

Open Government Partnership New Zealand

National Action Plan 2018-2021

End of Term Report

Commitment 7: Official Information

Lead agency: Ministry of Justice and the Public Service Commission

Objective: To improve the availability of official information by:

- providing advice to the Government on whether to initiate a formal review of official information legislation
- progressively increasing the proactive release of official information by publishing responses to requests for information made under the Official Information Act 1982 (OIA). This commitment builds on work - undertaken as part of the National Action Plan 2016-2018 - on official information to make information more accessible, which promotes good government and trust and confidence in the State Services.

Ambition: New Zealanders:

- can have confidence that the regulation of official information remains fit-for-purpose
- have equitable access to official information released in response to specific requests.

OGP values: Public Participation and Transparency and Accountability

What we achieved:

Milestone 1



The Ministry of Justice undertook targeted engagement on the Official Information Act (OIA) 1982 to inform a Government decision on whether to progress a review of the legislation. Advice and a summary of submissions on the OIA engagement were developed and provided to Government in September 2019 and was published on the Justice website in March 2021. The Minister of Justice will be considering the potential for a review of the OIA later in the Parliamentary term.

Milestone 2 and 3

Both these Milestones have been successfully completed with a 71% increase in the proactive release of OIA responses and the decision by Cabinet to proactively release Cabinet material.

Summary

Milestones		Progress
1	Test the merits of undertaking a review of the Official Information Act 1982 and provide and publish advice to Government <i>Start date: Following the report back of the Privacy Bill</i> <i>End date: September 2019</i>	

2	Achieve a measurable increase in the proactive publication of official information request responses <i>Start/End dates: October 2018 to June 2021</i>	
3	Implement a policy to publish Cabinet papers proactively within 30 days of final decisions, unless there are good reasons to withhold specific papers <i>Start/End dates: October 2018 to June 2019</i>	

Progress key:



some delays



underway



completed

What we achieved

Milestone 1

In September 2018, Cabinet agreed that the Ministry of Justice would undertake targeted engagement on the OIA to inform a decision on whether to progress a review of the legislation.

Targeted consultation was undertaken between 8 March and 3 May 2019. The Ministry received 284 written submissions and spoke to eight experts. In September 2019, Justice officials reported back on the targeted consultation and provided a summary of submissions and advice on next steps for a possible review of the OIA.

In March 2021, the advice and summary of submissions were published on the Ministry of Justice's public website at: <https://www.justice.govt.nz/assets/Documents/Publications/Proactive-release-OIA-review.pdf>.

Milestone 2

The latest Official Information Act (OIA) statistics for 118 government agencies, covering the period January to July 2021, were released in September 2021. Agencies published 1,943 OIA responses from January to June 2021. The number of OIA responses published is 70.7% up on the first six-months of the National Action Plan period, which ran to December 2018 (during which 1,138 were published). Sixty-five agencies published responses in the six months to June 2021, up 54.8% on the first six-months of the National Action Plan period, when 42 agencies published responses.

Overall, agencies responded to 27,150, or 97.8% of requests within legislated timeframes in the six months to June 2021, up from 95.0% in the first six-months of the National Action Plan period.

Agencies completed 27,755 official information requests in the six months to June 2021, a 9.7% increase in volume on the previous six months, and up 53.3% on the first six-months of the National Action Plan period (when 18,105 were completed).

Activity	Six months to Dec 2018	Six months to Jun 2021	Change
OIA responses published	1,138	1,943	70.7% increase
OIA responses completed	18,105	27,755	53.3% increase
Number of agencies publishing	42	65	54.8% increase
Proportion completed within legislated timeframes	95.0%	97.8%	Up 3.8 percentage points

Milestone 3

This Milestone has been completed. The Cabinet paper establishing the policy, and associated advice, and a 30-working day calculator have been published on the Commission's website. The Cabinet Office Circular is published in HTML on the Department of Prime Minister and Cabinet website.

A dataset showing the publishing locations of agencies' Cabinet papers (where agencies use a centralised publication model), is also now available on the Commission's proactive release webpage and www.data.govt.nz.

How we included diverse voices and engaged diverse communities

Milestone 1

The 2019 OIA consultation was publicly available through the Ministry of Justice Consultation Hub.

The Ministry identified and emailed interested individuals and organisations, including those representing minority groups, inviting them to make written submissions. They also encouraged them to forward the invitation to others.

Milestone 2 and 3

These two Commitments were aimed at changing or improving agency performance in the release of official information, engagement was consequently focussed on agencies.

Commitment links:

Milestone 1

<https://www.justice.govt.nz/justice-sector-policy/have-your-say/>

Milestone 2

<https://www.publicservice.govt.nz/resources/latest-oia-statistics-released-jan-june-2021/>

<https://catalogue.data.govt.nz/dataset/official-information/resource/106a9ff4-d017-470f-9220-adcf5db4095a>

Milestone 3

<https://dpmc.govt.nz/publications/co-18-4-proactive-release-cabinet-material-updated-requirements>

<https://catalogue.data.govt.nz/dataset/official-information/resource/d4994315-2563-4adc-bced-e45cf5fda4e6>

Impacts:

Milestone 1

An issues paper was not developed for the 2019 OIA consultation, instead the Ministry sought the public's views on three open-ended questions:

- In your view, what are the key issues with the OIA?
- Do you think these issues relate to the legislation or practice?
- What reforms to the legislation do you think would make the biggest difference?

The aim of the Ministry's OIA engagement approach was to understand stakeholders' views and perspectives on the OIA in order to help officials understand potential weaknesses and gaps in the legislation.

By focusing on stakeholders' experience of the OIA and the key issues and challenges they think as being most important the Ministry endeavoured to avoid pre-determining the issues stakeholders may wish to discuss.

The impact of this approach was to elicit open and honest dialogue on the state of the OIA to help inform officials' advice to the Minister of Justice on the possible scope of any review.

Milestone 2

In the last reporting period prior to the start of NAP3, 375 OIA responses were published by 27 agencies. By June 2021 that had increased to 1,943 responses by 65 agencies. The increase in the number of responses published is satisfying, but there is scope for significant increase. The increase in the number agencies publishing is significant. This growth means many more agencies have processes and capabilities in place to build on, not only with regard to publishing more OIA responses, but to potentially support other types of proactive active release.

Milestone 3

Based on Ministers' responses to written Parliamentary questions lodged in 2019, it is estimated approximately 620 Cabinet papers had been or were being prepared for release in the first nine months of the policy's implementation.

A dataset showing the publishing locations of agencies' Cabinet papers (where agencies use a centralised publication model), is available on the Commission's proactive release webpage and www.data.govt.nz. That agencies been able to provide the locations demonstrated that they have in place systems and structures to support the policy.

What we learned:

Milestone 1

Overall, most submitters to the Ministry's 2019 OIA consultation thought the fundamentals of the OIA remain sound. But submitters did highlight a number of issues with both the current practice and its legislative and policy underpinnings.

Coupling this information with internal assessments on the OIA, and insights and recommendations from an Independent Crown Entity's 2012 review of the OIA, Justice officials determined that, while a 'first principles' review is not needed, there is an opportunity to consider improving the openness, transparency and accessibility of government information. The Ministry provided this advice to Government in its September 2019 advice and report back.

Milestone 2

Agencies that are more advanced with their proactive release practices are finding that it is resulting in some changes to the number and nature of requests for information they receive. Proactively publishing lists of briefing names, for example, has meant those types of requests are no longer received by those agencies. Agencies that release advice or departmental reporting to ministers can simply link to the document when it is requested. As maturity of these systems and processes develops across more agencies, we should see these benefits to requesters and agencies realised more widely.

Agencies have noted their ability to publish OIA responses is directly correlated to the nature of their work, and resulting nature of the types of requests they receive, and what this means regarding the suitability of publishing responses (for example in security and defence agencies, or those dealing with personal information).

Agencies who build consideration for publication into the preparation of responses reduce the work they need to do for publication and make it easier to support proactive release even when workloads are high (e.g. through Covid).

Milestone 3

Agencies releasing Cabinet material are now able to link to the document when it is requested, or advise the requester that it will soon be publicly available. Some agencies reported the implementation of the policy saw them developing new systems and processes. As with the processes to publish OIA responses, this increase in capability will potentially support other types of proactive release.

Where to from here:

Milestone 1

In January 2021, the Minister of Justice signalled that he will consider the potential for a review of the OIA later in the parliamentary term. Any updates on the status of a potential review of the Act will be provided in due course.

Milestone 2

The Commission wants to see continued growth in this area, leading into more proactive release generally. It is exploring options to support these practices and removing barriers to their expansion.

Milestone 3

The Commission continues to provide advice agencies on the publication of Cabinet papers as required. To support embedding of the policy the Commission intends to ask agencies to provide to the Commission data on their publication of papers on behalf of ministers and continue to explore options for a centralised platform for the publication of Cabinet papers.