

Address information for the purposes of civil court proceedings

This guide sets out the Ombudsman’s approach to requests made under the Official Information Act (OIA) and Local Government Official Information and Meetings Act (LGOIMA), for address information for the purposes of pursuing civil court proceedings.

The approach set out in this guide arose as a result of a number of investigations by the Ombudsman into the withholding of address information by state sector agencies, where addresses were sought for the enforcement of court orders and the commencement and continuance of court proceedings.

This guide deals separately with:

- *the enforcement of Tenancy Tribunal orders;*
- *the enforcement of other court orders; and*
- *the commencement and continuance of court proceedings.*

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Background

Between 1999 and 2002, the Ombudsman investigated decisions made by the then Department of Work and Income (DWI) (now Ministry of Social Development, MSD) to decline requests for the addresses of certain DWI clients.¹

The requests were all made by landlords who had obtained judgment orders from the Tenancy Tribunal, requiring their former tenants to pay them money for rent arrears and damages. The landlords were unable to have their judgment orders executed, and so obtain payment, as they did not know the current address of the tenants.

The relevant circumstances were that:

- the requesters were judgment creditors with orders for payment from the Tenancy Tribunal;
- they were seeking access to the address information of the judgment debtors solely for the purpose of providing the addresses to the then Department for Courts (now Ministry of Justice), so that the judgment orders in their favour could be enforced;
- they were happy for the specific address information they requested to be made available directly to the Department for Courts, subject to the condition that it was disclosed only for the purpose of enabling the Department for Courts to enforce the particular judgment order relating to them; and
- the Department for Courts had confirmed that it could put in place adequate procedures to ensure that the address information was only used for the enforcement of the specific judgment order to which it related and no other purpose.

¹ Read the full case note [here](#).

The Chief Ombudsman at the time, Sir Brian Elwood, formed the opinion that there was no good reason under the OIA for the information to be withheld. He accepted that there was an interest in withholding the address information under section 9(2)(a) of the OIA, in order to protect the privacy of the individuals involved. However, the Chief Ombudsman considered that this was outweighed by the public interest in release, to the extent that the information should be released directly to the Department for Courts and subject to the condition that the Department use the information only for the purpose of enforcing the requester's judgment order.

The identified public interest in release was that it would allow individual judgment creditors to pursue enforcement of Tribunal orders in their favour, preserve the integrity of the Tenancy Tribunal process under the Residential Tenancies Act 1986, and thereby maintain the proper administration of justice and promote respect for the law.

As a result of the investigation, a process was set up between the Ministry of Justice, the Department of Building and Housing (now the Ministry of Business, Innovation and Employment, MBIE) and MSD. Under this process, an up to date address may be released to the Ministry of Justice when judgment creditors are seeking to enforce Tenancy Tribunal orders and have taken all reasonable steps to locate the judgment debtors themselves. In 2010 this process was formalised in legislation, through an amendment to the [Residential Tenancies Act](#). For more information about this process, see [Requests to MBIE under the Residential Tenancies Act](#) below.

Since the original investigation, the Ombudsmen have also dealt with a variety of complaints relating to situations which fall outside the formal process that has been set up.

Enforcement of Tenancy Tribunal orders

Requests to the Ministry of Business, Innovation and Employment (MBIE) under the Residential Tenancies Act 1986

The [Residential Tenancies Act](#) (the Act) sets out a statutory scheme for making requests to MBIE, where a judgment creditor is seeking address information for enforcement of a Tenancy Tribunal order.

Under sections 112A to 112F of the Act, the Chief Executive of MBIE is responsible for liaising with MSD and the Ministry of Justice and responding to the judgment creditor when an application for address information is made. There are specific requirements on what must be included in the Chief Executive's response. In addition, section 112F prohibits the Ministry of Justice from disclosing any address information received under the process, unless disclosure is necessary to enforce the order or for determining any relevant proceedings.

Further information about this process, including the relevant application form, is available from the Tenancy Services website: <https://www.tenancy.govt.nz/disputes/enforcing-decisions/finding-a-new-address/>.

Requests to other agencies

The Residential Tenancies Act process currently applies only to a request for address information made to MBIE, for the purpose of enforcing a Tenancy Tribunal order. It does not apply to a request made to any other government agency for the purpose of enforcing a Tenancy Tribunal order.

Even so, any agency subject to the OIA or LGOIMA is required to consider a request for a person's address, when that is sought for the enforcement of a Tenancy Tribunal order.

The process that agencies should follow in considering such requests is set out below, under [Enforcement of other court orders](#).

Enforcement of other court orders

Any agency subject to the OIA or LGOIMA is also required to consider a request for a person's address, when that is sought for the purposes of enforcement of any other court order (such as orders made by the District Court and the Disputes Tribunal). While there is currently no formal process in place, a direct request can still be made to an agency for the address. Such requests must be considered under the OIA or LGOIMA on their own merits.

There are a number of steps that agencies should take in considering such requests, as set out below.

Determine whether any relevant address information is held

An agency may or may not hold an address for the named person. The relevant agency records should be searched to determine whether an address is held. In addition, requesters often advise the agency of the person's last known address, and request any more up to date address that the agency may hold. Again, the relevant records should be searched to determine whether a more up to date address is held.

If the agency does not hold an address, or does not hold a more up to date address than that already known to the requester, then the agency should consider whether to refuse the request under section 18(g) of the OIA,² on the basis:

- (g) *that the information requested is not held by the department or Minister of the Crown or organisation and the person dealing with the request has no grounds for believing that the information is either—*
 - (i) *held by another department or Minister of the Crown or organisation, or by a local authority; or*

² Section 17(g) LGOIMA.

- (ii) *connected more closely with the functions of another department or Minister of the Crown or organisation or of a local authority...*

If there is contextual information to suggest that the address information is held by another agency, then consideration should also be given to transferring the request to that agency under section 14 of the OIA,³ which provides:

14 Transfer of requests

Where—

- (a) *a request in accordance with section 12 is made to a department or Minister of the Crown or organisation; and*
- (b) *the information, or some of the information, to which the request relates—*
 - (i) *is not held by the department or Minister of the Crown or organisation but is believed by the person dealing with the request to be held by another department or Minister of the Crown or organisation, or by a local authority; or*
 - (ii) *is believed by the person dealing with the request to be more closely connected with the functions of another department or Minister of the Crown or organisation, or of a local authority,—*

the department or Minister of the Crown or organisation to which the request is made shall promptly, and in any case not later than 10 working days after the day on which the request is received, transfer the request, or relevant part of the request, to the other department or Minister of the Crown or organisation, or to that local authority, and inform the person making the request accordingly.

Consider whether release of the address information would breach a secrecy provision

If the agency does hold the address information requested, the next step is to consider whether release of the address would breach any relevant secrecy provision set out in the legislation that governs the agency's functions.

For example, section 81 of the Tax Administration Act 1994 requires the Inland Revenue Department (IRD) to keep secret all information within its knowledge. IRD may only disclose information if that is for the purpose of administering the tax, accident compensation and New Zealand superannuation laws, or if one of a number of specific exceptions applies. There is

³ Section 12 LGOIMA.

currently no specific exception that would allow the disclosure of a taxpayer's address for the purposes of enforcing a civil court order.

If release of the address would breach an agency's secrecy provision, then the agency should consider whether to refuse the request under section 18(c)(i) of the OIA,⁴ on the basis that disclosure would be *'contrary to the provisions of a specified enactment'*.

Consider whether to release the address information to the Ministry of Justice

If the agency does hold the address information requested, and there is no relevant secrecy provision that would be breached by release of the address, then the next step is to consider whether there is any good reason to withhold the information.

In this respect, the Ombudsman recognises that there is a privacy interest in a person's address information when it has not already been made publicly available.⁵ However, the Ombudsman also considers that generally, there is a public interest in release that would outweigh the need to withhold the information to protect the person's privacy, where the address is required for enforcement of a court order and the address is released direct to the Ministry of Justice for that purpose.

Accordingly, the Ombudsman's general approach is that there is usually no good reason to withhold this information when the address is released direct to the Ministry of Justice.

Before releasing an address to the Ministry of Justice, however, the agency should take all reasonable steps required to satisfy itself that the address is required for enforcement of a court order. This could include obtaining from the requester:

- a copy of the relevant court order; and
- details of the steps the requester has made to try and locate the judgment debtor themselves.

Commencement and continuance of court proceedings

Requests may also be made for the release of address information for the purposes of service, in order for the requester to commence or continue court proceedings.

⁴ Section 17(c)(i) LGOIMA.

⁵ If a person's address is publicly available in sources such as the White Pages, it would be difficult to find a privacy interest in that information. However, in these circumstances s 18(d) OIA (s 17(d) LGOIMA) would provide a basis to refuse the request if the information is *'publicly available'*.

Again, in considering such requests, the first steps an agency should take are to:

- determine whether any relevant address information is held (see [above](#)); and
- consider whether release of the address information would breach a secrecy provision (see [above](#)).

If a relevant address is held, and there is no secrecy provision that would be breached by release of the information, then the next step is to consider whether there is any good reason to withhold the information.

The Ombudsman:

- recognises that there is a privacy interest in a person's address information when it has not been made publicly available; and
- considers that generally, there is no public interest in release that would outweigh the need to withhold the information to protect the person's privacy.

While there is a public interest in the release of information that would promote access to the courts, a person's address is not usually needed to allow court proceedings to commence or continue. Where an individual's address cannot be found, there are procedures in place which can deem service to have taken place. In these circumstances, the Ombudsman does not consider there is an identified public interest in release of a person's address that would outweigh the need to withhold it to protect that individual's privacy.

Accordingly, in the circumstances of a particular case, an agency may well be justified in refusing a request for address information for the purposes of commencing or continuing court proceedings, under section 9(2)(a) of the OIA.⁶

If the requester is seeking to commence or continue proceedings in the Tenancy Tribunal, they should be referred to the Tenancy Services website, which has advice on completing an application to the Tenancy Tribunal, including what to do if you don't have the other party's address for service (see <https://www.tenancy.govt.nz/disputes/tribunal/completing-an-application-to-the-tenancy-tribunal/>).

If the requester is seeking to commence or continue proceedings in any other court, they should be advised to seek legal advice on how to go about seeking substituted service.

⁶ Section 7(2)(a) LGOIMA.