

Policy: Official Information Act Policy (POL-392)

Issue Date	14 June 2024	Approved by	Chief Executive Leadership Group
Owner	Director – Governance	Author	Manager – Government Relations

Purpose

1. This policy sets out how Kāinga Ora – Homes and Communities (Kāinga Ora) will fulfil its responsibilities under the Official Information Act 1982 (the Act).
2. This policy should be read alongside the relevant Government Relations Official Information Act processes and guides and the Proactive Release Policy (POL-393).

Background

3. The Official Information Act is an important part of New Zealand’s constitutional framework and gives New Zealanders¹ the legal right to ask for official information so that they can more fully participate in their democracy and to hold governments and Public Sector agencies to account.
4. When New Zealanders ask for information, government agencies need to assist and be responsive, and approach requests in line with the principle of availability (outlined further below).
5. The Act also recognises there may be good reasons under the Act to withhold information, but such a decision often needs to be weighed against the public interest in releasing the information.
6. All requests for information are potentially requests for official information, including requests for publicly available and previously released information.

¹ This includes others in New Zealand. Refer section 12 of the Act for full definition of who can make a request.

7. Kāinga Ora is committed to the intent and purpose of the Act and recognises the constitutional importance of the legislation.
8. Kāinga Ora is bound by the Act and in any inconsistency of interpretation between this policy and the law, the Act must prevail.
9. The purpose of the Official Information Act policy is to:
 - Reinforce the commitment of Kāinga Ora to the principles and purposes of the Official Information Act 1982.
 - Provide guidance to Kāinga Ora employees, contractors and consultants about their obligations and responsibilities in responding to requests for official information.
 - Provide guidance on the proactive release of responses to requests under the Act.

Scope

10. This policy and the related procedures apply to all Kāinga Ora employees (including casual and fixed term employees), contractors, consultants, secondees and interns and informs them of their responsibilities under the Act when handling requests to Kāinga Ora for official information and drafting responses to requests on behalf of Ministers.

Definitions

11. The following definitions apply when interpreting this policy:

Term	Definition
Accessible	Information published online that meets the New Zealand Government Web Accessibility Standard, in line with The Accessibility Charter.
An “agency”	Includes Ministers acting in their official capacity and government departments and organisations like Kāinga Ora.
Official information	Any information that Kāinga Ora holds. It includes: <ul style="list-style-type: none"> • Documents, reports, memoranda, letters, texts, emails, Teams messages and drafts • Non-written information such as video or voice recordings • Internal policies and guidelines • Information that is known to Kāinga Ora but has not yet been written down.
Ministerial OIA requests	These are requests made to one of our Ministers. In this case a Private Secretary may refer the request to Kāinga Ora for advice to the Minister, including a draft response.
Personal or identifiable information	Personal information is any information that tells us something about a specific individual, e.g., person’s name, contact details and financial records. The information does not need to name

	the person; it is enough that it could be combined with other information to identify them.
Proactive release	<p>Making information available to the public before it has been officially requested.</p> <p>Information can be proactively released by:</p> <ul style="list-style-type: none"> • Publishing Kāinga Ora documents (such as annual reports, statements of intent, research reports, briefings) on our website. • Publishing the same, or edited, information that we have already released to a requester under the Official Information Act 1982 (OIA).
Reusable	Information released in a way that makes it easy for the public to find and access it. Wherever possible released in open formats that are machine-readable and non-proprietary i.e., the information will not require specific software to access it.

Policy

Principles

12. The guiding principle of the Act is that information should be made available unless there are good reasons under the Act to withhold it (the ‘principle of availability’).
13. In handling requests for official information, the Act requires Kāinga Ora to:
- Manage all requests for official information in accordance with the Act and good administrative practice.
 - Recognise a request may be made in any form and communicated by any means (including orally) and does not need to refer to the Act.
 - Reach and give notice of a decision on all requests as soon as reasonably practicable, and within statutory time frames.
 - Provide reasonable assistance to requesters – this may include directing them to publicly available information, clarifying their requests when necessary, and transferring requests to relevant agencies where appropriate within statutory time frames.

14. Kāinga Ora will also:

- Align with the Ombudsman guidance on Official Information Act requests.
- Inform or consult with third parties about requests for official information that concern them where appropriate, and consider any feedback provided.
- Inform relevant Minister(s) of requests for official information it receives and, where appropriate, provide copies of responses to the relevant Minister's office in accordance with the Government Relations protocol for informing and consulting the Minister on OIA requests.
- Consult Minister(s) on requests to Kāinga Ora that relate to their functions or involve Cabinet material and consider any feedback provided.
- Publish responses to requests for official information to make information more available and assist in public understanding of the role and work of Kāinga Ora.
- Review and monitor its performance in responding to requests.
- Cooperate with any investigation by the Office of the Ombudsman and carry out any agreed recommendations to improve the performance of Kāinga Ora in responding to requests.
- Provide information about the importance of the Act to employees, and specific training to employees with responsibility for the Act.
- Ensure all parts of the organisation work together to meet the obligations of the Act.

Main policy statements

15. Management and processing OIA requests

- The Government Relations team is responsible for managing and responding to OIA requests.
- All OIA requests received by Kāinga Ora must be immediately sent to the Government Relations team. This will help ensure that we meet the timeframe of responding 'as soon as reasonably practicable' and no later than 20 working days.
- The Government Relations team will assess the request, inclusive of the level of sign-out and oversight required, consult, or notify other relevant stakeholders and complete the response to the requester.
- Notwithstanding the above, information requests sent to the External Communications team (referred to as 'Media requests') will be responded to by the External Communications team.
- The Media team may refer media requests for information to be managed by the Government Relations team as an OIA as appropriate.

16. Complex requests and request clarification

- If a request is too broad or complex or the information being requested is unclear, the Government Relations team will contact the requester to seek refinement or clarification. If this contact is made within the first 7 working days after receiving the original request, the timeframe for responding can be reset from the date that the requester confirms their revised/clarified request, providing that revision/clarification occurs within the original time limit.

17. Extensions

- Extensions must be notified to a requester within twenty working days of the request. More than one extension is permissible so long as all extensions are notified within the original twenty working days. If it is a Ministerial OIA a decision on any extension must be made by the Minister on advice from the Government Relations team.

18. Transfers

- Transfers of requests (or relevant parts of requests) must be identified and notified to a requester within ten working days after a request is received if some or all of the information requested is not held by Kāinga Ora but is believed by the person dealing with the request to be held by another agency or to be more closely connected with the functions of another agency.
- Kāinga Ora will transfer a request or relevant part(s) of a request to another agency within 10 working days of receipt of the request.
- If the request is a Ministerial OIA a decision to transfer must be made by the Minister on advice from the Government Relations team. This advice should be provided within five working days of the Minister receiving the request. The time for making a transfer can be extended in accordance with the Act.

19. No Surprises Convention

- Under the “no surprises” convention, Kainga Ora must advise the Minister about any “matters of significance” inclusive of any request for official information that is “particularly sensitive or potentially controversial”. Refer to Cabinet Manual 2023.

20. Approval of responses

- Sign-out responsibility of a response (the Approver) will be guided by the Reputational Risk assessment of the request. Reviews of the risk assessment will be made during the response process.
- Approvers are responsible for the content of the response that they sign-out, so it is important that they review the response, including all advice and any recommendations made on the release or withholding of information.

Staff names and contact details

21. Kāinga Ora has an obligation to ensure the health and safety of its people. Accordingly, Kāinga Ora will follow a safety and wellbeing approach to the release of staff names, where protection of staff from harm, and improper pressure or harassment is paramount and will be considered as part of the staff consultation process.

22. Staff will be consulted and given the opportunity to advise if they have concerns about their name and contact details being released in information requested under the OIA.

23. Staff DDIs and work mobile phone numbers have a privacy interest. For this reason, and because Kāinga Ora has general contact details that members of the public can use to communicate with it, staff phone numbers will generally be withheld.

24. If Kāinga Ora intends to publish the name of an official from another agency (for example, a document relating to a cross-agency work programme), we will consult with the relevant agency about that proposal.

Publication of OIA responses

25. At least once a quarter, Kāinga Ora will publish responses to OIA requests.
26. Kāinga Ora will publish OIA responses that are of public interest, excluding those that relate primarily to specific individual interest.
27. Kāinga Ora will always withhold the names and contact details of requesters whose responses are published. Letters responding to requests will advise requesters that their response may be published, and that Kāinga Ora will consider any feedback received.

Section 48 of the OIA

28. Proactively released information is not information released under the Act. This means that section 48 of the OIA, which protects Ministers and agencies from civil or criminal liability when information is released in good faith under the Act, does not apply to information that is released proactively.
29. Kāinga Ora will therefore consider any potential civil or criminal liability that might result from proactively releasing an OIA response before releasing the information and before seeking Ministerial approval (where relevant).
30. In some instances, it may be appropriate to release information under the Act to a particular requester (potentially with conditions), but not to proactively release it to the general public.

Licensing

31. The majority of information published by Kāinga Ora into the public domain is licensed for reuse as per the Cabinet approved New Zealand Government Open Access Licensing (NZGOAL) Framework.
32. The Creative Commons Attribution 4.0 licence will be the default licence, unless there are circumstances requiring some restrictions - for example, content owned by a third party. The Creative Commons Attribution 4.0 licence overrides restrictions on reuse under copyright and gives explicit permission to reuse. It also gives Kāinga Ora protection against the malicious use of information, and liability for error.
33. Content that is restricted and not eligible for re-use will be clearly marked as not for reuse.

Accessibility and reusability

34. Kāinga Ora will ensure information published online meets the New Zealand Government Web Accessibility Standard, in line with The Accessibility Charter.
35. Kāinga Ora will ensure information published online is reusable. Information will be released in a way intended to make it easy for the public to find and access it. Wherever

possible, information will be released in open formats that are machine-readable and non-proprietary i.e., the information will not require specific software to access it.

Training

- 36. This policy will be available to view on the Kāinga Ora intranet, Atamai, and promoted across the organisation.
- 37. The online learning module ‘Official Information at Kāinga Ora’ is available to all staff and promoted on the OIA Atamai page. The module is part of the onboarding modules for new staff.

Reporting

- 38. Every 6 months we will provide comprehensive information on the number of OIA requests we receive and the number of complaints we are notified of by an Ombudsman, to the Public Services Commission and advise how we met the timeliness requirements of the Official Information Act 1982.

Roles and responsibilities

- 39. To meet its statutory obligations, Kāinga Ora operates a centralised and collaborative model for managing and preparing responses to requests for official information.

Role	Responsibility
Kāinga Ora Board	Board is responsible for oversight of Kāinga Ora compliance with the OIA and is consulted on all critical risk OIAs.
Kāinga Ora Chief Executive (CE)	Responsible for approving high risk OIAs
General Managers (GM) and Deputy Chief Executives (DCE) and their business groups	Responsible for all OIA requests prepared by their Directorates and for approving medium risk OIAs
Government Relations (GR)	Government Relations manage all OIA requests. They are responsible for managing requests from end-to-end, compiling in-scope information, preparing response letters and document bundles, providing advice on the application of the Act (including relevant withholding grounds), and undertaking necessary clarifications, extensions, transfers, and internal and external consultation.

	<p>The Government Relations Manager is responsible for approving low risk OIAs.</p> <p>The Government Relations Team Leader is responsible for approving <u>very</u> low risk OIAs.</p>
All Kāinga Ora employees, contractors, and consultants	<p>Understand their role in ensuring Kāinga Ora complies with its obligations, recognise that an OIA request may be made in any form and communicated by any means (including orally) and does not need to refer to the Act, and ensure that all OIA requests they receive are immediately transferred to the Government Relations Team.</p> <p>Contractors and consultants at Kāinga Ora need to be aware that as per the Act, any information they hold from their work at Kāinga Ora is deemed to be held by Kāinga Ora and subject to the OIA.</p>
External Communications Team	Reviews some draft responses, provides advice if a response may attract wider media, public or political interest.
Office of the Chief Executive (OCE)	Reviews responses that might attract significant wider political, public or media interest, particularly those provided to a Minister's office either for information or consultation.
Legal Team	Provides legal advice on the Act and on OIA requests when requested or as appropriate, and reviews potentially legally privileged information in scope of requests.

40. Other organisations and people are also involved.

Role	Responsibility
Ministers' offices	Receive notification of responses provided to them for their information under the 'no surprises' approach and provide feedback on proposed responses to requests to Kāinga Ora that are sent to them for consultation. They also provide feedback on any draft Ministerial responses that Kāinga Ora has been asked to prepare.

Ministers	Approve any responses to requests for official information directed to them.
Office of the Ombudsman	Reviews and investigates complaints by requesters about the handling of their requests, particularly refusals to supply information.
Public Service Commission – Te Kawa Mataaho	Regularly publishes comprehensive statistics on the number of OIA responses completed, timeliness and the number of complaints notified to the Office of the Ombudsman. It also publishes guidance for agencies in responding to requests.

Related legislation, regulation, policies, processes, and guidance documents

41. Relevant guidance, legislation, and policies:

- Cabinet Manual
- Kāinga Ora Government Relations Procedures Manual
- Ministry of Justice Charging guidelines
- Official Information Act 1982
- Ombudsman Guidance
- Online learning module 'Official Information at Kāinga Ora'
- Privacy Act 2020
- Public Services Commission Guidance

Review

42. This policy will be reviewed bi-annually.

Document control

Date	Reviewed/Modified by	Comments/Descriptions of changes
June 2004	Chief Executive Leadership Board	New policy

43. Details of previous versions of policies and procedures will be stored in the Kāinga Ora document management system (Objective).