

**Official Information Act
compliance and practice**

**Te Tai Ōhanga
The Treasury**

OIA compliance and practice at the Treasury

Office of the Ombudsman

July 2019

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Cover image courtesy the Treasury

OIA compliance and practice at the Treasury

Report of the Chief Ombudsman

July 2019

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Foreword

Te Tai Ōhanga, the Treasury, was established in 1840, making it one of New Zealand's oldest institutions. The Treasury is one of three central government agencies, alongside the Department of the Prime Minister and Cabinet and the State Services Commission, that are jointly responsible for providing leadership, coordination and monitoring across the public sector.

The Treasury has an important role in the New Zealand state sector as the lead economic and financial adviser to the Government, and steward of the public sector financial management and regulatory systems.

In the 2017/18 financial year, Treasury received 264 OIA requests, of which 84.9 percent were responded to within legislative timeframes.

The responsible Minister for the Treasury is the Minister of Finance, Hon Grant Robertson. Treasury also reports to the Deputy Prime Minister and Minister for State Owned Enterprises, Rt Hon Winston Peters; the Associate Ministers of Finance, Hon Dr David Clark, Hon David Parker and Hon James Shaw; the Minister of Revenue, Hon Stuart Nash; and the Minister for Infrastructure, Associate Minister of Finance and Associate Minister for State Services, Hon Shane Jones.

Treasury was given an opportunity to comment on my provisional opinion, and it has accepted my suggestions, with an intention to implement the majority of them in the 2019/20 financial year. I acknowledge Treasury's comment that it may not be able to implement all action points within this timeframe where significant process changes or resourcing decisions may be required. I have noted the action points to which Treasury considers these factors apply throughout this document.

In addition to implementing my action points, I hope that the Treasury takes the opportunity afforded by my investigation to consider how it can optimise its OIA processes, and affect any further improvements that may enhance its practice. I will be following up with Treasury on a quarterly basis to check in on its progress in implementing my suggested action points.

I acknowledge the Treasury for the positive and open way it engaged with my staff during the investigation, and for the time devoted to prepare the response to the agency survey. I would also like to thank the Treasury staff for their participation, particularly those who took the time to meet with my investigators to discuss their experiences of Treasury's OIA practices, and those in the Ministerial Advisory Services and Legal teams, with whom my office liaised throughout the investigation.

Peter Boshier
Chief Ombudsman
24 July 2019

Introduction

This report sets out my final opinion on how well the Treasury is meeting its obligations under the Official Information Act 1982 (OIA).

My investigation has included consideration of the Treasury'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.

One of the purposes of the OIA is to increase the availability of information to the people of New Zealand in order:

- to enable effective participation in the making and administration of laws and policies; and
- to promote the accountability of Ministers of the Crown and officials,

thereby enhancing respect for the law and promoting the good government of New Zealand.

As Chief Ombudsman, I am committed to improving the operation of the OIA to ensure its purposes are realised. Key to achieving this is Parliament's expectation that I regularly review the OIA practices and capabilities of government agencies.

I have initiated this practice investigation using my power under the Ombudsmen Act 1975 (OA). This provides me with the tools needed to investigate matters I consider important to improve administrative decision making across the public sector.¹ The full terms of reference for my investigation are in Appendix 1.

I have considered the information gathered through my investigation against an assessment framework consisting of the following five areas:

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

A set of good practice indicators within each of these areas can be found in Appendix 2. 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.

Reporting the outcome of these investigations promotes agencies' accountability, and gives the public an insight into agencies' ability to promote openness and transparency.

¹ See sections 13(1) and 13(3) Ombudsmen Act 1975

My opinion

I have not identified any conduct by the Treasury that was wrong, unreasonable or contrary to law and, as such, I have not made any formal recommendations.² Through the investigation process, areas of good practice have been identified, and opportunities for improvement are suggested where areas of vulnerability have been identified.

I address each of the five dimensions listed above, setting out:

- an overview of my findings;
- aspects that are going well; and
- opportunities to improve the Treasury's OIA compliance and practice.

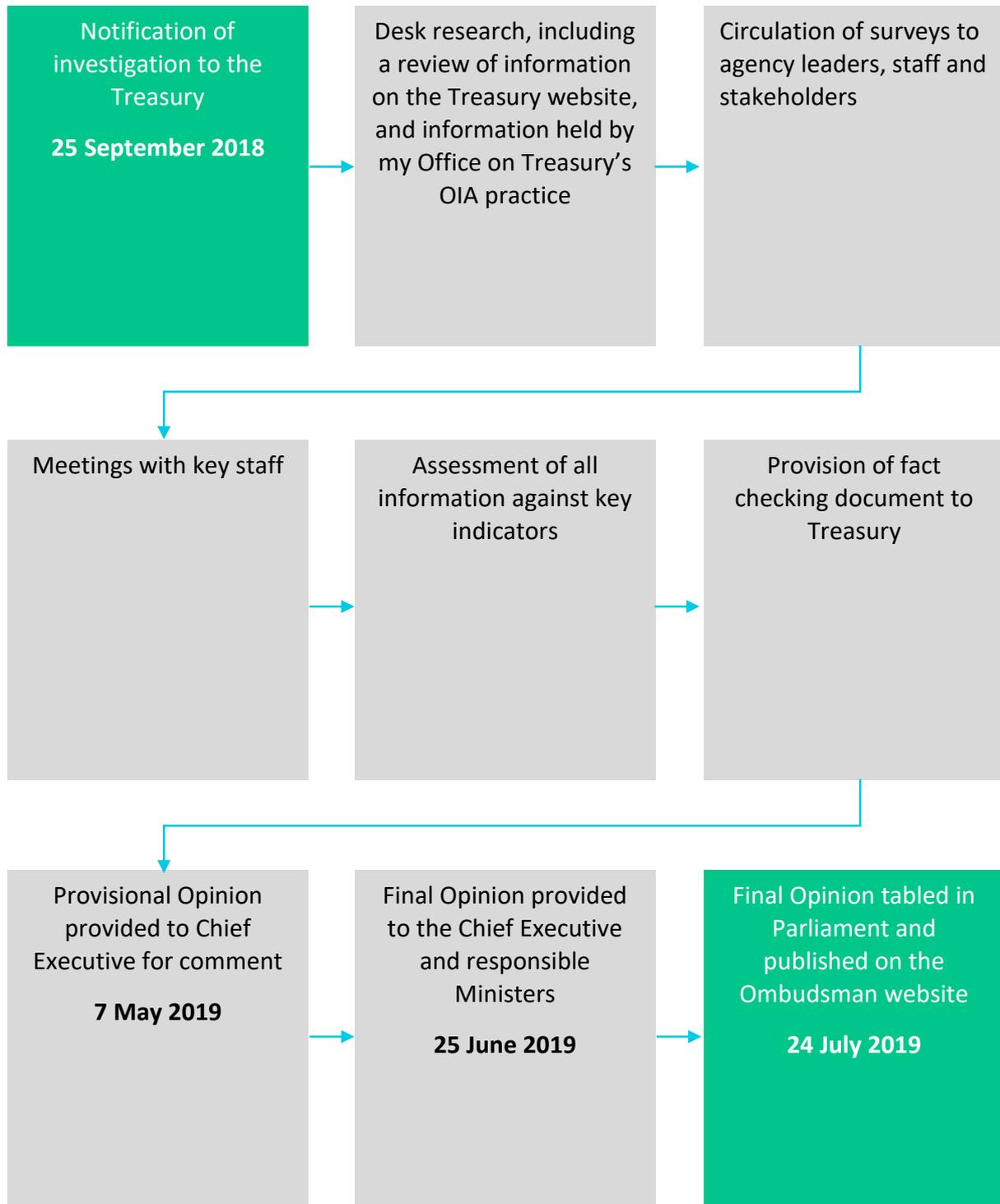
Prior to confirming my opinion, I provided the opportunity for the Treasury to review and comment on my provisional findings.

My opinion relates only to the Treasury's practice during the period in which my investigation took place.³

² 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.

³ On occasion we may look at material from before the investigation period where particular issues warrant further investigation

Timeline and methodology



Executive summary

This summary draws together the key findings and suggested actions from my investigation. The diagram on page 13 summarises the action points into a ‘snapshot view’ of those aspects I consider will further lift OIA performance at the Treasury.

Leadership and culture

It is evident that a positive culture around the importance of the OIA, and openness and transparency more generally, is alive at the Treasury. This is supported by consistent messaging from senior leaders about the Treasury’s OIA obligations, and about the role of openness in the core work of the Treasury as a provider of free and frank advice.

The Treasury demonstrates strong commitment to the proactive release of information through its publication of a broad range of corporate documents, research and discussion papers, and working papers. The Treasury has also proactively released Budget papers since 2005. Part of the Treasury’s vision is to be a world-leader,⁴ and indeed it may be considered a leader in budget transparency. The International Budget Partnership awarded New Zealand a score of 89 out of 100 in the Open Budget Index for 2017 (the most recent budget ranking available, in which New Zealand was first equal with South Africa).⁵

The Treasury releases all substantive OIA responses on its website ... an exemplar for all public sector agencies

I am pleased to note that the Treasury also releases all substantive OIA responses on its website. In this, I consider it an exemplar for all public sector agencies.

I have identified opportunities for improvement around the visibility and clarity of OIA content on the Treasury’s website, though I recognise it has already made some improvements since the start of my investigation. Treasury leaders also have an opportunity to champion a system for staff to identify potential improvements to OIA policy and practice.

I would encourage the Treasury to include in its corporate documents a strategic framework promoting good OIA compliance and practice, and its intentions for the proactive release of information to ensure it is accountable and that a strong culture and commitment toward these activities is maintained.

Action points: Leadership and culture

1	Expand on the contents of the OIA section of the website, incorporating my suggestions
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⁴ The Treasury website, ‘Our story’ <https://treasury.govt.nz/about-treasury/who-we-are/our-story>

⁵ International Budget Partnership website, <https://www.internationalbudget.org/summaries/new-zealand-2017/>

2	Leaders to champion a system for staff to identify and communicate opportunities for improvements to OIA policies and practice
3	Incorporate strategy to promote good OIA compliance and practice and intentions around the proactive release of information in corporate documents

Organisation structure, staffing and capability

The Treasury uses a 'mixed' model of OIA handling, wherein the coordination of OIA requests is performed, for the most part, by staff in the Ministerial Advisory Services (MAS) team, but most of the processing is performed by staff in other business units.

It appears the 'mixed' model for OIA handling is appropriate for the Treasury, given the subject matter expertise required to respond to complex requests for information. However, for this model to function effectively there must be adequate, on-going training targeted to specific roles, and sufficient support available for those staff charged with preparing responses to OIA requests. I consider there is more the Treasury can do to:

Treasury's 'mixed model' for OIA handling is appropriate for the agency, but specific and ongoing training is required for this model to function effectively

- ensure it delivers adequate and appropriately targeted training to its staff; and
- ensure it has a realistic awareness of the demands of OIA request handling and preparing information for proactive release, and that it is adequately resourced to meet them.

The Treasury has developed and delivers comprehensive OIA training to its annual graduate cohort, which I consider an excellent introduction to the OIA.

I have also identified an opportunity for the Treasury to focus on embedding sound information management practices, which coincides with an upcoming transition to a new suite of business software.

Action points: Organisation structure, staffing and capability

1	Ascertain the amount of time spent handling OIA requests in each business unit
2	Ascertain the volume of information produced which the Treasury intends to proactively release, and how much time is required to prepare that information for release
3	Confirm and clarify the Chief Executive's delegated authority for OIA decision makers
4	Implement targeted training for the requirements of different roles, ensuring all staff have access to OIA training and regular refresher courses
5	Develop and deliver training for staff on information management policies and systems

Internal policies, procedures and resources

Although the Treasury's annual release of Budget information is supported by a guiding policy, there is no parallel policy guiding the release of non-Budget information. My concern, borne out by discussions with staff, is that without a policy in place for the proactive release of information, the practice may be inconsistent between business units and may not occur at all during busy periods. I understand that a policy is currently under development and I suggest that this be given a high priority.

The Treasury uses a workflow system called 'MOTO' to guide its OIA process. It appears that the capabilities of this workflow tool are being utilised to best effect to support a successful, recent focus on improving OIA timeliness.

In addition to the workflow tool, the Treasury has other useful resources to guide staff in responding to OIA requests, including template response letters and a guiding document called a 'Gameplan' for staff assigned OIA requests. The latter provides key information on the OIA process within a brief and user-friendly document.

The Treasury has also produced a comprehensive OIA policy/guidance document. However, improvements could be made to increase its ease of use. The document should also be updated to reflect best practice around the application of withholding grounds, which should be considered on a case-by-case basis.

There is a potential risk to OIA compliance stemming from the lack of visibility of protected documents within the information management system. The Treasury has taken steps to mitigate this risk by giving expanded access to documents to staff in the MAS team. However, I consider that more can be done to ensure all staff are aware of the limitations of the information system so they can request assistance in searching for documents, where this may be needed.

Action points: Internal policies, procedures and resources

1	Prioritise the development of a proactive release policy for non-Budget documents
2	Review and revise OIA guidance, incorporating my suggestions
3	Revise template OIA decision letters to include specific detail of the Treasury's consideration of public interest factors
4	Ensure the issue around visibility of protected documents, and the system for mitigation, is known to staff by incorporating this into OIA Guidance documents, and into OIA and information management training

Current practices

Generally, the Treasury implements its policies in such a way that it adheres to its obligations under the OIA. It appears to have successfully reversed a dip in its OIA timeliness through good messaging from leadership, effective use of its workflow tool, and promoting management accountability for OIA responses.

There is potential for improvement around Treasury's practice in relation to its interpretation of the 'no surprises' principle when interacting with Ministers' offices on departmental OIA requests, and its record keeping in relation to OIA decision making.

The Treasury must also ensure that all requests for official information, including those processed by the Communications team, are handled in accordance with the provisions of the OIA, and that all those in public-facing roles are aware of their responsibilities and obligations under the OIA.

I am of the view that the Treasury has an opportunity to be a best practice leader by developing a systematic approach to revisiting information requests declined for time-dependent reasons—for example, the temporary protections afforded by sections 6(e) or 9(2)(f)(iv) of the OIA. Collecting data on these requests and reconsidering them at a later date may assist in achieving one of the key purposes of the OIA, being to increase progressively the availability of official information.

Treasury has an opportunity to be a best practice leader ... in the progressive increase of the availability of official information

Action points: Current practices

1	Undertake a review of policies and procedures around interactions with Ministers' offices
2	Update OIA Guidance Document to reflect that departmental OIA responses should not be delayed pending Ministers' responses
3	Ensure that the Communications team receive targeted training in order that media information requests are handled in accordance with the provisions of the OIA
4	Ensure that the Information Services team receives OIA training targeted to their role
5	Ensure that business units are adequately resourced with staff able to provide oversight and support to junior staff early in the OIA process
6	Senior leaders to champion sound information management practices

Performance monitoring and learning

The Treasury collects some data in relation to OIA requests, and is taking some steps to use performance monitoring and learning to enhance its OIA performance. In particular, the Treasury collects data relating to timeliness that it reports to its leadership team, Kaiurungi, on a monthly basis. There is room for improvement, however, and the Treasury may wish to consider how it could benefit from collecting a greater range of OIA performance data, and from improving its recording of decision-making processes.

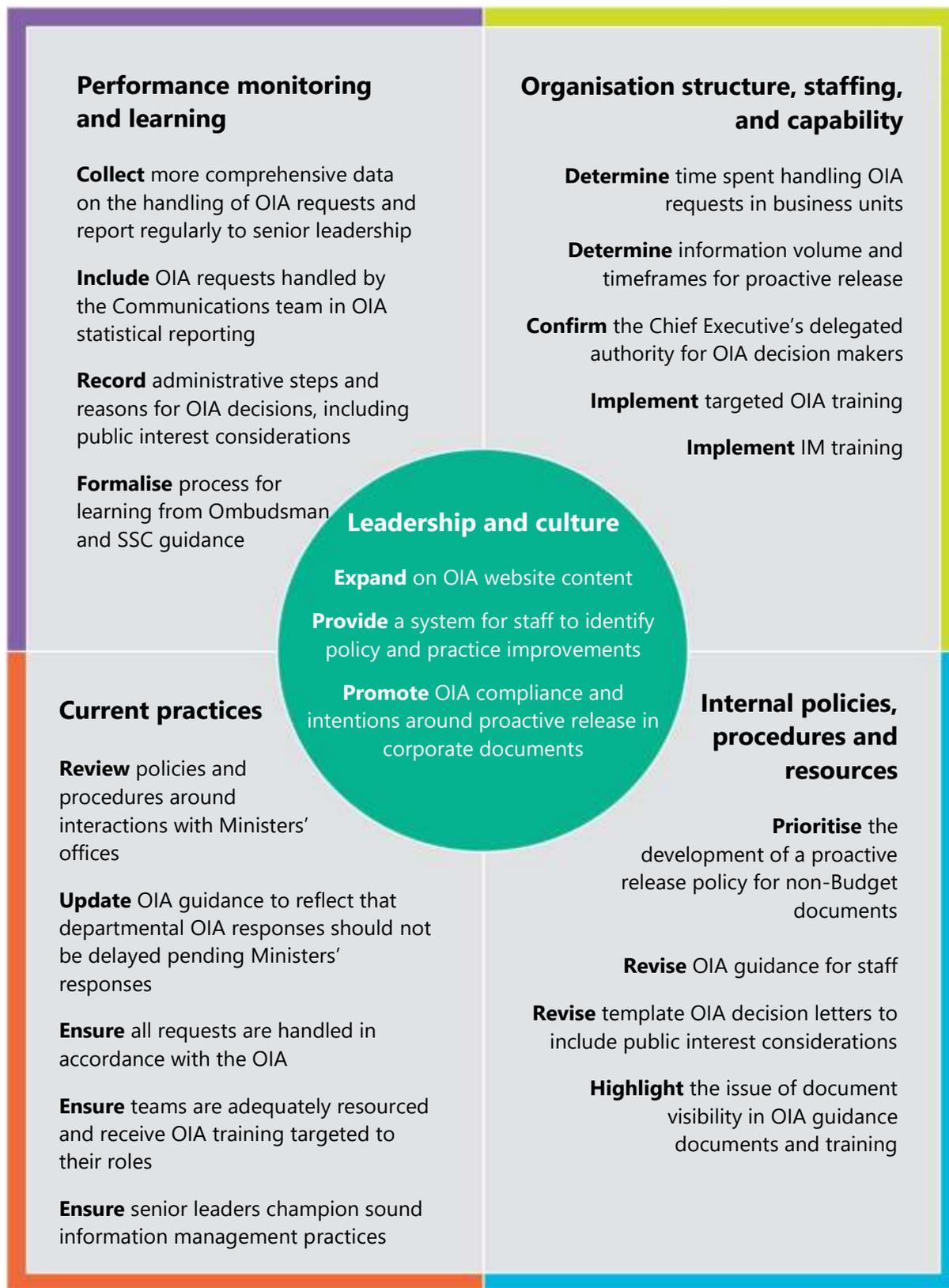
I would encourage the Treasury, and all agencies, to include OIA requests handled outside the formal process in OIA statistical reporting.

The Treasury, like many public sector agencies, bases its OIA performance statistics on those requests for information which are entered into its 'formal' OIA process. Requests handled by the Communications team or other staff are not recorded, therefore the Treasury may not receive due credit for responding to many more requests on time than it reports to the State Services Commission. I would encourage the Treasury, and all agencies, to include OIA requests handled outside the formal process in OIA statistical reporting.

Action points: Performance monitoring and learning

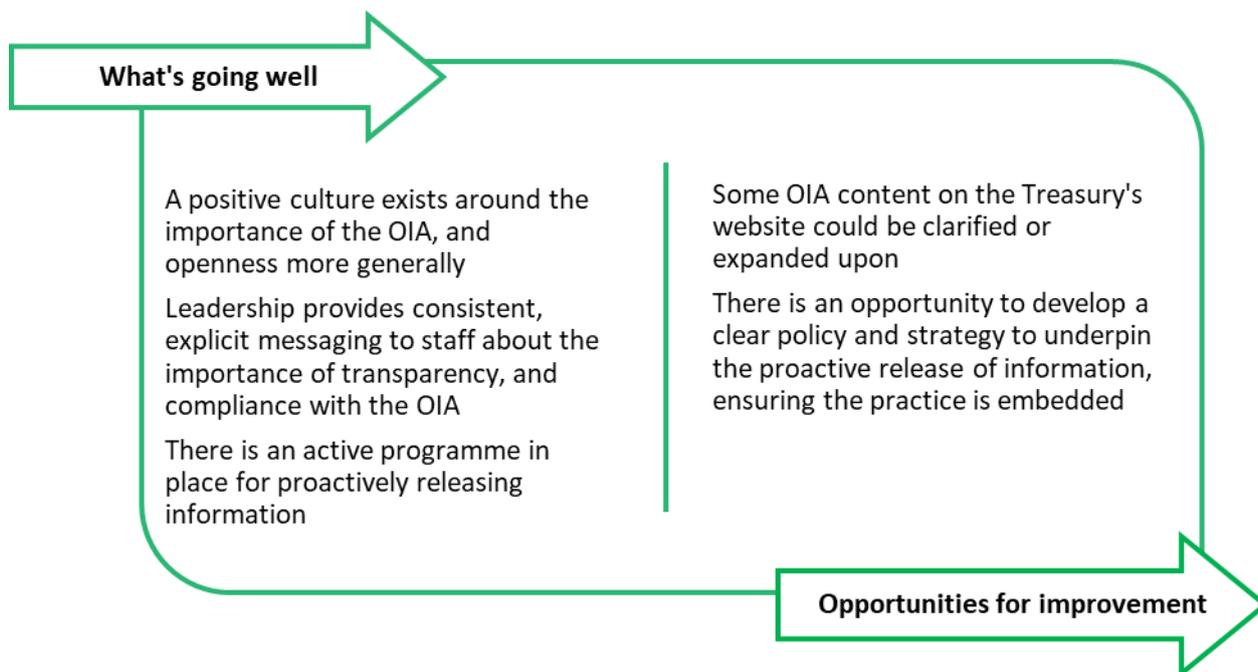
1	Collect more comprehensive data on the Treasury's handling of OIA requests so that opportunities for improvement can be identified; report regularly to senior leadership
2	Include OIA requests handled by the Communications team in OIA statistical reporting
3	Record reasons for OIA decisions, including consideration of the public interest if applicable in a manner that is accessible to staff
4	Record administrative steps behind OIA responses where this may be necessary
5	Formalise the process for learning from Ombudsman and State Services Commission guidance and reflect this in OIA policies and procedures

Further lifting OIA performance at Treasury: summary of actions



Leadership and culture

At a glance



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 engagement with those who want to know and understand what work they are doing, and enables compliance with the principles, purposes and provisions of the OIA.

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 Treasury's leadership and culture, I considered whether:

- Ministers, chief executives, senior leaders and managers demonstrated a commitment to the Treasury 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 Treasury's strategic plans, creating a public perception of openness.

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

Aspects that are going well

Internal messaging

A positive culture around the importance of the OIA, and openness generally, exists at the Treasury. A number of staff spoke about Treasury's core function as a provider of free and frank advice, and how this feeds into an ethos of openness, transparency and accountability that underpins everything Treasury does. One staff member we spoke to said that public servants can sometimes be cautious about the method in which they offer free and frank advice, bearing in mind this is information held by the agency that can be requested under the OIA. In relation to Treasury's approach to providing advice, this staff member said:

Public servants think 'should I write it, or say it?' A Treasury person would write it.

Staff seemed proud of Treasury's commitment to openness and, in particular, its practice of proactively releasing budget documents.

The culture is reinforced by consistent internal messaging from senior leaders, in particular the Chief Executive (CE) of the Treasury about the importance of transparency and compliance with the OIA. Some recent examples of the CE's messages to staff relate to an effort to improve OIA timeliness statistics, following a dip in timeliness compliance between the 2015/16 and 2016/17 financial years. In a message to managers, the CE wrote:

This issue is critical to the Treasury's reputation and I have made a personal commitment to lift our performance. My expectation is that you understand the importance of this and are committed to maintaining 100% compliance with our statutory obligations...

Through our meetings with staff, it was clear that this message permeated through the organisation via leaders and managers, and that it has been implemented. Treasury achieved 91 percent timeliness compliance in the latter half of the 2017/18 financial year, and 97 percent compliance in the first half of the current, 2018/19 financial year. I look forward to seeing Treasury's full-year results for OIA timeliness compliance.

It is also encouraging that good OIA practice is made visible by senior leaders. A number of staff we spoke to mentioned that the CE highlighted, in staff meetings, the achievements of the organisation, and the MAS team in particular, in improving OIA timeliness.

As shown in the table below, the majority of staff who responded to our survey reported that the CE and senior leaders were strongly or moderately 'pro' the OIA. The majority of staff also reported that the CE and senior leaders were 'pro-openness' generally, and that they considered the Treasury had a strong commitment to public engagement and participation. I discuss the Treasury's policies and procedures in relation to public engagement in more detail below, under [Internal policies, procedures and resources](#).

Staff perception of Treasury leaders' messaging 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	87%	0%	13%
Senior Leadership team	87%	4%	9%
Immediate Manager ⁶	91%	1%	7%

Proactive release practice

The Treasury is one of three central agencies that provide state sector leadership, alongside the Department of the Prime Minister and Cabinet and the State Services Commission. As such, I would expect Treasury to be a leader in the proactive release of information, both in practice and in policy.

Indeed, the Treasury has an active programme of proactively releasing information, which is driven by fourth tier managers. In addition to proactively releasing Budget information, the Treasury proactively releases:

- All substantive OIA responses
- A range of corporate documents including annual reports, strategic intentions, speeches, and Treasury's four-year plan
- Briefings to incoming ministers
- Discussion papers
- Working papers
- Economic indicators
- Analytical and research papers.

The Treasury's website also contains a calendar of upcoming releases of publications and data being published on its website, where these have been announced by the Treasury or the Minister of Finance. This table gives the title of the document, where it will be located on the website, the projected date of release, and even the approximate time of release.

The Treasury's leadership group of tier three and above managers, Kaiurungi, regularly discusses opportunities for the proactive release of information, with these discussions being informed by reporting on current OIA requests.

Although the Treasury produces a guiding document for staff in relation to the proactive release of Budget documents, a broader policy to guide the release of non-Budget information

⁶ Percentage does not total 100 due to rounding. Numbers have been rounded to the nearest percent.

is still under development. I will discuss this further below under [Internal policies, procedures and resources](#).

External messaging and stakeholder engagement

A statement on the Treasury's website reinforces to staff and to the public its commitment to transparency:⁷

We believe in the importance of a trusted, professional, public service: our stewardship responsibilities embody kaitiakitanga; we work to support the Treaty partnership between the Crown and Māori; and we are transparent, objective, impartial and free and frank in our advice.

The Treasury reinforces this statement with action, through its active programme of proactively releasing information (discussed earlier, under [Proactive release practice](#)). On its website, the Treasury states that its purpose in releasing information about its work is to make ideas 'available to a wider audience and to inform and encourage public debate, with the ultimate aim of informing the Treasury's policy advice.' This sends a message that the Treasury is open to engagement with the public.

In addition to proactively releasing information, the Treasury also facilitates public participation through consultation processes. The Treasury has a page on its website detailing reviews and consultation processes currently underway, and providing information on how the public may make submissions.⁸ Details of reviews and consultation processes are also posted by the Treasury in the consultation listing section of the 'govt.nz' website.

The International Budget Partnership's (IBP) Open Budget Survey 2017 awarded New Zealand a score of 59 out of 100 for public participation.⁹ This score indicates that IBP considers there are limited opportunities for the public to engage in the budget process. This suggests that opportunities exist for improvement in relation to public participation throughout the budget cycle. However, I note that New Zealand's score for this aspect of the Open Budget Survey is the highest in the world, and significantly in excess of the global average. I also acknowledge that the scores given are not solely reflective of the work of the Treasury, but also the Legislature and the Office of the Auditor General.

Opportunities for improvement

There are opportunities for improvement in relation to:

- enhancing the content of the OIA webpage;

⁷ The Treasury website, 'Our story' <https://treasury.govt.nz/about-treasury/who-we-are/our-story>

⁸ The Treasury website, 'Reviews and consultations' <https://treasury.govt.nz/news-and-events/reviews-consultation>

⁹ International Budget Partnership website, <https://www.internationalbudget.org/open-budget-survey/results-by-country/country-info/?country=nz#participation>

- developing a system, championed by leaders, for staff to suggest improvements to OIA policies and practices; and
- incorporating OIA and proactive release of information strategy into corporate documents.

OIA webpage

The homepage of the Treasury website contains a link to a page titled *Information requests*, which has a sub-section titled *Requests under the Official Information Act 1982 (OIA)*. Since the beginning of my investigation, the Treasury has already made some positive changes to this section of its website. These include adding an email address to send requests straight to the MAS team rather than via the Information Services team; and removing a confusing distinction between ‘information requests’ and ‘official information requests,’ which advised of a different maximum time limit for responding to each.

Although the email addresses for MAS and Information Services are now distinct, with the former given as the contact for OIA requests and the latter for general enquiries, there remains a potentially confusing reference to Information Services under the OIA section. This states that OIA requests ‘can be directed to Information Services’, where I believe Treasury may intend for this to read ‘can be directed to Ministerial Services’.

Although Information Services is no longer the triage point for all emailed requests for information, I note that the Treasury’s website still advises requesters to write ‘Official Information Act request’ in the subject line of their email. I encourage the Treasury to consider whether this advice assists them in the allocation of requests. I would be concerned if this practice led to an unintended misunderstanding, amongst the public and amongst staff, that the OIA must be cited in a request in order for it to be considered an OIA request.

Within the sub-section relating to OIA requests, Treasury explains its timeliness obligations under the OIA by stating ‘Please note that under the OIA, the Treasury has 20 working days to respond to OIA requests’. This is not an entirely accurate representation of the legislation. Per section 15 of the OIA, a decision on whether the request is to be granted must be notified to the requester as soon as *reasonably practicable*, and not later than 20 working days after the day on which the request is received. Once the decision is made and notified to the requester, the information must be provided without undue delay.

There are opportunities to improve the content of the OIA section of Treasury’s website by including:

- a statement of principle about the right of the public to access official information;
- clarity about what official information is, and is not;
- more information to assist requestors, such as a description of the information the Treasury holds, as detailed in section 20 of the OIA;
- a link to internal OIA policies and procedures;

- a link to the Treasury’s internal decision-making rules, as detailed in section 22 of the OIA; and
- a link to Treasury’s disclosure log of OIA requests and responses.

The Treasury may wish to consult the guidance developed by the State Services Commission on the content and structure of agency OIA webpages,¹⁰ and the guidance on this topic in [Not a Game of Hide and Seek](#).

Action point

Expand on the contents of the OIA section of the website, incorporating my suggestions

System for staff to identify improvements

The Treasury has advised that staff are able to suggest improvements to its OIA processes and practices, and it is open to them to do this by communicating directly with the MAS team. However, it is not evident that there is a mechanism in place for staff to communicate opportunities for improvements in OIA practice or the proactive release of information. Examples of such mechanisms may include a space on ‘Huihui’, the Treasury’s intranet, for staff to submit comments or suggestions; or a standing item in team meetings for this to occur.

The provision of such a system would encourage staff to contribute innovative ideas that may enhance the Treasury’s OIA processes. This is in line with the Treasury’s Code of Conduct, which says:

We have an obligation to consider how we can carry out our functions in more successful ways

Action point

Leaders to champion a system for staff to identify and communicate opportunities for improvements to OIA policies and practice

Strategic framework

Staff we spoke to were consistent in advising us that responding to OIA requests is considered part of the Treasury’s core business, and it is clear from the volume of information it releases that Treasury is committed to releasing information proactively. It is also pleasing to note that there are some references to openness and the OIA in some corporate documents. Treasury’s Annual Report includes target and actual performance data for Ministerial Servicing, and its *Our Story* statement includes reference to principles of openness and accountability.

¹⁰ See <http://www.ssc.govt.nz/official-information-guidance>.

However, the Treasury lacks a stated strategic intention outlining how it intends to not only comply with the OIA, but to ensure that information is published proactively and made accessible to the public.

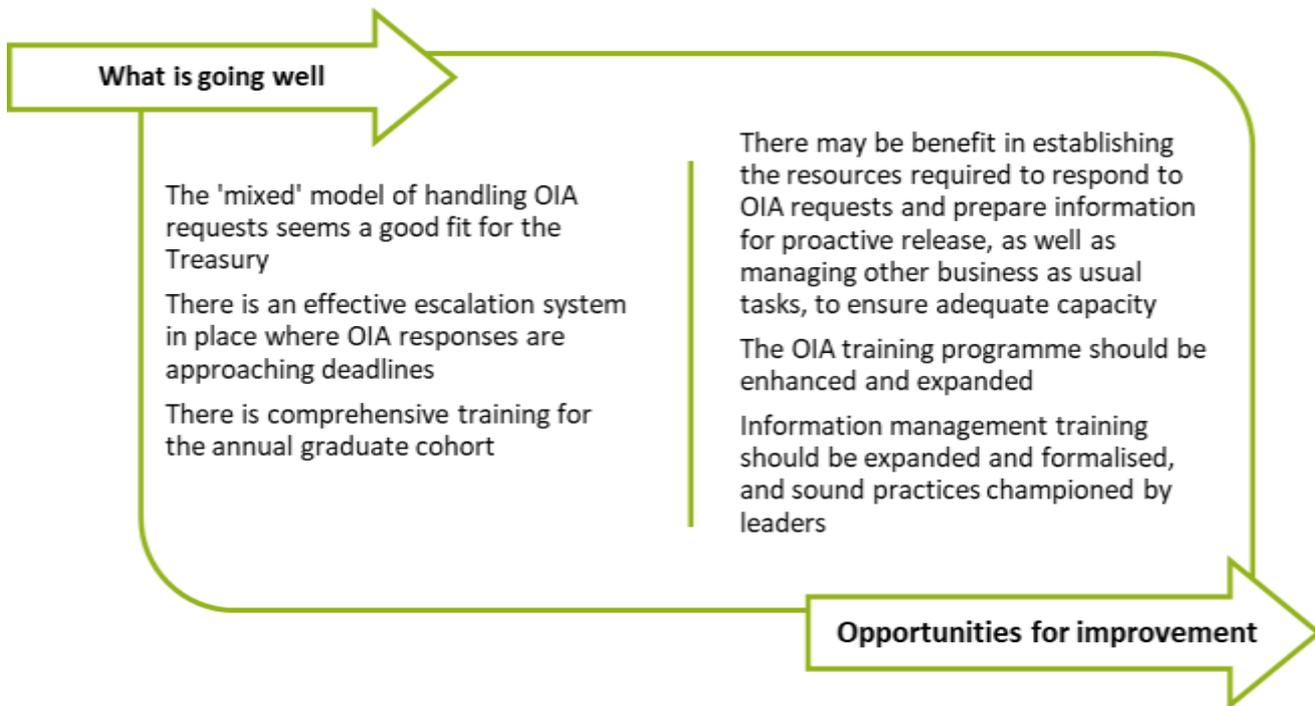
In order to further promote accountability, and to ensure an ongoing culture of openness and transparency, Treasury's corporate documents should tie the threads of openness and accountability into an overarching strategic framework. This could include how the Treasury intends to promote good OIA compliance and practice, and set out Treasury's intentions in relation to proactive release of information.

Action point

Incorporate strategy to promote good OIA compliance and practice and intentions around the proactive release of information into corporate documents

Organisation structure, staffing, and capability

At a glance



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 Treasury's organisational structure, staffing and capability, I considered whether:

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

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

Aspects that are going well

Mixed model

The Treasury employs a 'mixed' model for handling OIA requests. In this model, the MAS team performs the administrative functions of assigning OIA requests to the relevant business unit,

tracking the progress of OIA requests, applying redactions, and providing technical guidance on the OIA and Treasury's OIA process. Analysts in the relevant business unit have responsibility for collating relevant information and drafting the response. The roles and responsibilities of those staff involved in the official information process are clearly defined.

Given the depth of subject matter expertise required to respond to complex requests for information, this model appears to be an appropriate fit, and this sentiment was echoed by staff members we spoke to in the course of the investigation.

Escalation process

Where responses are at risk of being late, the Treasury has a sound escalation process. This was described by the agency in the excerpt below, in response to our survey:

If the ministerial advisor feels there is the possibility of missing the deadline, they will escalate to the team leader of MAS, who counsels the policy analyst and the manager about the expectations of meeting the statutory timeframe. Any OIA response that is late is included in the team leader of MAS's monthly report for Kaiurungi (Kaiurungi is the collective name for directors or third tier managers at Treasury). This includes a detailed breakdown of why a response was late.

Ninety-eight percent of those who responded to the question in our staff survey 'Are (the Treasury's) escalation systems effective?' answered 'yes'.

The escalation process is also supported by a weekly spreadsheet sent to team leaders showing which OIA requests are due within the next week.

Training for graduate analysts

In conjunction with the Department of the Prime Minister and Cabinet and the State Services Commission, the Treasury has developed and delivers comprehensive OIA training to its annual graduate cohort. The training:

- highlights the constitutional importance of official information legislation;
- defines what official information is;
- outlines good, conclusive, and administrative reasons for withholding information;
- explains how to apply the public interest test; and
- includes discussion of case studies.

I consider this training to be an excellent introduction to the principles and application of the official information legislation for new public servants, and indeed would be of utility to experienced staff as well. I will discuss the possibility of expanding the Treasury's programme further below, under [Opportunities for improvement](#).

Opportunities for improvement

There are opportunities for improvement in relation to:

- the capacity for the Treasury to respond to increases in the OIA workload and the resulting impact on business as usual (BAU) work;
- expanding its schedule of OIA training, including targeted training to decision makers and communications staff, as well as regular refresher sessions;
- formalising and clarifying delegated authority for decision makers; and
- expanding training offered on Information Management, which currently exists only as online modules.

Organisational capacity

The Treasury has some mechanisms in place for anticipating, planning for, and handling an increase in the OIA workload. The Treasury tries to pre-empt OIA requests on topics perceived to be of high interest by proactively releasing information. Graduates and junior analysts can be redeployed to teams in which additional support is needed to respond to OIA requests, and Treasury has previously hired contractors to cope with increased OIA pressures. I note, though, that only 28 percent of staff survey respondents answered that the agency would cope with an increased workload and still maintain quality standards in the event of a sudden increase in OIA requests.¹¹

A frequent theme among staff survey respondents is that Treasury staff try to cope with increases in OIA demand by working longer hours, and that in times of increased OIA workload there would be a corresponding impact on the Treasury's ability to deliver its other BAU work.

I believe this reflects an imperfect understanding by the Treasury of the resources required to complete other BAU tasks, process OIA requests, *and* be a leader in the proactive release of information. I suggest that the Treasury undertake some method, such as time-sheets or weekly surveys of staff, to determine how much time each business unit spends processing OIA responses and preparing information for proactive release.

The Treasury should also undertake some method of sampling to ascertain the volume of material produced by each business unit that it aims to proactively release. By understanding this, the Treasury will be able to ensure adequate workforce planning that takes into account the resource demands of other BAU tasks as well as the agency's obligations under the OIA, and its intentions around the proactive release of information.

Note that tracking the time spent processing OIA requests need not necessarily become a permanent fixture of the Treasury's practice, as I acknowledge that this in itself is an additional

¹¹ Thirty-five percent of respondents said they thought the agency '*would not cope*'; the remaining 38 percent '*didn't know*'. Note that the percentage does not total 100 due to rounding.

administrative burden for staff. However, it may be of use to the Treasury when assessing its capability to discharge its OIA obligations.

The Treasury provided information on its year-to-date OIA performance, in which I note a relatively high number of extensions (of 250 OIA requests received in the 2017/18 financial year, 84 were extended). I understand that the Treasury receives OIA requests of a type that may make it reasonable to extend on the basis that extensive consultation, or the review of a large quantity of information was required. However, because the Treasury does not record the reasons for extension (which I will discuss further below, under [Performance monitoring and learning](#)) I am unable to determine within the scope of this investigation whether the frequency with which Treasury uses extensions is justified by the nature and complexity of the requests it receives, or whether it may indicate a problem, such as inadequate resourcing.

I would be concerned if the Treasury used extensions to manage the OIA workload rather than ensuring, in the first place, sufficient capacity to respond to requests.

In order to continue to improve its adherence to OIA obligations, while maintaining a comprehensive programme of proactive release of information, the Treasury should develop a clear understanding of the resources required to do so.

Action points

- | | |
|---|---|
| 1 | Ascertain the amount of time spent handling OIA requests in each business unit |
| 2 | Ascertain the volume of information produced which the Treasury intends to proactively release, and how much time is required to prepare that information for release |

The Treasury's response

The Treasury has advised that its ability to implement these action points within the 2019/20 financial year may be impacted by competing demands for Treasury resources because a system change or development is likely to be involved.

I encourage the Treasury to consider how these action points may be implemented in a way that is minimally impactful on its resources. For example, this may be done by piloting the action points in a limited or staggered way, rather than among all business units concurrently.

I look forward to seeing the Treasury's progress on this action point over the course of the year, and I will be in contact on a regular basis.

Delegations

While the Chief Executive of the Treasury is the accountable decision maker on requests for official information,¹² for practical reasons this authority is delegated to managers at the fourth tier level and above.

I am advised by the Treasury that the authority is assumed on the basis of role, and that it is automatically assumed when someone is acting in a fourth tier role. However, other than the authority to sign out responses being reflected in MOTO, it does not appear that the authority is formalised in any way.

In line with the State Sector Act 1988,¹³ I suggest the CE clarify, in writing, the scope and terms of his delegated authority in this respect.

Action point

Confirm and clarify Chief Executive's delegated authority for OIA decision makers

Targeted training and OIA 'refresher' courses

The *Not a Game of Hide and Seek* investigation found that an effective training framework should encompass:¹⁴

- 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.

While employees who enter the Treasury as part of the graduate cohort receive comprehensive introductory training, there are considerable gaps elsewhere in the training provided by Treasury to its staff. Those who join the Treasury outside the graduate cohort, for example, receive no OIA training, other than 'on the job' guidance. The agency also lacks any refresher training or targeted training for different roles.

In particular, decision makers at the fourth tier management level and above should receive targeted training to ensure they are aware of any changes to legislation and current Ombudsman guidance; and so they are able to appropriately apply the provisions of the OIA,

¹² See s 15(4) OIA.

¹³ See s 41(1).

¹⁴ *Not a Game of Hide and Seek*. (December 2015): 65.

including the public interest test. This would help to ensure the Treasury'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 and MAS teams. However, relying on individuals' past experience to make the appropriate decisions leaves the Treasury vulnerable to unintended poor practice and decisions that are passed on to other staff, and then embed into current practice.

As I will discuss in more detail below, under [Current Practices](#), it is also important that the Communications and other public-facing teams receive targeted training to ensure they are aware of their obligations under the OIA when responding to information requests.

Action point

Implement targeted training for the requirements of different roles, ensuring all staff have access to OIA training and regular refresher courses

The Treasury's response

The Treasury has advised that its ability to implement this action point within the 2019/20 financial year may be impacted by competing demands for Treasury resources.

I look forward to seeing the Treasury's progress on this action point over the course of year, and I will be in contact on a regular basis.

Information Management training

Other than online training modules for staff, which are not mandatory to complete, there is no face-to-face training on information management (IM) systems or practice for new starters at the Treasury. I understand that training is sometimes delivered to business units on an ad hoc basis, where it is perceived this may be needed.

This suggests to me that the approach to IM at the Treasury is a 'hands-off' one, with staff reliant on themselves to ensure they are familiar with IM policy and practice. I consider that the Treasury could do more to demonstrate a strong commitment to enabling sound IM practice.

As I will discuss further below, under [Current practices](#), the Treasury is transitioning to Office 365 in the near future, and I understand it intends to support the transition with training and guidance for staff on this new software. This would be an ideal time to implement additional IM training for staff on its existing policies and systems, and should be supported by messaging from senior leaders about the importance of compliance with IM policies.

Action point

Develop and deliver training for staff on information management policies and systems

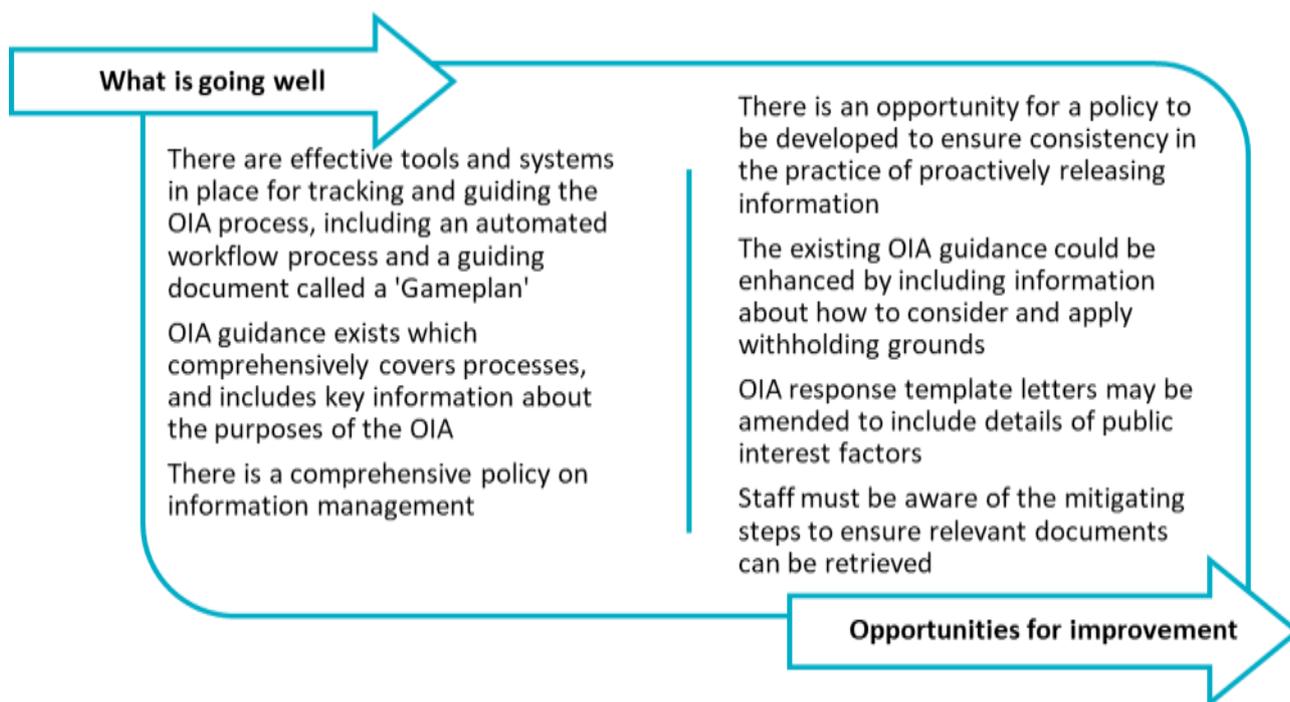
The Treasury's response

The Treasury has advised that its ability to implement this action point within the 2019/20 financial year may be impacted by competing demands for Treasury resources.

I look forward to seeing the Treasury's progress on this action point over the course of year, and I will be in contact on a regular basis

Internal policies, procedures and resources

At a glance



While it is not a legislative requirement, nor an assurance that compliance with the OIA will follow, I do expect as a matter of good practice that the Treasury develops or adopts 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 that will enable them to effectively process requests and make good decisions consistent with the provisions in the Act.

To assess the Treasury'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 official information;
- records and information management; and
- proactive release of information.

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

Aspects that are going well

Workflow management

The Treasury has some excellent tools and processes in place to facilitate OIA timeliness, and to guide staff through the OIA process. A workflow management tool called MOTO is used to log and track OIA requests. Once entered into this system, the OIA request is assigned to the responsible analyst in the MAS team, and to the Group Manager (GM) of the relevant business unit. The GM then assigns the request to an analyst in his or her team to collate the information and draft a response.

The progress of the response is tracked in MOTO, which also produces automated reminders to the responsible staff member(s) throughout the process. The Treasury uses data taken from MOTO to produce a spreadsheet of OIA responses due within the next week. The spreadsheet is sent to all GMs, prompting action on requests where required and making GMs visibly accountable for the OIA timeliness of their respective teams. As well as being a tool for tracking workflow, template letters for responding to OIA requests are also accessed by staff through MOTO.

'Gameplan'

When an analyst is assigned an OIA request, it is accompanied by a 'Gameplan'. This is a brief, two-page guiding document that includes helpful prompts to staff on:

- whether coordination with other agencies, or clarification from the requester is required;
- the deadline for transferring the request, if applicable;
- the teams within the Treasury that may be contacted to provide assistance;
- the sections of the OIA relating to withholding grounds, and links to the legislation; and
- the steps in the Treasury's OIA process and when they should be completed in order to ready a response within the statutory time-limit.

The Gameplan is an excellent tool to guide the OIA process, particularly for staff assigned OIA requests infrequently, who therefore have a greater need for guidance through the process.

Positive aspects of OIA guidance

The Treasury has produced a comprehensive 41-page document, '*OIA Guidance Document*' available to staff on its intranet and linked from the 'Gameplan' (see above). I am pleased to note the inclusion of some key information, including:

- a statement, given primacy in the document, that OIA obligations are considered to be part of Treasury's core business;
- the purposes of the OIA;
- the principle of availability;

- a statement that decisions on OIA requests must be made '*as soon as reasonably practicable*';
- a clear outline of the key responsibilities of different roles in the Treasury's OIA process; and
- how and when it might be necessary to contact a requester to clarify or refine their request.

The OIA Guidance Document is supplemented by some additional information on Treasury's intranet, Huihui, located on the MAS team's page of the 'People and teams' section. This has some helpful additions to the guidance document, including a definition of official information, and information on the duty to give reasonable assistance to requesters. I also consider the information is presented in a more user-friendly format than the guidance document itself. However, the section pertaining to identifying what type of requests are OIA requests, which is potentially useful to the Communications and Information Services teams, is unfortunately empty of content, and appears not to have been updated since 2017.

Information management policy

The Treasury has a comprehensive information management policy (referred to as *Record keeping policy*), which covers:

- creation, maintenance and storage of records;
- what a 'record' is;
- information security;
- disposal of records; and
- assigned responsibilities for different roles.

I note that one of the assigned responsibilities for all staff is to '*attend document management training so you know how to create, save and search for documents and emails using the document management system*'. I discussed my view of the level of training that Treasury has made available to its staff earlier, under [Organisation structure, staffing and capability](#).

Opportunities for improvement

There are opportunities for improvement in relation to:

- development of a policy for the proactive release of non-budget information;
- the Treasury's OIA guidance—though generally sound, some amendments are suggested;
- OIA response template letters could be updated to highlight public interest considerations;
- the practice of using the information management system to store business emails; and

- ensuring all staff are aware of the issue around visibility of protected documents when searching for information, and how to mitigate this risk.

Policy for proactive release of information

While Treasury produces a guidance document annually to support the proactive release of Budget information, a parallel policy guiding non-Budget information release is under development.

Staff we spoke to explained that individual business units are responsible for identifying the information produced by their team that may be appropriate for proactive release. Business units then work with the Communications, MAS, and Web and Publishing teams to prepare the information for publication. This ad hoc system, absent a guiding policy, may result in inconsistent performance between business units in their proactive release of information.

Staff told us that the proactive release of information could be hindered because they lacked time to identify, analyse, prepare, and release information, in addition to completing their BAU tasks. From our survey of agency staff:

Resistance comes because of lack of resource for preparing material for pro-active release eg consulting on redactions, marking them up, preparing them as PDFs suitable for publication etc.

It appears the Treasury may not have developed an accurate measure of the resources required to proactively release information to the level I believe it aims to achieve. I discussed this earlier, under [Organisation structure, staffing and capability](#).

In addition, while Treasury's practice of proactively releasing information is laudable, the release of large amounts of information, absent a policy or strategy, may have the contrary effect of inhibiting users' ability to interact with the information by overwhelming them with sheer volume. I would encourage the Treasury to develop a policy around its proactive release of information, which should include identifying:

- the consumers of the information the Treasury releases;
- the information they want to know; and
- how they interact with or use the data.

This will allow the Treasury to prioritise the release of information in highest demand, and in such a format that it can be effectively analysed and used by consumers.

A proactive release policy should also identify how the Treasury intends to comply with Government Web Standards around document accessibility.

A strategic approach to the proactive release of information may reduce the amount of OIA requests or, at least, help requesters to make their requests more targeted.

Action point

Prioritise the development of a proactive release policy for non-Budget documents

Opportunities to enhance OIA guidance

While the existing OIA guidance is generally sound, there are some areas that could be further improved, expanded on, or updated.

The guidance document was described by a staff survey respondent as being ‘dense’, making it difficult to use especially when trying to find specific information. I would also note that the document has a strong focus on the Treasury’s OIA process, which is intertwined with the guidance it offers on the legislation itself. The Treasury may wish to consider separating the two aspects of the guidance, which may make it easier to navigate for users.

There is little guidance for staff within this document on how to approach decisions on withholding information, and what factors should be taken into consideration when doing so. Several staff commented that the Treasury used to have a helpful guidance document on the application of withholding grounds, but this is no longer available following a transition to a different information management system. While it is positive that the Treasury’s guidance directs staff to the OIA guidance on the Ombudsman website, it can be helpful for staff to have access to examples that relate specifically to the nature of their work, in addition to the guidance produced by my Office.

Treasury’s guidance document has some advice in relation to withholding staff names and contact details which is outdated, and which the Treasury has advised me does not occur in practice. The section in question advises staff that:

Name and all contact details of staff level analyst and below should be withheld under free and frank grounds s9(2)(g)(i)

Staff we spoke to advised that a practice has also developed of withholding staff’s direct dial phone numbers pursuant to section 9(2)(k) of the OIA which allows for information to be withheld if it could be used for improper gain or improper advantage. This is in response to some ‘phishing’¹⁵ events.

The Treasury has advised me that, in practice, analysts will consider these issues on a case-by-case basis, considering whether a harm is identified that might result from the release of the information, and whether that is outweighed by factors in the public interest to release it. I would therefore suggest the OIA Guidance Document is updated to highlight that withholding grounds must always be considered on a case-by-case basis. This should also be highlighted in training for staff.

¹⁵ Phishing is the fraudulent attempt to obtain sensitive information such as usernames, passwords, by representing as a trustworthy entity.

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);
- dealing with urgent requests;
- how to apply the withholding provisions and the public interest test;
- how to scope the request and ensure all relevant information is identified;
- documenting searches undertaken for the information within the scope of the request; and
- documenting reasons for each item of information withheld and the agency's consideration of the public interest.

In addition to the suggestions above, the Treasury may wish to take the opportunity while revising its guidance to survey staff to see what information would be of most use to them, and incorporate their suggestions where appropriate.

Action points

Review and revise OIA guidance, incorporating my suggestions

Document retrieval

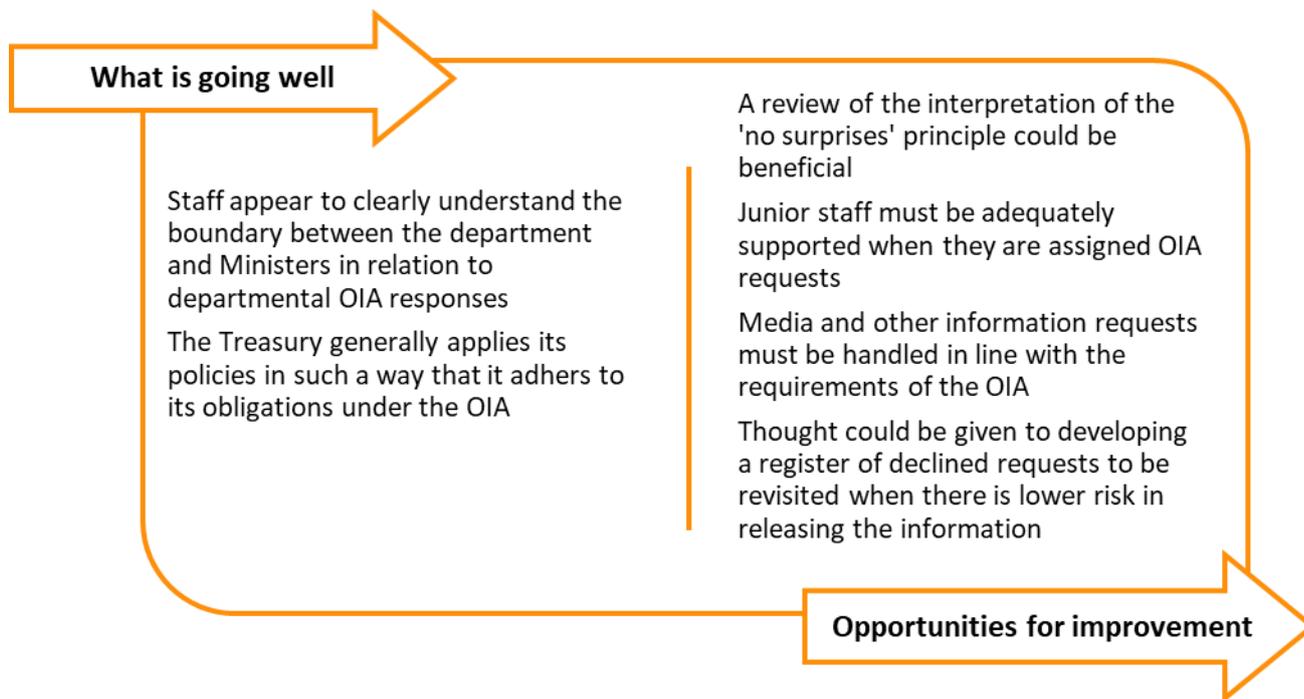
An issue exists around the visibility of protected documents. Such documents will not appear in search results, even by title, if the staff member searching for the document lacks permission to open it. This presents a risk that not all information within the scope of an OIA request will be found and provided to the requester.

I understand that the Treasury is aware of the risk and, to mitigate it, gives expanded iManage access to MAS staff, who can assist drafting analysts with document searches. The Information Management team can also assist with searches for information. However, all staff must be aware both of the issue around protected documents, and which business units can assist in searching for documents, in order for this mitigating step to work.

I suggest that this issue is highlighted in Treasury's OIA guidance, and addressed in OIA and information management training for staff, which I discussed earlier, under [Organisation structure, staffing and capability](#).

Current practices

At a glance



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 Treasury, I considered whether:

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

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

Aspects that are going well

Interaction with Ministers' offices

Tier four managers have delegated authority from the CE of the Treasury to sign out OIA responses. Although this may appear to be a relatively low tier when compared to some other

government agencies, this is a considered decision by the Treasury to ensure OIA responses are signed out by managers with a high level of understanding of the relevant subject matter.

Staff we spoke to seemed to understand clearly the boundaries between the Treasury and its Ministers in relation to departmental OIA responses, stating that responses are sent to Ministers' offices for their information only, not for their input unless it is specifically sought. The CE has also provided a clear, written message to staff that the release of OIA responses should never be delayed because they have not heard back from Ministers whom they are advising under the 'no surprises' principle. I note, though, that this statement contrasts with the advice given in the OIA Guidance Document on this topic. I will discuss this, and the Treasury's interpretation of the 'no surprises' principle further below, under [Opportunities for improvement](#).

Adherence to OIA obligations

Generally, the Treasury's application of its policies allow it to comply with its obligations under the OIA. In particular, the Treasury has placed a strong focus on improving its compliance with OIA timeliness obligations, as I discussed earlier under [Leadership and culture](#).

Improvements to practice can always be made, however, and throughout the course of my investigation I have identified instances in which Treasury's practice did not align with its policies. The Treasury should ensure that a staff member with sound OIA technical knowledge, whether a MAS advisor or a member of the legal team, is available to provide support to staff members handling OIA requests. Equally, staff involved in handling requests must know enough about the OIA to recognise the limits of their expertise, and to seek assistance where required.

I am optimistic that with consistent support and oversight from the MAS and legal teams, combined with comprehensive training and refresher courses delivered to all staff (discussed earlier under [Organisation structure, staffing and capability](#)), the Treasury will be better able to move towards even greater improvements in adherence to its OIA obligations, not just in terms of timeliness, but in the quality of its decision making.

Opportunities for improvement

There are opportunities for improvement in relation to:

- the Treasury's interpretation of the 'no surprises' principle;
- documenting the decision making behind OIA responses, including consideration of the public interest;
- handling media and other information requests in accordance with the OIA; and
- the distribution of OIA requests amongst team members;

Interpretation of the ‘no surprises’ principle

The Treasury routinely refers some OIA responses to the relevant Minister’s office five days in advance of the statutory 20 working-day deadline. Treasury advised that it is ‘rare’ for genuine consultation to take place; responses are most often sent for the information of the Minister under the Cabinet Manual’s ‘no surprises’ principle.¹⁶

In determining which responses should be referred to Ministers’ offices, staff are guided by Treasury’s internal OIA Guidance Document, which states that:

If a Treasury OIA release is likely to attract public comment, or if it is from a political party or the media, you must inform the Minister of the release at least five working days before the information is due to be released.

I understand Ministers’ 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 Treasury’s ‘no surprises’ obligation to the Minister may be met by providing a copy of the Treasury’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 Treasury at risk of failing to meet its statutory obligation to make and communicate a decision on an OIA request ‘as soon as reasonably practicable’ and, once the Treasury has made its decision, to release information ‘without undue delay’. It could also enable suspicion and mistrust to grow as to the politicisation of the Treasury’s decision.

An additional concern is a guideline in the OIA Guidance Document, which advises staff that if they have sent a response to the Minister, ‘you must wait until the signed copy of your report is returned from the Minister’s office before you release the information’. This puts the Treasury at risk of breaching the statutory 20 working day timeframe to communicate a decision. I note that the guidance was last updated in September 2016, and it contrasts with a more recent (20 September 2017) message from the CE to managers in which he said:

You and your team leaders have my personal support to sign out OIA responses on time, every time, even if we have not heard back from those that we inform under our no surprises approach.

I suggest the Treasury update its OIA Guidance Document to reflect the latter approach. I also suggest the Treasury review and enhance its policy and practice in relation to its interaction with Ministers. I published guidance on [Dealing with OIA requests involving Ministers](#) which may assist with this. The Treasury should also consider developing a written protocol in consultation with its Ministers on how requests that need to involve Ministers will be handled. This should include how to apply the ‘no surprises’ principle in a way that does not make the agency vulnerable to possible breaches of the OIA and/or suspicion that it is enabling potential political interference in the decision.

¹⁶ ‘Cabinet Manual’. (2017): Paragraph 3.22

Action points

Undertake a review of policies and procedures around interactions with Ministers' offices

Update OIA Guidance Document to reflect that departmental OIA responses should not be delayed pending Ministers approval or comment

Media and other information requests

Treasury has a Communications team responsible for responding to straightforward information requests from the media. I understand the need for a mechanism to swiftly process requests according to the demands of the 24-hour news cycle; however, agencies must be mindful that such requests are governed by the OIA.¹⁷ For example, requests from the media on which a decision is made by the Treasury to decline in full or in part must be communicated in accordance with section 19 of the OIA, which requires that an agency:

- 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.

Therefore, it is pleasing that Treasury's media policy states:

While we follow a less formal procedure for many media enquiries than we do with other official information requests, staff should still follow the principles governing the release of official information

In order to give effect to this aspect of its policy, Treasury must ensure its Communication team has specific guidelines and training on their obligations under the OIA. I discuss the tracking of media requests, and their inclusion in OIA reporting statistics, further, under [Performance Monitoring and Learning](#).

Action point

Ensure that the Communications team receive targeted training in order that media information requests are handled in accordance with the provisions of the OIA

¹⁷ This applies only to requests seeking information already held by the Treasury as described, not requests for the creation of new information, such as a request for comment on an issue.

The Treasury's response

The Treasury has advised that its ability to implement this action point within the 2019/20 financial year may be impacted by competing demands for Treasury resources.

I look forward to seeing the Treasury's progress on this action point over the course of the year, and I will be in contact on a regular basis.

I am also advised that enquiries received by Information Services may be forwarded directly to the relevant business unit if it is considered that an analyst or economist in that unit can quickly answer the request. I have no concern about questions being responded to swiftly, without being entered into a 'formal' official information process. However, as with requests from the media, these must also be handled in line with the OIA, and should be included in OIA reporting.

Information Services

As I discussed earlier, under [Leadership and Culture](#), emailed requests for information were, until recently, received by the Information Services group, which would redistribute them to what it deemed to be the appropriate business unit. I am pleased that the Treasury has now added to its website an email address for the MAS team so information requests can be sent directly to them. The removal of the extra administrative layer in this process will give Treasury analysts valuable time needed to consider requests.

Although the MAS team is listed on the Treasury website as the direct contact for official information requests, it seems inevitable that requests for information will still be received by Information Services from time to time, as their email address is the contact for 'general enquiries'. Therefore, it is important that the Information Services team receive targeted training on aspects of the OIA that are relevant to their role, such as what official information is (and is not), recognising an official information request, and when the agency has an obligation to transfer a request for information to another government department.

Identifying training needs for the Information Services team should form part of the suite of training improvements I discussed earlier under [Organisation structure, staffing and capability](#).

Action point

Ensure that the Information Services team receives OIA training targeted to the requirements of their role

The Treasury's response

The Treasury has advised that its ability to implement this action point within the 2019/20 financial year may be impacted by competing demands for Treasury resources.

I look forward to seeing the Treasury's progress on this action point over the course of the year, and I will be in contact on a regular basis

Distribution of OIA requests within business units

A number of staff we spoke to mentioned that some business units, as standard practice, assign the task of responding to OIA requests to graduate or junior team members. Some staff noted that they see a difference in the quality of responses between those units that assign OIA requests to junior staff, and those that assign them to more experienced staff.

I do not consider there is anything inherently wrong with the practice of assigning OIA requests to junior staff; it is, arguably, a good way to introduce newer team members to the nature of work undertaken by their team. It is crucial, however, that senior team members and managers offer adequate and early support to junior analysts if they are assigned responsibility for responding to OIA requests.

Without support from senior team members and managers, there is a risk that junior staff, lacking OIA experience and institutional knowledge, will make avoidable errors or oversights, such as incorrectly scoping the request, which may lead to delays further in the process.

It is self-evident that business units must be sufficiently resourced to provide the necessary support to junior staff. As such, it is important that the Treasury has an accurate assessment of the amount of time each business unit spends responding to OIA requests so this can be factored into workforce planning, along with other BAU tasks. I discussed this earlier, under [Organisation structure, staffing and capability](#).

Action point

Ensure business units are adequately resourced with staff able to provide oversight and support to junior staff early in the OIA process

Information management system and practices

The Treasury uses a system called iManage to store information. A number of staff we spoke to raised issues about the use of the IM systems. In particular, it appears the practice of storing substantive business emails in iManage is not fully embedded. Staff spoke of instances when an OIA request on a given topic was received, the analyst to whom it was assigned would have to send an email around the business unit, prompting staff to save relevant emails retrospectively in order that they could collate the information required to respond to the request. There is an obvious risk that if staff do not routinely store their emails in iManage, the information may not be retrieved if staff members are away, or have left the agency.

I note that the Treasury is transitioning to a new suite of business software (which is in addition to its existing information management systems, not a replacement). I consider that this transition affords a valuable opportunity for the CE and senior leaders to support the IM team to champion good information management practice, and to highlight how this supports robust OIA responses and transparency. The same sustained focus placed by leadership on OIA timeliness, which appears to have achieved great success, may usefully be applied to embedding sound IM practice, including the timely storage of business emails.

Action point

Action point

Senior leaders to champion sound information management practices

Register of information withheld

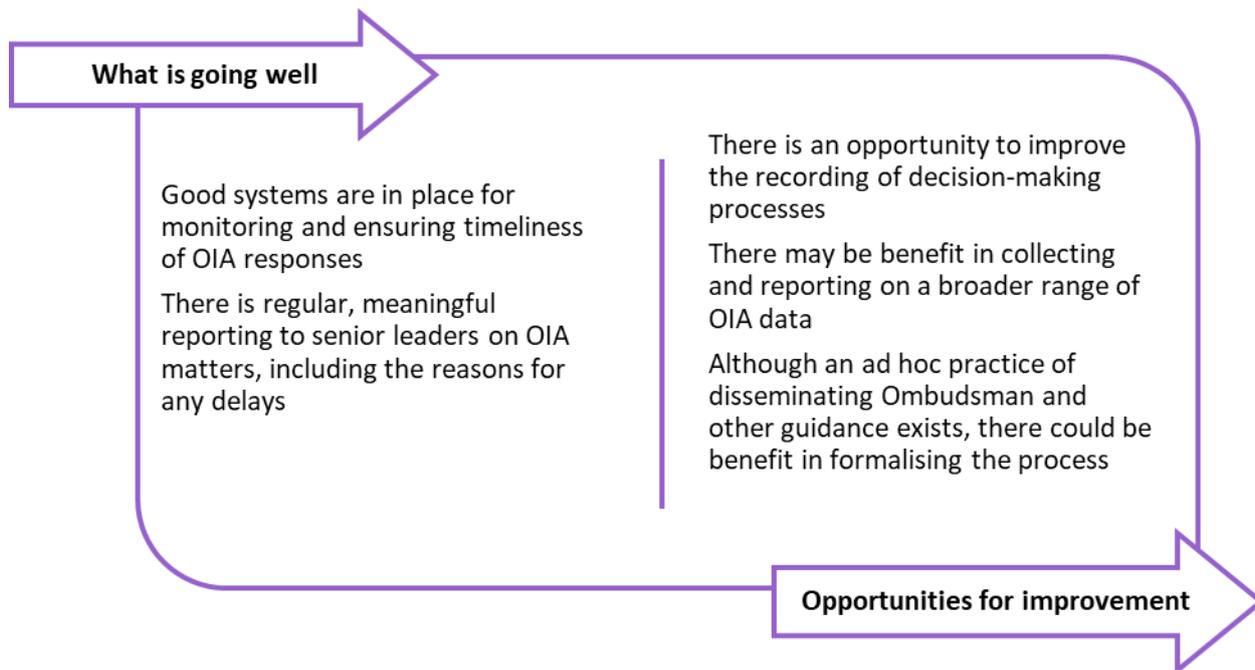
The Treasury doesn't record the number of OIA requests granted in full or in part, or refused in full. As I discuss further below, under [Performance monitoring and learning](#), the Treasury may benefit from recording information of this type. For example, it could build a 'knowledge bank' of the Treasury's approach to withholding grounds which could be used to train and guide staff, ensuring a consistent approach. Another use for this information may be to create a register of information requests refused because the information requires temporary protection, such as when it is under active consideration by a Minister.

I am advised by Treasury staff that, where information is refused in an OIA response, it is often section 9(2)(f)(iv) of the OIA which is considered applicable. This section of the OIA provides that information may be withheld in order to '*maintain the constitutional convention protecting the confidentiality of advice tendered by Ministers and officials*'. This section generally provides temporary protection for advice related to ministerial or Cabinet decision making. However, once the relevant decisions have been taken and any necessary political consultations or negotiations concluded, there is usually no need for ongoing protection of the advice under this section.

As a matter of good practice, the Treasury may wish to develop a register of information requests declined in full or in part where the information requires only temporary protection, which may assist when considering proactive release of information.

Performance monitoring and learning

At a glance



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 for 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 Treasury in relation to requests for official information, I considered whether:

- the Treasury 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 Treasury's management performance in respect of official information requests; and
- the Treasury learns from data analysis and practice.

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

Aspects that are going well

Processes to ensure timeliness

Following a dip in OIA timeliness statistics in the 2016/17 financial year, the Treasury has put a strong emphasis on improving its OIA timeliness. Based on its timeliness results at this stage in the financial year, it appears the Treasury has indeed improved its performance in this area. The Treasury's performance monitoring process and systems have played a large part in this.

OIA statistics are reported to the Treasury leadership team, Kaiurungi, on a monthly basis. As well as reporting on number and type of requests being handled by each business unit, I am pleased to note that Kaiurungi also discusses the reasons for any delays. As well as promoting accountability, this type of discussion may help identify areas where business improvement initiatives could best be focused, including where additional resourcing or training is required.

These discussions may also inform decisions on the proactive release of information where there is a current topic of interest on which requests are being made frequently.

Opportunities for improvement

There are opportunities for improvement in relation to:

- collation and analysis of OIA performance data;
- the recording of the decision-making process; and
- formalising a system to disseminate Ombudsman and SSC guidance and feedback.

Analysis and reporting of OIA performance data

While timeliness and throughput are important, other measures (like the outcome of a request) are equally important. An undue focus on timeliness can incentivise fast, but poor quality, decisions. There is an opportunity to collect more meaningful information about the Treasury's OIA performance. In addition to timeliness compliance rates, the Treasury should consider whether collecting any or all of the following information could be of benefit:

- the type of request (Part 2, 3 or 4 of the OIA);
- the type of requester;
- the number, length and reason for extensions;
- the outcome of the request (granted in full, granted in part, refused in full);
- where requests are refused in full or in part, the reasons information was withheld;
- the number and amount of charges made and collected;

- the time from receipt of the request to release of the information;

The Treasury could also collect additional data on resourcing needs. As discussed above, under [Organisational Structure, Staffing and Capability](#), the Treasury may benefit by collecting data related to staff time spent on OIA work, and on preparing information for proactive release.

Another issue to note is the importance of capturing data on information requests that are handled outside the 'formal' OIA process. At present, requests for information received by the Communications team are tracked by that team's own tracking system, but are not included in OIA tracking overall. There may also be instances in which requests are directed toward a particular business unit to provide a direct response to a requester, therefore are not captured through the workflow system. This results in not only an incomplete picture of the Treasury's OIA performance, but also how open and transparent it is. It is also highly likely that the inclusion of media information requests in OIA reporting would result in an improvement of its rate of compliance with OIA timeliness obligations.

While the Treasury may need separate reporting systems for the MAS and Communications teams to gauge their respective performances and workloads, I strongly encourage the Treasury to base its reporting on OIA compliance on the combined total of OIA requests handled across all teams.

Action points

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

Include OIA requests handled by the Communications team in OIA statistical reporting

The Treasury's response

The Treasury has advised that its ability to implement these action points within the 2019/20 financial year may be impacted by competing demands for Treasury resources.

I look forward to seeing the Treasury's progress on this action point over the course of year, and I will be in contact on a regular basis.

Record of decision making process

The Treasury does not appear to record its decision-making process on OIA requests in one discrete place which is accessible to all staff to assist as a reference point in the handling of future requests.

OIA responses which are sent to a Minister are accompanied by a 'Treasury report' which includes a section 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 'why'). As a result, the Treasury's decision making process can only be presumed or drawn from inference based on

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.

An important aspect of performance monitoring is that it enables the Treasury 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 Treasury to locate similar, previous requests to either ensure consistency of decision making or justify departure from a standard line of response. The Treasury may wish to consider building a step into their decision making process whereby similar requests are scanned, which will also help to ensure consistency of decision-making.

Where appropriate, the Treasury 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 Treasury 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 Treasury to respond to an Ombudsman's investigation, and to provide grounds in support of its reasons for refusing an OIA request, if they are sought by the requester.¹⁸ Moreover, it represents a missed opportunity to create a repository of knowledge about how the Treasury makes decisions on OIA requests, thereby developing a consistent approach.

Action points

Record reasons for OIA decisions, including consideration of the public interest if applicable in a manner that is accessible to staff

Record administrative steps behind OIA responses where this may be necessary

The Treasury's response

The Treasury has advised that its ability to implement these action points within the 2019/20 financial year may be impacted by competing demands for Treasury resources.

I look forward to seeing the Treasury's progress on this action point over the course of the year, and I will be in contact on a regular basis

¹⁸ See s 19(a)(ii) OIA.

Mechanisms for distributing guidance and updates

As noted above, the Treasury currently has an ad hoc system for disseminating updates from my Office and SSC, with the responsibility for this generally resting on individuals in the MAS team to pass on relevant updates to the business units with which they work most frequently. There are inherent risks with this, especially if key individuals are away, or leave the Treasury. There would therefore be a benefit in developing a formalised mechanism to share updates throughout the Treasury, whether this be by email, use of the intranet or meetings. This will help to ensure that the information reaches the relevant people, and creates the ability to discuss best practice throughout the Treasury.

Action point

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

Appendix 1. Official information practice investigation — terms of reference

The Treasury

4 October 2018

This document sets out the terms of reference for a self-initiated investigation by the Chief Ombudsman into the practices of the Treasury relating to the Official Information Act 1982 (OIA).¹⁹

Purpose of the investigation

The investigation will cover how your 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.²⁰

Scope of the investigation

The investigation will evaluate the Treasury'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

¹⁹ See sections 13(1) and 13(3) of the Ombudsmen Act 1975 (OA).

²⁰ 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.

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 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 Treasury'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	1 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

A member or members of staff with responsibility for	Approximate time required
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 Treasury's official information practices. The draft will be provided to the Chief Executive for comment.

The Chief Ombudsman is required to consult with the Minister before he forms the final opinion, if the Minister so requests.²¹

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 Treasury 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.²²

²¹ See section 18(4) Ombudsman Act 1975.

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 Council'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.

²² The Chief Ombudsman may also table a final report in the House of Representatives in specific cases/circumstances.

Appendix 2. Key dimensions and indicators

Introduction

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

[Leadership and culture](#)

[Organisation structure, staffing and capability](#)

[Internal policies, procedures and resources](#)

[Current practice](#)

[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.

Note: Where this document refers to 'official information requests', this includes requests made under Part 2, Part 3, Part 4 and applications for Land Information Memoranda under section 44A.

Leadership and culture

Achieving the purposes of the Act²³ 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, championing positive engagement with official information legislation

Elements	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"> ✓ 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 ✓ 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 ✓ Leaders demonstrate clear knowledge and support of the Act's requirements ✓ Leaders encourage staff to identify areas for improvement and provide the means for suggesting and implementing them when appropriate ✓ Leaders make examples of good practice visible ✓ A visible and explicit statement exists about the agency's commitment to openness and transparency about its work

²³ '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

Elements	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"> ✓ The agency has a strategic framework committed to promoting <ul style="list-style-type: none"> – Compliance with the Act – Good practice – A culture of openness and continuous improvement – Participation and access to information by the public and stakeholder groups ✓ Senior leadership takes an active role in the management of information ✓ A senior manager has been assigned specific strategic responsibility and executive accountability for official information practices including proactive disclosure ✓ Senior managers have accountabilities for compliance with the Act ✓ Appropriate delegations exist for decision makers and they are trained on agency policies and procedures and the requirements of the Act ✓ Senior leaders model an internal culture whereby all staff: <ul style="list-style-type: none"> – Are encouraged to identify opportunities for improvement in official information practice (including increasing proactive disclosure) and these are endorsed and implemented – Are trained to the appropriate level for their job on official information policies and procedures and understand the legal requirements – Have compliance with the Act in their job descriptions, key performance indicators, and professional development plans ✓ 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

Elements	Things to look for (indicators)
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	<ul style="list-style-type: none"> ✓ 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"> – Regular stakeholder meetings and surveys – Reviewing and analysing requests and media logs – Reviewing and analysing website searches ✓ There is clear senior leadership commitment to the agency publishing information about: <ul style="list-style-type: none"> – The role and structure of the agency – Internal rules and policies – Details of current or planned work programmes, including background papers, options, cabinet papers and consultation documents – Corporate information about expenditure, procurement activities, audit reports and performance – Monitoring data and information on matters the agency is responsible for – Information provided in response to official information requests – Other information held by the agency in the public interest ✓ 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"> – What official information it holds – How it can be accessed or requested by the public and its stakeholders – How to seek assistance – What the agency's official information policies and procedures are (including charging) – How to complain about a decision ✓ The agency makes information available in different formats, including open file formats ✓ The agency's position on copyright and re-use is clear ✓ The public and stakeholders perceive the agency to be open and transparent

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.

Elements	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"> ✓ An appropriate, flexible structure exists to manage official information requests which is well resourced reflecting the: <ul style="list-style-type: none"> – Size of the agency – Number of requests received (and from whom, public, media, other) – Number or percentage of staff performing official information functions in the agency – Percentage of time these staff are also required to undertake other functions – Need to respond within statutory time limits – Use of staff time, specialisations, structural resilience ✓ Roles and responsibilities are clearly defined: <ul style="list-style-type: none"> – 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 compliance²⁴ – Decision makers are sufficiently senior to take responsibility for the decisions made and are available when required, and if not, resilience arrangements exist. – The official information function is located in an appropriate unit or area within the agency

²⁴ This indicator is also relevant to performance monitoring and learning

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

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.

Elements	Things to look for (indicators)
Good official information policies, procedures and resources	<ul style="list-style-type: none"> ✓ Good policies, procedures and resources exist for receipt and assessment of requests, which cover: <ul style="list-style-type: none"> – What is official information – Identifying the type of official information request received (Part 2, 3 or 4 of OIA and LGOIMA) and distinguishing from Privacy Act requests – Identifying the scope of the request – Consulting with and assisting the requester – Establishing the eligibility of a requester when necessary – Logging requests against a standardised definition – Acknowledging receipt of the request – Establishing statutory time limits and tracking the handling of the requests – Identifying who in the agency should respond to the request – Establishing criteria for deciding whether, and if so, how a response to a request should be provided urgently – Managing potential delays (including the reasons for them, the escalation process and invoking the extension provision) ✓ Good policies, procedures and resources exist for information gathering on requests, which cover: <ul style="list-style-type: none"> – Identifying the information at issue – Searching, finding and collating the information at issue – Documenting the search undertaken for the information within the scope of the request (including time taken if charging is likely) – Transferring requests to other agencies or Minister(s) and advising the requester – Consulting officials within the agency and third parties – 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

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> - Engaging with Ministers on official information requests ✓ Good policies, procedures and resources exist for decision making on requests, which cover: <ul style="list-style-type: none"> - Making a decision whether to release the information - Making a decision on the format in which information is released - Making a decision whether to charge for the release of information - Guidance on application of withholding or refusal grounds relevant to requests made under Parts 2, 3 and 4 - Guidance on any statutory bars on disclosure relevant to the legislation the agency administers - Imposing conditions on release where appropriate - Advising the requester of the decision - Recording reasons for each item of information withheld, and the agency's consideration of the public interest in release where required ✓ Good policies, procedures and resources exist for releasing requests, which cover: <ul style="list-style-type: none"> - Providing the information in the form requested - Preparing information for release (including deletions) ✓ 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. ✓ The agency's official information policies, procedures and resources are regularly reviewed and up-to-date ✓ Staff find them useful and easy to access

Elements	Things to look for (indicators)
Good records and information management policies, procedures and resources	<ul style="list-style-type: none"> ✓ Staff are able to identify, access and collate information that has been requested under the Act ✓ 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 ✓ The policies and procedures cover aspects such as: <ul style="list-style-type: none"> – Creating, organising, maintaining and storing records – Managing and modifying records – The security of information – A guide to determining which records systems exist and what information each holds – Retaining, retrieving and disposing of records – Both manual and electronic records, including personal e mail accounts, instant messaging and text messages – Assigned responsibilities and performance criteria for records and information management by staff – The provision of secure audit trails – Annual/periodic audits of records ✓ These policies and procedures are regularly reviewed and up-to-date ✓ Staff find the policies and procedures useful and easy to access

Elements	Things to look for (indicators)
Good proactive release policies, procedures and resources	<ul style="list-style-type: none"> ✓ The agency has accurate and comprehensive proactive release policies and procedures ✓ The policies and procedures cover the release of such things as: <ul style="list-style-type: none"> – Information that has been released in response to official information 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 official information 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 – Minutes, agendas, and papers of advisory boards or committees – Information about regulatory or review activities carried out by agencies ✓ 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 ✓ 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 ✓ The policies outline how and where the information should be made available for access, and if any charge should be made ✓ They are regularly reviewed and up-to-date ✓ Staff know about the agency’s proactive release policies and procedures ✓ Staff find them useful and easy to access

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.

Elements	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"> ✓ The agency complies with maximum statutory timeframes to transfer, extend, decide on requests, and release official information ✓ Requests are handled in accordance with the applicable law (Privacy Act, Part 2 OIA, section 22 OIA, section 23 OIA, Part 4 OIA) ✓ The agency makes appropriate use of the withholding grounds and administrative reasons for refusal ✓ The agency makes appropriate use of the mechanisms for dealing with large and complex official information requests ✓ The agency gives proper consideration to the public interest in release of official information, and explains this to requesters ✓ The agency interprets the scope of official information requests reasonably ✓ The agency consults with, and provides reasonable assistance to requesters ✓ The agency consults appropriately with third parties ✓ Ministerial involvement in agency official information decision making is appropriate ✓ Official information is released in the form requested unless there is a good reason not to ✓ Consideration is given to releasing information in accessible formats ✓ Staff regularly use the Agency's policies and procedures

<p>Good record keeping and management practices</p>	<ul style="list-style-type: none"> ✓ 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 ✓ 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) ✓ 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>
<p>Good proactive release practices</p>	<ul style="list-style-type: none"> ✓ The agency's entry in the <i>Directory of Official Information</i> is full, accurate and likely to assist requesters, and is linked to from, or reproduced on, the agency's own website ✓ The agency publishes useful information online including the types of information described in the Good proactive release policies, procedures and resources indicator ✓ The agency publishes information in multiple formats, and applies open use standards ✓ The agency's position on copyright and re-use is clear ✓ Staff regularly use the Agency's proactive release policies and procedures

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"> ✓ Performance measures include: <ul style="list-style-type: none"> – Quantity – e.g, the number of requests, from where and the number processed – Efficiency – e.g, duration of request handling, number of responses that exceed legislative maximum time limits, the reasons for any delays – Quality- e.g, 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 – Monitoring of opportunities for proactive release – e.g, identifying common types of requests or a high number that indicates information that could be made available ✓ The agency collects data about its performance under the Act including such things as: <ul style="list-style-type: none"> – The number of requests – The type of request (Part 2, 3 or 4 of the Act) – The type of requester – The information sought – The number and reason for transfers, and whether the transfer was made in time – The number, length and reason for extensions – The outcome of the request (granted in full, granted in part, refused in full, withdrawn or abandoned) – The number and amount of charges made and collected – The grounds on which information was withheld or the request refused – Whether the requester was consulted prior to any refusal under section 18(f) or 17(f) – Whether the Minister was consulted on the decision – Whether the decision was notified to the Minister – Whether, and which, third parties were consulted – The time from receipt of the request to communication of the decision – The time from receipt of the request to release of the

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

Element	Things to look for (indicators)
The agency learns from data analysis and practice	<ul style="list-style-type: none">✓ 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>✓ The agency monitors relevant data, guidance and publications, including those produced by the Ombudsman and State Services Commission✓ The agency monitors the outcome of Ombudsman investigations and reports these to relevant staff, including official information decision makers✓ 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✓ The agency periodically reviews its relevant systems, structures, and compliance with policies and procedures✓ The agency actively participates in initiatives to share and discuss best practice externally, for example through forums, interest groups, networks and communities of practice