

Official Information Act Policy

*Mā te kimi ka kite, Mā te kite ka mōhio, Mā te mōhio ka mārāma.
Seek and discover. Discover and know. Know and become enlightened.*

Purpose

The purpose of Te Aka Whai Ora Official Information Act policy is to:

- Bring together the requirements, principles and purposes of:
 - The Official Information Act 1982 (the Act)
 - Te Tiriti o Waitangi
 - Māori data sovereignty
 - The health sector principles, as set out in the Pae Ora (Healthy Futures) Act 2022.
- Provide transparency to requesters on how requests for official information are processed by Te Aka Whai Ora.
- Provide guidance to Te Aka Whai Ora employees, contractors and consultants about their obligations and responsibilities in responding to requests for official information.

This policy is supported by Ministerial Services' guidance to staff on the Act process.

Scope

This policy applies to all Te Aka Whai Ora employees, contractors and consultants and informs them of their responsibilities under the Act when handling requests to Te Aka Whai Ora for official information, and drafting responses to requests on behalf of the Board.

Definitions

Official information generally means any information held by Te Aka Whai Ora or our employees as per [sections 2 and 4 of the Act](#). It includes, but is not limited to:

- Documents, reports, memoranda, letters, texts and emails.
- Non-written information, such as digital, video or tape recordings.
- Manuals which set out internal rules, principles, policies or guidelines for decision making.
- Information which is known to Te Aka Whai Ora but may not be written down.

Māori data refers to digital or digitisable information or knowledge that is about or from Māori people, Māori language, culture, resources, or environments. This includes health information and research.

Māori data sovereignty refers to the inherent rights and interests that Māori have in relation to the collection, ownership, and application of Māori data.

Māori data governance refers to the principles, structures, accountability mechanisms, legal instruments, and policies through which Māori exercise control over Māori data.

Context

The Act is an important part of New Zealand's constitution and gives New Zealanders the legal right to ask for official information so that they can more fully participate in their democracy and hold the government, public sector agencies and independent statutory entities such as Te Aka Whai Ora to account. When New Zealanders ask for information, government agencies and independent statutory entities need to assist, be responsive, and approach requests in line with the principle of availability.

It 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. All requests for information are potentially requests for official information, including requests for publicly available and previously released information.

Māori data sovereignty

Data is a living tāonga and is of strategic value to Māori. Māori data refers to digital or digitisable information or knowledge that is about or from Māori people, Māori language, culture, resources or environments. This includes health information and research.

Māori data is subject to the rights articulated in Te Tiriti o Waitangi and the United Nation's Declaration on the rights of Indigenous Peoples, to which New Zealand is a signatory. Māori data sovereignty refers to the inherent rights and interests that Māori have in relation to the collection, ownership, and application of Māori data. Māori data sovereignty policies support tribal sovereignty and the realisation of Māori and iwi aspirations.

We recognise that recent Waitangi Tribunal findings (from WAI262 and the Priority Report on the COVID-19 response) have highlighted failures to date in recognising Māori rights over their tāonga and protecting Māori information from improper use, but also in making Māori data accessible to Māori. As such, we have identified a need for a stand-alone Māori data sovereignty policy that other policies will align with.

It is intended that this policy and the Proactive Release policy will align with any Māori data sovereignty policy that is completed.

Principles

The guiding principle of the Act is that information should be made available unless there are good reasons under the Act to withhold it. In handling requests for official information, the Act requires Te Aka Whai Ora to:

- Deal with requests for official information carefully, conscientiously, and in accordance with the law.
- 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 a decision on all requests as soon as practicable, and always within statutory timeframes.
- Assist requesters, directing them to publicly available information, clarifying their requests, and transferring requests to relevant agencies where appropriate within statutory timeframes.
- Co-operate fully with any investigation by the Office of the Ombudsman into a requested review of a decision under the Act.

The reasons for withholding information are set out in sections 6 to 9 of the Act.

Te Aka Whai Ora will also:

- Inform or consult with third parties about requests for official information that concern them where appropriate, and consider any feedback provided.
- Notify relevant Minister(s) of decisions on requests for official information and where appropriate, provide copies of responses to the Board.
- Consult the Board on any requests for official information that relate to the functions of the Board, and consider any feedback provided by the Board.
- Proactively release responses that are likely to be of public interest to requests for official information to make information more available and assist in public understanding of Māori health issues.
- Make other information publicly available on a regular basis to reduce the need for requests for official information under the Act.
- Review and monitor its performance in responding to requests for official information.

- Co-operate with any investigation by the Office of the Ombudsman and carry out any agreed recommendations to improve Te Aka Whai Ora performance in responding to requests for official information.
- Provide information about the importance of the Act to employees, and specific training to employees with responsibility for the Act.

Working with requesters

Te Aka Whai Ora falls within the definition of “department” in the Act and is subject to the duty under the Act to provide reasonable assistance to requesters.

Te Aka Whai Ora will do this by directing everyone to publicly available information and clarifying and transferring requests to other agencies where appropriate. It will also publish information on its website to guide requesters. Te Aka Whai Ora will promptly acknowledge receipt of a request and communicate its decision whether to grant a request for official information as soon as reasonably practicable, and in no later than 20 working days (unless extended).

Te Aka Whai Ora will clearly communicate with requesters when rescoping or clarifying a request, and on any decisions to extend the timeline or transfer requests to another agency. Te Aka Whai Ora will advise requesters of their right to seek a review by the Ombudsman of any decisions made in response to a request. Requesters may ask for official information to be provided urgently but need to provide justification for the need for expediency. Where appropriate, Te Aka Whai Ora may consider levying a charge to recover costs, such as requests made under urgency. Legal advice must be sought before a charge is levied.

Working with the Board

Taking a ‘no surprises’ approach, Te Aka Whai Ora will notify its Board of requests for official information it receives that might attract wider public, political or media interest. Te Aka Whai Ora will also advise the Board if it intends to release any information that is particularly sensitive or potentially controversial. A notification for this purpose is not the same as consultation and should not unduly delay the release of information.

Consulting the Board on a request to Te Aka Whai Ora

Te Aka Whai Ora will consult its Board if the request relates to the Board’s functions or activities. In instances involving the Board’s functions or activities, Te Aka Whai Ora will be clear it is consulting rather than providing the request for the Board’s information. The Board will be given reasonable time to raise any concerns about the proposed response within the context of the statutory timeframe for response. Te Aka Whai Ora will have regard to any feedback, but the decision on how to respond to the request will be made by Te Aka Whai Ora in accordance with the Act. From time to time, a response may need to be approved by the Board.

Working with Ministers’ offices

Under the ‘no surprises’ approach, Te Aka Whai Ora will notify the relevant Minister’s office of decisions it makes on requests for official information it receives that might attract wider public, political or media interest. Te Aka Whai Ora will also advise the Minister if it intends to release any information that is particularly sensitive or potentially controversial. A notification for this purpose is not the same as consultation and should not unduly delay the release of information.

Te Aka Whai Ora will consult the relevant Minister if the request relates to the Minister's functions or Cabinet material, because such material relates to their activities as a Minister. In instances involving the Minister's functions or Cabinet material, it may be appropriate to transfer the request to the Minister. Te Aka Whai Ora will be clear it is consulting rather than providing the request for the Minister's information, and enough time will be given for the Minister's office to comment on the proposed decision. Te Aka Whai Ora will have regard to any feedback, but the decision on how to respond to the request will be made by Te Aka Whai Ora in accordance with the Act.

Te Aka Whai Ora may, at the request of a Minister's office, prepare draft responses for requests to a Minister for official information. The draft response will be provided within timelines set in consultation with the Minister's office.

Watermarks, redactions, and publication

Redactions and watermarks should be made using redaction software.

Where information is being withheld the statutory grounds for withholding the information must be stated in the body of the text at each deletion point.

Proactive publication

Te Aka Whai Ora will proactively publish responses to requests for official information on its website that are likely to be of public interest. This is to make information more available and to assist in public understanding of Māori health issues and the work of Te Aka Whai Ora. Proactive release of responses promotes good government, openness and transparency and fosters public trust and confidence in agencies.

For further information see the Proactive Release policy.

Non-compliance with policy

Failure to comply with this policy may result in Te Aka Whai Ora taking disciplinary action in accordance with the Code of Conduct.

This policy will be reviewed at least annually.