

## Extension of time limit to enable kanohi ki te kanohi consultation

<b>Legislation</b>	Official Information Act 1982, s 15A
<b>Agency</b>	Ministry of Foreign Affairs and Trade
<b>Ombudsman</b>	Peter Boshier
<b>Case number(s)</b>	520088
<b>Date</b>	17 March 2020

*Extension to enable kanohi ki te kanohi consultation on OIA request reasonable in the circumstances*

### Background

A researcher asked the Ministry of Foreign Affairs and Trade (the Ministry) for information about the establishment of Te Taumata.<sup>1</sup> The Ministry extended the statutory time limit to respond to the request by 30 working days, and the requester complained to the Ombudsman.

### Investigation

Under the OIA, an agency must generally make and communicate its decision on a request for official information as soon as reasonably practicable and within 20 working days.<sup>2</sup>

However, this period can be extended if ‘*consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit*’.<sup>3</sup>

Any extension must be ‘*for a reasonable period of time having regard to the circumstances*’.<sup>4</sup>

<sup>1</sup> Te Taumata was established in 2019, to act as a point of engagement with Māori on trade policy and related issues, see [www.tetaumata.com](http://www.tetaumata.com).

<sup>2</sup> See s 15(1) OIA.

<sup>3</sup> See s 15A(1)(b) OIA.

<sup>4</sup> See s 15A(2) OIA.

It was clear in this case that consultations with Te Taumata were reasonably necessary in order to make the decision on a request for information about Te Taumata. The issue was whether the extended period was reasonable in this case, having regard to the circumstances.

The period of the extension was set with regard to when the Ministry was next scheduled to meet Te Taumata.

This was the first OIA request the Ministry had received relating to Te Taumata. While consultation could have been done electronically, the Ministry wanted to be able to brief Te Taumata on the OIA, and the fact that information relating to Te Taumata held by the Ministry was subject to that Act, and the principle of availability.

The Ministry also noted the importance of *kanohi ki te kanohi*, or face-to-face communication, when engaging with Māori. As the membership of Te Taumata was spread throughout New Zealand, it was not practicable to convene an earlier face-to-face meeting.

The Chief Ombudsman acknowledged that a 30 working day extension is not insignificant, and commented that an extension of this duration will always need to be justified in the circumstances.

However, in this case, it was. It was important for the Ministry's consultation on this request to be conducted *kanohi ki te kanohi*, in recognition of *tikanga Māori*, and for that reason a proper response could not be made within the statutory time limit.

## Outcome

The Chief Ombudsman formed the opinion that the extension in this case was reasonable.

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