

## Substantial collation or research

A guide to section 18(f) of the OIA and section 17(f) of the LGOIMA

*Section 18(f) of the OIA (section 17(f) of the LGOIMA) is one of a number of mechanisms under the Act for dealing with requests for information that are administratively challenging to meet.*

*It enables a request to be refused—as a last resort, once an agency has attempted or at least considered attempting all the other mechanisms that are available to manage the request—if it cannot be met without substantial collation or research.*

*This guide explains what is meant by ‘substantial collation or research’. It also provides guidance on some of the other mechanisms that are available to agencies to deal with administratively challenging requests.*

*It has practical resources including a step-by-step work sheet for dealing with administratively challenging requests, and template letters.*

*All references to section 18(f) of the OIA in this guide should also be taken as references to section 17(f) of the LGOIMA, as the wording of these provisions is identical.*

This guide is published under the authority of the [Ombudsmen Rules 1989](#). The case studies set out an Ombudsman’s view on the facts of a particular case. They should not be taken as establishing any legal precedent that would bind an Ombudsman in future.

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## What the Acts say

The starting point for considering any request for official information is the **principle of availability**. That is, information must be made available on request unless there is a good reason for withholding it.<sup>1</sup>

The reasons for refusal fall into three broad categories: conclusive reasons,<sup>2</sup> good reasons,<sup>3</sup> and administrative reasons.<sup>4</sup> Among the administrative reasons, section 18(f) of the OIA provides that a request may be refused if *‘the information requested cannot be made available without substantial collation or research’*.

Administrative reasons for refusal are not subject to a *‘public interest test’*. This means that if they apply, there is no need to consider any countervailing public interest in release. However, reliance on them is **discretionary** rather than mandatory,<sup>5</sup> so an agency may still choose to release information even if it would require substantial collation or research. This will usually be in cases where the agency recognises that the information should be readily accessible, even though it’s not, or because there is a clear and compelling public interest in release (for further discussion of this point, see [Should the agency be able to make the information available?](#)).

Before refusing a request on the grounds of substantial collation or research, agencies must consider whether [charging](#) or [extending](#) the timeframe for response would enable the request to be met.<sup>6</sup> Agencies must also consider whether [consulting the requester](#) would enable them to make the request in a way that wouldn’t require substantial collation or research.<sup>7</sup>

Agencies may, for the purpose of refusing a request on the grounds of substantial collation or research, combine multiple requests received simultaneously or in short succession from the same requester about the same or similar subject matter.<sup>8</sup>

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<sup>1</sup> See s 5 OIA and LGOIMA.

<sup>2</sup> See ss 6 and 7 OIA and s 6 LGOIMA. *‘Conclusive’* reasons are not subject to a *‘public interest test’*, meaning that if they apply, there is no need to consider any countervailing public interest in release.

<sup>3</sup> See s 9 OIA and s 7 LGOIMA. *‘Good’* reasons are subject to a *‘public interest test’*, meaning that if they apply, agencies must consider the countervailing public interest in release.

<sup>4</sup> See s 18 OIA and s 17 LGOIMA.

<sup>5</sup> A request *‘may’* be refused for one of the reasons contained in s 18 OIA (s 17 LGOIMA).

<sup>6</sup> See s 18A(1) OIA and s 17A(1) LGOIMA.

<sup>7</sup> See s 18B OIA and s 17B LGOIMA.

<sup>8</sup> See s 18A(2) OIA and s 17A(2) LGOIMA.

### The Danks Committee on administratively challenging requests

The committee that recommended the enactment of the OIA recognised the importance of striking a balance between ‘*the need for readier access*’ to official information, and ‘*the price of that access*’:<sup>9</sup>

*The granting of access to official information ... cannot be an absolute priority to which all other functions of administration must yield. Especially in times of financial and staff restraints on government activities, some limitation of the resources available for providing information to members of the public is inevitable.*

## Refusal is a last resort

Refusing a request on the grounds of substantial collation or research is a **last resort**, to be done only if the other mechanisms in the legislation do not provide a reasonable basis for managing an administratively challenging request. Agencies have a duty to provide **reasonable assistance** to a requester,<sup>10</sup> and, as noted above, to consider [consulting](#) with them in order to assist them to make their request in a way that wouldn’t require substantial collation or research.<sup>11</sup> Again, as noted above, agencies must also consider whether [charging](#) or [extending](#) would enable the request to be met. And in all cases, agencies should consider whether there are [other ways to meet the request](#), in preference to refusing it outright.

## Related provisions

### The requirement for due particularity

Section 12(2) of the OIA (section 10(2) of the LGOIMA) provides that the ‘*the official information requested shall be specified with due particularity in the request*’.

The requirement for due particularity simply means an agency must be able to identify the requested information—**to know what is being asked for**. It doesn’t prevent requesters from asking for a lot of information. It also doesn’t mean they have to specify a subject matter to their request.

The requirement for due particularity is **not a reason for refusing** a request. Rather, it means that an OIA request will not have been made until the requested information has been

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<sup>9</sup> Committee on Official Information. [Towards Open Government: Supplementary Report](#). (July 1981) at 31.

<sup>10</sup> See s 13 OIA and s 11 LGOIMA. For advice on how to provide reasonable assistance, read our guides [The OIA for Ministers and agencies](#) (page 16) and [The LGOIMA for local government agencies](#) (page 15).

<sup>11</sup> See s 18B OIA and s 17B LGOIMA.

specified with due particularity. However, if an agency doesn't know what is being asked for, it has a duty to give reasonable assistance to the requester to provide the necessary clarity.<sup>12</sup>

If a complaint is received, the Ombudsman will expect to see **evidence** that agencies have made all reasonable efforts to comply with this duty. This means more than just telling the requester that they have not specified the information sought with due particularity.

For advice on how to provide reasonable assistance, read our guides [The OIA for Ministers and agencies](#) (page 16) and [The LGOIMA for local government agencies](#) (page 15).

## Information not held

Section 18(g) of the OIA (section 17(g) of the LGOIMA) provides that a request can be refused if the information is not held, and there are no grounds for believing that it might be held by another agency to which the request might be transferred.

If the work required to complete the request is such that it amounts to the creation of new information, rather than extraction or compilation of existing information, the relevant refusal ground to consider is section 18(g)—information not held.

However, if an agency's difficulty relates to the amount of work involved in extracting or compiling information it already holds, the relevant refusal ground to consider is section 18(f)—substantial collation or research.

## What is substantial collation or research?

Section 18(f) of the OIA is about the **physical accessibility** of the requested information. It applies where *'the information requested'*—the whole of it, not just the part that an agency ultimately decides can be released to the requester—cannot physically be made available without substantial collation or research.

## Collation and research

*'Research'* means **finding** the information<sup>13</sup> and *'collation'* means **bringing it together**.<sup>14</sup> These terms can encompass the following tasks:

- identifying the requested information;
- determining whether the requested information is held;

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<sup>12</sup> See s 13 OIA and s 11 LGOIMA.

<sup>13</sup> Based on the definition in the Oxford English Dictionary (*'the act of searching carefully for or pursuing a specified thing or person'*), retrieved on 10 February 2017 from [www.oed.com](http://www.oed.com).

<sup>14</sup> Based on the definition in the Oxford English Dictionary (*'bringing together'*), retrieved on 10 February 2017 from [www.oed.com](http://www.oed.com).

- searching for the requested information;
- retrieving the requested information;
- extracting the requested information; and
- assembling or compiling the requested information.

Collation or research can also include reading and reviewing information, and consulting on the request, but **only** to the extent that these tasks are necessary in order to find what has been requested, and bring it together (see [Decision making](#) below).

## Substantial

The above tasks may be considered ‘*substantial*’ where they would have a **significant and unreasonable impact** on the agency’s ability to carry out its other operations. The ability to extend the maximum 20 working day timeframe for making a decision on a request for official information suggests that it can take longer than this without necessarily requiring ‘*substantial collation or research*’.

## Factors to consider

Agencies should consider the following factors in deciding whether ‘*substantial collation or research*’ would be required.

<b>How much?</b>	<ul style="list-style-type: none"> <li>• How much information has been requested?</li> <li>• How much information needs to be searched through to find what has been requested?</li> <li>• Answering these questions requires <a href="#">proper scoping of the request</a>.</li> </ul>
<b>How long?</b>	<ul style="list-style-type: none"> <li>• How long will it take to find the information and bring it together?</li> <li>• Note: be sure to exclude activities that cannot go toward establishing substantial collation or research—see <a href="#">What’s not substantial collation or research</a>).</li> <li>• Carrying out a sample exercise will enable the agency to make a reasonable estimate of how long it will take to complete the required tasks.</li> </ul>
<b>Who’ll do it?</b>	<ul style="list-style-type: none"> <li>• What resources are available to do this work?</li> <li>• Do certain people need to do the work because of the complexity of the request, or because they are familiar with the information?</li> </ul>

**What's the impact?**

- How would the diversion of these resources to complete the required tasks impact on the agency's ability to carry out its other operations?
- Relevant considerations include:
  - the nature and size of the agency;
  - the resources available to process OIA requests;
  - the number of other OIA requests the agency has to deal with;
  - the number of people capable of processing the request; and
  - the other responsibilities of those people.

**How long is too long?**

Agencies often ask *'how long is too long?'* to expect to devote to the collation and research of requested information. There is **no bright line** number of hours above which the amount of collation or research will always be *'substantial'*. It really depends on the **impact** that the required collation and research will have on an agency's operations. What is substantial for a small agency with few resources will not be the same as what is substantial for a large agency with lots of resources. Examples of situations that the Ombudsman has accepted would amount to substantial collation or research can be seen in the case studies below (see [Case studies—What is substantial collation or research?](#)).

## What's not substantial collation or research?

There are some activities that can be involved in responding to a request for official information that cannot go toward establishing *'substantial collation or research'*.

### Decision making

Time required to make a decision on withholding or release of information that has already been found and brought together does not go toward establishing *'substantial collation or research'*. Where the following tasks relate to decision making on withholding or release, they should not be taken into account:

- reading, review and assessment; and
- consultation (including consultation with legal advisors, or affected third parties); and

- redacting information that an agency has decided there is good reason to withhold.<sup>15</sup>

As the High Court noted in *Kelsey v the Minister of Trade*, making a decision on an official information request requires each piece of information to be assessed against the criteria for withholding, and while that may involve substantial effort:<sup>16</sup>

*‘That ... is the price Parliament contemplated when it passed the Act and is a challenge regularly encountered and addressed by public servants who are charged with ensuring requests for official information are dealt with in accordance with the Act’.*

The Ombudsman recognises that consultation and decision making can be necessary and important tasks that, in some cases, impose a substantial burden on an agency. See [What to do about requests that will involve considerable decision making time](#) for ways of managing this situation.

### What to do about requests that will involve considerable decision making time

Sometimes requested information can be found and brought together relatively easily, but it will take a substantial amount of time to read, review and assess it all for release. While agencies cannot charge for this work,<sup>17</sup> or refuse the request on the grounds of substantial collation or research because of it, there are other mechanisms under the OIA and LGOIMA that can help. In particular, agencies can:

- [extend](#) the maximum timeframe for making a decision on the request;
- [consult the requester](#) to help them make the request in a way that is more manageable; or
- [release the information in an alternative form](#) under section 16 of the OIA (section 15 of the LGOIMA) because to do otherwise would *‘impair efficient administration’*.

## Difficulties due to an agency’s own administrative failings

Agencies are required to create and maintain public records in an accessible form so they can be used for subsequent reference.<sup>18</sup> Failure to comply with this requirement can make it more difficult to find and bring together information requested under the OIA or LGOIMA. Where

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<sup>15</sup> Note that the task of redaction can be done after the decision on the request is made and communicated, provided that the information is released without undue delay (see s 28(5) OIA and s 27(5) LGOIMA). Also see our guides [The OIA for Ministers and agencies](#) (pages 17–18) and [The LGOIMA for local government agencies](#) (pages 17–18).

<sup>16</sup> [2015] NZHC 2497 at paragraph 108–9.

<sup>17</sup> See our guide [Charging—A guide to charging for official information under the OIA and LGOIMA](#).

<sup>18</sup> See s 17 [Public Records Act 2005](#).



the difficulty involved in meeting an official information request arises because of an agency's own administrative failings, it may not be reasonable to refuse it on the grounds of substantial collation or research. The agency should consider whether it would be appropriate to allow some extra processing time in recognition of its own administrative failings (see case [174397](#) below).

## Concerns about the accuracy or completeness of the information

Often agencies' concerns about the amount of work involved in responding to a request for official information relate to a desire to be able to verify or guarantee its accuracy or completeness. That is understandable. However, an agency is only required to provide information that is **already held**, and it only needs to take **reasonable steps** to ensure that what is provided is accurate and complete. In most cases, an agency should be able to provide what is held, in its existing form, along with a contextual statement about the limitations on the accuracy or completeness of that information (see cases [174397](#), [282242](#) and [370101](#) below).

## Presentation and quality assurance

The time required to present information in the agency's preferred format, including drafting cover letters and briefings to Ministers cannot go toward establishing '*substantial collation or research*'. Nor should the time required because of the internal sign-off and quality assurance processes that an agency has imposed on itself. All of these things are done after the requested information has been found and brought together, on the agency's initiative, and as a matter of its own choice (see case studies [174397](#) and [370101](#) below).

### Case studies—What is '*substantial collation or research*'?

#### Case 174675 (2007)—Request for medical waiver statistics required substantial collation or research

A requester sought the number of people applying for residence who had been granted medical waivers in the previous three years. The former Department of Labour supplied figures for the previous six months, but refused the remainder of the request on grounds of substantial collation or research. The Department explained that this information had only recently been recorded electronically in a way that could be queried by its case management system. To provide figures for the entire period, it would need to manually review up to 150,000 applications.

During the Ombudsman's investigation, it was established that a word search of the Department's case management system could identify a smaller number of relevant applications requiring review. However, the Department would still need to manually review tens of thousands of applications. The Ombudsman accepted this would involve the diversion of personnel for a significant period of time, and that the task involved would be '*substantial*'.

### Case 175036 (2006)—Request for numbers of staff with criminal convictions required substantial collation or research

The Department of Corrections refused a request for the number of corrections officers who had disclosed criminal convictions and the requester complained to the Ombudsman. The Department explained that there was no centralised index or database of employees with criminal convictions. Finding the information would require a manual search of over 4,500 personal and disciplinary files, located at head and regional offices. It was estimated that it would take over 2,000 hours to find and collate the requested information. This would impose *‘a measurably heavier workload on the department’s HR division’*, which already had *‘a heavy workload in meeting the department’s requirements for recruitment, collective bargaining, remuneration reviews, individual contracts, reviews of public prisons and head office, and the management of change generally’*. The Ombudsman concluded that *‘netting the information [sought] would appear to involve costs to the department that would seem to be unreasonable’* and refusal under section 18(f) of the OIA was therefore justified.

### Case 177216 etc (2007)—Request for recruitment consultant expenditure required substantial collation or research

A requester sent requests to a number of agencies seeking the amount spent on recruitment consultants each year from 1999/2000 to 2006/2007, broken down by the name of the consultant and the number of vacant positions worked to fill. Some requests were refused on the grounds of substantial collation or research; others on the basis that the information did not exist (section 18(e) OIA). The difficulty involved in finding and collating the requested information was that none of the agencies had a cost code specifically and solely for recruitment fees. Information about such fees was contained within more general, often multiple, cost categories. The agencies would have needed to review thousands of lines of expenditure, and in many cases, check the individual invoices (many of which were stored off-site) to see whether they related to recruitment fees. The Police estimated it would take a full time person 4 to 6 weeks to collate the information. The Department of Corrections estimated it would require 96 working days to provide the requested information in relation to prisons only. Statistics New Zealand estimated it would entail at least 140 hours work. The Chief Ombudsman accepted that the amount of work involved would have a significant impact on the effective operation of the agencies, and the information could not be made available without *‘substantial collation or research’*. She sought to resolve the complaints through the release of other information (see [Case 177216 etc—releasing other information](#)).

### Case 290369 (2015)—Request for information on taser use required substantial collation or research

The Police refused a request for detailed information on the use of tasers, for the period December 2008–May 2010, including:

*...a summary list of all incidents, with a description of location and what*

*happened, where a person was actually tasered, along with supporting documentation ... including statistics on where it was drawn and a warning given with the person complying...*

The Police explained that the only way to obtain this information would be to review and manually extract the relevant details from approximately 282 tactical operations reports (a tactical operations report is completed each time a taser or other tactical operation is used). The Ombudsman accepted that the amount of collation and research would be significant and would greatly impact on the ability of the Tactical Operations Research Team (which comprised three staff) to carry out its work plan.

### Case 282242 (2012)—Request for statistics on measures taken to manage ministerial conflicts of interest did not require substantial collation or research

The Department of the Prime Minister and Cabinet (DPMC) refused a number of requests for information about measures taken to manage ministerial conflicts of interest. The requested information included statistics for the previous year in relation to the number of declarations of interest, Ministers' requests not to receive papers on an issue, and transfers of responsibility to another Minister or to a department. For each case, the requesters sought the name of the Minister, the issue the conflict related to, the reason for the conflict, and subsequent action taken. The request was refused, in part, on the grounds of substantial collation or research.

The Chief Ombudsman formed the opinion that provision of the requested information required collation of existing information, not creation of new information. She did not consider that the required tasks reached the threshold of being 'substantial'. This was on the basis that similar statistics had been compiled previously in order to respond to parliamentary questions, and also because the investigator assisting the Chief Ombudsman had been able to collate the requested information in under 10 hours.

The Chief Ombudsman considered DPMC's concern that the statistics may not capture all of the instances of measures which were taken to manage conflicts of interest, and 'would therefore provide an incomplete and potentially misleading picture'. She found that:

*...concerns about the completeness of the information did not provide a reason for withholding it, and such concerns may be addressed by disclosure of an accompanying contextual statement explaining the limitations of the information.*

DPMC accepted the Chief Ombudsman's opinion, and released the requested statistics. In response to the Chief Ombudsman's suggestion, DPMC adopted a regime of [proactive release of information about management of ministerial conflicts of interest](#). You can read the Chief Ombudsman's full opinion [here](#).

### Case 174397 (2007)—Request for list of reports received by the Minister did not require substantial collation or research

The Minister of Immigration refused a request for four months' worth of dates, titles and

reference numbers of reports received from Immigration New Zealand (INZ), and the requester complained to the Ombudsman.

INZ explained that the raw data to compile the list was sourced from its electronic document and records management system (EDRMS). However, this data was not reliable because some reports were not logged in the system, some reports were not recorded as *'completed'* when they should have been, and some reports were sent to the Minister without going through the correct channels. To produce an accurate list, INZ said that it would have to:

1. enter the data into a spreadsheet;
2. review the data to remove duplicate titles, identify missing titles, and check the accuracy of the titles;
3. consider the titles for withholding or release, in consultation with legal services; and
4. put this information and the proposed response through INZ's internal quality assurance process.

INZ estimated this would take approximately 46 hours.

The Ombudsman found that steps 3 (decision making) and 4 (quality assurance) did not constitute *'collation'* or *'research'*. Both of these tasks necessarily occur after the information has already been found and brought together.

The Ombudsman also thought there were ways of minimising the administrative burden of responding to the request which had been overlooked. For instance, it wasn't strictly necessary to compile a spreadsheet. The information, in its most readily retrievable form, was found in the EDRMS printouts, which could have been provided to the requester in their existing form. Because each report had a tracking number, the requester would be just as able to identify and remove duplicate titles as INZ.

The Ombudsman acknowledged concerns about the reliability of the data. However, it is only necessary to take all reasonable steps to ensure the accuracy of information released in response to a request. The information can be released with a caveat that some reports may inadvertently have been missed. The Ombudsman also queried whether it was reasonable to rely on section 18(f) when the fundamental difficulty in processing the request was down to INZ's own administrative lapses (though she credited recent steps to improve processes for tracking the flow of information).

The Ombudsman concluded that the *'collation'* and *'research'* required in this case was not *'substantial'*, particularly in light of the Minister's ability to extend the maximum 20 working day timeframe for responding to the request.

### [Case 179181 \(2012\)—Request for list of reports received by the Minister did not require substantial collation or research](#)

An opposition researcher asked the Minister of Finance for three months' worth of dates,

titles and reference numbers of reports received from the Treasury, the Inland Revenue Department, the Ministry of Justice and the Ministry of Transport. The request was refused on the grounds of substantial collation or research (among others) and the requester complained to the Ombudsman.

In this case, the Minister argued that the time required to make a decision on the request amounted to *'substantial collation or research'*. The Chief Ombudsman rejected the argument, noting that *'substantial collation or research'* refers to the administrative difficulty in finding the information within the scope of the request, or in bringing together the requested material. It may be invoked where there is a substantial amount of work involved in locating, extracting and collating the information in order to comply with the request, but not because of the time required in order to decide (or consult with a view to deciding) whether the information can be released.

The Chief Ombudsman considered in any event that the decision making and consultation processes in relation to the 101 titles at issue would not be *'substantial'*. An initial review by a senior official determined that 60 of the titles were capable of release. Further assessment of the remaining 41 titles at issue could not be considered *'substantial'*. The request was for the titles of the reports, not the reports themselves. You can read the Chief Ombudsman's full opinion [here](#).

#### Case 172568 (2005)—Request for Treasury reports did not require substantial collation or research

The Minister of Finance refused a request for 20 Treasury reports and the requester complained to the Ombudsman. Through informal enquiries, the Chief Ombudsman ascertained that it was not difficult to find and bring together the 20 documents. The issue was the amount of time that would be required to consult the 4–5 other agencies involved in developing the documents on the decision whether or not to release them. The Chief Ombudsman explained that consultation and decision making did not amount to *'collation'* or *'research'* under section 18(f) of the OIA. The Minister revised his initial refusal, and instead made a 3 month extension of the maximum timeframe for making a decision on the request, to enable necessary consultations to take place. The Chief Ombudsman suggested that the requester consider contacting the Minister's staff if she wished to prioritise certain of the documents she had requested. He discontinued his investigation, on the basis that further investigation was unnecessary.

#### Case 370101 (2014) and 387188 (2015)—Request for transcripts of post-Cabinet press conferences did not require substantial collation or research

In case 370101, the Prime Minister refused a request for eight transcripts of his post-Cabinet press conferences and the requester complained to the Ombudsman. The Prime Minister's office estimated that approximately 10 hours would be required to make the transcripts available. The Chief Ombudsman did not consider that some of the *'required'* tasks were reasonably necessary, or that those tasks could constitute *'collation or*

*research*'.

One task was to *'finalise'* the transcripts prior to release in order to correct *'errors and gaps'*. This involved comparing the draft transcript with the audio recording and making any necessary changes. The Chief Ombudsman found that *'substantial collation or research'* does not encompass a quality assurance check of this nature. An OIA request is for the information actually held at the time it is made. It was up to the Prime Minister's Office whether it took the extra step of checking that the transcript accurately reflected what was said at the press conference. However, it was not a step that related to the accessibility of the information itself, which is the focus of section 18(f). The Chief Ombudsman noted that Parliamentary debates are published electronically on the basis that *'the text is subject to correction until it is published as a volume'*, and said the transcripts in this case could be published with a similar rider.

Another task was to redact information that was not *'official information'* because it was not held by the Prime Minister in his official capacity. The Chief Ombudsman queried whether this was a necessary task given the information had already been made public by releasing it to the media at the press conferences.

The Chief Ombudsman formed the opinion that the amount of work required in this case did not amount to *'substantial collation or research'*. It was not unreasonable for the Prime Minister's staff to devote up to 10 hours to the processing of this particular request. The Prime Minister's Office accepted the Chief Ombudsman's opinion and released the transcripts to the requester.

In case 387188, a different requester sought three years' worth of transcripts of post-Cabinet press conferences. She complained to the Ombudsman when that request was also refused on the grounds of substantial collation or research. The issue in this case turned on the difficulty involved in finding and bringing together the requested transcripts.

The Chief Ombudsman noted that there was no centralised system for storing the transcripts within the Prime Minister's Office at the time; that the request covered three years and approximately 100 transcripts; and that there was considerable uncertainty around who within the Prime Minister's Office would have received the transcripts, and if, where or how they may have stored them. She accepted that the time involved in trying to locate the transcripts would be substantial.

The Chief Ombudsman also accepted that this would have an adverse impact on the operation of the Prime Minister's Office, as a result of having to divert staff from other responsibilities, or employ extra staff to undertake an extensive search of the electronic and hard copy files of both past and present staff members. She therefore found that it was open to the Prime Minister to refuse the request on grounds of substantial collation or research.

The Prime Minister now [proactively releases the transcripts of post-Cabinet press conferences](#) online.

## Processing administratively challenging requests

The key to processing administratively challenging requests is to identify them early, scope them properly, and manage them accordingly.

### Identify the request early

Early identification of OIA requests is essential for agency compliance with the timeframe requirements in the legislation. It is important that all staff know how to identify an OIA request and—if the request is unable to be met or answered then and there—the name of the individual or team within the agency who will be responsible for dealing with it. The request needs to be forwarded to that person or team without delay.

An agency that seeks amendment or clarification of an administratively challenging request within the first **seven working days** of receiving it is able to treat any amended or clarified request that is received as a new request for the purpose of calculating the maximum timeframe for response.<sup>19</sup> For more information on amended or clarified requests, see our guides [The OIA for Ministers and agencies](#) (pages 13–15) and [The LGOIMA for local government agencies](#) (pages 13–14).

### Scope the request properly

To properly scope a request an agency needs a good understanding of:

- what is being asked for; and
- what would be involved in providing it.

Any ambiguity of wording or uncertainty as to scope should be clarified with the requester (see [Consulting the requester](#)). Alternatively an agency may make its own reasonable interpretation of the request, provided this is made known to the requester, so that they can either clarify their intentions or submit a new request.

Agencies may:

- interrogate email and document management systems using appropriate search terms to estimate the total number of potentially relevant documents;
- consult key staff to identify relevant physical files, and estimate the number of files and pages at issue;
- ask those staff about the extent and location of any other relevant information; and
- carry out a sample exercise in order to be able to generate a reasonable estimate of the amount of work involved.

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<sup>19</sup> See s 15(1AA) and (1AB) OIA and s 13(7) and (8) LGOIMA.



Proper scoping of a request sets the agency up to have a constructive dialogue with the requester about the difficulty involved in meeting the request as currently framed, and whether there are other ways of managing that (see [Consulting the requester](#)). It also ensures that an agency is prepared in the event that an Ombudsman’s investigation of its decision making in relation to the request is required. It is good practice to make a clear record of any scoping exercises, and the consideration given to options for managing the request, such as charging, extending and consulting the requester.

## Manage the request accordingly

The options for managing administratively challenging requests include:

- [Charging](#)
- [Extending](#)
- [Consulting the requester](#)
- [Meeting the request in another way](#)
- [Refusing the request](#).

### Charging

Agencies **must** consider charging a requester for the supply of official information before refusing a request on the grounds of substantial collation or research.<sup>20</sup> The consideration given to this option should be genuine. Agencies must ask themselves: ‘*could we do this if we charge?*’.

Charging can be particularly helpful where the work involved in processing a request can be done by anyone, and the agency is able to hire or redeploy the additional staff, and pass the cost of doing this along to the requester (at the rates, and for the activities, specified in the Government’s Charging guidelines—see [www.justice.govt.nz](http://www.justice.govt.nz)).

It may not help if the work needs to be done by a particular person with expert knowledge whose diversion from core business would have a substantial and unreasonable impact on the agency’s other operations.

It will also not help if the requester is not willing or able to pay a charge, or a charge of the magnitude that is likely to be required. Agencies should be careful about making assumptions about a requester’s willingness or ability to pay a charge. It can pay to ask when [Consulting the requester](#) whether they would be prepared to pay a charge in order to receive the requested information.

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<sup>20</sup> See s 18A(1)(a) OIA and s 17A(1)(a) LGOIMA.



For more information on charging, including a template charging letter and sample estimate of costs, see our guide [Charging—A guide to charging for official information under the OIA and LGOIMA](#).

## Extending

Agencies **must** consider extending the maximum 20 working day timeframe for making the decision on a request before refusing it on the grounds of substantial collation or research.<sup>21</sup> The consideration given to this option should be genuine. Agencies must ask themselves: ‘could we do this if we had longer?’.

Extensions are permitted where:<sup>22</sup>

- the request is for a large quantity of information, or necessitates a search through a large quantity of information, and meeting the original timeframe would unreasonably interfere with the agency’s operations; or
- consultations necessary to make a decision on the request are such that a proper response cannot reasonably be made within the original time limit.

Extensions must be for a reasonable period of time ‘having regard to the circumstances’.<sup>23</sup> The circumstances include the other work that an agency has on hand at the time, and that will be unreasonably impacted upon, should it be required to meet the original 20 working day maximum timeframe.

Extension enables an agency to fit the work required in order to respond to a request in with its other work, so that one need not be sacrificed to the other. It can enable an agency to spread the work required to process the request over time.

Extension can also work particularly well where the workload pressures that an agency is facing are expected to abate, or the additional resource required to process the request is expected to become free.

In addition, extension may be appropriate where the work required to make the information available relates to tasks which do not constitute ‘collation’ or ‘research’ (see [What’s not substantial collation or research?](#) above), such as time required to decide whether the requested information can be made available.

Extension may not work well where the requester has told the agency they need the information within a particular timeframe.<sup>24</sup> Agencies can always ask when [Consulting the requester](#) whether they would be prepared to wait a bit longer in order to receive the

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<sup>21</sup> See s 18A(1)(b) OIA and s 17A(1)(b) LGOIMA.

<sup>22</sup> See s 15A OIA and s 14 LGOIMA.

<sup>23</sup> See s 15A(2) OIA and s 14(2) LGOIMA.

<sup>24</sup> For more information on responding to urgent requests, see our guides [The OIA for Ministers and agencies](#) (pages 24–25) and [The LGOIMA for local government agencies](#) (pages 23–24).

requested information.

For more information on extensions, including a template extension letter, see our guides [The OIA for Ministers and agencies](#) (pages 23–24 and 49) and [The LGOIMA for local government agencies](#) (pages 21–22 and 54).

### Case study 172568 (2005)—Extending

The Minister of Finance refused a request for 20 Treasury reports and the requester complained to the Ombudsman. The Minister’s concern was the amount of time that would be required to consult the 4–5 other agencies involved in developing the documents on the decision whether or not to release them. The Chief Ombudsman did not accept that this amounted to substantial collation or research (see [Case studies—What is substantial collation or research?](#)). The Minister revised his initial refusal, and instead made a 3 month extension of the maximum timeframe for making a decision on the request, to enable necessary consultations to take place. The Chief Ombudsman suggested that the requester consider contacting the Minister’s staff if she wished to prioritise any of the documents she had requested. He discontinued his investigation, on the basis that further investigation was unnecessary.

## Consulting the requester

Agencies **must** consider consulting the requester before refusing a request on the grounds of substantial collation or research.<sup>25</sup> While the duty is only to **consider** consulting, the Ombudsman will in most cases expect an agency to have made **reasonable efforts** to consult the requester before relying on section 18(f) to refuse a request. An agency should not simply assume that the requester will not be interested in refining their request. As the Law Commission has noted:

*In our view it is unreasonable for an agency to refuse a request outright under section 18(f) if they have made no effort to discuss the matter with the requester.*<sup>26</sup>

The purpose of consultation in this context is to help the requester to make the request in a way that wouldn’t require substantial collation or research.

Agencies should identify and seek to clarify any ambiguities in the wording of the request.

Agencies should also explain the difficulty involved in meeting the request as it is currently framed and the implications this might have in terms of the need to extend, charge or ultimately refuse the request.

Giving specific details about the volume of information involved, the estimated time required

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<sup>25</sup> See s 18B OIA and s 17B LGOIMA.

<sup>26</sup> Law Commission. *The Public’s Right to Know: Review of the Official Information Legislation*. (NZLC R125, 2012) at 202.

to make it available, and the impact on the agency's other operations will help the requester to understand the magnitude of the task, and may make them more willing to accept or suggest practical solutions to address the agency's difficulty in meeting the request. Possible solutions may include:

- [Releasing a subset or sample of the information requested](#).
- [Releasing other information](#) that is already to hand or able to be collated without difficulty.
- [Releasing the information in an alternative form](#), such as by inspection or providing a summary or excerpt.<sup>27</sup>
- [Releasing the information on conditions](#).
- Helping the requester to refine the request:
  - by agreeing to limit the search terms;
  - by reference to subject matter, time period, type of document or other relevant parameter;
  - by providing information about what the agency holds and how (for example, a list of titles of files or documents held).
- Finding out whether the requester is prepared to wait to receive the information, or to prioritise parts of their request and accept release in stages.
- Finding out whether the requester is prepared to pay a charge to cover some of the costs involved in making the information available.

Consultation with a requester can be verbal (on the phone or in person) or written (email or letter). The advantage of written communication is that it creates a record of what was discussed and agreed in case there's any dispute. However, it can often be easier and more productive to pick up the phone and speak to the requester openly and honestly about the difficulties their request poses, and how these might be addressed. The personal touch can help to reassure a requester that their request is being processed with due diligence. A [template letter for written consultation](#) can be found in appendix 2. Some talking points for verbal consultation can be found below (see [talking points for verbal consultation](#)).

The outcome of any verbal consultation should be recorded in writing so that everyone is on the same page about what information will be provided and when. Note that if the outcome is that the requester is prepared to wait to receive the agency's decision on their request, the agency should still notify an extension to ensure that it is seen to be meeting the timeframe requirements of the legislation. A [template letter for confirming the outcome of consultation with the requester](#) is also found in appendix 2.

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<sup>27</sup> An agency is permitted to release information in an alternative form if the requester's preferred form of release would 'impair efficient administration', among other reasons. See s 16 OIA and s 15 LGOIMA.

Consultation with the requester can have an impact on the maximum statutory timeframe for making a decision on the request. If an agency seeks amendment or clarification of a request within **seven working days** of receiving it, it is able to treat any amended or clarified request that is received as a new request for the purpose of calculating the maximum timeframe for response.<sup>28</sup> It is also open to an agency to extend the maximum 20 working day timeframe for making the decision on a request to enable consultation with the requester to take place.<sup>29</sup>

If a requester refuses or ignores an agency's attempts to engage and provide reasonable advice and assistance then the agency must make a decision on the request as it stands. That may necessitate a refusal under section 18(f).

### Talking points for verbal consultation

- *'It's a really big request' (provide estimates as to volume, time, and impact on agency operations)*
- *'We may have to refuse the request because of how much work is involved'*
- *'We want to help you make the request in a way that doesn't require so much work'*
- *'For example, we could supply [A] without substantial collation or research / give you a list of documents to choose from / limit the search terms to [B] and [C]'*
- *'Or would you be willing to refine your request (eg, to cover the last year instead of the last 5 years) / prioritise parts of your request / wait a bit longer to receive some of the information requested / pay a charge / inspect the information or receive a summary rather than copies?'*
- *'We'll write to confirm what we've discussed'*
- *'If you have any questions you can contact [D]'*

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<sup>28</sup> See s 15(1AA) and (1AB) OIA and s 13(7) and (8) LGOIMA. For more information on amended or clarified requests, see our guides [The OIA for Ministers and agencies](#) (pages 13–15) and [The LGOIMA for local government agencies](#) (page 13–14).

<sup>29</sup> See s 15A OIA and s 14 LGOIMA.

### Case study 321739 (2012)—Consulting with the requester

Maritime New Zealand (MNZ) received a request for:

1. all correspondence with stakeholders and reports and briefings concerning the review of the Oil Pollution Fund; and
2. all reports and briefings in the previous 3 years concerning MNZ's preparedness or capability to respond to a Tier 3 oil spill.

MNZ asked the requester to specify a timeframe for request 1. The requester specified a timeframe of 3 years. MNZ then refused the request on the grounds of substantial collation or research, noting there were hundreds of stakeholders involved and an estimated 1600 documents.

When the requester complained to the Ombudsman, he said he would have refined his request further if given the opportunity. For example, if MNZ had provided a list of the types of stakeholders consulted, he could have limited his request to a certain category or categories.

The Ombudsman suggested to MNZ that a fuller consultation with the requester might resolve his complaint. MNZ agreed to this, and provided the requester with the list of stakeholders he sought in order to refine his request. The Ombudsman discontinued his investigation and the requester and MNZ were able to resolve the matter between themselves.

## Meeting the request in another way

Consultation with the requester may result in an agreement that they are happy for their request to be met in another way. But even if they are not, the agency can still decide to meet the request in another way in preference to giving the requester an outright refusal under section 18(f).

### Important note

If an agency is not providing the **specific information** requested then that is still a refusal of the request which must comply with the requirements for refusal set out in section 19 of the OIA (section 18 of the LGOIMA)—see [Refusing the request](#) below.

## Releasing a subset or sample of the information

Agencies may consider releasing a subset or sample of the information at issue, for example, key documents (final reports, advice to decision makers), instead of all the information that has been requested.

### Case study 432328 etc (2016)—Releasing a subset or sample of the information

A number of requesters complained about the Ministry of Primary Industries' (MPI) decision to extend the maximum time limit for responding to their requests for video footage recorded as part of Operation Achilles. Operation Achilles was a 2012/13 investigation into potential illegal discarding of fish by certain fishing vessels.

The reason for the extension was to enable consultation to be undertaken about whether the footage could be anonymised. There were 1100 hours of video footage at issue, and MPI estimated it would take several thousand hours of work to anonymise that footage by pixellating faces and other measures to protect privacy. The Ombudsman formed the opinion that the extension in this case was reasonable. MPIs' concerns about the volume of the video footage at issue were addressed by disclosing a sample of 15 hours of video footage showing the systematic discarding of fish. The footage was released on MPIs' YouTube channel.<sup>30</sup>

## Releasing other information

Agencies may consider releasing other information that is already to hand or able to be collated without difficulty. This could be because it has already been compiled for other purposes (for instance, for provision to Parliament or in response to another similar OIA request).

### Case studies—Releasing other information

#### Case 177216 etc (2007)—Recruitment consultant expenditure

A requester sent requests to a number of agencies seeking the amount spent on recruitment consultants each year from 1999/2000 to 2006/2007, broken down by the name of the consultant and the number of vacant positions worked to fill. The Ombudsman accepted that releasing this information would require substantial collation or research (see [Case studies—What is substantial collation or research?](#)), and sought to resolve the complaints through release of other information.

All the agencies agreed to provide the information already compiled for relevant select committees on contractors and consultants, along with a caveat about what this information did / did not include. In addition, the agencies provided information that could be easily extracted from their financial systems. The Ministry of Justice provided

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<sup>30</sup> See <https://www.youtube.com/channel/UCV2HIKfznb1DcxUYaDysXNw>.

the total amount spent on the *'staff recruitment and advertising'* costs category for each year of the request and a print out of all the costs recorded in this category. The New Zealand Police provided amounts paid to specific vendors under the *'recruitment general'* category since this information began to be recorded in 2004. Housing New Zealand Corporation offered to identify the expenditure on recruitment agencies from within the select committee information and provide an explanation of what these costs were likely to cover. It also provided the total expenditure listed under each of the potentially relevant cost codes for each financial year. The requester was satisfied with the release of this other information.

### Case 175763 (2007)—Details of 404 land covenants

The Minister of Conservation refused the following request on grounds of substantial collation or research:

*What type of agreements are the 404 conservation covenants that are recorded under section 77 of the Reserves Act 1977, and who are these agreements with?*

The requester complained to the Ombudsman. The Ombudsman's investigation revealed that the Land Register maintained by the Department of Conservation did not contain all the information sought. Meeting the request would require a physical search of the relevant paper files in each of the 13 conservancy offices, as well as the retrieval of files from off-site storage. However, the Minister advised that the Department could provide a report of readily extracted information from the Land Register, which the requester could then use to identify particular covenants of interest in order to make more specific follow-up requests for official information. The provision of this material resolved the complaint.

## Releasing the information in an alternative form

Agencies may provide information in an alternative form to that requested if meeting the requester's preference would *'impair efficient administration'*.<sup>31</sup> The relevant provision is section 16 of the OIA (section 15 of the LGOIMA).

The impairment of efficient administration is something more than administrative inconvenience. The impact of meeting the request must be so significant that it would damage the agency's ability to carry out its other operations, including responding to other OIA

<sup>31</sup> See s 16(2)(a) OIA and s 15(2)(a) LGOIMA. Note that release in alternative form is also permitted if meeting the requester's preference for release of the information would:

- be contrary to a legal duty of the agency in respect of the information (see s 16(2)(b) OIA and s 15(2)(b) LGOIMA); or
- prejudice the interests protected by the withholding grounds in ss 6, 7 or 9 of the OIA (ss 6 or 7 of the LGOIMA), and in the case of the interests protected by s 9 of the OIA (s 7 of the LGOIMA), there is no countervailing public interest in release (see s 16(2)(c) OIA and s 15(2)(c) LGOIMA).

requests that have been made. In deciding this, the agency is entitled to take into account all tasks **reasonably required** to meet the request, including any necessary consultation, and time required for decision making and redaction of withheld material.

Information may be provided in alternative form by giving:

- a reasonable opportunity to inspect the information (with or without [conditions](#));<sup>32</sup>
- an excerpt or summary of the content of the information;<sup>33</sup> or
- an oral briefing on the information.<sup>34</sup>

It is not necessary for an agency to create a summary of the content of the information if one is already effectively held. For instance, a summary may already exist in the form of a key document such as a final report.

An agency that chooses to provide information in an alternative form to that requested must give its reasons for doing so. These are the reasons specified in section 16(2) of the OIA (section 15(2) of the LGOIMA). In this particular context, the relevant reason will be that provision of copies would impair the efficient administration of the agency. A [template letter for releasing the information in an alternative form](#) is found in appendix 2.

### Case study 291610 (2011)—Releasing the information in an alternative form

A requester sought a copy of the file on his deceased brother held by the New Zealand Security Intelligence Service (NZSIS). The NZSIS provided the requester with a series of file summaries, but refused to declassify the remaining 460 documents at issue on the basis that this would impair efficient administration. The requester complained to the Ombudsman.

The Chief Ombudsman reviewed the six volume file in question, and confirmed that the content raised security and privacy issues which would need to be considered before the file could be released. She noted that the declassification process required careful consideration, not only of the content of the information, but also any consequences that could flow to the national interest from release. To release a copy of the file, the NZSIS would need to:

- read and review the information;
- decide on withholding or release;
- declassify the documents where possible;

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<sup>32</sup> See s 16(1)(a) OIA and s 15(1)(a) LGOIMA.

<sup>33</sup> See s 16(1)(e) OIA and s 15(1)(e) LGOIMA.

<sup>34</sup> See s 16(1)(f) OIA and s 16(1)(f) LGOIMA.



- make redactions and prepare summaries;
- copy the information; and
- vet the proposed release.

It was estimated this would take one full time person four weeks, as well as further time for a second person to complete the vetting process.

The Chief Ombudsman formed the opinion this would place undue strain on the resources of the NZSIS and so would impair efficient administration. The problem could not be solved by extending the timeframe for response, or fixing a charge, given the limited staff qualified and available to do this work (two, at the time of the request), and taking into account their other commitments. These staff had to deal with 42 other OIA and Privacy Act requests at the time, as well as work required to enable the proactive release of information from the NZSIS archives. The Chief Ombudsman considered that the provision of summaries enabled the NZSIS to be accountable, without prejudice to security or the overall efficient working of the agency.

### Releasing information on conditions

Agencies can impose conditions on the use, communication or publication of official information released in response to a request.<sup>35</sup> Conditions can include things like:

- a requirement that the requester keep the information confidential;
- a requirement that any discussion of the information should include reference to a contextual statement the agency has also provided; and
- a requirement to use the information only for a specific purpose.

Conditions can work well in conjunction with allowing the requester to inspect the information (see [Releasing the information in an alternative form](#)). This can address an agency's concerns about the extent of research required to meet a request by enabling the requester to find the relevant information themselves. In addition, the use of conditions helps to mitigate the possibility of harm to protected interests like confidentiality etc. Once the relevant information has been found, the requester can submit a further OIA request for copies to be provided on an unconditional basis.

It is important to note that conditions are not enforceable under the OIA. Release of the information subject to conditions is therefore reliant on a relationship of trust and confidence between the agency and the requester, or the establishment of a formal contract or deed.

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<sup>35</sup> The ability to impose conditions on the use, communication or publication of official information is implicit in s 28(1)(c) OIA and s 27(1)(c) LGOIMA.

### Case study 404371 (2016)—Releasing information on conditions

A requester asked the Ministry of Foreign Affairs and Trade for copies of briefing notes and reports prepared in respect of state visits between New Zealand and Indonesia in 1980, 1983, 1986 and 1991. Part of this request was met because the information was available as open access records at Archives New Zealand. However, other information was held at Archives New Zealand under restricted access conditions. While the Ministry provided the requester with its standard conditions for researchers wishing to access restricted access records, it advised that the remainder of the request was *'declined under section 18(f) as the information requested cannot be made available without substantial collation or research'*. The requester complained to the Ombudsman.

During the Ombudsman's investigation, the Ministry explained that its initial search resulted in the discovery of over 28 historical files that were potentially in scope. Having conducted a further search, at least 13 historical files were thought to contain documentation potentially in scope. The Ministry noted that it was difficult to find the relevant information because of historic paper filing methods. Each of the files in question contained approximately 100 documents of varying sizes. A preliminary assessment of eight of those files took one staff member approximately eight hours. The Ministry estimated it would take at least another week for that staff member to complete the task.

The Ministry clarified that the information could be made available to the requester for inspection at Archives New Zealand subject to its standard conditions for researchers, which would enable her to locate the relevant information herself and submit a further OIA request for it. The Ministry's standard conditions include:

- that the information is used only for the purpose of the research, and not communicated or published to any other person without the Ministry's permission; and
- that the Ministry can see draft work based on the information, and delete any information requiring protection under the OIA.

When it was made clear to the requester that what was proposed was a two-stage process for accessing the information requested—the first stage to inspect the information on conditions in order to identify the official information sought, and the second to request copies of that information under the OIA—this resolved her complaint.

## Refusing the request

If all of the other mechanisms for managing an administratively challenging request fail, then it is open to an agency to refuse a request if the information cannot be made available without substantial collation or research.

Under section 19 of the OIA (section 18 of LGOIMA) the agency is required to:

- give its reasons for refusing the request (the applicable reason for refusal in this context being section 18(f)); and
- tell the requester of their right to seek an Ombudsman's investigation and review of the refusal.

It is also good practice to:

- make it clear that the agency has considered extending, charging and consulting the requester as required by sections 18A and 18B of the OIA (sections 17A and 17B of the LGOIMA);
- say why the agency does not consider that extending or charging would help;
- say why the agency does not consider that consulting the requester would help, or why its attempts at consulting the requester have not removed the reason for refusal under section 18(f); and
- provide specific details about the scope of the task that makes refusal under section 18(f) necessary (for example, the volume of information involved, the estimated time required to make the information available, and the impact on the agency's other operations).

There is a [template refusal letter](#) in appendix 2 of this guide.

## Should the agency be able to make the information available?

The question under section 18(f) is whether an agency **can** make the information available without substantial collation or research, not whether it **should** be able to do so. The question of whether an agency should be able to make the requested information available without substantial collation or research is not technically relevant under the OIA. If it can't, there is a legitimate reason to refuse the request, and the Ombudsman will find as much following investigation of a complaint.

However, if the Ombudsman is sufficiently concerned that poor record-keeping practices have hindered an agency's ability to meet an OIA request, they can notify the Chief Archivist under section 28(6) of the OIA (section 27(6) of the LGOIMA). The Chief Archivist can then take that information into account in exercising their functions under the Public Records Act 2005.

In addition, it is possible that an Ombudsman could choose to investigate an agency's record keeping practices under the Ombudsmen Act 1975 (provided the agency in question is subject to that Act).

Agencies should also consider whether requested information ought to be more readily accessible, either because there is a need for it that has previously been overlooked, or because it is in the public interest for this to be so. As noted above (see [What the Acts say](#)), reliance on section 18(f) is discretionary, so an agency can still choose to make information available even if it would require substantial collation or research. It may also be appropriate for an agency to consider whether improvements in record-keeping to assist with making official information progressively more available are warranted.

Examples of Ombudsman investigations that have resulted in record-keeping improvements include case [282242](#) (proactive release of information about ministerial conflicts of interest) and case [370101](#) (proactive release of Prime Ministerial press conferences).

## Further guidance

For more information about processing official information requests, see our guides [The OIA for Ministers and agencies](#) and [The LGOIMA for local government agencies](#).

Our website contains searchable case notes, opinions and other material, relating to past cases considered by the Ombudsmen: [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz).

You can also contact our staff with any queries about processing administratively challenging requests by email [info@ombudsman.parliament.nz](mailto:info@ombudsman.parliament.nz) or freephone 0800 802 602. Do so as early as possible to ensure we can answer your queries without delaying the response to a request for official information.

## Appendix 1. Step-by-step worksheet for dealing with administratively challenging requests

<p><b>1. Do you know what's being asked for?</b></p> <p><b>Relevant part of guide:</b> <a href="#">The requirement for due particularity</a></p> <p><b>Relevant provisions:</b></p> <ul style="list-style-type: none"> <li>• OIA ss 12(2) &amp; 13</li> <li>• LGOIMA ss 10(2) &amp; 11</li> </ul>	<ul style="list-style-type: none"> <li>• Can you identify the requested information?</li> <li>• If you can't, provide reasonable assistance to help the requester specify the information requested with due particularity.</li> <li>• If you can, go to step 2.</li> </ul>
<p><b>2. Do you hold what's being asked for?</b></p> <p><b>Relevant part of guide:</b> <a href="#">Information not held</a></p> <p><b>Relevant provisions:</b></p> <ul style="list-style-type: none"> <li>• OIA s 18(g)</li> <li>• LGOIMA s 17(g)</li> </ul>	<ul style="list-style-type: none"> <li>• Do you hold the requested information or would you need to create it in order to answer the request?</li> <li>• If the work required to complete the request means you would effectively be creating new information, consider whether the request needs to be refused on the basis that the information is not held.</li> <li>• If the information is held, go to step 3.</li> </ul>
<p><b>3. Scope the request</b></p> <p><b>Relevant part of guide:</b> <a href="#">Scope the request properly</a></p>	<ul style="list-style-type: none"> <li>• Consider in detail: <ul style="list-style-type: none"> <li>- What is being asked for?</li> <li>- What would be involved in providing it?</li> </ul> </li> <li>• <a href="#">Consult the requester</a> as early as possible about any ambiguity of wording or uncertainty of scope. Note that if an agency seeks amendment or clarification of a request within seven working days of receiving it, it is able to treat any amended or clarified request that is received as a new request for the purpose of calculating the maximum timeframe for response (see s 15(1AA) OIA and s 13(7) LGOIMA).</li> <li>• Go to step 4.</li> </ul>

<p><b>4. Will it require substantial collation or research to make the information available?</b></p> <p><b>Relevant part of guide:</b> <a href="#">What is substantial collation or research?</a></p> <p><b>Relevant provisions:</b></p> <ul style="list-style-type: none"> <li>• OIA s 18(f)</li> <li>• LGOIMA s 17(f)</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Research</i> means finding the information and <i>collation</i> means bringing it together. <i>Substantial</i> means there will be a significant and unreasonable impact on the agency's ability to carry out its other operations.</li> <li>• Consider: <ul style="list-style-type: none"> <li>- How much information has been requested or needs to be searched through to find what has been requested?</li> <li>- How long will it take to find the information and bring it together (be sure to exclude <a href="#">activities that cannot go toward establishing substantial collation or research</a>, including time required to make a decision on the request)?</li> <li>- What resources are available to do this work?</li> <li>- How would the diversion of these resources to complete the required tasks impact on the agency's ability to carry out its other operations?</li> </ul> </li> <li>• Do a sample exercise in order to make a reasonable estimate of the amount of work involved.</li> <li>• If your concern relates to the amount of time required to make a decision on the request, see <a href="#">What to do about requests that will involve considerable decision making time</a>.</li> <li>• If you think it will require substantial collation or research to make the information available, go to step 5.</li> </ul>
<p><b>5. Could you meet the request if you charged?</b></p> <p><b>Relevant part of guide:</b> <a href="#">Charging</a></p> <p><b>Relevant provisions:</b></p> <ul style="list-style-type: none"> <li>• OIA ss 15(1A)–(3) &amp; 18A(1)(a)</li> <li>• LGOIMA ss 13(1A)–(4) &amp; 17A(1)(a)</li> </ul>	<ul style="list-style-type: none"> <li>• Consider whether you could meet the request if you charged.</li> <li>• For more information on charging, including a template charging letter, see our guide <a href="#">Charging—A guide to charging for official information under the OIA and LGOIMA</a>.</li> <li>• If charging won't help, go to step 6.</li> </ul>

<p><b>6. Could you meet the request if you extend?</b></p> <p><b>Relevant part of guide:</b> <a href="#">Extending</a></p> <p><b>Relevant provisions:</b></p> <ul style="list-style-type: none"> <li>• OIA ss 15A &amp; 18A(1)(b)</li> <li>• LGOIMA ss 14 &amp; 17A(1)(b)</li> </ul>	<ul style="list-style-type: none"> <li>• Consider whether you could meet the request if you extended the maximum timeframe for making a decision.</li> <li>• For more information on extensions, including a template extension letter, see our guides <a href="#">The OIA for Ministers and agencies</a> (pages 23–24 and 49) and <a href="#">The LGOIMA for local government agencies</a> (pages 21–22 and 54).</li> <li>• If extending won't help, go to step 7.</li> </ul>
<p><b>7. Consult the requester</b></p> <p><b>Relevant part of guide:</b> <a href="#">Consulting the requester</a></p> <p><b>Relevant provisions:</b></p> <ul style="list-style-type: none"> <li>• OIA s 18B &amp; s 15(1AA)</li> <li>• LGOIMA s 17B &amp; s 13(7)</li> </ul>	<ul style="list-style-type: none"> <li>• Consider whether consulting the requester would enable them to make the request in a way that wouldn't require substantial collation or research.</li> <li>• Note that if an agency seeks amendment or clarification of a request within seven working days of receiving it, it is able to treat any amended or clarified request that is received as a new request for the purpose of calculating the maximum timeframe for response. Also note that if an agency needs to, it can extend the maximum 20 working days for response in order to enable consultation with the requester to take place.</li> <li>• Use our <a href="#">talking points for verbal consultation</a>.</li> <li>• Use our <a href="#">template letter for written consultation</a>.</li> <li>• Provide written confirmation of the outcome of consultation so everyone is on the same page about what information will be provided and when (see our <a href="#">template letter for confirming the outcome of consultation with the requester</a>).</li> <li>• Go to step 8.</li> </ul>
<p><b>8. Can you meet the request in another way?</b></p> <p><b>Relevant part of guide:</b> <a href="#">Meeting the request in another way</a></p> <p><b>Relevant provisions:</b></p> <ul style="list-style-type: none"> <li>• OIA s 16</li> <li>• LGOIMA s 15</li> </ul>	<ul style="list-style-type: none"> <li>• Consider whether you can meet the request in another way, even if you have to refuse the specific information requested.</li> <li>• Options for consideration: <ul style="list-style-type: none"> <li>- Releasing a subset or sample of the information</li> <li>- Releasing other information</li> <li>- Releasing the information in an alternative form (use our <a href="#">template letter for releasing the information in an alternative form</a>)</li> <li>- Releasing information on conditions.</li> </ul> </li> <li>• If you're not providing the specific information requested, you will still have to refuse the request. Use our <a href="#">template refusal letter</a>.</li> </ul>

	<ul style="list-style-type: none"><li>• Go to step 9.</li></ul>
<b>9. As a last resort, refuse the request</b>	<ul style="list-style-type: none"><li>• If none of the other mechanisms for managing an administratively challenging request help, you can refuse the request. Use our <a href="#">template refusal letter</a>.</li></ul>



## Appendix 2. Template letters

### 1. Written consultation with requester

[Date]

[Name and address of requester]

Dear [name]

#### **Official information request for [brief detail of subject matter of request]**

I refer to your official information request dated [date] for [brief detail of subject matter of request].

Your request as currently framed will be very difficult to meet without substantial collation or research. [Describe the difficulty involved in meeting the request, including details about the volume of information involved, the estimated time required to find and bring it together, and the impact on the agency's other operations].

Unless your request is amended, we may have to refuse it under section [18(f) of the OIA / 17(f) of the LGOIMA], which applies where the information cannot be made available without substantial collation or research.

Please let us know before [insert date that will enable the agency to meet its statutory obligation to make and communicate its decision on the request no later than 20 working days after it was received] whether you are prepared to amend or clarify your request and, if so, how. [Set out any options that may address the agency's difficulty in meeting the request, including charging and extension, and provide contact details of a member of staff who can assist].

#### **[Use only where the letter is sent within seven working days of receipt of the original request]**

Please note, if you do amend or clarify your request, this will be considered to be a new request for the purpose of calculating the maximum statutory timeframe for response—see section [15(1AA) of the OIA / 13(7) of the LGOIMA].

Yours sincerely

[Name]

## 2. Confirmation of outcome of consultation with requester

[Date]

[Name and address of requester]

Dear [name]

### **Official information request for [brief detail of subject matter of request]**

I refer to [provide details of written or verbal consultation with requester] concerning your request for official information.

In light of the difficulty involved in meeting your request, I understand you are prepared to [provide details of agreement reached, for example, amend your request to A, wait to receive the information until B, pay a reasonable charge etc].

We will proceed to process your request on that basis, and notify you of our decision as soon as reasonably practicable and no later than [insert relevant date],<sup>36</sup> unless an extension of that timeframe is necessary.

Yours sincerely

[Name]

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<sup>36</sup> Note, if the requester has amended or clarified their request at the behest of the agency within seven working days of receiving the original request, then the relevant date will be 20 working days after the amended or clarified request was received (see s 15(1A) OIA and s 13(7) LGOIMA).

### 3. Releasing the information in an alternative form

[Date]

[Name and address of requester]

Dear [name]

**Official information request for [brief detail of subject matter of request]**

I refer to your official information request dated [date] for [brief detail of the subject matter of the request].

Your request is an administratively challenging one to deal with. [Describe the difficulty involved in meeting the request, including details about the volume of information involved, the estimated time required to make the information available, and the impact on the agency's other operations].

In light of this, we have decided to meet your request by [specify manner in which information will be made available eg, inspection, excerpt or summary, oral briefing] in preference to providing copies of the full information you have requested. We are permitted to do this under section [16(2) of the OIA / 15(2) of the LGOIMA] because otherwise it would impair the efficient administration of [agency name].

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

If you wish to discuss this decision with us, please feel free to contact [details of contact person].

Yours sincerely

[Name]

## 4. Refusal of a request under section 18(f)

[Date]

[Name and address of requester]

Dear [name]

### **Official information request for [brief detail of subject matter of request]**

I refer to your official information request dated [date] for [brief detail of the subject matter of the request].

Due to the substantial amount of work that would be required to research and collate the information you have requested, we are refusing your request under section [18(f) of the OIA / 17(f) of the LGOIMA]. [Describe the difficulty involved in meeting the request, including details about the volume of information involved, the estimated time required to find and bring it together, and the impact on the agency's other operations].

We have considered whether charging or extending the timeframe for responding to your request would help, as required by section [18A of the OIA / 17A of the LGOIMA]. However, [explain why charging or extending would not help].

We have consulted [or considered consulting] with you, as required by section [18B of the OIA / 17B of the LGOIMA]. However, [detail attempts at consultation and why this has not resolved the difficulty, or explain why consultation would not help].

### **[Use if meeting the request in another way]**

While we cannot meet your exact request, we are able to [detail other way in which you are endeavouring to meet the request].

### **[Use in all cases]**

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

If you wish to discuss this decision with us, please feel free to contact [details of contact person]. [Contact person] is able to provide further assistance should you be willing to change or refine your request.

Yours sincerely

[Name]