

<sup>7</sup> See sections 13(1) and 13(3) OA.

## My opinion

I have not identified any conduct by the Department that was wrong, unreasonable or contrary to law in Ombudsman Act terms and, as such, I have not made any formal recommendations.<sup>8</sup> While the Department's information management system has some potential limitations in terms of searching for documents, throughout the course of my investigation the Department has acknowledged and committed to address these issues. Therefore, taking into account the Department's overall performance I am of the opinion that there are currently no administrative deficiencies in the Ministry's official information practices.

As noted in my foreword, the Department has agreed to act on all of my suggested action points.

Through the investigation process, areas of good practice have been identified, and improvement opportunities suggested where any areas of vulnerability have been identified.

I deal with each of the dimensions listed above setting out:

- key findings;
- aspects that are going well; and
- opportunities to improve the Department's OIA compliance and practice.

My opinion relates only to the Department's practice during the period in which my investigation took place. Prior to confirming my opinion as final I provided the opportunity for the Department to review and comment.

## Summary of investigation methodology

My investigation took place during April to June 2018 and centred on the policies and practices employed by the Department to meet the requirements of the OIA, and achieve its purposes through its processing and decision making on requests for information held by the Department.

Specifically, I have reviewed the Department's administrative structures, leadership and culture, processes and practices, including information management, public participation and proactive release of information to the extent that these relate to achieving the purposes of the OIA.

The following methods were used to gather information:

- Desk research (for example, the information relating to the OIA on the Department's website, and information held by my office on the Department's OIA practices);
- a survey completed by the Department;

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<sup>8</sup> Formal recommendations under the OA are only made if I form an opinion that a decision, recommendation, act, or omission by the agency was wrong, unreasonable or contrary to law, etc. under s 22 of the OA.

- a survey completed by Department staff;
- a public survey;
- meetings with key Department staff; and
- a meeting with the Chief Executive.

A document summarising the information gathered was then sent to the Department to review and provide comment, in order to ensure all relevant information was available on which to form my opinion.

Appendix 1 outlines my investigation methodology.

Appendix 2 outlines the indicators of good official information practice on which my investigation is based, and the 'dimensions' under which these are grouped.

Appendix 3 contains the aggregate data from my survey of Department staff, to which 388 staff members responded.<sup>9</sup>

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<sup>9</sup> My decision to publish aggregate data in this case is consistent with previous Ombudsmen's views on the release of survey data. A relevant case note can be found [here](#).

## Leadership and culture

### Key findings

The Department of Conservation:

- Demonstrates that its senior leadership team has shown some commitment to compliance with OIA timeliness requirements
- Has strengthened its OIA performance in the last two years and continues to do so with its ongoing Better Government Services project
- Demonstrates some good proactive release practices
- Would benefit from considering:
  - Stronger, targeted and more consistent internal messaging about the OIA and the Department's commitment to openness and transparency; and
  - Improvements to its OIA webpage

Achieving the purposes of the OIA depends significantly on the culture of the agency and the attitudes and actions of its leaders. Ministers, chief executives and senior managers should take the lead in developing an environment that promotes openness and transparency, champions positive engagements with those who want to know and understand what work they are doing; and enables compliance with the principles, purposes and provisions of the official information legislation.

When it is clear to staff that their leaders respond to requests for official information positively and view it as an opportunity to operate in a more transparent, engaging and accountable manner, they will follow.

To assess the Department's leadership and culture, I considered whether:

- Ministers, chief executives, senior leaders and managers demonstrated a commitment to the Department meeting its obligations under the OIA and actively fostered a culture of openness;
- senior leadership had established an effective official information strategic framework which promoted an official information culture open to the release of information; and
- senior leadership demonstrated a commitment to proactive disclosure, and public participation, with clear links to the Department's strategic plans creating a public perception of openness.

After discussing aspects that are going well for the Department, I identify some opportunities for improvement.



## Aspects that are going well

Overall, the Department can demonstrate that its leaders have shown some commitment to the principle and purposes of the OIA.

The majority of staff who responded to the staff survey (59 percent) considered the Chief Executive (Director-General) to be strongly or moderately pro-OIA, and 79 percent considered him to be strongly or moderately pro-openness and public engagement. The Department has advised that the Director-General regularly speaks about the importance of the OIA, using fora such as the bi-annual Directors Forum and quarterly Directors' meetings.

In terms of the senior leadership team (Deputy Director-Generals), 62 percent of staff survey respondents rated the senior leadership team as sending '*strong*' or '*moderately strong*' pro-OIA signals, with 80 percent of respondents rating the senior leadership team's signals as being '*strongly*' or '*moderately strongly*' pro-openness and participation. The table below shows a summary of staff responses for the survey questions asking staff to rate the signals from leaders about the OIA.

| Leadership level       | Strongly or moderately pro-OIA | Strongly or moderately anti-OIA | 'They are silent on the issue' or 'don't know' |
|------------------------|--------------------------------|---------------------------------|--|
| Chief Executive        | 59%                            | 1%                              | 40%  |
| Senior Leadership team | 62%                            | 4%                              | 34%  |
| Immediate Manager      | 70%                            | 5%                              | 25%  |

The Department's policy is one of 'leader-led' communication. The aim is that Deputy Director-Generals and third tier managers (Directors) will model and transmit the pro-OIA message. This policy is reflected in the practice whereby Directors have responsibility for signing off all OIA requests. Therefore, in principle, they have the opportunity to feed through positive messages about the OIA to staff in their unit. I consider that improvements could be made to the Department's internal messaging, and I discuss this further in [Opportunities for improvement](#) below.

There is a clear instrument of delegation for OIA decisions, with a description of which OIA powers are being delegated. All powers are delegated to Deputy-Directors General and Tier three managers (Directors). I am pleased to see that the delegations are formal and clearly written. The seniority of decision makers also ensures the independence of the final decision is preserved, and minimises the risk of undue ministerial influence in the Department's decisions on OIA requests.

## Focus on timeliness compliance

A number of staff commented in meetings that, to date, the messaging from the Director-General in relation to OIA principles has been strongly focused on timeliness. The Director-General has implemented a Department-wide performance objective to achieve compliance

with 100 percent of OIA requests within the statutory or extended timeframe, and he has strengthened this with specific KPIs in respect of timeliness for each Deputy Director-General (with plans to extend this to tiers three and four).

It is encouraging to see that a report, including analysis of timeliness in comparison to other agencies and analysis of trends in numbers over a number of years, is provided to the senior leadership team on a quarterly basis. It is important to note here that, although adherence to OIA timeliness obligations is important, this should not be at the expense of providing quality responses. As discussed further in [Performance monitoring and learning](#), I would like to see other performance measures, such as the quality of OIA responses, tracked and monitored too.

There have been some admirable improvements to OIA timeliness, partly as a result of messaging from senior leaders.<sup>10</sup> While I applaud the Director-General's objective to achieve 100 percent timeliness standards, I consider a sole focus on timeliness to be insufficient. It is vital for senior leaders to connect timeliness compliance with the broader purpose of the OIA and communicate this effectively to staff. This issue is discussed in more detail in the section below titled [Opportunities for improvement](#).

### Government Services Unit's messaging

The Government Services Unit (GSU) has undertaken some commendable initiatives to reinforce to staff in the field that they have an important role to play in the democratic government of New Zealand. A roadshow to remote offices has been conducted, in which the 'government' role of the Department, as opposed to its purely operational role, was explained and discussed.

There has been positive feedback about the roadshow. One staff member with 20 years' experience working in the field reportedly said that he had not previously been aware of his role as a government official. I commend the steps taken to make sure staff understand the mechanics of government and the Department's role in it. This is essential groundwork to enabling staff to understand and support the tenets of openness and transparency. The roadshow is discussed in more detail in [Organisation structure, staffing and capability](#).

It is evident that the GSU does a commendable job of championing the importance of the OIA. However, I consider that senior leaders can do more to provide strong and visible support of the OIA in particular, and openness and transparency more generally.

### External messaging and public engagement

The Department's external messaging about the OIA is positive. There are some strong statements about the Department's commitment to the OIA and the principles of transparency and participation in the documents published on the Department's webpage. The Statement of Intent 2016-2020 states:

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<sup>10</sup> In the 2015/16 financial year, the Department responded in time to 73.3 percent of OIA requests and in the 2016/17 financial year, the Department increased this figure to 90.1 percent.

*We are also trying to change behaviours in order to lift the speed and quality of decision-making, drive accountability and consistency to ensure we are all working in the same direction.*<sup>11</sup>

The same document refers to a key initiative being to ‘transparently publish stakeholder survey results.’<sup>12</sup>

In a similar vein, the Information Systems Strategic Plan 2015-2019 states the following as one of its Guiding Principles:

*Open and transparent: non-personal information is a public asset that is open by default for economic and social benefit.*<sup>13</sup>

The Director-General has a blog on the Department’s website called ‘D-G Direct’ in which he talks about what he has been doing and who he has met. While it is not apparent that the Director-General has discussed the OIA or transparency in the blog, I consider it shows he is willing to openly engage with the public about his activities. One meeting attendee, referring to this blog, said that they considered the Director-General was notably frank in this blog and that they had not encountered such openness in other agencies. The Department also advised that the Director-General has held discussions with Forest and Bird (a key stakeholder) in which he made explicit the Department’s commitment to openness in its work.

Another positive action by the Department is that it conducts a survey every two to three years to check that the website is providing information that meets its customer needs. The Department has stated that much of the work planning about its online presence revolves around the results of this and other customer feedback.

The Department also seeks public comment on a variety of issues. Its webpage clearly outlines how the public can ‘have a say’, which consultations are currently open for comment and which are closed.<sup>14</sup> Some submissions are published on the Department’s website.

## Working together to promote a positive OIA culture

The Department informs me that the Minister visited the Department in March 2018 and discussed with selected teams her commitment to openness and transparency and the importance of the OIA. However, staff survey responses suggest that the Minister’s positive messaging to selected teams about the importance of the OIA was not necessarily then transmitted effectively by the Department to staff. Fifty-three percent of respondents said they did not know what signals were sent by the Minister about the OIA, and 13 percent considered the Minister had been silent on this issue.

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<sup>11</sup> <https://www.doc.govt.nz/Documents/about-doc/role/publications/statement-of-intent-2016-2020.pdf>. Page 21.

<sup>12</sup> See above, page 27.

<sup>13</sup> <https://www.doc.govt.nz/Documents/about-doc/policies-and-plans/information-systems-strategic-plan.pdf> Page 13.

<sup>14</sup> <https://www.doc.govt.nz/get-involved/have-your-say/>.

A Minister's specific endorsement of the OIA's principles presents a good opportunity for the Department to promote a culture of openness by publishing that message through the Department's interface with its staff, for instance through blogs and the intranet. It is not evident that this has occurred in this case.

## Opportunities for improvement

There are opportunities for improvement in relation to:

- communicating the broader purpose of the OIA;
- internal messaging;
- the Department's OIA webpage;
- proactive release; and
- a system for staff to identify OIA improvements.

### Communicating the broader purpose of the OIA

As discussed above in [Focus on timeliness compliance](#), there are some good examples of the Department's leaders communicating positive OIA messages to staff and there have been some admirable improvements to OIA timeliness. While the statistics from survey respondents reflect a positive perception about messaging from both the Chief Executive (Director-General) and the senior leadership team, there were some comments that suggest the Department's commitment to openness principles may be limited. For instance, one said that:

*Leadership is supportive of openness in concept but a little more solid action is required to embed the necessary practices.*

It also came through strongly in meetings that messaging from the Director-General and senior leadership team about the OIA is focused on compliance with timeliness requirements. As stated above, the Department has improved its timeliness record markedly of late. The Department has also boosted its resourcing of the GSU, with a particular focus on the OI function. These are positive moves. However, as one meeting attendee put it '*there needs to be a cultural shift from thinking of the OIA as compliance towards thinking of it as something that will benefit the agency*'.

To really effect change in perception and practice, the improvements in OIA compliance need to be underpinned by principle. If leaders express a commitment to the principles of open government, as well as to compliance and reflect this commitment in how they act, it can effect real and lasting culture change.

Emphasising that the purpose of the Act is to enable the people of New Zealand to more effectively participate in government and to promote accountability to the ultimate end of enhancing respect for the law and promoting good government ensures that staff are not just 'complying' with the Act, but that they embrace more fully the role each of them has in fostering respect and confidence in the Department and in the government of New Zealand generally.

I do note that some meeting attendees said the wider importance of the OIA principles of transparency and openness are to be '*the next cab off the rank*' in terms of both messaging and resourcing. However, at this stage, it is not evident from the information I have reviewed

that the message of OIA compliance has been linked to the broader themes of openness and transparency.

## Internal messaging

I understand that the Department's structure, the nature of its work and the variety of roles means that there will not be one way of messaging which will reach all staff effectively. Messages that reach policy staff in Wellington will not necessarily be the best way to communicate with rangers working in remote parts of the country.

I suggest the Department give some priority to considering ways it can actively promote the principles of openness and transparency. One way of promoting these principles is the proactive release of information, discussed below in [Internal policies, procedures and resources](#).

Another way is through explicit messaging on the topic. It would be advantageous for senior leaders, including the Director-General, to provide more pro-OIA messaging to staff; not just about timeliness compliance but about openness and transparency more generally.

This can occur in a variety of ways such as through an internal blog, the intranet and all-staff meetings. The Department might also like to explore and develop other innovative ways of communicating with staff such as an OIA event, which has occurred at other government agencies, and could build on the work the Department is already doing.

### Action point

Senior leaders should make clear, visible and regular statements to all staff about the role of the OIA in enabling more effective participation in government and promoting accountability through openness and transparency.

### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## OIA webpage

The information published on a Department's website is another signal of its leaders' commitment to the OIA.

There are some positive aspects about the Department's OIA webpage, which is accessed through its *Contact Us* page. It includes a suggestion that a number of hyperlinked sources are checked before making a request. These sources include previous OIA responses, corporate documents, current programmes, science publications and conservation management

strategies. Linking to potentially relevant publications in this way is a helpful approach. The OIA webpage also includes, in clear language, statements about what the requester can expect next and what to do if a requester is unhappy with the Department's response.

There are opportunities for improvement to the website and OIA webpage in particular. The State Services Commission has developed guidance on agencies' webpages,<sup>15</sup> and one of its suggestions is that OIA webpages should be accessible directly from an agency's homepage and separate from its *Contact Us* page.

Although there are some strong messages about the Department's commitment to openness and accountability in its corporate documents (available through its website), the statements are not very visible. I suggest the Department considers including a general statement of principle explaining the role of the OIA in promoting effective participation and government accountability on its OIA webpage. This might be a short, clear statement in line with the accessible tone of the rest of the page. I also suggest this page might helpfully include further information such as:

- specific information about the Department's charging policy and a link to internal OIA policies and procedures; and
- a link to the Department's internal decision-making rules, as detailed in section 22 of the OIA.

#### Action point

Review OIA webpage content and accessibility.

#### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

### Proactive release of information

One way of promoting the principles of openness and transparency is by releasing information proactively. Strong policy and practice in this area is one of the most effective ways of demonstrating to staff that senior leaders are active in their commitment to open government. An agency that has a good practice around proactive release, demonstrates that openness, transparency and accountability are principles of paramount importance.

A proactive release policy is about more than the release of responses to previous OIA requests. Proactive release can be an effective tool for managing official information demands,

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<sup>15</sup> See <http://www.ssc.govt.nz/sites/all/files/oia-agency-website-guidance-dec2017.pdf>.

incentivising targeted requests (as opposed to ‘fishing expeditions’), and identifying efficiency gains. The trust and confidence benefits linked to increased openness and transparency can also be used to motivate continuing improvement in this area.

Currently, the Department demonstrates some good practice concerning publishing documents proactively on its website. However, the practice of proactive release of information appears ad hoc and is not prescribed or supported by guidance documents.

I understand a draft proactive release policy exists, the development of which is being driven by GSU, and that accountability for this policy rests with the Deputy Director-General Policy and Visitors. It is important that the senior leader accountable for the project provides clear and visible support, and that a timeframe for delivery of this project be set.

I discuss the issue of a proactive release policy in more detail, including my suggested ‘Action point’ in [Internal policies, procedures and resources](#).

### System for staff to identify improvements

It is not evident that there is a current mechanism in place for staff to identify and communicate opportunities for improvements in OIA practice or proactive release. Provision of such a system has the potential to obtain innovative ideas from staff which may enhance processes.

The Department has advised that there is a project underway entitled *Better Government Services*, which includes developing a standardised process for staff feedback. While the Department has not advised of a proposed finalisation date for the project, I commend the initiative. I would encourage the project to include consideration of a system for staff to identify improvements specific to OIA and proactive release practices.

#### Action point

Consider in the *Better Government Services* project, a system for staff to identify and communicate opportunities for improvements to OIA policies and practice, or proactive release.

#### The Department’s response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency’s progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.



## Organisation structure, staffing and capability

### Key findings

The Department of Conservation:

- Employs a fit-for-purpose model for handling OIA requests
- Has recently reformed and bolstered its ministerial and OIA function within a new Government Services Unit
- Has no internal training for dealing with OIA requests. The lack of training means that there are risks for the Department in terms of quality and timeliness. It also means that it lacks resilience
- Should consider tracking staff time taken on OIA requests

Responding to official information requests is not only a legal requirement, but a core function of the public sector. Therefore, it is expected agencies will organise their structure and resources to ensure they are able to meet their legal obligations under the OIA, in a way that is relevant to their particular size, responsibilities, and the amount of interest in the information they hold.

To assess the Department's organisational structure, staffing and capability, I considered whether:

- the Department had the capacity to discharge its official information obligations, with clear and fully functioning roles, accountabilities, reporting lines, delegations and resilience arrangements; and
- the Department had the capability to discharge its official information obligations.

After discussing aspects that are going well for the Department, I identify some opportunities for improvement.

### Aspects that are going well

The Department has recently created a new unit responsible for logging and tracking OIA requests. One meeting attendee said the Government Services Unit (GSU) came about following a poll of other agencies' OIA systems, which resulted in the identification of the Department being '*out of step*' with the polled agencies.

Although the Department has stated that it operates a decentralised model,<sup>16</sup> I consider it operates a ‘mixed’ model,<sup>17</sup> as the co-ordination of OIA requests is performed by the GSU, and the processing is performed by other staff.

The GSU has responsibility for logging, triaging (where possible) and tracking OIA requests. In tracking requests, the GSU maintains a daily report of requests that are approaching the statutory deadline, and any request that has not been received by the GSU for review five days before the due date is raised with the responsible decision maker for action. In the mixed model, responsibility for processing and preparing OIA requests rests with subject matter experts in other business units.

The reform of the GSU included recruiting a specialist OIA practitioner in 2016. It is clear, both from reports from across the Department and reported improvements in OIA timeliness, that these reforms have resulted in a lift in performance and in professionalism in the OIA space. However, due to the size of the Department,<sup>18</sup> and the number of OIA requests received<sup>19</sup>, it may be advisable to review the numbers of staff in the GSU. This issue is discussed further in [Capacity of the GSU team](#).

As discussed in [Leadership and culture](#), the GSU has recently conducted a series of roadshows to discuss the role of Department staff as public servants and what the role entails. I understand the OIA was covered very broadly in these sessions, with reference being made to its importance within New Zealand’s democratic structure. The Department’s structure is such that many of its staff work in the regions and in the field, so I commend the initiative of the GSU to run a roadshow where the Department’s government role is discussed.

The Department has just launched an induction process for new staff. The training takes place in Wellington, and regional staff attend. As part of this two-day package, new staff will be provided a brief overview of the Privacy Act and the OIA. The Department is also considering the need for the GSU to prepare more specialised, targeted training on the OIA. Suggested improvements to OIA training are discussed below in [Opportunities for improvement](#).

## Opportunities for improvement

Although the Department has improved its OIA structure and staffing, I have identified a number of opportunities for further improvement:

- OIA training;

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<sup>16</sup> Decentralised means both the co-ordination and processing of OIA requests is performed, for the most part, by staff outside an OIA hub (and usually such organisations will have no OIA hub).

<sup>17</sup> Mixed means the co-ordination of OIA requests is performed, for the most part, by staff in the organisation’s OIA hub(s) but most of the processing is performed by other staff in the organisation.

<sup>18</sup> Staff FTE in 2017 – 2063.

<sup>19</sup> 575 OIA requests received in 2017.

- capacity of the GSU team;
- structural resilience; and
- tracking resources.

## OIA training

The *Not a Game of Hide and Seek* investigation found that an effective training framework should encompass:<sup>20</sup>

- training at induction;
- introductory basic awareness of key OIA principles;
- advanced courses for specialists covering, for example:
  - proper application of the public interest and harm tests;
  - dealing with broad, complex requests covering a large volume of information; and
- refresher courses.

Apart from the recently introduced induction training, there is currently no formal OIA training for Department staff. I consider some level of OIA training should be mandatory to ensure the Department meets its OIA obligations.

In particular, decision makers at the third-tier management level and above should receive targeted training to ensure they are aware of any changes to legislation and current Ombudsman guidance and are able to appropriately apply the provisions of the OIA, including the public interest test. This helps to ensure the Department's decisions on OIA requests are robust and internally consistent.

I appreciate that many of these senior managers have experience in the public sector, and have access to support in the Legal team and the GSU. However, relying on an individual's knowledge and past experience to make the appropriate decisions leaves the Department vulnerable to unintended poor practice and decisions that are passed on to other staff, and then embedded into current practice.

As discussed below under [Current practices](#), it is also important that the Media and Communications team, and front-line staff receive targeted training to ensure they are aware of the Department's obligations under the OIA when responding to information requests from the media and general public.

What effective training might look like for an agency the size and scope of the Department is something that will require careful consideration. Meeting attendees and staff survey respondents provided a range of comments about training including the following:

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<sup>20</sup> *Not a Game of Hide and Seek*. (December 2015): 65.

*Training modules would be useful... induction training is problematic for some regional staff who don't get frequent OIAs and would forget it.*

*I am now in a role where I supervise/enforce release from my team, and although it would be quality assured by other teams, I have not been trained to understand what I should look for to ensure we are complying with the legislation.*

*While there is some information available on style and process, it is hard to find guidance on how and what to redact.*

I suggest the Department adopts training solutions that are within its capacity and fit for its size. This training could be tailored to fit the varying levels of staff need, taking into account the frequency and level of their involvement on OIA requests. Members of my Office are available to deliver OIA training, and to assist in the development and/or delivery of a training programme, including the type of training required for different roles and different levels of seniority.

#### Action point

Consider developing a training programme tailored to the needs of all staff, and develop specific and targeted training for Media and Communications team and decision makers.

#### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

### Capacity of the GSU team

On the whole, the mixed model appears fit-for-purpose for the Department's current OIA demands. However, for the model to be employed successfully there must exist:

- adequate, targeted and ongoing training and learning opportunities for staff;
- adequate support for staff in non-core OIA roles who are called on to reply to OIA requests in addition to performing their day-to-day tasks.

At present, there is a reliance on the GSU to triage requests where appropriate, track responses and review them for quality at the end of the process. I understand from my survey of agency staff that this support can be limited during busy times or staff absence. One staff member noted *'There are very few staff who are able to provide quality OIA responses with confidence so it often takes certain people out of their roles to drop everything and deal with OIAs.'*

There are currently 1.5 staff members in the GSU team who deal with OIA requests. Considering the size of the Department and the number of OIA requests it receives, this number is significantly lower than I would expect. On the face of it, it is difficult to see how a Unit with such limited resources can effectively fulfil the functions expected of it, especially given that the structure of the Department means that so many staff rely on its expertise.

An increase in capacity in the GSU would afford it the opportunity to provide further support to the staff who are processing OIA requests. The GSU would also be able to invest more time in developing and delivering much needed training initiatives.

### Action point

Review the capacity of the GSU to ensure it can effectively support the Department in meeting its obligations under the OIA.

### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Resilience

The issue of training discussed above is closely linked to the issue of resilience. The Department's processes appear to be very dependent on a small number of skilled and motivated individuals in the GSU. This Unit triages requests if it has capability to do so, and if it is the preference of the business unit handling the request. It will also track responses and review them for quality at the end of the process. The lack of training means that, aside from the legal team, OIA expertise is vested largely in this Unit. This model means the Department may be vulnerable if there are high volumes of requests or staff on leave.

I note that this conclusion is reflected in the responses to the staff survey. Forty-five per cent of staff survey respondents answered that they *'did not think the agency would cope with an increased workload and still maintain quality standards in the event of a sudden increase in OIA requests'*, and 33 per cent responded that they did not know if the agency would be able to cope.

I encourage the Department to establish mechanisms for dealing with sudden increases in workload, or the sudden absence of key staff. As well as developing the training programmes discussed above, these could include a 'buddy' or 'OIA champion' system whereby the person dealing with the request is assigned or directed to an experienced peer who can guide or assist where necessary. Buddies and OIA Champions should be easy to find – for instance their

positions and identities could be accessible on the intranet or on an electronic dashboard. This would mean that there would always be someone to go to when staff who might otherwise have the role and experience are away, leave the Department, or when there is an increase in OIA requests.

**Action point**

Establish and formalise mechanisms to improve and ensure structural resilience.

**The Department's response**

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

**Tracking resources**

In the 'mixed' model employed by the Department, OIA processing must be considered a core aspect of staffs' roles rather than an addition to an already full workload of 'business as usual' tasks.

The Department has no mechanism for tracking the number of hours spent handling OIA requests. If it is unclear how resources are being used (particularly when individuals are working additional hours), then it is more difficult to seek support from the business when it is needed. A number of staff reported that OIA requests were considered 'on top' of their core business, and that they could add significantly to work pressures and stresses. While some of the stress might flow from lack of training and experience, the size of this problem cannot be accurately measured if the hours involved are unknown. Knowing how much time OIA requests take would also help with work planning.

The lack of resource tracking is also a missed opportunity; if the Department knew how much time it took in responding to OIA requests, this figure could be monitored to track the extent to which proactive release meets public demand for information and decreases OIA work.

**Action point**

Consider tracking how much time is spent by all staff in handling OIA requests.

**The Department's response**

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this

action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Internal policies, procedures and resources

### Key findings

The Department of Conservation:

- Has unreasonably omitted to remedy known deficiencies in using its information management systems to retrieve information requested under the OIA. If my opinion in this regard is confirmed, I am likely to recommend the necessary steps are taken now;
- Has reasonably comprehensive guidance on the process of responding to OIA requests, although it would benefit from some additions;
- Provides limited guidance to staff on how to apply the public interest test;
- Has good, accessible information management policies in place; and
- Is working to finalise a proactive release policy, its development is being driven by the Government Services Unit

While it is not a legislative requirement, nor an assurance that compliance with the OIA will occur, I do expect as a matter of good practice that agencies develop or adopt policies and procedures that will assist staff to apply the requirements of the OIA consistently. In addition, staff should be supported by good systems, tools and resources in their work that will enable agencies to effectively process requests and make good decisions consistent with the provisions in the Act.

To assess the Department's internal policies, procedures and resources, I considered whether it had accurate, comprehensive, user-friendly and accessible policies, procedures and resources that enable staff to give effect to the OIA's principle, purposes and statutory requirements. This includes policies, procedures and resources in relation to:

- dealing with OIA requests;
- records and information management; and
- proactive release of information.

After discussing aspects that are going well for the Department, I identify some opportunities for improvement.

### Aspects that are going well

#### Recent amendments to OIA guidelines

DOC has a range of procedural guidance documents to assist staff in identifying and responding to OIA requests. These include:



- an 'OIA Guidelines' document;
- a one-page Standard Operating Procedure for OIA handling;
- a 'help-sheet' accompanying OIA requests sent for processing; and
- a range of template letters for OIA responses.

The OIA Guidelines produced to assist staff are clear and reasonably comprehensive. The guidelines have recently been reviewed and updated by the GSU, and 53 percent of respondents found the guidelines 'useful', or 'very useful', with one noting that '[the guidance] has improved drastically recently'.

The Guidelines include accurate information on the statutory time limits for extending and transferring requests for information, as well as guidance for staff on how to scope OIA requests. Appropriate emphasis is placed on consulting the requester to refine or clarify their request.

The discussion of 'What is official information?' within the Guidelines makes the point that information in people's heads, draft versions of papers, and information prepared by contractors, for example, is all included as 'official information' and should therefore be provided on request unless good reason exists to withhold it. The Guidelines also reflect good practice in their reference to the release of officials' names:

*We should stand behind the decisions we made. When staff details (eg. names, job title, emails and landline numbers) are captured by an OIA request these should be released.*

In respect of the Minister's involvement, the Guidelines are clear that, unless the response was prepared on behalf of the Minister's office (i.e. it was a request to the Minister), responsibility for the decision rests with the Department. There are issues with the practice of providing the Minister with copies of the Department's proposed responses on an 'FYI' basis five days before the statutory deadline, which I discuss below in [Current practices](#).

Another positive aspect is the inclusion of the following paragraph on proactive release of OIA responses:

*The Department supports the State Services Commission's open government initiatives and will proactively release high public interest OIA responses on our website.*

This sends a good signal to staff dealing with OIA requests to turn their minds to opportunities for the proactive release of the Department's responses. However, it is important that leaders provide staff with a mechanism for inputting their suggestions so they can be actioned as I discussed earlier under [Leadership and culture](#).

It is intended that links to the OIA Guidelines and OIA template response letters are included in the help-sheet that accompanies every OIA request assigned to a staff member, in order that they have this guidance to hand when they are called on to process a request for information. I

note there have been some occasions when this process has not worked, which I will discuss further below, under [Opportunities for improvement](#).

## Information Management policies and guidance

The Department's information management (IM) system, docCM, was introduced in late 2014. It is supported by an IM Policy and a 27-page Standard Operating Procedure (SOP). The SOP is comprehensive, including statements about capturing, organising, maintaining and storing information (including emails) which, in principle, support compliance with the OIA by leading to information being appropriately stored and easily identifiable and retrievable. The SOP also links to an IM User Guide. These documents are readily available to staff on the Department's intranet.

While the Department has comprehensive policies and guidance in place in relation to its IM system, Department staff advise that they have experienced difficulties using the system to identify, access, and collate information. I discuss this in more detail below, under [Retrieval of information](#)

## Opportunities for improvement

There are opportunities for improvement in relation to:

- record-keeping and document retrieval;
- the content and availability of written guidance on OIA processing;
- the availability of redaction software; and
- the proactive release of information.

## Retrieval of information

Staff have reported a number of difficulties searching for documents stored on the Department's IM system. Overall, 38 percent of staff survey respondents said that information was not easily found or collated when requested under the OIA.

My key concern in respect of document retrieval is the issue of documents that require a 'permission' to access. A number of staff have advised that such documents do not appear in search results if the staff member searching for the document lacks appropriate permission to access it. This is contrary to a statement made by the Chief Information Officer indicating that the document title should appear in response to a search, even if the staff member conducting the search lacks permission to open it.

The Director-General is ultimately responsible for ensuring that, when the Department makes a decision on an OIA request, the decision maker has retrieved all the information within the

scope of the request and has reviewed it all before making a decision on whether or not to release it.<sup>21</sup>

It seems to me, based on meetings with Department staff, that this conflict of perspectives is known by staff, but has not been addressed or rectified. The result of this confusion is that staff and, by extension, the Chief Executive, cannot be confident that all the information within the scope of an OIA request has been identified and reviewed before the Department makes and communicates its decision on a request. The Department therefore makes itself vulnerable to breaching its obligation under the OIA to make requested information available unless there is good reason for withholding it.

### The Department's response

The Department has advised me that it is aware of the risk I described above, and it had implemented measures to try to reduce this risk when the system was introduced. These included training for staff to ensure documents were classified appropriately, and the establishment of a new support function by Information Services to assist staff who are required to search for information but lack access permission to access certain documents. However, the Department has acknowledged, based on my findings, that *'it appears this information and support is not widely known and has not been effective.'*

The Department has accepted my suggestion, and the Chief Executive has committed to the following course of action: *'I will be further reinforcing the need for careful classification of all documents in the systems and will ensure that all staff responding to OIAs know that services are in place to support searching for information across all documents and information systems. The risk and assurance programme is being reviewed to ensure that systematic audits are being undertaken to ensure that these processes are working effectively.'*

### My comment

Because the Department has outlined its process for addressing the risk presented by the limited search capability of its document management system, a formal recommendation is unnecessary. As noted above, under [My opinion](#), taking into account the Department's practices as a whole, I am of the opinion that there are currently no administrative deficiencies in this regard.

I look forward to seeing the outcome of the systematic audits to ensure this risk is mitigated as described above, as part of our ongoing engagement with the Department, outlined in my foreword to this document. I will be in contact with the Department on a quarterly basis to follow its progress.

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<sup>21</sup> See *Kelsey v Minister of Trade* [2015] NZHC 2497, at 105-108.

In addition to the issue of identifying protected documents, a number of staff reported that many people do not file emails and other documents into the IM system, or do not adhere to naming conventions for documents despite a clear policy relating to document storage. Clearly, documents that are incorrectly stored will not be retrievable by other staff when collating information for an OIA response.

This issue may be resolved by targeted training and refresher courses on the use of the IM system, document naming conventions, and how to best utilise the IM system search capability. In this respect, the Department may wish to conduct a survey of training needs, and of compliance with IM policies in order to identify areas where staff require additional support.

### Action point

Survey training needs and staff compliance in relation to naming, storing, and searching for documents, then provide appropriate training/guidance.

### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Amendments to written guidance

Due to the 'mixed' model of OIA processing employed by the Department, and the fact that some staff have infrequent exposure to handling OIA requests, it is crucial that the Department's written guidance and other tools to assist staff are comprehensive, user-friendly, and accessible to staff who require them.

In my view, the Department should consider amendments to the:

- OIA Guidelines;
- templated OIA response letters; and
- help-sheet

### OIA Guidelines

While the Department's existing OIA Guidelines are reasonably comprehensive, I suggest the following aspects be included or expanded upon:

- requests for information on internal decision making rules and requests for statements of reasons (Part 3 of the OIA);
- requests by corporate entities for personal information (Part 4 of the OIA);

- documenting searches undertaken for the information within the scope of the request;
- documenting reasons for each item of information withheld and the agency's consideration of the public interest;
- how to deal with requests for urgency;
- what to do if a requester is ineligible under the OIA to make a request;
- the obligation to provide official information in the format preferred by the requester (section 16 of the OIA);
- the application of withholding or refusal grounds (some are listed, but with no guidance as to their application);
- how to apply the public interest test where section 9 withholding grounds apply; and
- imposing conditions on release where appropriate.

The Department's Guidelines include a link to the Office of the Ombudsman's guide on the public interest. That guide includes, as Appendix 1, a two-page public interest worksheet which takes the decision maker through the public interest test, step-by-step. It may be useful to include a separate link to this worksheet in the Department's Guidelines and template letters.

In the section of the Department's Guidelines titled '*What is an Official Information Act request?*' it is correctly noted that all requests for information held by the Department are OIA requests. However, the Guidelines also state that so-called '*routine requests*' (from other government departments, conservation boards and other parties with which Department staff work closely; or requests for '*material in the public domain*') can be handled '*without going through the OIA process*'. The distinction between 'OIA requests' and 'routine requests' may cause confusion for staff handling requests for information, and my concern is that this will result in information requests not being processed in accordance with the OIA. I discuss this in greater detail under [Current practices](#) under the sub-heading [Media and other information requests](#).

### **Template OIA response letters**

The Department's OIA response template letter for refusing a request in full or in part under section 9 of the OIA includes the statement '*In making my decision, I have considered the public interest considerations in section 9(1) of the Act.*' It would be good to expand this template so that staff are prompted to explain the consideration that has been given to the public interest in release of the requested information.

### **Help-sheet**

OIA requests sent to staff for processing are accompanied by a help-sheet that contains links to the Department's OIA Guidelines, and to OIA template response letters.

There is an opportunity to use the help-sheet to provide more assistance to staff. For instance, the help-sheet could, where appropriate, link to similar requests or requests from the same

requester. If it is clear on the face of the request that one of this Office’s guides might be helpful, a link to that guidance might be helpful too.

**Action point**

Revise OIA guidelines, OIA response template letters and help-sheet, incorporating my suggestions.

**The Department’s response**

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency’s progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

**Accessibility of OIA Guidelines**

A number of staff reported that OIA requests are often assigned to them for processing without a help-sheet attached, nor an indication of where appropriate guidance can be found. I understand this can occur when the Department’s workflow programme ‘Assyst’ is used to assign the OIA request, and the person assigning the request to the relevant staff member fails to ‘cut and paste’ the help-sheet along with the request. The Department should ensure that staff using the workflow management system to assign requests are aware that the help-sheet must be attached.

A number of Department staff have advised that the intranet has not been cleared of old and defunct OIA guidance documents. As a result, when staff try to access OIA guidance through the intranet rather than through the link in the help-sheet, it is not clear whether they are referring to the most current version of the Guidelines. The Department would benefit by ensuring that only the current guidance is available on the intranet, and it is prominent and easy to access.

**Action points**

Ensure staff include all required documentation when assigning OIA requests through the workflow management system.

Ensure only the most current OIA Guidelines are on the Department’s intranet.

### The Department's response

As noted in my foreword, implementation of these actions point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on these points over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Redaction software

Some staff have noted that the administrative aspect of preparing an OIA response can be unnecessarily convoluted. If staff lack access to redaction software, they must apply redactions manually, scan and print the document onto OIA water-marked paper, then scan the document as an 'image only' PDF before sending it to the requester. I note that documents are not searchable when in this format which may make them less useful to requesters, particularly if they have requested a large volume of information. Nor would such formats be accessible to people with visual or learning impairments who use screen readers or other assistive technology.

While the Department notes there are some licenses to redaction software available across the business, it appears there is insufficient access to the software for those staff who require it. I encourage the Department to obtain redaction software for all staff who need it. As well as efficiency gains, use of the appropriate software means information can be provided to requesters in a searchable, accessible format that is also compatible with screen readers for those who require them.

### Action point

Ensure that all staff who require it have access to redaction software.

### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Proactive release of information policy

As I discussed earlier, under [Leadership and culture](#), the Department proactively releases a broad range of information, including OIA responses, and information on issues of high public interest such as the aerial 1080 operation. I understand this practice is largely driven by the

GSU. However, there is no policy in place to underpin the development of a consistent and progressive practice of proactive release of information.

The problems that can arise when there is no standardised policy or schedule with a clear allocation of responsibility in place are illustrated by comments I received in a stakeholder survey response. The respondent noted that there have not been updates to certain statistics and reports on the Department's website for a number of years. The respondent cited, for example, the National Park visitor statistics were last updated 2012, and outdoor recreation reports were last updated 2016. The respondent also noted that many conservation boards around the country do not publish agendas, minutes or annual reports online, and that information on management plan reviews is months out of date.

Concerns about the currency of data on a website and about consistency of practice across the country can be addressed by a well-implemented proactive release policy and plan for which there is a clear allocation of responsibility. It is encouraging that a draft policy is under consideration. It is timely to note that a proactive release policy could usefully include the following:

- A high level commitment to proactively releasing information.
- The types of information that will be proactively released. For example:
  - Information that has been released in response to OIA requests.
  - Information described in section 20 of the OIA about the agency and the information it holds.
  - Information described in section 22 of the OIA about the agency's internal decision making rules, including its OIA policies and procedures.
  - Strategy, planning and performance information.
  - Financial information relating to income and expenses, tendering, procurement and contracts.
  - Information about work programmes and policy proposals.
  - Information about public engagement processes, including public submissions.
  - Information relating to policy development, including Cabinet papers.
  - Minutes, agendas and papers of advisory boards or committees.
  - Information about regulatory or review activities carried out by agencies.
- A process for identifying opportunities for proactive release, for example, where a high number of OIA requests is received about a subject, or there is otherwise high interest in the topic.
- A process for preparing for proactive release, including managing risks around personal or confidential information, commercial information and information subject to third party copyright.



- A process for considering frequency and timing of publication.
- A commitment to releasing information in the most useable form (in accordance with the New Zealand Government Open Access and Licensing framework).
- Provision for the policy to be regularly reviewed and updated.

#### Action point

Establish a timeframe for developing and publishing a comprehensive proactive release policy, ensure a senior leader has clear accountability for its implementation.

#### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Current practices

### Key findings

The Department of Conservation:

- Has improved its compliance with timeliness obligations under the OIA
- Has developed a good culture around staff consulting with requesters to refine and clarify requests
- Could improve the way it employs the 'no surprises' principle to ensure it is not at risk of breaching its OIA obligation to make decisions as soon as reasonably practicable and release information without undue delay
- Should develop a policy/guiding principles around the use of the OIA provision which allows agencies to fix a charge for the supply of official information
- Should ensure that media and other information requests are handled in accordance with the OIA

The effectiveness of the OIA is largely dependent on those who implement it on a day-to-day basis and how they apply the resources available to them to manage the realities of giving effect to the Act.

To assess the current practices of the Department, I considered whether:

- the Department's official information practices demonstrate understanding and commitment to the principles and requirements of the OIA;
- Department staff have a good technical knowledge of the OIA; and
- the Department is coping with the volume and complexity of requests and decisions are compliant.

After discussing aspects that are going well for the Department, I identify some opportunities for improvement.

### Aspects that are going well

#### Compliance with OIA obligations

As I have mentioned elsewhere in this report (under [Leadership and culture](#)), the Department's commitment to reversing a trend of poor compliance with OIA timeliness obligations is laudable. Staff's considerable effort in this respect is reflected in statistics: In the 2015-16 financial year, the Department responded in time to only 73 percent of OIA requests. In the 2016-17 the Department increased this figure to 90 percent. I note this statistic was limited only to those OIA requests handled by the GSU, not those requests handled by the Media and

Communications team or frontline staff. Therefore, this does not provide a true picture of the Department's compliance, which I expect would be higher with the inclusion of those information requests the Department refers to as 'routine requests'.

The sample OIA request files provided by the Department to inform my investigation demonstrated that staff that process OIA requests have a good, technical knowledge of the legislation. These sample files evidence good use of the processes around consultation with the requester to refine scope and consultation with third parties who might be affected by the request. The files include a good example of providing information in summary form that might otherwise have been refused. There is also evidence of good practice in the release of officials' names.

### Consultation with requesters

I understand that the GSU has recently highlighted to staff the importance of consulting with requesters early in the OIA process where required to clarify the scope of their request. The written OIA guidance for staff highlights the importance, and indeed the duty under certain circumstances, to consider consulting with requesters. The practice of consulting with requesters is to be encouraged, as it can reduce the incidence of agencies relying on administrative reasons to refuse information requests, and it enhances agencies' relationships with stakeholders.

Therefore, it is pleasing to note that staff have taken heed of this message and adhere to the OIA guidance in this respect. Based on information provided in staff meetings, and in the sample OIA files provided by the Department in support of my investigation, it is clear that a culture exists wherein staff routinely consult with requesters early in the OIA process. Further, I note that a respondent to the stakeholder survey commented favourably that '*the Department is always open to have a chat about what you want and the best way to do it*'.

### Proactive release of information

The Department does demonstrate some good practice with the proactive release of information on its website. There is a wide range of documents published, including the information mentioned above (such as previous OIA responses and corporate documents). Other information has also been published on the Department's website, such as monitoring data, maps, information about the role and structure of the Department, and strategic documents.

Furthermore, on occasions when the Department becomes aware of a high public interest in an issue (such as the aerial 1080 operation), it may establish a dedicated web page, which would include a range of proactively released policy and research information.

When conducting consultations, a full range of policy, data and Cabinet papers may be proactively released, an example being the webpages on the proposed variation to the West Coast North Island Marine Mammal Sanctuary.

There is room for improvement in this area and I discuss this further in [Internal policies, procedures and resources](#).

## Opportunities for improvement

There are opportunities to improve the Department's practices regarding:

- interaction with the Minister's office on departmental OIA requests;
- documenting the decision making process on OIA requests;
- charging for the supply of official information; and
- handling media and other information requests in accordance with the provisions of the OIA.

### Interaction with the Minister's office on departmental OIA requests

The Department routinely refers all OIA responses that are considered 'high risk' or 'high profile'<sup>22</sup> to the Minister's office, five days in advance of the statutory 20 working-day deadline. Based on the Department's survey response, I understand that there have been few recent instances in which genuine consultation with the Minister has been required, with responses typically sent as an 'FYI' to the Minister under the '*no surprises*'<sup>23</sup> principle. It is important for the Department to be aware of the distinction between:

1. consultation – being a mechanism that allows an agency to seek the Minister's input before making a decision on a request; and
2. notification to the Minister, for their information only, of a decision the Department has made on a request.

I understand the Minister's desire to be made aware of requests that may result in questions in the House or from the media on sensitive or controversial issues. However, the Department's '*no surprises*' obligation to the Minister may be met by providing a copy of the Department's decision to the Minister at the same time, or shortly before, it is sent to the requester. A delay of up to five working days in cases where input from the Minister is not required puts the Department at risk of failing to meet its legal obligation to make and communicate a decision on an OIA request '*as soon as reasonably practicable*' and, once a decision is made, to release information '*without undue delay*'. It also enables suspicion and mistrust to grow as to the possible politicisation of the Department's decision.

I suggest the Department review its policy and practice in this area. I recently published guidance on [Dealing with OIA requests involving Ministers](#) which may assist. The Department should also consider developing a written protocol in consultation with its Minister on how requests that need to involve the Minister will be handled. This should include how to apply

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<sup>22</sup> These terms are not defined in the Guidelines.

<sup>23</sup> 'Cabinet Manual' (2017): paragraph 3.22.

the ‘no surprises’ principle in a way that does not make the Department vulnerable to possible breaches of the OIA.

### Action point

Undertake a review of protocols around interactions with its Minister’s office.

### The Department’s response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency’s progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Documenting decision making on OIA requests

The Department prepares a covering memo for OIA responses that are referred to the Minister’s office. This includes a space to record the rationale behind the application of withholding grounds. I note, however, that in practice the detail recorded tends to be a description of the withholding ground rather than the thought process behind its application. The practice with respect to requests that do not go to the Minister seems to be inconsistent but, even where a cover sheet is prepared, it would appear to provide only a limited record. As a result, the Department’s decision making process can only be ascertained retrospectively if it is contained in associated documents, such as internal emails. In cases where the staff member drafting the response conducts their internal consultation verbally rather than via email, there may be no complete record of the decision making process.

The decision making process in relation to OIA responses must include a genuine consideration of the public interest where section 9 withholding grounds apply, and this should be included in the Department’s documentation of its decision making.

Where appropriate, the Department should also document administrative steps in relation to processing OIA requests. While it may not always be necessary to do so, documenting the steps taken to search for documents, and the number and type of documents located, can assist staff handling similar requests in future, particularly if the request is for a broad range of information. In addition, documenting the time taken to collate a sample of documents within the scope of a request for a large amount of information can assist the Department in responding to an Ombudsman’s investigation where a complaint is made about a refusal under section 18(f) of the OIA, or about a decision to charge for the supply of information.

The lack of a comprehensive record around decision making is likely to make it more difficult for the Department to respond to an Ombudsman’s investigation, or to provide grounds in support of its reasons for refusing an OIA request, if sought by the requester.<sup>24</sup> Moreover, it

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<sup>24</sup> See s 19(a)(ii) OIA.

represents a missed opportunity to create a repository of knowledge about how the Department makes decisions on OIA requests, thereby developing a consistent approach. I discuss this further below, under [Performance monitoring and learning](#).

### Action points

Record reasons for OIA decisions, including consideration of the public interest if applicable, for example in a covering memo or file note which is accessible to staff.

Record administrative steps behind OIA responses where this may be necessary.

### The Department's response

As noted in my foreword, implementation of these action points will be included in an upcoming programme of work. I look forward to seeing the agency's progress on these points over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Charging for the supply of official information

Section 15(1A) of the OIA states that an agency may charge for the supply of official information. While it is generally not reasonable to charge for complying with a simple request, it may be reasonable to recover some of the costs associated with large or complex requests. Indeed, when a request is so considerable that it would require '*substantial collation or research*' to make the information available, agencies are expressly required to consider whether charging would enable the request to be met.<sup>25</sup>

Information about how to use this provision is present in the Department's OIA Guidelines, however, some staff survey respondents indicated that the Department has an 'unofficial policy' of not charging for the supply of information. While a Department is required only to *consider* applying a charge, my concern is that this 'unofficial policy' may in time lead to the Department declining requests that would require substantial collation or research rather than applying a reasonable charge for the supply of the information.

Appropriately applying the charging provision may enable requests to be met that would otherwise be refused. It would be helpful to review the use of this administrative tool to make sure that it is being used appropriately to increase the availability of information.

### Action point

Review charging practices to be sure this administrative tool is used appropriately to progressively increase the availability of information.

<sup>25</sup> See ss 18(f) and 18A(1)(a) OIA.

### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Media and other information requests

The Department has a Media and Communications team responsible for responding to straightforward information requests from the media, and frontline staff also respond to what the Department refers to as '*routine requests*'. These may be from other government departments, conservation boards and other parties the Department works closely with, and includes requests for '*material in the public domain*'. I understand the need for a mechanism to swiftly process requests according to the demands of the 24-hour news cycle, and for frontline staff to respond to straightforward queries without delay, however, the Department must be mindful that such requests are governed by the OIA.<sup>26</sup> This makes little practical difference when the relevant staff are able to fully meet the requester's needs in their preferred timeframe but, if not, it is essential the OIA is complied with in all respects.

In particular, decisions to decline requests in full or in part must be communicated in accordance with section 19 of the OIA, which requires that the Department:

- provide the reason for the refusal and, if requested, the grounds in support of that reason; and
- advise the requester that they may make a complaint to the Ombudsman and seek an investigation and review of this decision.

The Department should ensure that all media and other information requests are handled in accordance with the OIA. This should include providing specific guidelines and training for the Media and Communications team, and other staff who respond to information requests, even if these are handled outside the Department's prescribed OIA process.

I also note that tracking OIA requests handled by the Media and Communications team or by frontline staff provides an opportunity to collect data that may inform the Department's proactive release policy. I discuss the tracking of media and other information requests further below, under [Performance monitoring and learning](#).

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<sup>26</sup> This applies only to requests seeking information already held by the Department as described, not requests for the creation of fresh information, such as a request for comment on an issue.

### Action point

Ensure that all media and other information requests are handled in accordance with the OIA.

### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

In addition to the above, the Department may also wish to consider updating and expanding its entry in the Directory of Official Information on the Ministry of Justice website and link to, or reproduce that on its own website.



## Performance monitoring and learning

### Key findings

The Department of Conservation:

- Has performance objectives for the Department and Deputy Director-Generals with regard to timeliness
- Is able to extract key timeliness information from its system spreadsheet, and use this data to report quarterly to senior leaders
- Has an ad hoc system for disseminating Ombudsman and SSC guidance, and for communicating the outcome of any Ombudsman investigations
- Could improve its collection of data related to OIA performance, and its analysis and reporting of this data
- Could strengthen the recording of its decision making processes

The OIA does not impose specific requirements on agencies in relation to record keeping and management of requests they receive for access to information. However, the Ombudsmen have consistently advocated maintaining a full audit trail that led to any decision made by an agency. Formulating a decision on a request for access to official information is no different. Once this information is recorded, agencies have a wealth of information that can be used to inform business planning and future decisions concerning access to information, but only if it is captured in a way that is meaningful, facilitates subsequent analysis, and regular monitoring and reporting occurs.

To assess performance monitoring and learning of the Department in relation to requests for access to official information, I considered whether:

- the Department has an established system for capturing meaningful information about its official information activities and established appropriate and relevant performance measures;
- there is regular reporting and monitoring about the Department's management performance in respect of official information requests; and
- Department staff learn from data analysis and practice.

After discussing aspects that are going well for the Department, I identify some opportunities for improvement.

### Aspects that are going well

All OIA requests and responses are saved into an IM database, and the Department is able to extract various pieces of information related to its OIA performance, including:

- the number of OIA requests received;
- the type of requester;
- the number of transfers, extensions and charges;
- whether a decision was notified to the Minister; and
- the time between receipt of a request, communication of a decision, and release of information.

The Principal Advisor OIA reviews performance monthly, and provides monthly performance reports to selected Managers, and quarterly reports to the Senior Leadership team. This reporting is discussed in [Leadership and culture](#) above. In the present context I note it was encouraging to see that these reports included analysis of timeliness in comparison to other agencies, and analysis of trends in numbers over a number of years. There is also some analysis of other metrics unrelated to timeliness, with the *Government Services OIA update, February 2018* noting:

*Staff understanding of the importance of the quality of OIAs has increased, but GS input is still required for all OIAs to bring responses to acceptable quality levels. [Noting the increase in OIAs for the 2017 financial year] more resources will be required to ensure adequate responses are provided on time.*

As I will discuss further below, the collection of a greater amount of data related to the Department's OIA performance will enable it to increase analysis of more than just timeliness.

I understand from meetings with Department staff that the Principal Advisor OIA meets with the Media and Communications team (media team) weekly. This affords both teams the opportunity to discuss key trends and issues. The GSU plays a role in updating key individuals on Ombudsman and SSC guidance, together with the outcome of any Ombudsman guidance. The Department may also use the intranet to share such information and updates at times.

Lastly, I was pleased to learn about the Department's introduction of KPIs related to OIA timeliness for Deputy Directors-General with an overall performance target of 100 percent timeliness. I understand that there are plans in place to implement this KPI for tier three and four managers.

## **Opportunities for improvement**

Notwithstanding the above, there are a number of ways that the Department could lift its OIA performance through enhanced performance monitoring and learning.

There are opportunities for improvement in relation to:

- collation and analysis of OIA performance data;
- the creation of performance measures and an improved quality assurance processes;
- the recording of the decision making process; and

- formalising a system to disseminate Ombudsman and SSC guidance and feedback.

### Analysis of OIA performance data

While the Department is able to extract some data related to its OIA performance, there is an opportunity to collect more meaningful information about the Department's OIA performance. In addition to the data noted above, I encourage the Department to consider collecting information such as:

- The type of request (Part 2, 3 or 4 of the OIA).
- The reason for transfers, and whether the transfer was made in time.
- The length and reason for extensions.
- The outcome of the request (granted in full, granted in part, refused in full).

The Department could also collect additional data on resourcing. There would be benefit in collecting data related to staffing hours spent on OIA work, as mentioned above ([Organisational structure, staffing and capability](#)). Again, this would assist the Department in gaining a better understanding of where additional resource may be required to meet OIA demands across the business.

Another issue to note is the importance of capturing information requests that may be dealt with by the Department's Media and Communications team. At present these are tracked by the media team's own tracking system (a daily media log), but are not included in OIA tracking overall. I strongly encourage the Department to base its reporting on OIA compliance on the combined total of OIA requests handled by both the GSU and the media team. Doing so would help to ensure that a comprehensive overall picture of the Department's OIA performance can be built.

As noted above, while the Department is currently completing some analysis above and beyond analysis of numbers, there is scope to improve the reporting to the senior leadership team. With an increase in the data collected, and increased analysis of all OIA data, the Department will be able report to its leadership on emerging themes or trends, opportunities for proactive release, resourcing, capacity or capability issues, and the outcome of any Ombudsman investigations. This will not only help to ensure that any issues are addressed at an appropriate level, it will also help to give the OIA greater visibility across the senior leadership team as a whole.

#### Action points

Collect more comprehensive data on the Departments handling of OIA requests so that opportunities for improvement can be identified; report regularly to senior leadership.

Include OIA requests handled by the Media and Communications team.

### The Department's response

As noted in my foreword, implementation of these action points will be included in an upcoming programme of work. I look forward to seeing the agency's progress on these points over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Performance measures and quality tracking

As noted above, the Director-General has implemented a performance objective to respond to 100 percent of OIA requests within the statutory or extended timeframe, and has strengthened this with specific KPIs for each Deputy Director-General (with plans to extend this to tiers three and four). However, it is apparent that there are no other performance measures to indicate individual, team or departmental OIA performance. At an individual level, staff complete monthly operating reviews with their Manager to measure performance.

I also understand that there is no formalised peer review process for OIA responses at the Department, other than the sign out process (with the decision signed by the responsible Director or Deputy Director-General), a review by the GSU and consultation with the legal team if a withholding ground is being considered. Given the lack of training provided to Department staff, particularly in the case of the decision makers, this current system could create vulnerabilities for the Department.

At present, the GSU receives proposed OIA responses five working days before they are due to the requester, and there is an expectation that these are to be reviewed within 24 hours. Taking into account the number of OIA requests the Department receives, and the resourcing available within the GSU to complete this task, I am concerned this limited time and resource will not allow robust quality control or review, and this may impede the Department's ability to provide information to requesters without undue delay. On the other hand, it is helpful in that it ensures that a single team, which is a hub of OIA knowledge, has oversight of every OIA the Department produces.

The Department may wish to consider systems such as a peer review prior to an OIA response being presented for signing, or a quality control checklist for staff members to use. These types of processes would help to ensure there is a sufficient quality check for each OIA response. It may also benefit from implementing a quality assurance check of a sample of closed files over a set period, which would assist it in identifying where additional guidance or training may be needed. As noted under [Leadership and culture](#) above, key staff indicated in meetings that a focus on quality of OIA responses is the 'next cab off the rank,' as part of the programme called *Better Government Services*. This is very encouraging to hear.

If the Department were to implement better analysis and tracking of OIA data, and establish some quality and performance measures related to OIA performance, it would enable it to identify areas for improvement such as:

- enhancing its ability to track themes of requests and identify opportunities for proactive release;
- identifying areas of weakness where additional training or support may be needed;
- establishing a system where it is better able to assess and quantify the level of resourcing it needs to adequately respond to the requests for information it receives, thereby bringing benefits in developing appropriate budget bids and workforce plans; and
- helping to gain more of an understanding of how changes, such as an increase in proactive release affect the OIA workload.

### Action points

Implement measures to track OIA performance by the Department as a whole, and for individuals in key roles such as third-tier managers.

Consider implementing stronger peer review or quality assurance methods to track the quality and consistency of OIA decisions.

### The Department's response

As noted in my foreword, implementation of these action points will be included in an upcoming programme of work. I look forward to seeing the agency's progress on these points over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Record of decision making process

As noted earlier under *Current Practices*, the Department does not appear to be taking adequate steps to record the decision making process on an OIA request. While there is some record of internal consultations, and a coversheet, in the files my staff reviewed, there were often gaps in the decision making process, and no discrete place where the rationale behind the decision is clearly articulated. This is particularly concerning given the Department's OIA Guidelines note that staff should be saving things such as communications made during the completion of the response, key decisions, and meeting minutes.

In cases where the final decision was to refuse any part of the request, a failure to keep adequate records could inhibit the Department's ability to explain to an Ombudsman why it came to the decision at the time it was made. Therefore, while the Department takes some steps to ensure that the decision making process is recorded, it could do more to keep records of such considerations as the outcome of any internal or third party consultations, its consideration of the relevant withholding grounds, and the public interest test.

The resulting information should be stored in a place where it is accessible to all staff to assist as reference points in the handling of future OIA requests.

An important aspect of performance monitoring is that it enables the agency to learn from its data to inform future decision making. Therefore, failure to record the outcome of past decisions can make it difficult for other staff within the Department to locate similar, previous requests so as to either ensure consistency of decision making or justified departure from any responses.

#### Action point

Consider improving the record keeping on OIA requests; if the final decision is to refuse, this reasoning should include the basis for the decision, and the outcome of any consultations involved.

#### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

### Mechanisms for distributing guidance and updates

While, as noted above, there is an informal practice of doing this already, it would be worthwhile formalising the process for learning from Ombudsman investigations, and sharing updates from the Ombudsman and State Services Commission. This will help to ensure that these updates reach those individuals to whom they are most relevant. It is also important to ensure, however, that staff who are less frequently in contact with the OIA know where to find such guidance and updates if they have cause to.

#### Action point

Formalise the process for learning from Ombudsman and State Services Commission guidance, and Ombudsman investigations, and reflect this in OIA policies and procedures.

#### The Department's response

As noted in my foreword, implementation of this action point will be included in an upcoming programme of work. I look forward to seeing the agency's progress on this action point over the course of its work programme, and I will be in contact with the Department on a quarterly basis.

## Appendix 1. Investigation terms of reference

This document sets out the terms of reference for a self-initiated investigation by the Chief Ombudsman into the practices of agencies relating to the Official Information Act 1982 (OIA).<sup>27</sup>

### Purpose of the investigation

The investigation will cover how the agency works to meet the requirements of the OIA and achieve its purposes through its processing and decision-making on requests for access to information it holds.

The investigation will include consideration of the agency's supporting administrative structures, leadership and culture, processes and practices, including information management public participation, and proactive release of information to the extent that these relate to achieving the purposes of the OIA.

The investigation will identify areas of good practice, and make suggestions for improvement opportunities if any areas of vulnerability are identified.<sup>28</sup>

### Scope of the investigation

The investigation will evaluate the Agency's leadership and culture, organisational systems, policies, practices and procedures needed to achieve the purposes of the OIA, with reference to a set of indicators, grouped around the following dimensions:

- Leadership and culture
- Organisation structure, staffing and capability
- Internal policies, procedures, resources and systems
- Current practices
- Performance monitoring and learning

The investigation will include consideration of how the agency liaises with its Ministers on its preparation of responses to OIA requests that are made to the agency, and may meet with ministerial advisers working for the agency's Minister(s).

The investigation will not consider how the agency handles requests made to the Minister, nor review any decisions made by Ministers on individual OIA requests.

A sample of decisions reached by an agency on individual OIA requests may be considered as part of this investigation, to assist the Chief Ombudsman's understanding of the agency's

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<sup>27</sup> See sections 13(1) and 13(3) of the Ombudsmen Act 1975 (OA).

<sup>28</sup> Formal recommendations under the OA will only be made if the Chief Ombudsman forms an opinion that a decision, recommendation, act, or omission by the agency was unreasonable or contrary to law under section 22 of the OA.

official information practices. If evidence emerges concerning specific examples of OIA breach, then a determination will be made in each case as to whether it can be addressed adequately within this investigation, or whether a separate stand-alone intervention is warranted. Any process issues which can be resolved during the course of the investigation will be rectified immediately.

## Investigation process

The Manager Official Information Practice Investigations will work with a team of Senior Investigators and Investigators to assist the Chief Ombudsman conduct the investigation. The investigation team will liaise with your nominated contact official during the investigation. Information may be gathered through the processes set out below.

## Information gathering

The information for the investigation will be gathered through desk research, a detailed survey of the agency's official information practices, a staff survey, meetings with key staff, and a survey of key external stakeholders. As usual, any requests for information during this investigation will be made pursuant to section 19 of the Ombudsman Act 1975 and subject to the secrecy provisions in section 21 of that Act.

## Desk research

A review of publicly available information including the agency's annual reports, strategic intentions documents, and any other material made available on its website. Desk research will also review data and information held by the Office of the Ombudsman (for example, statistical data).

## Surveys

A survey of the agency, including requests for the supply of internal documents about:

- Authorisations to make decisions on OIA requests
- Strategic plans, work programmes, operational plans
- Policies, procedures and guidance on responding to OIA requests
- Training materials and quality assurance processes
- Reports on OIA performance and compliance to the agency's senior management.
- The logging and tracking of OIA requests for response
- Template documents for different aspects of request processing
- Policies, procedures and guidance on records and information management to the extent they facilitate achieving the purposes of the OIA



- Policies, procedures and guidance on proactive publication.

A survey of agency officials about their experience of the agency's OIA culture and practice within the agency.

A survey of key media and stakeholder organisations that have sought information from the agency. The Chief Ombudsman may issue a media release that includes a link to the stakeholder survey.

## Meetings

In addition to the meeting between the Chief Ombudsman and the agency's Chief Executive, the investigation team will meet with staff within the agency as set out in the schedule below. Also included is the likely length of time required for each meeting.

| A member or members of staff with responsibility for   | Approximate time required |
|--|---------------------------|
| Strategic direction, organisation and operational performance  | 1 hour                    |
| Logging and allocating and tracking OIA requests, processing and dispatch of OIA requests                          | ½ - 1 hour                |
| Providing information in response to OIA requests.   | ½ to 1 hour               |
| Processing and dispatching of OIA requests   | ½ to 1 hour               |
| Decision-makers on OIA requests  | ½ hour                    |
| Media/communications   | 1 hour                    |
| External relations/stakeholder engagement  | 1 hour                    |
| Website content  | ½ hour                    |
| Information management   | ½ hour                    |
| Human Resources and training   | ½ hour                    |
| Providing legal advice on the OIA, including the application of refusal grounds, when a response is being prepared | 1 hour                    |
| Receiving public enquiries (receptionist, call centre manager if relevant).  | ½ hour                    |

A summary of key points gathered from the meetings will be sent by email to the individual staff to confirm accuracy.

## Other

- A review of the agency's intranet.
- A review of a sample of files held by the agency on previous requests for information.

## Fact checking

After all the information has been gathered, an initial summary of the facts relevant to support each of the indicators will be sent to the agency to ensure any relevant information has not been overlooked.

## Reporting

### **Draft report**

The draft report of the Chief Ombudsman's investigation will cover the indicators and incorporate good practices as well as any issues that may have been identified during the investigation. The draft report will outline the Chief Ombudsman's provisional findings and when relevant, identify the suggestions and/or recommendations that may be made to improve the agency's official information practices. The draft will be provided to the Chief Executive for comment.

### **Final report**

Comments received on the draft report will be considered for amendment of, or incorporation into, the final report. The Chief Ombudsman will provide the final report to the Chief Executive of the agency, so that he can respond to the findings and suggestions and/or recommendations.

The final report will be made available to the relevant Minister(s) and published on the Ombudsman's website.<sup>29</sup>

## Evaluation

Following completion of his investigation, the Chief Ombudsman will conduct a review exercise as part of his Continuous Improvement programme. This will involve seeking the views of the agency's senior managers on their experience of this practice investigation, its value and relevance to their improving their work practices, and how future investigations may be improved when applied to other agencies.

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<sup>29</sup> The Chief Ombudsman may also table a final report in the House of Representatives in specific cases/circumstances.

## Appendix 2. Official information good practice indicators

### Introduction

There are five key dimensions that have an impact on official information good practice in government agencies:

1. [Leadership and culture](#)
2. [Organisation structure, staffing and capability](#)
3. [Internal policies, procedures and resources](#)
4. [Current practices](#)
5. [Performance monitoring and learning](#)

These dimensions are underpinned by a series of **indicators**, which describe the elements of good practice we would expect to see in order to evaluate whether each of the dimensions is being met.

These indicators are not exhaustive and do not preclude an agency demonstrating that good practice in a particular area is being met in other ways.

## Leadership and culture

Achieving the purposes of the Act<sup>30</sup> largely depends on the attitudes and actions of leaders, including Ministers, chief executives, senior leaders and managers within the agency. Ministers, chief executives and senior managers should take the lead in promoting openness and transparency, and championing positive engagement with official information legislation.

| Element   | Things to look for (indicators)   |
|---|---|
| Ministers, chief executives, senior leaders and managers demonstrate a commitment to the agency meeting its obligations under the Act and actively foster a culture of openness within the agency | <ul style="list-style-type: none"> <li>✓ Chief executives, leaders and the relevant Minister(s) actively and visibly work together to promote a culture of positive OIA compliance and good administrative practice</li> <li>✓ Leaders make clear regular statements to staff and stakeholders in support of the principle and purposes of official information legislation, reminding staff of their obligations</li> <li>✓ Leaders demonstrate clear knowledge and support of the Act's requirements</li> <li>✓ Leaders encourage staff to identify areas for improvement and provide the means for suggesting and implementing them when appropriate</li> <li>✓ Leaders make examples of good practice visible</li> <li>✓ A visible and explicit statement exists about the agency's commitment to openness and transparency about its work</li> </ul> |

<sup>30</sup> 'The Act' refers to the Official Information Act 1982 or the Local Government Official Information and Meetings Act 1987, whichever is applicable to the investigation.

| Element  | Things to look for (indicators)   |
|--|---|
| Senior leadership have established an effective official information strategic framework which promotes an official information culture open to the release of information | <ul style="list-style-type: none"> <li>✓ The agency has a strategic framework committed to promoting: <ul style="list-style-type: none"> <li>– compliance with the Act</li> <li>– good practice</li> <li>– a culture of openness and continuous improvement</li> <li>– participation and access to information by the public and stakeholder groups</li> </ul> </li> <li>✓ Senior leadership takes an active role in the management of information</li> <li>✓ A senior manager has been assigned specific strategic responsibility and executive accountability for official information practices including proactive disclosure</li> <li>✓ Senior managers have accountabilities for compliance with the Act</li> <li>✓ Appropriate delegations exist for decision makers and they are trained on agency policies and procedures and the requirements of the Act</li> <li>✓ Senior leaders model an internal culture whereby all staff: <ul style="list-style-type: none"> <li>– are encouraged to identify opportunities for improvement in official information practice (including increasing proactive disclosure) and these are endorsed and implemented</li> <li>– are trained to the appropriate level for their job on official information policies and procedures and understand the legal requirements</li> <li>– have compliance with the Act in their job descriptions, key performance indicators, and professional development plans</li> </ul> </li> <li>✓ Senior leaders oversee the agency’s practice and compliance with the Act, the effectiveness of its structures, resources, capacity and capability through regular reporting. Issues are actively considered and addressed</li> </ul> |

| Element  | Things to look for (indicators)   |
|--|---|
| <p>Senior leadership demonstrate a commitment to proactive disclosure, and public participation with clear linkages to the agency's strategic plans creating a public perception of openness</p> | <ul style="list-style-type: none"> <li>✓ Senior leaders are committed to an active programme of proactive disclosure and stakeholder engagement where the agency seeks and listens to the public's information needs through: <ul style="list-style-type: none"> <li>– regular stakeholder meetings and surveys</li> <li>– reviewing and analysing requests and media logs</li> <li>– reviewing and analysing website searches</li> </ul> </li> <li>✓ There is clear senior leadership commitment to the agency publishing information about: <ul style="list-style-type: none"> <li>– the role and structure of the agency</li> <li>– internal rules and policies</li> <li>– details of current or planned work programmes, including background papers, options, cabinet papers and consultation documents</li> <li>– corporate information about expenditure, procurement activities, audit reports and performance</li> <li>– monitoring data and information on matters the agency is responsible for</li> <li>– information provided in response to official information requests</li> <li>– other information held by the agency in the public interest</li> </ul> </li> <li>✓ The agency holds up to date information that is easily accessible (easy to find, caters for people requiring language assistance or who have hearing or speech or sight impairments) about: <ul style="list-style-type: none"> <li>– what official information it holds</li> <li>– how it can be accessed or requested by the public and its stakeholders</li> <li>– how to seek assistance</li> <li>– what the agency's official information policies and procedures are (including charging)</li> <li>– how to complain about a decision</li> </ul> </li> <li>✓ The agency makes information available in different formats, including open file formats</li> <li>✓ The agency's position on copyright and re-use is clear</li> <li>✓ The public and stakeholders perceive the agency to be open and transparent</li> </ul> |

## Organisation structure, staffing and capability

Responding to official information requests is a core function of the public sector. Therefore, it is expected agencies will organise their structure and resources to ensure they are able to meet their legal obligations under the Act considering each agency's size, responsibilities and the amount of information held.

| Element   | Things to look for (indicators)   |
|---|---|
| Agency has the capacity to discharge its official information obligations, with clear and fully functioning roles, accountabilities, reporting lines, delegations and resilience arrangements | <ul style="list-style-type: none"> <li>✓ An appropriate, flexible structure exists to manage official information requests which is well resourced reflecting the:               <ul style="list-style-type: none"> <li>– size of the agency</li> <li>– number of requests received (and from whom, public, media, other)</li> <li>– number or percentage of staff performing official information functions in the agency</li> <li>– percentage of time these staff are also required to undertake other functions</li> <li>– need to respond within statutory time limits</li> <li>– use of staff time, specialisations, structural resilience</li> </ul> </li> <li>✓ Roles and responsibilities are clearly defined:               <ul style="list-style-type: none"> <li>– Specific responsibility exists for coordinating, tracking and monitoring official information requests and agency decisions (and ombudsman decisions) and there is the authority and support to ensure compliance<sup>31</sup></li> <li>– Decision makers are sufficiently senior to take responsibility for the decisions made and are available when required, and if not, resilience arrangements exist</li> <li>– The official information function is located in an appropriate unit or area within the agency</li> </ul> </li> </ul> |

<sup>31</sup> This indicator is also relevant to performance monitoring and learning.

| Element   | Things to look for (indicators)   |
|---|---|
| Agency has the capability to discharge its official information obligations | <ul style="list-style-type: none"> <li>✓ Training at all levels on the requirements of the Act is provided regularly and staff are expected to comply with them</li> <li>✓ Training is role specific with additional training for senior managers, decision makers and staff with official information responsibilities to support their work</li> <li>✓ Expectations are set by senior leaders that regular refreshers are provided to all staff</li> <li>✓ Training is provided on information management and record keeping</li> <li>✓ The process for staff to assess and make decisions on official information requests is clear, understood, up-to-date and applied</li> <li>✓ Agency staff, including front line staff and contractors, know what an official information request is and what to do with it</li> <li>✓ User-friendly, accessible resources, guidance and 'go to' people are available</li> <li>✓ The agency can, and does, meet its obligations under the Act</li> <li>✓ Staff official information capability is regularly assessed and monitored</li> <li>✓ Official information obligations are included in induction material for all staff</li> <li>✓ The agency's internal guidance resources are highly accessible to its staff</li> </ul> |



## Internal policies, procedures and resources

Agencies should develop or adopt policies and procedures that will assist staff to consistently apply the requirements of the Act supported by good systems, tools and resources ensuring effective processing of requests consistent with the requirements of the Act.

| Element  | Things to look for (indicators)  |
|--|--|
| Good official information policies, procedures and resources | <ul style="list-style-type: none"> <li>✓ Good policies, procedures and resources exist for receipt and assessment of requests, which cover:               <ul style="list-style-type: none"> <li>– what is official information</li> <li>– identifying the type of official information request received (Parts 2, 3 or 4 of OIA and LGOIMA) and distinguishing from Privacy Act requests</li> <li>– identifying the scope of the request</li> <li>– consulting with and assisting the requester</li> <li>– establishing the eligibility of a requester when necessary</li> <li>– logging requests against a standardised definition</li> <li>– acknowledging receipt of the request</li> <li>– establishing statutory time limits and tracking the handling of the requests</li> <li>– identifying who in the agency should respond to the request</li> <li>– establishing criteria for deciding whether, and if so, how a response to a request should be provided urgently</li> <li>– managing potential delays, including the reasons for them, the escalation process and invoking the extension provision</li> </ul> </li> <li>✓ Good policies, procedures and resources exist for information gathering on requests, which cover:               <ul style="list-style-type: none"> <li>– identifying the information at issue</li> <li>– searching, finding and collating the information at issue</li> <li>– documenting the search undertaken for the information within the scope of the request (including time taken if charging is likely)</li> <li>– transferring requests to other agencies or Minister(s) and advising the requester</li> <li>– consulting officials within the agency and third parties</li> <li>– what to do if the information is held by a contractor covered by the Act by virtue of section 2(5) of the OIA and 2(6) of LGOIMA</li> <li>– engaging with Ministers on official information requests</li> </ul> </li> <li>✓ Good policies, procedures and resources exist for decision making on requests, which cover:</li> </ul> |

| Element | Things to look for (indicators)  |
|---------|--|
|         | <ul style="list-style-type: none"> <li>- making a decision whether to release the information</li> <li>- making a decision on the format in which information is released</li> <li>- making a decision whether to charge for the release of information</li> <li>- guidance on application of withholding or refusal grounds relevant to requests made under Parts 2, 3 and 4</li> <li>- guidance on any statutory bars on disclosure relevant to the legislation the agency administers</li> <li>- imposing conditions on release where appropriate</li> <li>- advising the requester of the decision</li> <li>- recording reasons for each item of information withheld, and the agency’s consideration of the public interest in release where required</li> <li>✓ Good policies, procedures and resources exist for releasing requests, which cover:               <ul style="list-style-type: none"> <li>- providing the information in the form requested</li> <li>- preparing information for release (including deletions)</li> </ul> </li> <li>✓ The agency has tools and resources for processing official information requests, such as templates, checklists, ‘go-to’ people, effective tracking and monitoring systems, and redaction software and staff are trained on how to use them</li> <li>✓ The agency’s official information policies, procedures and resources are regularly reviewed and up-to-date</li> <li>✓ Staff find them useful and easy to access</li> </ul> |

| Element  | Things to look for (indicators)  |
|--|--|
| Good records and information management policies, procedures and resources | <ul style="list-style-type: none"><li>✓ Staff are able to identify, access and collate information that has been requested under the Act</li><li>✓ The agency has accurate and comprehensive records and information management policies, procedures and resources which enable information relevant to a request to be identified and collated</li><li>✓ The policies and procedures cover aspects such as:<ul style="list-style-type: none"><li>– creating, organising, maintaining and storing records</li><li>– managing and modifying records</li><li>– the security of information</li><li>– a guide to determining which records systems exist and what information each holds</li><li>– retaining, retrieving and disposing of records</li><li>– both manual and electronic records, including personal e mail accounts, instant messaging and text messages</li><li>– assigned responsibilities and performance criteria for records and information management by staff</li><li>– the provision of secure audit trails</li><li>– annual/periodic audits of records.</li></ul></li><li>✓ These policies and procedures are regularly reviewed and up-to-date</li><li>✓ Staff find the policies and procedures useful and easy to access</li></ul> |

| Element   | Things to look for (indicators)  |
|---|--|
| Good proactive release policies, procedures and resources | <ul style="list-style-type: none"> <li>✓ The agency has accurate and comprehensive proactive release policies and procedures</li> <li>✓ The policies and procedures cover the release of such things as: <ul style="list-style-type: none"> <li>– information that has been released in response to official information requests</li> <li>– information described in section 20 of the OIA about the agency and the information it holds</li> <li>– information described in section 22 of the OIA about the agency’s internal decision making rules, including its official information policies and procedures</li> <li>– strategy, planning and performance information</li> <li>– financial information relating to income and expenses, tendering, procurement and contracts</li> <li>– information about work programmes and policy proposals</li> <li>– information about public engagement processes, including public submissions</li> <li>– minutes, agendas, and papers of advisory boards or committees</li> <li>– information about regulatory or review activities carried out by agencies.</li> </ul> </li> <li>✓ The policies and procedures include a process for identifying opportunities for proactive release, for example, where a high number of official information requests is received about a subject</li> <li>✓ The policies and procedures include a process for preparing for proactive release, including managing risks around private or confidential information, commercially sensitive information and information subject to third party copyright</li> <li>✓ The policies outline how and where the information should be made available for access, and if any charge should be made</li> <li>✓ They are regularly reviewed and up-to-date</li> <li>✓ Staff know about the agency’s proactive release policies and procedures</li> <li>✓ Staff find them useful and easy to access</li> </ul> |

## Current practices

The effectiveness of the Act is largely dependent on those who implement it on a day-to-day basis and how they apply the resources available to them to manage the realities of giving effect to the Act.

| Element   | Things to look for (indicators)  |
|---|--|
| Official information practices demonstrate full implementation of policies and procedures resulting in excellent official information performance that is well evidenced with verified data | <ul style="list-style-type: none"> <li>✓ The agency complies with maximum statutory timeframes to transfer, extend, decide on requests, and release official information</li> <li>✓ Requests are handled in accordance with the applicable law (Privacy Act, Part 2 OIA, section 22 OIA, section 23 OIA, Part 4 OIA)</li> <li>✓ The agency makes appropriate use of the withholding grounds and administrative reasons for refusal</li> <li>✓ The agency makes appropriate use of the mechanisms for dealing with large and complex official information requests</li> <li>✓ The agency gives proper consideration to the public interest in release of official information, and explains this to requesters</li> <li>✓ The agency interprets the scope of official information requests reasonably</li> <li>✓ The agency consults with, and provides reasonable assistance to requesters</li> <li>✓ The agency consults appropriately with third parties</li> <li>✓ Ministerial involvement in agency official information decision making is appropriate</li> <li>✓ Official information is released in the form requested unless there is a good reason not to</li> <li>✓ Consideration is given to releasing information in accessible formats</li> <li>✓ Staff regularly use the agency's policies and procedures</li> </ul> |

|   |   |
|---|---|
| <p>Good record keeping and management practices</p> | <ul style="list-style-type: none"> <li>✓ The agency documents its handling of official information requests, including the steps taken to search for the requested information, the information identified as relevant to the request, and the reasons for its decisions</li> <li>✓ The agency’s records and information management practices facilitate official information compliance (it is generally easy to find information that has been requested under the Act)</li> <li>✓ There are high levels of staff compliance with records and information management policies and procedures as described in <i>Good records and information management policies, procedures and resources</i></li> </ul> |
| <p>Good proactive release practices</p>             | <ul style="list-style-type: none"> <li>✓ The agency’s entry in the <i>Directory of Official Information</i> is full, accurate and likely to assist requesters, and is linked to, or reproduced on, the agency’s own website</li> <li>✓ The agency publishes useful information online including the types of information described in the Good Proactive Release policies, procedures and resources indicator</li> <li>✓ The agency publishes information in multiple formats, and applies open use standards</li> <li>✓ The agency’s position on copyright and re-use is clear</li> <li>✓ Staff regularly use the agency’s proactive release policies and procedures</li> </ul>                            |

## Performance monitoring and learning

Agencies should adopt performance monitoring and learning frameworks that enable them to learn and drive performance improvement and innovation.

| Element  | Things to look for (indicators)   |
|--|---|
| <p>The agency has an established system for capturing data to inform meaningful and appropriate performance measures</p> | <ul style="list-style-type: none"> <li>✓ Performance measures include:               <ul style="list-style-type: none"> <li>– quantity – eg the number of requests, from where and the number processed</li> <li>– efficiency – eg duration of request handling, number of responses that exceed legislative maximum time limits, the reasons for any delays</li> <li>– quality– eg outcome of any internal quality assurance reviews and/or external reviews of official information decisions and processes and whether or not the results of those reviews provide evidence of system-wide issues</li> <li>– monitoring of opportunities for proactive release – eg identifying common types of requests or a high number that indicates information that could be made available</li> </ul> </li> <li>✓ The agency collects data about its performance under the Act including such things as:               <ul style="list-style-type: none"> <li>– the number of requests</li> <li>– the type of request (Part 2, 3 or 4 of the Act)</li> <li>– the type of requester</li> <li>– the information sought</li> <li>– the number and reason for transfers, and whether the transfer was made in time</li> <li>– the number, length and reason for extensions</li> <li>– the outcome of the request (granted in full, granted in part, refused in full, withdrawn or abandoned)</li> <li>– the number and amount of charges made and collected</li> <li>– the grounds on which information was withheld or the request refused</li> <li>– whether the requester was consulted prior to any refusal under section 18(f) or 17(f)</li> <li>– whether the Minister was consulted on the decision</li> <li>– whether the decision was notified to the Minister</li> <li>– whether, and which, third parties were consulted</li> <li>– the time from receipt of the request to communication of the decision</li> </ul> </li> </ul> |

| Element   | Things to look for (indicators)  |
|---|--|
|   | <ul style="list-style-type: none"> <li>- the time from receipt of the request to release of the information</li> <li>- if the time limit (extended or not) was breached, the reasons for the delay</li> <li>- whether the response was proactively published and if not why</li> <li>- whether the Ombudsman investigated or resolved a complaint about the request</li> <li>- the outcome of the Ombudsman’s investigation or involvement</li> <li>- the outcome of any internal quality assurance reviews of processes or decisions</li> <li>- staff time spent and costs incurred in processing official information requests</li> <li>✓ The agency analyses this data to determine whether it is complying with its relevant performance measures</li> <li>✓ The agency monitors information demand (for example, through official information requests, website use, and other enquiries) to identify opportunities for proactive release</li> <li>✓ The agency monitors any difficulties in identifying and collating information that has been requested</li> </ul> |
| <p>There is regular reporting about the agency’s management and performance in respect of official information requests</p> | <ul style="list-style-type: none"> <li>✓ Data about the agency’s official information performance, and information demand is regularly reported to senior leaders, and at least quarterly to the Chief Executive</li> <li>✓ Reports include emerging themes or trends, opportunities for improvement and proactive release, resourcing, capacity or capability (training) issues</li> <li>✓ Reporting informs planning, resourcing and capability building decisions</li> </ul>  |



| Element  | Things to look for (indicators)   |
|--|---|
| <p>The agency learns from data analysis and practice</p> | <ul style="list-style-type: none"> <li>✓ The agency has a system for sharing official information learning and experience, such as meetings, newsletters, email or intranet updates, or official information <i>'champions'</i></li> <li>✓ The agency monitors relevant data, guidance and publications, including those produced by the Ombudsman and State Services Commission</li> <li>✓ The agency monitors the outcome of Ombudsman investigations and reports these to relevant staff, including official information decision makers</li> <li>✓ The agency analyses this information to determine where it has the potential to improve official information practice, stakeholder relations, or increase opportunities for public participation</li> <li>✓ The agency periodically reviews its relevant systems, structures, and compliance with policies and procedures</li> <li>✓ The agency actively participates in initiatives to share and discuss best practice externally, for example through forums, interest groups, networks and communities of practice</li> </ul> |

# Survey of official information experience of workers of the Department of Conservation

Please note: the responses to questions **1** (contact details), **11**, **14**, **15** and **37** have been removed as these questions asked for comments, the details of which have been considered and form part of the full report.

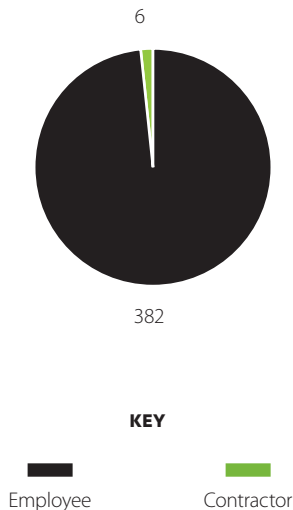
For questions which have a single response component (eg yes/no) but also ask for comment,

the details have been considered as part of the full report.

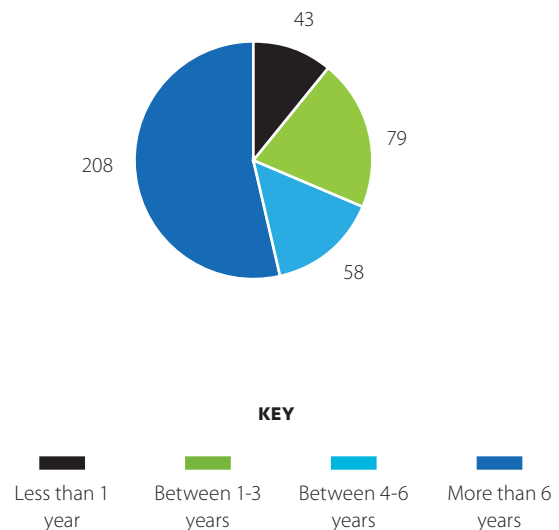
In total, 388 staff replied to all or parts of the survey. The number in brackets at the end of each question indicate how many staff answered that particular question.

## Q1. Contact details (388)

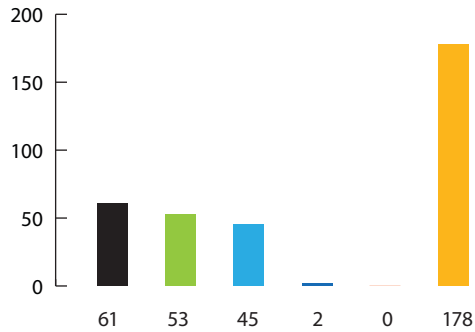
## Q2. Are you an employee or contractor of your agency? (388)



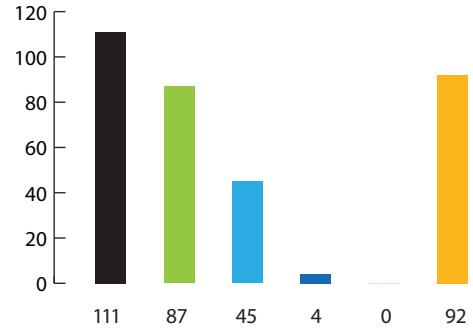
## Q3. How long have you worked at the agency? (388)



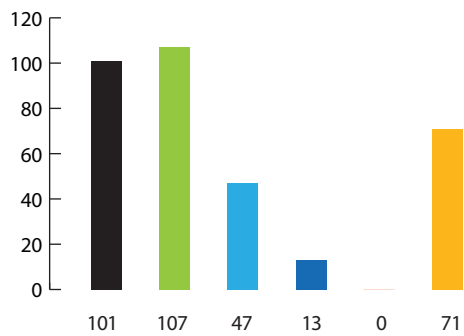
**Q4.** Thinking about communications received from Ministers, how would you rate the signals sent by your Minister(s) about the OIA? (339)



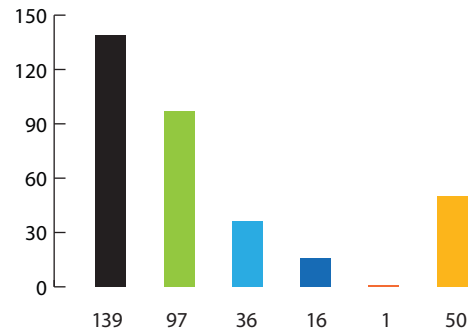
**Q5.** Thinking about factors such as internal emails, memos, publications and formal or informal statements made to staff, how would you rate the signals sent by your Chief Executive about the OIA? (339)



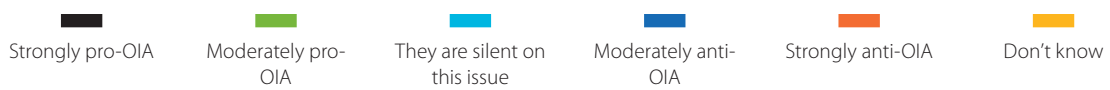
**Q6.** Thinking about factors such as internal emails, memos, publications and formal or informal statements made to staff, how would you rate the signals sent by the senior leadership team about the OIA? (339)



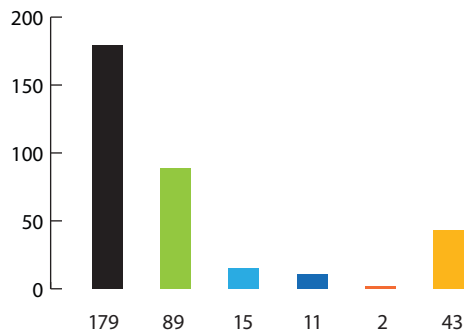
**Q7.** Thinking about factors such as internal emails, memos, publications and formal or informal statements made to staff, how would you rate the signals sent by your immediate manager about the OIA? (339)



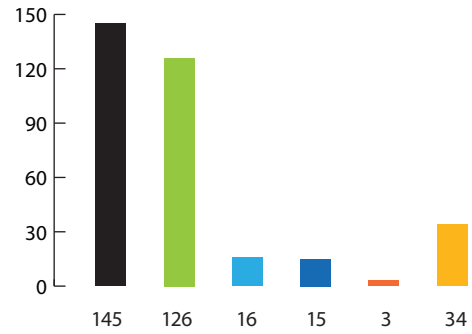
**KEY**



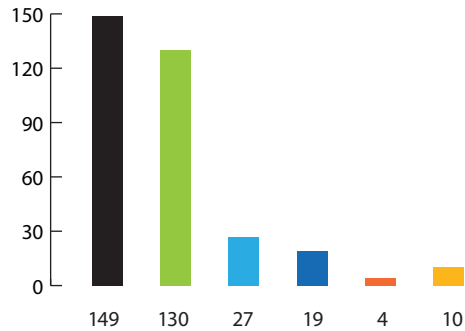
**Q8.** How would you rate the signals sent by the Chief Executive about openness and public engagement in the work of the agency? (339)



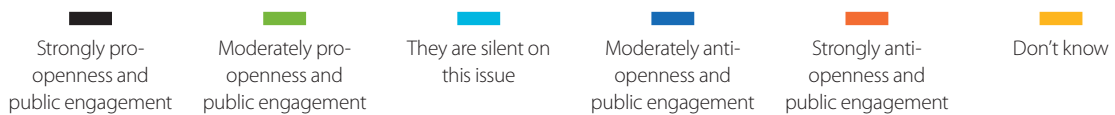
**Q9.** How would you rate the signals sent by the senior leadership team about openness and public participation in the work of the agency? (339)



**Q10.** What is your impression of your agency's overall commitment to a strong culture of openness and public participation? (339)



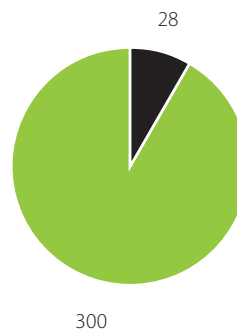
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**Q11.** Is there anything else about the agency's culture and leadership about openness and access to information you would like to add? (118)



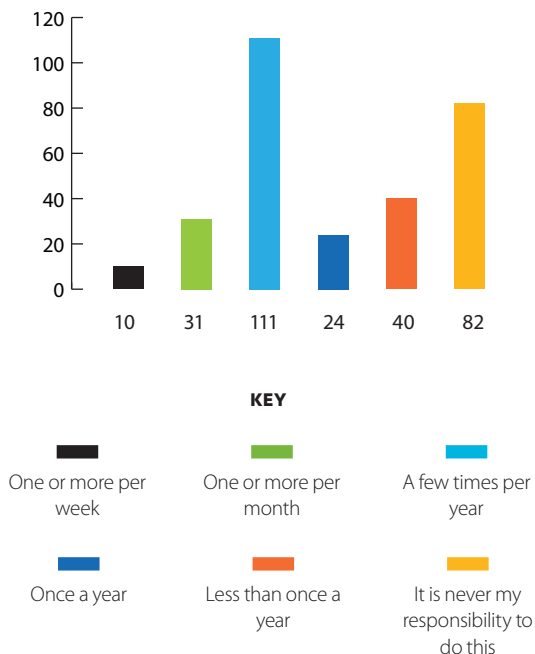
**Q12.** Do you work in a core OIA role? (328)



**KEY**



**Q13.** If you do not work in a core OIA role, how often do you handle, or are asked to assist in the handling (performing all actions required to respond to an OIA request, including co-ordination and processing) or processing (identifying requested information and determining whether it should be released) of an OIA request? (298)



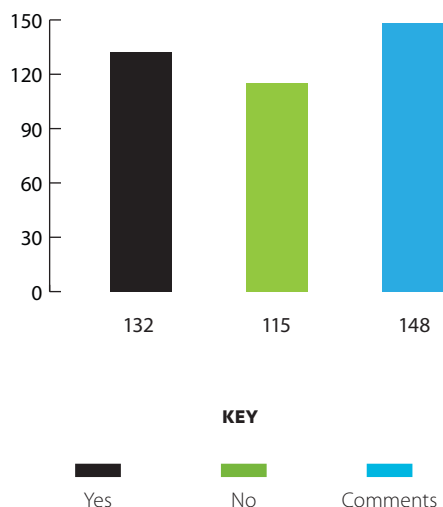
**Q14.** If you handle, or are asked to assist in the handling or processing of an OIA request, what support or processes for escalation of questions or concerns exist? (229)



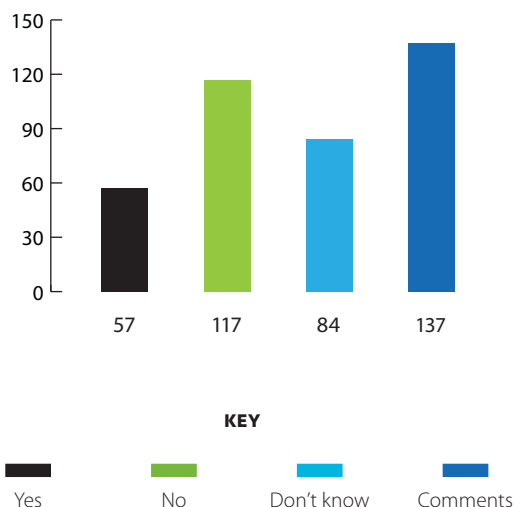
**Q15.** Is this support or are these processes for escalation effective? (223)



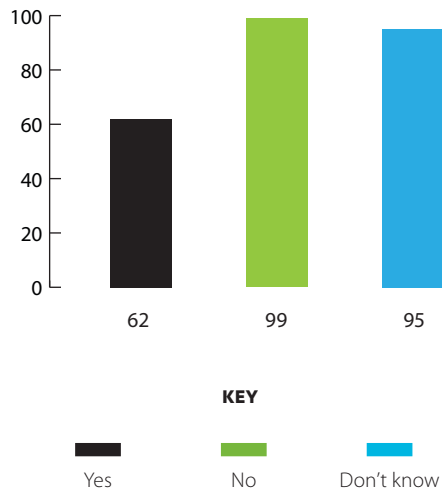
**Q16.** If you handle, or are asked to assist in the handling or processing of an OIA request, do you feel like you've been adequately trained to respond appropriately? (247)



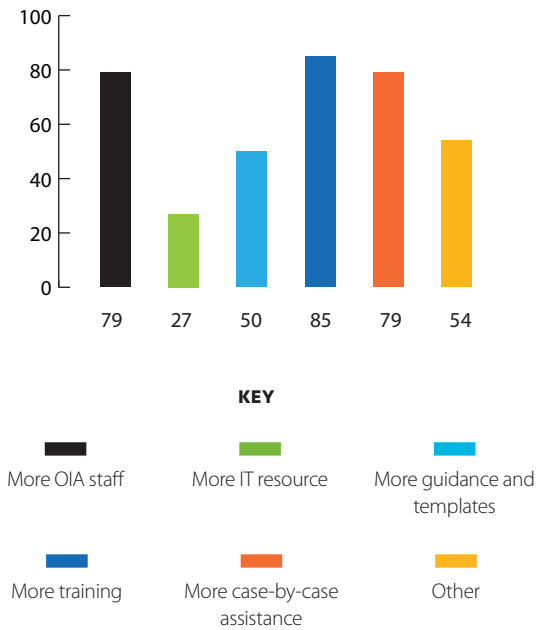
**Q17.** If the agency experiences a sudden increase in the number of OIA requests that it has to respond to, do you think it is able to cope with the increased workload and still maintain quality standards in its OIA responses? (258)



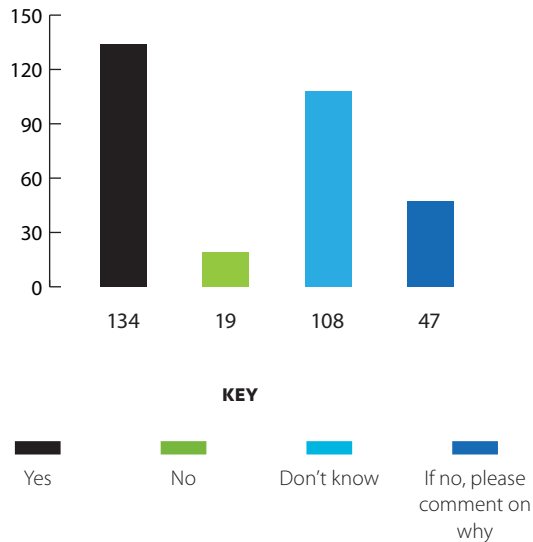
**Q18.** Overall, do you think your agency allocates sufficient resources to comply with its OIA obligations? (256)



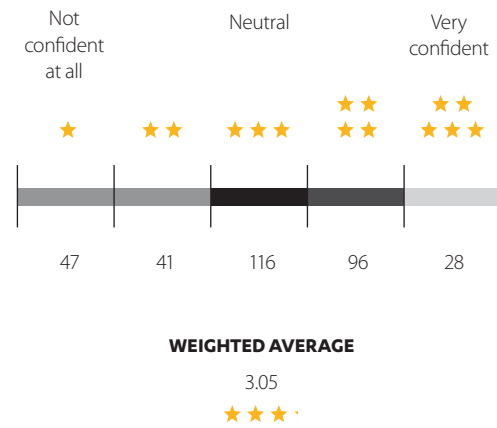
**Q19.** If no, what extra resource do you believe the agency requires? (select all that apply) (159)



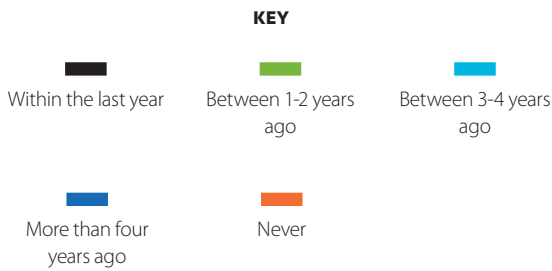
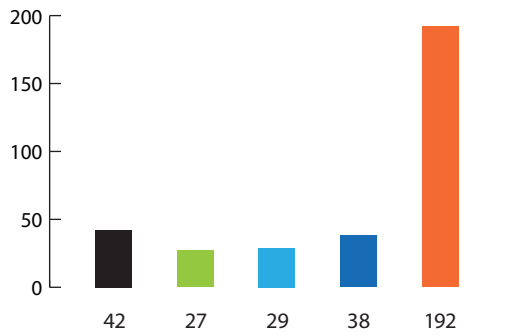
**Q20.** Does your agency's system for processing OIA requests, including quality assurance and sign-off processes, generally enable it to meet its timeframe obligations? (261)



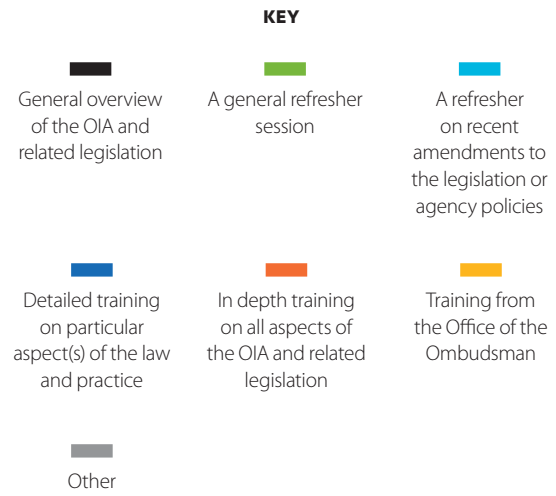
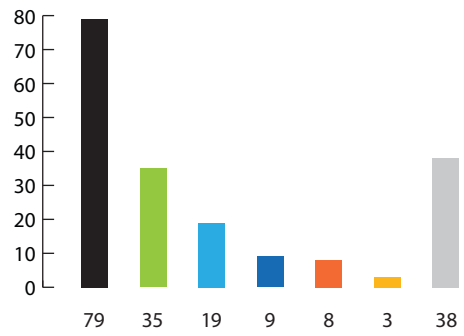
**Q21.** How confident or not do you feel in your knowledge of the OIA? (328)



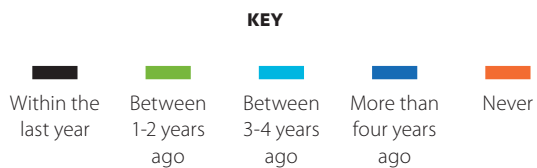
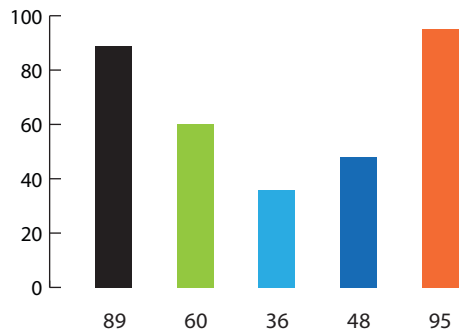
**Q22.** When was the last time you received any training on responding to OIA requests? (328)



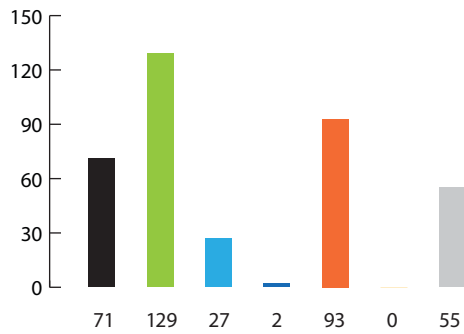
**Q23.** What was the nature of this training on the OIA? (select all that apply) (147)



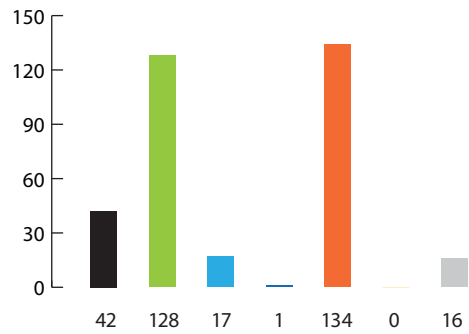
**Q24.** When was the last time you received any training on agency policies and procedures for using the record keeping and management systems? (328)



**Q25.** How easy is it to find your agency's policies, procedures and resources on responding to OIA requests? (322)



**Q26.** How useful are your agency's policies, procedures and resources on responding to OIA requests? (322)



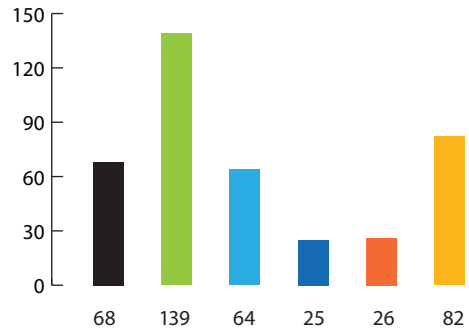
**Q27.** How often do you use your agency's policies, procedures and resources for responding to OIA requests? (227)



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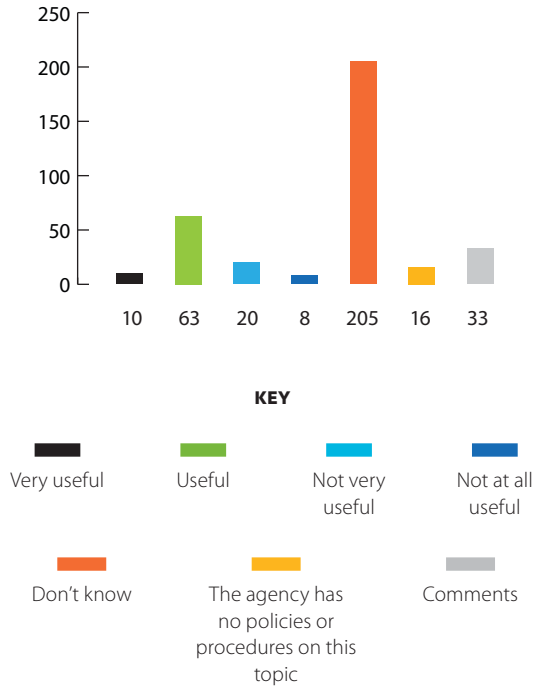
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**Q28.** How easy is it to use your agency's information management systems to record (store) information? (322)

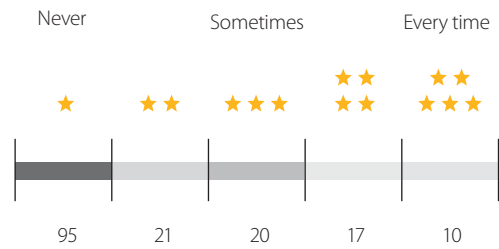




**Q29.** How useful are the agency's policies and procedures on proactive release (i.e. publishing official information before a request is received in the interests of promoting transparency, accountability and effective public participation in decision making) of information? (322)

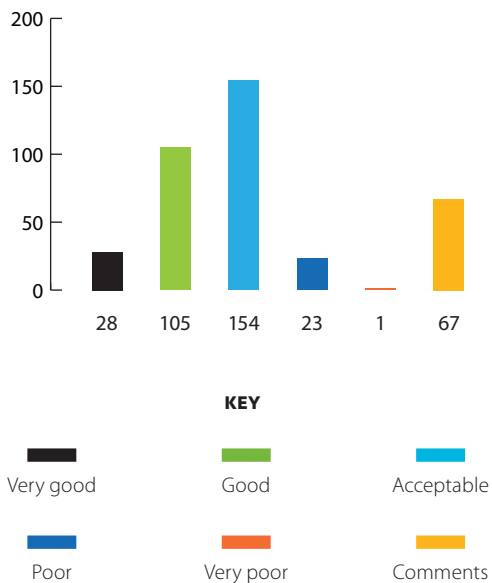


**Q30.** How often do you use your agency's policies and procedures on proactive release? (163)

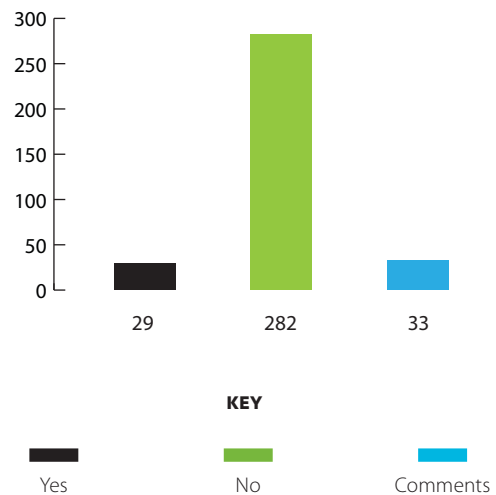


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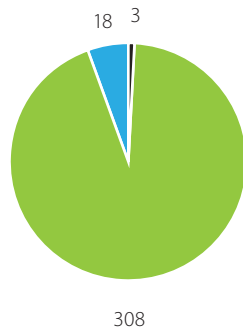
**Q31.** How would you rate the effectiveness of your agency's current OIA practices? (311)



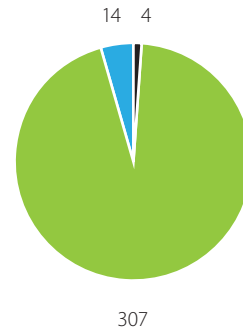
**Q32.** Are you aware of information not being recorded to avoid possible disclosure under the OIA? (311)



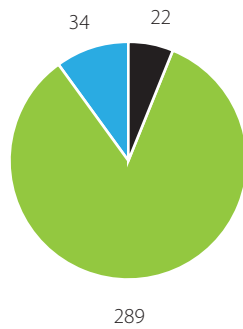
**Q33.** Are you aware of your agency erroneously advising a requestor that information could not be located, to avoid possible disclosure under the OIA? (311)



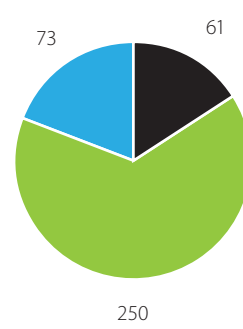
**Q34.** Are you aware of information being destroyed to avoid the OIA? (311)



**Q35.** Are you aware of requests being interpreted more narrowly than was justified? (311)



**Q36.** Do you have any concerns about the agency's current OIA practices? (311)



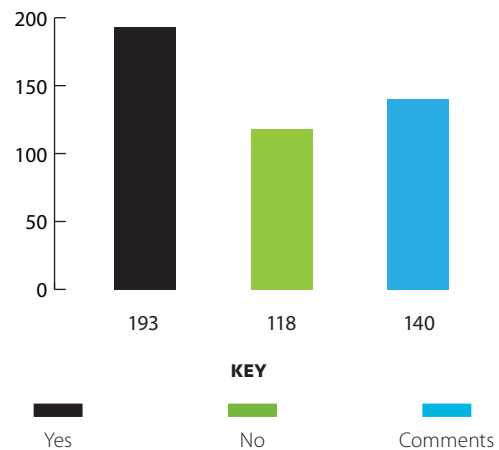
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**Q37.** In relation to OIA practices, what does your agency do best? (194)



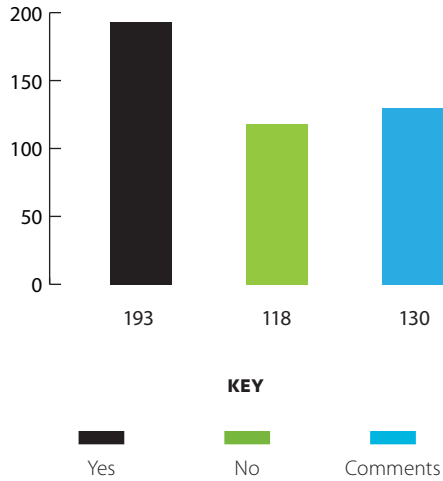
**Q38.** Are your agency's records and information management practices generally sound, so that information is able to be found when it is requested under the OIA? (311)



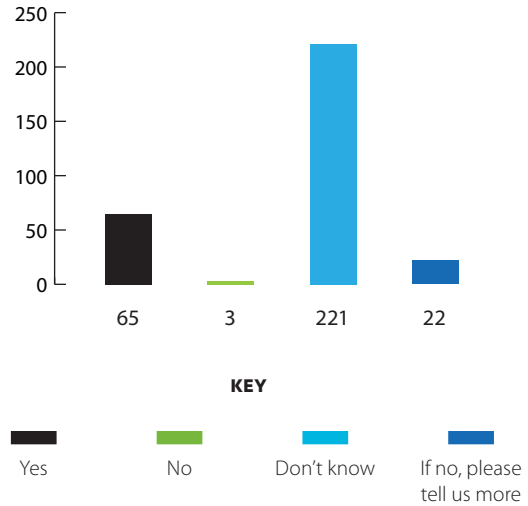
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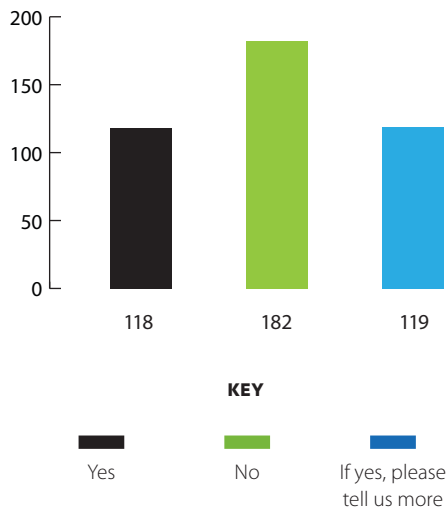
**Q39.** Are your agency's records and information management practices generally sound, so that information is able to be easily collated when it is requested under the OIA? (311)



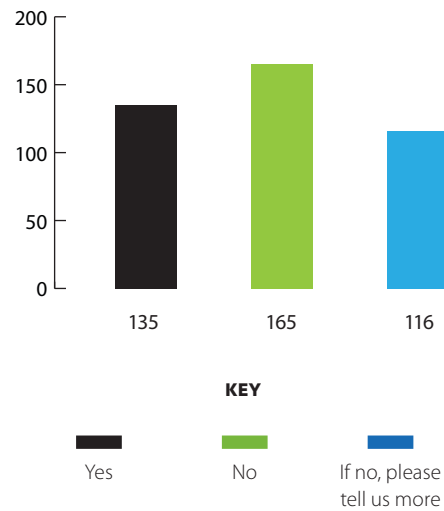
**Q40.** In your experience, have the agency's processes for proactive release of information (publishing official information outside the OIA request process, in the interests of promoting transparency, accountability and effective public participation in decision making) worked well? (311)



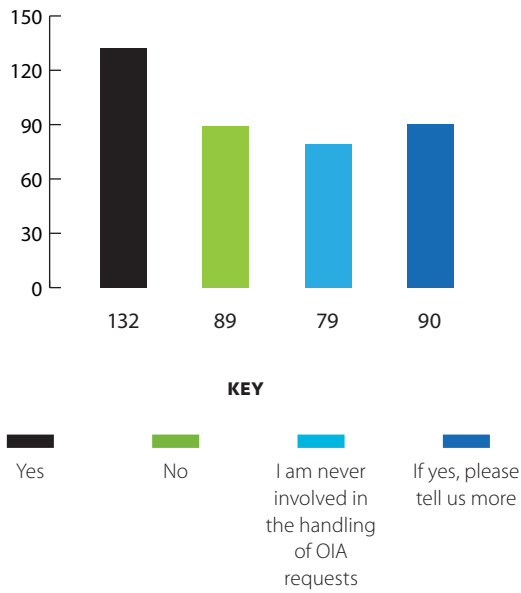
**Q41.** In your experience, does your agency have effective practices for ensuring staff learn from Ombudsman decisions on OIA complaints? (300)



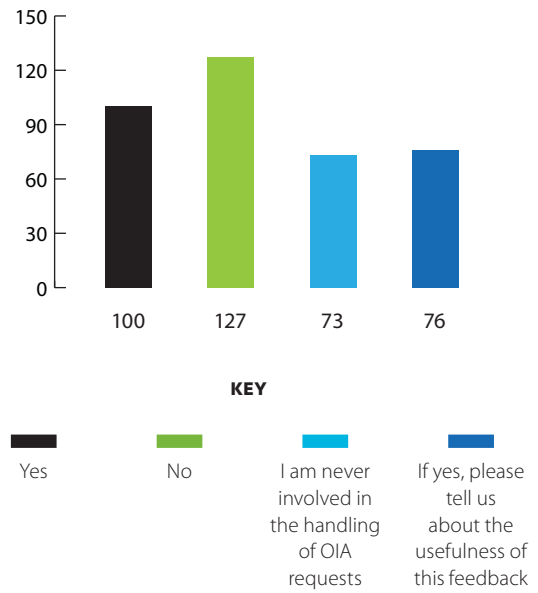
**Q42.** In your experience, does your agency have effective practices for ensuring staff learn from State Services Commission and Ombudsman guidance relating to the OIA? (300)



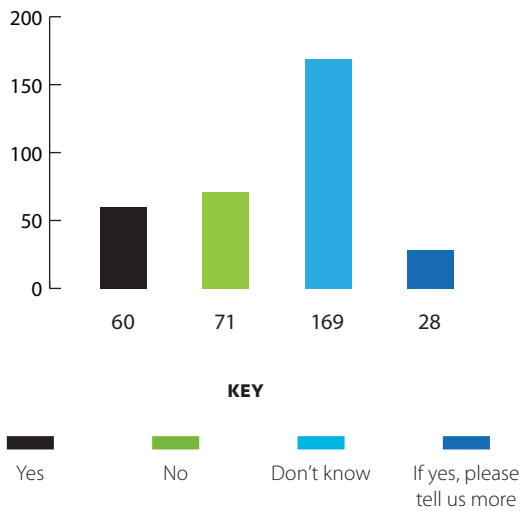
**Q43.** In your experience, does your agency take any steps to promote improvements in its OIA practices through learning from the experience of responding to OIA requests? (300)



**Q44.** Have you ever received any feedback on the quality or timeliness of work you have done on an OIA request? (300)



**Q45.** Do senior managers encourage staff to identify areas of improvement to OIA practices, and then provide the means to implement them when appropriate? (300)





# Ombudsman

