

Guidelines: Media responses and the Official Information Act

Responses to requests from the media must be treated consistently with the Official Information Act 1982. Requests include queries; and both written and verbal requests.

In most cases media requests will not need to be transferred to a formal OIA process unless:

- The information is complex or raises a range of interests that need to be addressed
- The request covers a range of documents
- The information cannot be provided within the tight timeframe requested

Usually, the Media team should also transfer any request where there will be a refusal of information (in full or in part) to the OPI team to process.

The Media team should also transfer any request which cannot be completed within media timeframes, to the OPI team to process. In these situations, the Media Team will advise the reporter, and clarify how they would like their request handled. The reporter may withdraw their request or they may confirm that they want it to be processed under the OIA.

However, there may be some situations where the Media team decide to refuse information (such as a basic request for data, which they already know does not exist).

Where any information is refused, the Media team must advise the requester that they are entitled to have the decision reviewed by the Ombudsman. Where any information is refused, the Media team must also inform the requester of the section of the Act relied upon, and an explanation.

These requirements can be met by including a quick part text in all media responses to ensure both requirements are always met (the link takes the Reporter to a Ministry webpage explaining the reason for the decision).

This reply addresses the information you requested. You have the right to ask the Ombudsman to investigate and review our response. In the event a request for some or all of your request for information has been declined, please [click here](#) for more information about the reason why. Please also note that requests for comment are not requests under the OIA.

Common situations are set out in the following table. If in any doubt, seek guidance from the OPI team.

Administrative reasons (such as formats, not existing and so on)

Situation	Is it a refusal?	Approach and response	Notes
Information doesn't exist in the form	No (at this stage)	Let the reporter know and provide them with any	If the reporter agrees to the alternative

Situation	Is it a refusal?	Approach and response	Notes
the reporter is seeking it.		<p>other relevant information that might meet their request instead.</p> <p>Ask/advise them the request will proceed through the OPI team.</p>	information the request can be considered as being met.
Information will soon be publicly available.	Yes	<p>Let the reporter know that the information will be publicly available soon, with appropriate details, per section 18(d) of the OIA.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	Anything longer than two weeks should be transferred to the OPI team for processing and assessment.
A specific document doesn't exist.	Yes	<p>Let the reporter know that the document doesn't appear to exist, per section 18(e) of the OIA.</p> <p>Consider asking them to revise their request.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	Must consider section 18B requirements before refusing.
Information requires substantial collation or research.	No (at this stage)	<p>Let the reporter know we can't immediately provide the information, per section 18(f) of the OIA.</p> <p>Consider asking them to revise their</p>	Must consider section 18A and 18B requirements before refusing.

Situation	Is it a refusal?	Approach and response	Notes
		<p>request or charging or extending.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	
Information doesn't exist.	Yes	<p>Let the reporter know that the information doesn't exist, per section 18(g)(i) of the OIA.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	

Privacy reasons

Situation	Is it a refusal?	Approach and response	Notes
Information is private, for example in relation to an individual client case, or identifies individuals with an issue.	<p>No (if privacy waiver provided)</p> <p>Yes (if privacy waiver not provided)</p>	<p>Seek a privacy waiver before releasing any relevant information.</p> <p>If not provided, you can let the reporter know that the private information is refused, per section 18(a) of the OIA.</p> <p>You can provide any other relevant information.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough</p>	<p>When refusing information under sections 18(a) and 9(2)(a), the countervailing public interest in release of the information must be assessed.</p> <p>Consultations with third parties may be needed.</p>

		assessment if they want.	
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Confidentiality reasons

Situation	Is it a refusal?	Approach and response	Notes
Information is subject to an obligation of confidence, and release would likely prejudice the supply of similar information in the future, and it is in the public interest that such information should continue to be supplied (or release would likely otherwise damage the public interest).	Yes	<p>Let the reporter know the information cannot be provided immediately.</p> <p>If necessary, let the reporter know that the commercial information is refused, per section 18(a) of the OIA.</p> <p>You can provide any other relevant information.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	<p>When refusing information under sections 18(a) and 9(2)(ba), the countervailing public interest in release of the information must be assessed.</p> <p>Consultations with third parties may be needed.</p>

Commercial reasons

Situation	Is it a refusal?	Approach and response	Notes
Information would either: reveal a trade secret; or unreasonably harm the commercial position of the company who supplied or who is the subject of the information.	Yes	<p>Let the reporter know the information cannot be provided immediately.</p> <p>If necessary, let the reporter know that the commercial information is refused, per section 18(a) of the OIA.</p>	<p>When refusing information under sections 18(a) and 9(2)(b), the countervailing public interest in release of the information must be assessed.</p> <p>Consultations with third parties may be needed.</p>

		<p>You can provide any other relevant information.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	
Information would harm or disadvantage negotiations.	Yes	<p>Let the reporter know the information cannot be provided immediately.</p> <p>If necessary, let the reporter know that the commercial information is refused, per section 18(a) of the OIA.</p> <p>You can provide any other relevant information.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	<p>When refusing information under sections 18(a) and 9(2)(j), the countervailing public interest in release of the information must be assessed.</p> <p>Consultations with third parties may be needed.</p>

Legal-type reasons

Situation	Is it a refusal?	Approach and response	Notes
Information could prejudice the maintenance of the law (e.g. the matter is being investigated by Police, or is or will soon be before the courts (including the Coroner)).	Yes	<p>Let the reporter know we can't immediately provide the information.</p> <p>If necessary, let the reporter know that the information is refused, per section 18(a) of the OIA.</p> <p>You can provide any other relevant information.</p>	<p>When refusing information under sections 18(a) and 6(c), the countervailing public interest in release of the information does not need to be assessed.</p> <p>Consultations with third parties may be needed.</p>

		Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.	
Information would breach legal professional privilege.	Yes	<p>Let the reporter know we can't immediately provide the information.</p> <p>If necessary, let the reporter know that the information is refused, per section 18(a) of the OIA.</p> <p>You can provide any other relevant information.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	<p>When refusing information under section 18(a) and 9(2)(h), the countervailing public interest in release of the information must be assessed.</p> <p>Consultations with third parties may be needed.</p>
Releasing information would constitute contempt of court.	Yes	<p>Let the reporter know we can't immediately provide the information.</p> <p>If necessary, let the reporter know that the information is refused, per section 18(c)(ii) of the OIA.</p> <p>Do not provide any information until the court orders have been assessed.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	<p>If you are made aware of a relevant court order, ask the reporter for a copy of that order before proceeding. If unsure, transfer to the OPI team for assessment.</p>

Procedural reasons

Situation	Is it a refusal?	Approach and response	Notes
Information is not readily available and cannot be provided within the reporter's timeframe.	No (at this stage)	<p>Let the reporter know we can't immediately provide the information.</p> <p>You can provide any other relevant information.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	
Information requires consultation with other parties.		<p>Seek to renegotiate deadline to allow any time needed.</p> <p>Ask/advise them the request will proceed through the OPI team for a more thorough assessment if they want.</p>	
Information is held by a different agency.		<p>Advise reporter that information is likely held by another agency, and the request is being transferred through to the OPI team, per section 14(b)(i) or (ii).</p>	<p>Must ensure the receiving agency confirms receipt.</p>

What is Official Information?

Official information is any information held by the Ministry. This includes:

- documents, reports, memoranda, letters, emails and drafts
- non-written information, such as video or tape recordings

- the reasons for any decisions that have been made about clients
- manuals that set out internal rules, policies or guidelines for decision-making
- agendas and minutes of meetings.

Official information also includes information which is known to the Ministry but has not yet been written down. But the information must exist at the time it is requested.

If the Ministry does not hold the information requested and does not believe another agency might have it instead, we do not have to create new information.

The OIA cannot be used to force the Ministry to engage in debate or to create justifications or explanations in relation to something a person might be interested in.

Obligations under the Public Records Act 2005

Under the Public Records Act, the Ministry is required to create and maintain full and accurate records in accordance with normal, prudent business practice. These records must remain accessible over time. In simple terms this means the Media team must:

- Create and keep up to date written records of responses to media requests, including any decisions reached and the reasons for those decisions,
- Create these records such that they can be understood by others – the reasons for the decision should be clear,
- Ensure these records are stored in the appropriate system, and
- Do this in a timely manner

Because we sometimes make decisions or hold discussions verbally, best practice is to send a follow up email to confirm details. This ensures that an appropriate record is created. You should also consider creating files notes or other types of records for complex matters.