

Official Information Policy and Procedure



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Purpose

This Policy and Procedure sets out UCOL’s approach to ensure compliance with the Official Information Act 1982 and the rules governing access to information held by UCOL.

Scope

This policy applies to all staff and contractors. The Official Information Act 1982 (“the OIA”) provides that official information held by an organisation such as UCOL should be made available unless good reason exists for withholding such information.

Responsibility

All staff and contractors are responsible for the correct application of this Policy and Procedure, and to comply with legislation.

Upon receipt of an official information request all staff and contractors must forward the request to either the Chief Executive or the Privacy Officer as soon as possible. For the purposes of this Policy, the Privacy Officer is the Executive Manager Corporate.

Staff and contractors must not attempt to respond to a request made under the Official Information Act, only those individuals authorised can do so.

The UCOL Privacy Officer is responsible for responding to OIA requests and providing advice and guidance on the application of the Act.

Policy Statements

1. UCOL will comply with its obligations in respect of official information under the Official Information Act 1982 and the Local Government’s Information and Meetings Act 1987 (“LGOIMA”). Under these Acts requests to access official information held by UCOL can be made to:
 - i. Access any specified official information;
 - ii. Access internal rules affecting decisions;
 - iii. Access agendas, reports and minutes of meetings of public bodies, including those where the public was excluded. Note any member of the public may inspect any agenda and associated reports at least 2 working days prior to a meeting of the Council and the minutes of any meeting at the Office of the Chief Executive, Palmerston North except any meeting or part thereof to which the public is excluded.

2. UCOL will protect official information to the extent consistent with the public interest and preservation of privacy.
3. All UCOL staff and contractors must provide reasonable assistance to people who indicate they wish to make a request for official information.
4. All staff and contractors must transfer all requests for official information to the Office of the Chief Executive or the UCOL Privacy Officer as soon as possible. **Staff and contractors must not attempt to respond to a request or to provide information under the Official Information Act.**
5. UCOL will make and communicate a decision on requests or making requests as soon as practicable but no later than 20 working days after it was received, unless an extension is made.
6. Requests can be refused or information withheld but only if a good reason exists under the Official Information Act for not providing the information. UCOL will inform the requester of the reason for refusal and their right to ask the Ombudsman to investigate the refusal if the requester is not satisfied with the response.
7. Individual natural persons have the right to access personal information about themselves under the Privacy Act. Whether the Privacy Act or the OIA applies will depend on who is asking for the information and who or what it is about. If the information is about the person requesting it, then it will be covered by the Privacy Act. If it is information about someone or something else, then the OIA will apply.

If the requester is seeking information on behalf of someone else with their informed consent, then that person will generally be considered to be acting as the person's 'agent' and the request shall be dealt with as one for personal information under the Privacy Act.

Having determined which Act applies, and in some cases both Acts will apply, UCOL will make a decision on the request in accordance with the particular requirements of that Act.

Procedure (Decisions on Requests by UCOL's Delegated Representative)

Following are the steps which inform the decision to release information by UCOL's delegated representative. The OIA must be read in conjunction with this Procedure.

1. The Form of an Official Information Act Request

An OIA request is made when an eligible person asks UCOL for access to specified official information. There is no set way in which a request must be made. A request can be made in any form and communicated by any means, including orally. A request does not need to refer to the OIA or LGOIMA, and can be made to any person in UCOL.

Where an oral request is made, UCOL can ask the Requestor to put it in writing if written clarification is reasonably necessary to clarify the request. If the Requestor declines or is unable to put the request in writing, UCOL must record its understanding of the request and provide a copy to the Requester. The working day count will start the day after the requester confirms or clarifies UCOL's understanding of the request is correct.

Should official information requests be received elsewhere within UCOL, requests must be referred to the Chief Executive or the UCOL Privacy Officer who have the delegated authority to respond to requests for information under the OIA. Requests should be referred promptly to the authorised delegate so that UCOL can meet its legislative timeframes in terms of responding or transferring a request to another agency.

In practice, UCOL will receive many requests for information which can be responded to by staff immediately without having to refer to UCOL's delegate. For example, a request for UCOL's annual report can be simply met by providing direction to UCOL's website. If unsure, always consult with the UCOL Privacy Officer for guidance.

2. Who Can Make an OIA Request?

One of the requirements for a valid OIA request relates to the eligibility of the Requester. Any person is entitled to make a request under the OIA who is:

- A New Zealand citizen;
- A permanent resident of New Zealand;
- A person who is in New Zealand;
- A body corporate (i.e. company or incorporated society) which is incorporated in New Zealand; or
- A body corporate which has a place of business in New Zealand.

UCOL can seek authentication of a Requester's eligibility to make a request under the OIA.

With requests submitted by post the origin of the request will usually be clear from the post mark, and the requester will normally provide a return address, which should provide sufficient assurance that the Requester is in New Zealand, and therefore eligible.

If a request is made by email or over the internet, UCOL is able to ask reasonable questions to check whether the person is eligible to make a request. However, if UCOL wishes to query eligibility this should be done promptly so not to unnecessarily delay the processing of a valid request.

2.1 What if a Requester is not eligible?

Even if a person is not eligible to make a request for official information under the OIA (for example, a person who is overseas and not a New Zealand citizen or resident), they can still ask UCOL for the information they are seeking. While UCOL is not required to respond in accordance with the requirements of the OIA, it should still deal with the request for information in a reasonable manner. If the person has any concerns about the response they receive, they are able to complain to the Ombudsman under the OIA.

3. Is the Information 'held' by UCOL?

It does not matter where the information originated, or where it is currently located, as long as it is held by UCOL. For example, the information could have been created by a third party and sent to UCOL. The information could be held in the memory of a UCOL staff member. Information which an employee or contractor of UCOL holds in their official capacity is deemed to be held by UCOL.

For the OIA to apply, the information must be held by UCOL. With the exception of providing a response to a request for a statement of reasons, there is no obligation on UCOL to form an opinion or create information to answer a request. If a Requester seeks information by asking a question, there is a distinction between:

- questions which can be answered by providing information already known to and held by UCOL (official information); and
- questions which require UCOL to form an opinion or provide an explanation and therefore create new information to answer the request (not official information).

4. Making a decision

4.1 Communicating the decision

UCOL must then communicate that decision to the Requester as soon as reasonably practicable and no later than 20 working days after the day on which the request was received (unless the maximum time limit is extended).

A decision on the request must be communicated by advising the Requester:

- whether the request will be granted; and if so
- in what manner; and
- for what charge (if any).

If the decision is to **refuse** the request, reasons must be given for that decision. Every decision to refuse a request must advise the Requester of the right to complain to the Ombudsman and to seek an investigation and review of that decision.

4.2 Considering Whether to Grant the Request

When considering whether to grant the request, UCOL must keep in mind the key principle that information must be made available unless there is good reason to withhold it.

The “administrative” reasons for refusing a request should be considered first, ideally in the early stages of processing the request when the information at issue is being identified and assembled. The administrative reasons for refusing a request under section 18 include:

- the information is, or will soon be, publicly available;
- the document does not exist or cannot be found, despite reasonable efforts to locate it;
- the information cannot be made available without substantial collation or research;
- the information is not held by UCOL, and there are no grounds to believe the information is held by another agency or more closely connected with the functions of another agency; or
- the request is frivolous or vexatious, or the information requested is trivial.

If there is no administrative issue, then UCOL should review the information and consider whether there is any potential harm in release, which may provide a substantive reason to withhold the information under the OIA. In particular consider:

- whether any identified harmful effect would prejudice one of the conclusive interests protected by section 6, including:
 - the maintenance of the law (including the prevention, investigation and detection of offences and the right to a fair trial); or
 - personal safety; and
- whether any identified harmful effect would prejudice one of the interests protected by section 9, including:
 - privacy;
 - commercial activities;
 - information subject to an obligation of confidence;

- constitutional conventions of confidentiality;
- legal professional privilege.

While considering the application of section 9 UCOL must also consider the extent of any public interest in release of the information. If there is a public interest in release which outweighs the need to withhold the information, then the request cannot be refused under section 9.

4.3 Amended or Clarified Requests

If a request is amended or clarified after it is made, it can be treated as a new request which replaces the original one. This voids UCOL's obligation to respond to the original request, and re-starts the statutory time limit for responding to the new one. However, this will not apply where the amendment or clarification was sought by UCOL more than 7 working days after receiving the original request.

4.4 Transferring a Request

The OIA requires requests to be transferred between agencies in certain circumstances. Transfers can be made between any agencies subject to the OIA or LGOIMA, including Ministers, central government agencies and local government agencies.

Any decision to transfer a request to another agency for response must be made promptly and no later than 10 working days after UCOL has received the request (unless a valid extension of that time limit is made within 20 working days of the original request). The Requester must be informed that the request has been transferred. When the other agency receives the transferred request, it is effectively a new request made to that agency under the OIA.

4.4.1 Obligation to Transfer

UCOL must transfer a request to another agency if some or all of the information requested:

- is not held by UCOL, but is believed by UCOL's delegated representative to be held by another agency; or
- is believed by UCOL's delegated representative to be more closely connected with the functions of another agency.

Where the above circumstances only apply to part of the information requested, only the relevant part of the request should be transferred, rather than the request in its entirety. The transfer should make it clear what parts of the request are being retained by UCOL, and what parts are being transferred.

4.5 Extensions

UCOL may extend the maximum time limits for both transferring a request and making a decision and communicating it to the Requester, but only if certain criteria are met. These are:

- there must be a valid reason for the extension, either:
 - the request is for a large quantity of information or necessitates a search through a large quantity of information, and meeting the original time limit would unreasonably interfere with the operations of the agency; or
 - consultations necessary to make a decision on the request are such that a proper response to the request cannot reasonably be made within the original time limit.
- the extension must be for '*a reasonable period of time having regard to the circumstances*'; and
- the decision to extend the maximum time limit must be communicated to the requester within 20 working days after the day on which the request was first received by UCOL.

In making an extension, UCOL must advise the Requester:

- that it has decided to extend the time limit;
- the specific period of the extension;
- the reasons for the extension; and
- that the requester has a right to complain to the Ombudsman about the extension decision.

4.6 Deciding how to release information

If the decision is to grant the request, UCOL must also decide how the information will be released. There are a number of different ways information can be made available including:

- release a hard copy of the information;
- release the information in electronic form or by electronic means;
- arrange for the requester to hear or view the information;
- provide a written transcript of the information;
- provide partial disclosure of the information—for example:
 - release a document with some information deleted ('redacted');
 - release a summary of the information;
 - release an excerpt, or particular passage, from a document; or
- provide the requester with an oral briefing.

However, UCOL must release the information in the way preferred by the Requester. If information is not provided in the way preferred by the Requester, UCOL must explain the reason for not providing the information in that way and, if asked, the grounds supporting that reason. UCOL may also decide to:

- release the information subject to certain conditions;
- release the information with an additional statement to put it into context (this can be useful if there is a concern that releasing the requested information on its own might be misleading or incomplete); and
- release other additional information it considers relevant to the request and helpful to the requester.

If the information to be released is contained in a document that includes other information outside the scope of the request, UCOL can choose to either:

- release the document in its entirety; or
- delete the information that is outside the scope of the request and advise the Requester accordingly.

If deleting information as being outside the scope of the request, it is important not to take an unreasonably narrow interpretation of the request.

4.7 Charging

Part of making a decision on the request includes whether to charge. Any decision to charge must be notified to the Requester at the same time as the Requester is advised of the decision to release information.

UCOL can charge for the supply of information under the OIA. UCOL may require that all or part of the charge be paid by the Requester in advance of the information being made available. Charges must be applied in accordance the Ministry of Justice Guidelines.

5. Processing Requirements

5.1 Key timeframes

UCOL's legal timeframe requirements for responding to requests for official information are to:

- make a decision and communicate it to the requester *'as soon as reasonably practicable'* and no later than 20 working days after the request is received; and
- make available any official information it has decided to release without *'undue delay'*.

Where necessary in a particular case, additional timeframe requirements are to:

- request clarification of a request within 7 working days, if the amended request is to be treated as a new request;
- transfer a request to another agency promptly, and no later than 10 working days, after the request is received;
- extend the maximum time limits to make a decision or transfer a request, within 20 working days after the day on which the request was received.

Appendix I outlines UCOL's internal process on how to transact an OIA upon receipt.

All OIA requests, irrespective of who the Requester is, will be recorded and tracked in the central Official Information Act database managed by the UCOL Privacy Officer.

6. Dealing with Requests for Information from Media

The provision of information to the media will follow the UCOL News Media Policy and Procedure. Information supplied will take into account the Official Information Act and Privacy Act and UCOL's associated procedures for requests that are identified as being a request under the OIA.

All media enquiries are referred to the Communications Team who coordinate the response. If the Communications Team identify that the request for information is in fact an OIA request, then the request will be referred immediately to the Chief Executive or the UCOL Privacy Officer to action the response. If the Communications Team are uncertain whether the request should be treated under the OIA, advice will be sought from UCOL's Privacy Officer.

Requests for information which is publically available, or required to verify the facts for a good press article (e.g. graduation), advertorial or promotional exercise would not generally be treated as an OIA request. In cases where there is uncertainty, the UCOL Privacy Officer will be consulted prior to releasing the information.

UCOL will not treat OIA requests from the media more (or less) favourably nor will the media be given preferential treatment over other requests that have been made by other individuals or organisations. Requests will be treated in accordance with the Act and in line with UCOL's OIA process outlined in this Policy (refer Appendix I).

All OIA requests from the media will be recorded in the central Official Information Act database which is managed by the UCOL Privacy Officer.

7. NZ Police Requests for Information

A request from the Police will be managed following the processes for release of information under the Official Information Act 1982. While personal information may be released to certain agencies, it is not

UCOL's policy to provide open access to such information. For requests for information, UCOL requires a NZ Police Information Request Form before information can be released (refer to “NZ Police Request for Information Guideline”).

If the Police are seeking UCOL information to contact a student or staff member in the case of an accident, sudden death or emergency, reasonable assistance should be given to find the person concerned and ensure that person has the opportunity to speak with the Police in private. In non-emergency cases (e.g. return of lost items), the UCOL staff member should make reasonable effort to contact the person concerned and advise him or her to contact the Police.

Definitions

Official Information means any information held by UCOL is subject to the Official Information Act 1982, and includes material held in any format such as:

- Written documents, reports, memoranda, letters, notes, emails and draft documents;
- Non-written documentary information such as material stored on or generated by computers, including databases, video or tape recordings;
- Information which is known to UCOL, but which has not yet been recorded in writing or otherwise (including knowledge of a particular matter held by staff in their official capacity);
- Documents and manuals which set out the policies, principles, rules or guidelines for decision making by UCOL; and
- The reasons for any decisions that have been made about a person.

Personal information is any official information held about an identifiable person that is of a personal nature, such as name, date of birth etc that could be used to identify that person.

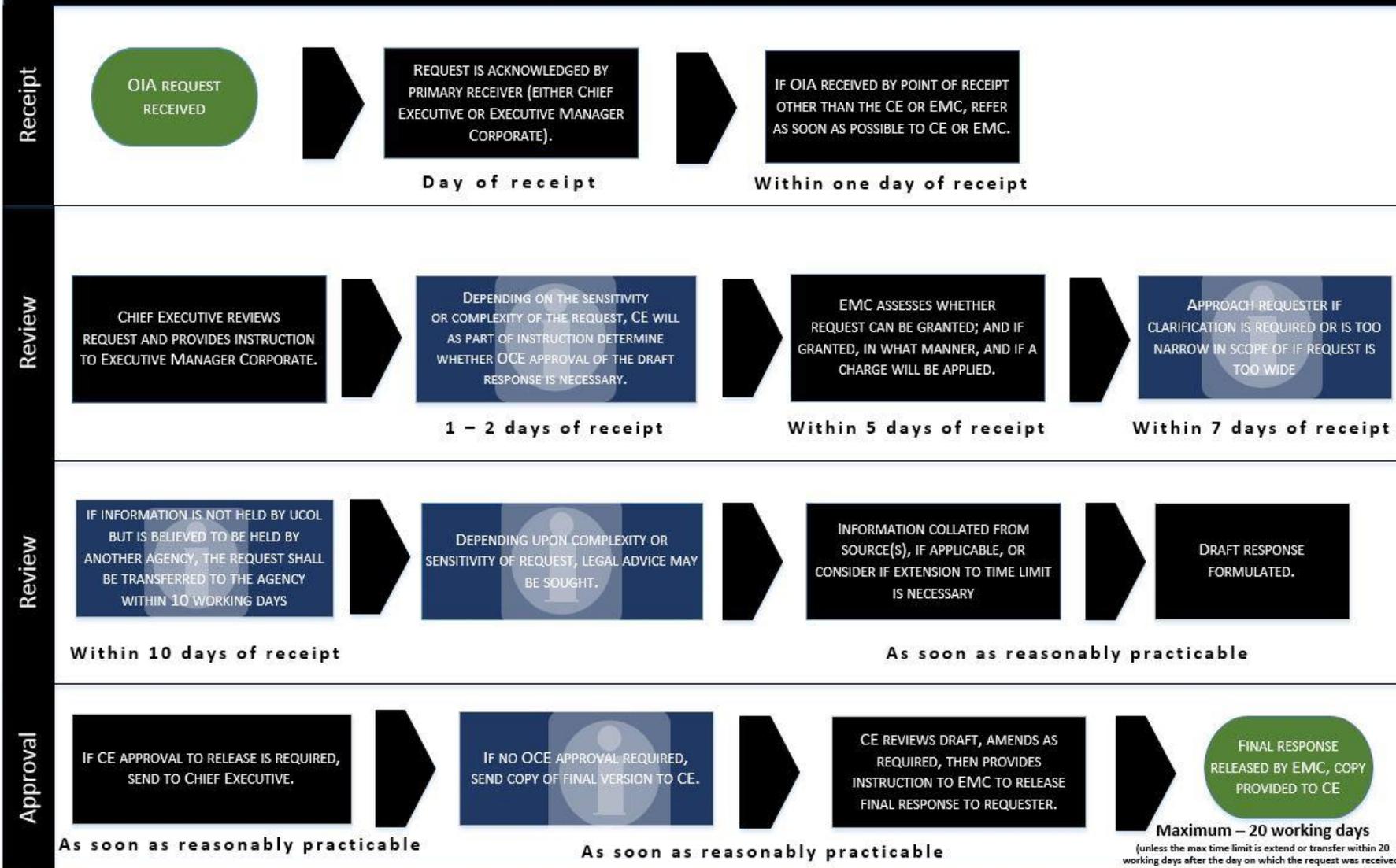
Relevant Legislation and / or Reference Sites

- Official Information Act 1982
- Local Government Official Information and Meetings Act 1987
- Ministry of Justice Charging Guidelines for Official Information Act 1982 Requests
- Privacy Act 1993
- Education Act 1989
- [Office of the Ombudsman](#)
- [UCOL Teams Site – Official Information Act](#)

Related Documentation

- [Police \(NZ\) Requests for Information Guideline](#)
- [Privacy Policy](#)
- [Privacy Procedure](#)
- [News Media Policy](#)
- [News Media Procedure](#)
- [CCTV Policy](#)

Process for the Management of Official Information Act (OIA) Requests



*For the purpose of this process, "days" means "working days"