



Protocol on dealing with official information requests involving the Minister for Regulation

Principles of the protocol

1. The Ministry for Regulation (Ministry) and Minister for Regulation (Minister) will apply this protocol in accordance with their statutory obligations and the principle of availability set out in the Official Information Act 1982 (OIA).
2. The Minister recognises that the Ministry is responsible for making decisions on OIA requests it receives, unless those requests are required to be transferred to the Minister in accordance with section 14 of the OIA. The Ministry recognises that the Minister may need to make, be involved in, or know about decisions on OIA requests involving the Minister.
3. The Ministry will work with the Office of the Minister (Office) to identify OIA requests involving the Minister and decide what the appropriate mechanism for dealing with them is (for example, consultation, transfer, and/or notification of decision).
4. The Ministry and the Minister acknowledge that this is a decision to be made on the facts of each case, and in accordance with the law, and not pursuant to any general policy or directive.
5. OIA requests involving the Minister are ones where there is the potential for the Minister to be affected by release of the requested information because:
 - it relates to their functions or activities as a Minister, or
 - due to considerable public interest, they may be required to prepare for the possibility of public or political commentary.

Notification on OIA requests

6. Under the no surprises principle set out in section 3.26 of the Cabinet Manual, the Ministry will notify the Office when they receive an OIA request involving the Minister.¹ This includes requests for information that:
 - relate to or could impact on the Minister's functions or activities,
 - was generated by or on behalf of the Minister,
 - is sensitive, controversial, or has potential for considerable public interest, or
 - is likely to be published in the news media² or debated in the House.

¹ In their relationship with Ministers, officials should be guided by the “no surprises” principle. As a general rule, they should inform Ministers promptly of matters of significance within their portfolio responsibilities, particularly where these matters may be controversial or may become the subject of public debate (see 3.26a of the [Cabinet Manual 2023](#)).

² Media for the dissemination to the public or section of the public of news and observations on news (see definition in [s 68\(5\) of the Evidence Act 2006](#)).



7. The Ministry will notify the Office on a no surprises basis by forwarding the OIA request, and any other relevant information, no later than **2 working days following allocation** to the person dealing with the request.
8. Following this no surprises notification, the Office will confirm whether the request does involve the Minister, and whether consultation with the Office is needed when developing a response.
9. For the Minister's information only, the Ministry will also notify the Office on decisions the Ministry makes on these requests. The Ministry's notification will:
 - occur before the decision is to be communicated to the requester, and
 - specify when the decision is to be communicated to the requester.

Consultation on OIA requests

10. The Ministry will consult the office of the Minister on any OIA request where the requested information:
 - was supplied by the Minister,
 - is about the Minister's functions or activities, or
 - could affect the Minister's functions, activities, or legitimate interests if released.
11. The Ministry will consult the office of the Minister by:
 - allowing a minimum **3 working days for consultation** to take place, unless the circumstances of the particular request demand a shorter period of time, and
 - providing the office with all information necessary for informed consultation, including the request, the information at issue, and the decision the Ministry proposes to take.
12. The office of the Minister will respond to all consultations by:
 - providing input as expeditiously as possible to not interfere with statutory obligations,
 - providing appropriate input, including comments and suggestions regarding the proper application of the withholding grounds and the public interest test,
 - releasing additional information, including additional material to place information being released in proper context,
 - proactively releasing the same information to others, provided there is no undue delay in providing that information to the original requester, and
 - not providing inappropriate input, such as asking or instructing the Ministry to act contrary to OIA requirements, including withholding or delaying the release of official information without statutory basis.
13. The Ministry will consider the input of the Minister's office on an OIA request and decide whether it provides a reasonable basis for changing the proposed decision on the request.

Transfer of OIA requests

14. The Ministry will transfer all or part of an OIA request to the Minister when required under section 14 of the OIA, including where the requested information is:



- not held by the Ministry but is believed to be held by the Minister, or
 - believed to be more closely connected with the functions of the Minister.
15. The Minister acknowledges that, in the absence of these circumstances, transfer is not permitted and responsibility for deciding on the request rests with the Ministry. The Minister will likewise transfer all or part of an OIA request to the Ministry when required under section 14 of the OIA.

Record keeping

16. The Ministry and the Minister will keep full and accurate records of interactions in relation to OIA requests in accordance with section 17(1) of the Public Records Act 2005.³

Disputes

17. Where disputes arise between the parties regarding the proper application of the OIA or this protocol, or if there is any alleged breach of this protocol, these should be referred to the Ministry's Head of Ministerial and Strategic Services and the Senior Ministerial Advisor in the Office of the Minister for Regulation.
18. If needed, the Office of the Ombudsman should be contacted for advice as early as possible to ensure it can answer any queries without delaying the response to a request for official information.
19. For further assistance, the Office of the Ombudsman offers an advisory service on the operation of the OIA.⁴

³ [Public Records Act 2005 | New Zealand Legislation](#)

⁴ The Office of the Ombudsman can be contacted by email info@ombudsman.parliament.nz or freephone 0800 802 602. The Office should be contacted as early as possible to ensure it can answer any queries without delaying the response to a request for official information.