

## **Memorandum of Understanding between Public Service Commission and Ministry of Justice**

Fulfilling obligations under section 46 of the Official Information Act 1982

### **1. Purpose of statement**

- 1.1 The Official Information Act 1982 (OIA) is an important part of New Zealand's constitutional framework. The OIA allows New Zealanders to access information that enables their participation in government and hold the government and government agencies to account.
- 1.2 The purpose of this agreement is to recognise the responsibilities under section 46 delegated to the Public Service Commission by the Secretary for Justice.

### **2. The roles of the Ministry of Justice and the Public Service Commission**

- 2.1 The Ministry of Justice administers the OIA. As such, the Ministry is responsible for the policy and for the legislation. This includes supporting any potential review of the OIA in the future.
- 2.2 Under the Public Service Act 2020, the Public Service Commissioner has the function of promoting transparent accountability in the public service, advising on the cohesive delivery of services, advising on possible improvements to agency, sector, and system-wide performance, and promoting and reinforcing standards of integrity and conduct in the public service.
- 2.3 Its role includes promoting and encouraging proactive release practices and initiatives (including those approved by Cabinet). Together with the OIA, proactive release of information is an important measure for promoting and supporting transparency and accountability.
- 2.4 The Commission is also the lead agency for New Zealand's membership of the Open Government Partnership. The Open Government Partnership is an international multi-stakeholder initiative of governments and civil society committed to making governments more open, accountable, and responsive to citizens.

### **3. Delegation of section 46 of the Official Information Act 1982 to the Commission**

- 3.1 On 29 November 2016, the previous Secretary for Justice formally delegated to the Commission the Ministry's function under section 46 of the OIA of providing advice and assistance to assist public service agencies and organisations to act in accordance with the OIA (see Appendix 1).
- 3.2 This memorandum of understanding clarifies and confirms the respective roles and responsibilities of the Commission and the Ministry under section 46 of the OIA.

### *Ministry of Justice*

- 3.3 As the administrator of the OIA, the Ministry retains overall oversight of section 46 as part of its stewardship obligations.
- 3.4 Under section 20 of the OIA, the Ministry must publish the Directory of Official Information and ensure it is updated at least every 2 years. Public service agencies and organisations must, under section 20(3), provide the Ministry with the information the Ministry needs to fulfil its obligations. The Ministry remains responsible under section 46 for providing advice and guidance to public service agencies and organisations to assist them in meeting their own obligations under section 20(3).

### *Public Service Commission*

- 3.5 Except in relation to the Directory of Official Information, the Commission is the lead in the development of guidance and advice to assist public service agencies and organisations to act in accordance with the OIA. Specifically, the function of providing advice and assistance on the OIA sits with the Public Service Commissioner.
- 3.6 That includes, but is not limited to, driving compliance through monitoring and reporting of OIA performance via the Commission's six-monthly reporting; and building system and agency capability through collaboration and advice, including the Official Information Forum community of practice.

### *Shared responsibilities*

- 3.7 The Ministry and the Commission jointly hold responsibility for maintaining the guidelines for charging for official information requests.
- 3.8 The power to charge for an official information request is outlined under [section 15](#) of the OIA.
- 3.9 [Charging guidelines](#) for the OIA can be found on the Ministry of Justice's website (and linked to from the Commission's website), and set out what the Government considers to be reasonable charges. Agencies may create their own charging guidelines. Those agencies should be aware that charges are liable to review by an Ombudsman.
- 3.10 Promotion and awareness raising in relation to the guidelines will be supported via the Commission's advice and assistance function, and via other channels as agreed between the Ministry and the Commission.
- 3.11 In addition, both the Commission and the Ministry have a commitment to continually improve OIA practices as administering agencies for the OIA. These practices include maintaining consistency in proactive release of information requests, in reflection of Government-wide practices.

**4. Terms of engagement between the Ministry of Justice and the Public Service Commission**

- 4.1 The Ministry and the Commission will meet six-monthly to review these arrangements and discuss any emerging issues or matters relating to OIA compliance at a system or agency level. These meetings should be arranged to take place when provisional agency six-monthly OIA performance data has been received by the Commission.
- 4.2 The Ministry and the Commission also commit to notifying each other if at any time they become aware of any issues or matters arising under the responsibilities of the other agency.

**Signed on behalf of Ministry of Justice by:**



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**Andrew Kibblewhite**

**Secretary for Justice**

**Date**

5/12/22  
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**Signed on behalf of Public Service Commission by:**



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**Hugo Vitalis**

**Deputy Commissioner for Integrity, Ethics, and Standards**

**Date**

7/12/22  
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