

Contrary to law, contempt of court or the House

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

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What the Act Says

Section 18¹ of the Official Information Act 1982 (OIA) provides several administrative grounds for refusing a request. In general, these grounds will apply where for some **procedural** or **administrative** reason it is not reasonable for the agency to fulfil the request.

The principle of availability set out in section 5 of the OIA requires that *‘information shall be made available unless there is good reason for withholding it’*. These administrative grounds

¹ [Section 17 LGOIMA](#).

are not **good reasons** for withholding information, they are simply authority for refusing a request in certain circumstances.

Section 18(c)² of the OIA provides that a request may be refused if:

... the making available of the information requested would—

- (i) be contrary to the provisions of a specified enactment; or*
- (ii) constitute contempt of court or of the House of Representatives.*

Contrary to the provisions of a specified enactment

While for the most part requests for information must be considered within the terms of the OIA, there are a number of other provisions in various pieces of legislation which control whether and how certain information should be released. Such provisions usually relate to very specific types of information, or information provided in specific circumstances.

Where release of certain information would be contrary to the provisions of such an enactment, a request for that information may be refused pursuant to section 18(c)(i)³ of the OIA.

Relying on section 18(c)(i)

When considering whether a request should be refused under section 18(c)(i) of the OIA, the agency should carefully consider the specific provision of the enactment being relied upon:

1. Would release of the information requested be **contrary** to this provision?
If so, does this provision apply to **all** the information requested – if it does not, can **some** of the information be considered for release under the OIA?
2. Does the provision confer any discretion as to whether the information can be released in the circumstances of this case?
3. If so, would it be appropriate to exercise that discretion in the circumstances of this particular case?

² [Section 17\(c\) LGOIMA.](#)

³ [Section 17\(c\)\(i\) LGOIMA.](#)

Contempt of Court or the House of Representatives

If releasing the requested information would constitute contempt of Court or contempt of the House of Representatives, that request **may** be refused under section 18(c)(ii)⁴ of the OIA. Section 52(1)⁵ of the OIA also provides that:

Nothing in this Act authorises or permits the making available of any official information if the making available of that information would constitute contempt of court or of the House of Representatives.

While the use of the word **may** in section 18(c)(ii) suggests that a decision to refuse a request under that section is discretionary, section 52(1) of the OIA confirms that the OIA does not provide authority or permission to release information if such disclosure would constitute contempt of Court or of the House of Representatives.

Contempt of Court

Contempt of Court exists to:

*... preserve an efficient and impartial system of justice and public confidence in it, by dealing with challenges to the fundamental supremacy of the law.*⁶

Common law classified contempt of court as either as:

- criminal contempt, consisting of words or acts obstructing, or tending to obstruct or interfere with, the administration of justice; or
- civil contempt, consisting of disobedience to the judgments, orders or other processes of the Court, and involving a private injury.⁷

The Contempt of Court Act 2019 codified and reformed the law of contempt in New Zealand. It enables courts to make certain orders and impose sanctions so that:

- civil and criminal court proceedings are heard and determined fairly by independent and impartial Judges;
- jury verdicts are based only on facts admitted or proved by properly adduced evidence after free, frank, and confidential jury discussions, and the finality of verdicts is protected;
- individual cases are heard and determined in a manner that is expeditious, efficient, and consistent with the principles of justice and the rule of law;

⁴ [Section 17\(c\)\(ii\) LGOIMA](#).

⁵ [Section 44\(1\) LGOIMA](#) which reads ‘Nothing in Parts 1 to 5 of this Act authorises or permits the making available of any official information if the making available of that information would constitute contempt of court or of the House of Representatives’.

⁶ ‘Contempt of Court’, Part 1, Section 1, *The Laws of New Zealand*, 25 September 2025.

⁷ See n 6.

- except in proceedings where the law restricts access to the court or restricts the reporting of proceedings (such as proceedings in the Family Court or the Youth Court) or in unusual circumstances, proceedings are open to the public and news media;
- orders made by the courts are enforceable; and
- the independence, integrity, impartiality, and authority of the judiciary are protected.⁸

The Act also '*preserves the inherent jurisdiction of the High Court to punish for contempt of court in circumstances where this Act does not apply*'.⁹

The OIA allows an agency to refuse a request for information if the release of that information would constitute contempt of Court.

Relying on section 18(c)(ii)

Set out below are the questions that the agency should be able to answer before deciding to refuse a request on the basis that release of the information would constitute contempt of Court:

1. In what way would release of this information constitute contempt of Court?

For example, would it breach an order made by the Court?

2. Would release of **all** of the information constitute contempt of Court?

That is, is there any information encompassed by the request which can be released without being in contempt of Court? If so, that information should be considered for release under the OIA.

Examples

Section 18(c)(ii) of the OIA has been found to apply where:

- the information requested is the subject of a permanent suppression order by the Court; and
- a Coroner has prohibited the publication of evidence given at an inquest.

⁸ Section 3(2) of the Contempt of Court Act 2019.

⁹ Section 3(3)(b) of the Contempt of Court Act 2019.

Contempt of the House of Representatives

In Erskine May's *Parliamentary Practice*,¹⁰ contempt of the House of Representatives is described in the following manner:

*Generally speaking, any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offence.*¹¹

Contempt of the House of Representatives in New Zealand is codified in the *Standing Orders of the House of Representatives*.¹² Standing Order 417 states that:

The House may treat as a contempt any act or omission which –

- (a) obstructs or impedes the House in the performance of its functions, or*
- (b) obstructs or impedes any member or officer of the House in the discharge of the member's or officer's duty, or*
- (c) has a tendency, directly or indirectly, to produce such a result.*¹³

If release of official information would constitute contempt of the House of Representatives, a request for that information may be refused under section 18(c)(ii) of the OIA.

Relying on section 18(c)(ii)

The agency should consider the following questions before deciding whether to refuse a request under section 18(c)(ii) of the Act:

1. In what way would release of the information requested constitute contempt of the House of Representatives?

Can a specific Standing Order defining the contempt¹⁴ or an example of the contempt in Standing Orders¹⁵ be pointed to?

2. Would release of **all** of the information constitute contempt of the House of Representatives?

¹⁰ [Erskine May's Treatise on The Law, Privileges, Proceedings and Use of Parliament](#) (25th Edition, 2019).

¹¹ [Paragraph 15.2 of Erskine May's Treatise on The Law, Privileges, Proceedings and Use of Parliament](#).

¹² [Standing Orders of the House of Representatives](#) (2023 edition, Wellington).

¹³ [Standing Order 417\(1\)](#).

¹⁴ See [Standing Order 417](#).

¹⁵ See [Standing Order 418](#); Examples of conducted that the House may treat as contempt are discussed in [paragraph 59.3 of the Parliamentary Practice in New Zealand](#) (5th edition, Wellington, 2023).

That is, is there any information encompassed by the request which can be released without being in contempt? If so, that information should be considered for release under the OIA.

Example

An example of where section 18(c)(ii) of the OIA might apply is found where, in accordance with Standing Order 223(1), a select committee has declared evidence to be secret evidence. Disclosure of that secret evidence without authorisation by the House of Representatives may constitute contempt of the House.¹⁶

¹⁶ See [Standing Order 223\(1\)](#).