



13 February 2020

Jem Traylen  
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Dear Mx Traylen

**Official Information Request**  
**Our Ref: SSCOIA 2019-0264**

I refer to your official information request received on 8 December 2019 where you have asked:

*"I note the release of the Wakem report on the OIA in December 2015 and the Official Information programme your agency began in 2016.*

*Presumably, the SSC carefully considered the recommendations in the Wakem report, advised the Commissioner and/or the government of the day on an appropriate response and has made some form of progress report to successive ministers from time to time.*

- *Please provide a copy of any significant reports or advice prepared on:
  - a) *how the government of the day could respond to the Wakem Report's recommendations, and*
  - b) *what progress has been made by the state sector in relation to the issues raised in the report.**
- *Please provide a copy of the relevant key documents that describe your agency's current work programme on the OIA".*

In 2015 the report of the then Chief Ombudsman, Dame Beverley Wakem, into central government agencies' Official Information Act (OIA) practices found that the OIA has resulted in greater openness and transparency, greater accountability in the conduct of public affairs, and increased the ability of the public to participate in the making and administration of New Zealand's laws and policies. The report notes that, most of the time, agencies are compliant in the way that they operate under the OIA on a daily basis.

The report identified five key areas where Dame Beverley found there to be increasing risks and vulnerabilities in the way that the OIA is being administered in the current environment, with 48 associated recommendations.

In response to your request where you have asked for any significant reports or advice prepared on:

- ***how the government of the day could respond to the Wakem Report's recommendations,***

The Government of the day decided that the Open Government Partnership National Action Plan (NAP) would be used as a vehicle for the Government's response, considering it to be the best way of providing the necessary focus and ensuring progress could be made.

The Cabinet paper on the inclusion of official information commitments in the Second NAP 2016-2018 can be found on the SSC website at the link provided for in the table below.

From 2018, a separate Open Government Partnership (OGP) website was established.

Information for the first two NAPs which includes Cabinet documents, advice to the Minister, submissions, commitment development material and a timeline can be found at the links provided in the table below.

Also included in the table below are the links to the similar assessments, updates and supporting information on the third NAP 2018-2020 and updates on the development of the fourth NAP 2020-2022, which provides information on how to contribute to its development.

I am therefore refusing this part of your request under section 18(d) on the grounds that this information is publicly available.

Item	Document Description	Website link
1	Cabinet Paper - Action Plan for the Open Government Partnership	<a href="https://ssc.govt.nz/assets/Legacy/ogp-action-plan-cab-paper-upjul17.pdf">https://ssc.govt.nz/assets/Legacy/ogp-action-plan-cab-paper-upjul17.pdf</a>
2	Independent reviews and self-assessments, progress updates and supporting information for New Zealand NAPs (2014-2016 and 2016-2018)	<a href="https://ssc.govt.nz/our-work/open-government-partnership-ogp/">https://ssc.govt.nz/our-work/open-government-partnership-ogp/</a> .
3	Assessments, updates and supporting information on the Third NAP 2018-2020	<a href="https://ogp.org.nz/new-zealands-plan/third-national-action-plan-2018-2020/">https://ogp.org.nz/new-zealands-plan/third-national-action-plan-2018-2020/</a>
4	Updates on the development of the Fourth NAP 2020-2022	<a href="https://ogp.org.nz/new-zealands-plan/fourth-national-action-plan/">https://ogp.org.nz/new-zealands-plan/fourth-national-action-plan/</a>

After the publication of Dame Beverley's report, the State Services Commission, also considered what the public sector agencies' responses to the report should be.

A proposed approach was shared with Chief Executives at a meeting held on 22-23 March 2016. Action points from that meeting included an action related to the response to that report.

Please find enclosed the documents listed in the table below. I have decided to release the documents listed below with some of the information marked as out of scope as it does not fall within the scope of your request.

Item	Date	Document Description	Decision
5	March 2016	Key messages: Proposed approach in response to Ombudsman's report on the OIA	Released in Full
6	March 2016	Head of State Services meeting with chief executives action points	Released in Part
7	April 2016	A3 – Propose Approach to Response to Ombudsman's Report on OIA	Released in Full

The SSC's programme of work has been focused on assisting agencies to assess and build on their own capacity and capability, aligned with the themes identified from Dame Beverley Wakem's report, namely: leadership and culture; organisation, structure, staffing and capability; current practices; internal policies, procedures and resources; and performance monitoring and learning. This has been via the building a community of practice by supporting agencies to communicate, collaborate and share best practice and experience.

This is primarily progressed by supporting commitments under the OGP, delivering the Official Information Forum (previously called the OIA Forum), and by working with the Office of the Ombudsman, the latter again under the framework of the OGP.

In October 2016 the State Services Commissioner informed the Chief Ombudsman of SSC's proposed approach as both a system leader and an agency under the umbrella of the Open Government Partnership, which ultimately led to an agreement to take a joint approach to improving OIA responsiveness.

The announcement of SSC's joint work with the Office of the Ombudsman, and the work of the Forum, are available on the SSC website.

Item	Document Description	Website link
8	Media Statement: Joint work to improve OIA responsiveness – 20 October 2016	<a href="https://ssc.govt.nz/resources/media-statement-joint-work-improve-oia-responsiveness/">https://ssc.govt.nz/resources/media-statement-joint-work-improve-oia-responsiveness/</a>
9	Official Information Forum	<a href="https://ssc.govt.nz/resources/oia-forum/">https://ssc.govt.nz/resources/oia-forum/</a>

Note that on 29 November 2016 the then Secretary for Justice, Mr Andrew Bridgman, delegated the Ministry of Justice's advice and assistance function under section 46 of the OIA to SSC. In the delegation letter to the State Services Commissioner, Mr Bridgman noted that SSC had offered to lead the development of guidance and advice to assist agencies to comply with the OIA as part of the Open Government Partnership programme. The letter notes the delegation is appropriate given the SSC's role in promoting accountability, and as the lead agency for New Zealand's membership of the OGP.

In response to your request where you have asked for any significant reports or advice prepared on:

- ***what progress has been made by the state sector in relation to the issues raised in the report.***

In late 2016, the SSC established its programme to enhance administration of the OIA. A Steering Group including the SSC, the Office of the Ombudsman, the Department of Internal Affairs, the Ministry of Justice, the Department of Prime Minister and Cabinet and Statistics NZ met from December 2016 until May 2017. The terms for reference for that programme are attached.

Item	Date	Document Description	Decision
10	February 2017	Programme Terms of Reference - Enhancing the administration of the Official Information Act	Released in Full

A small internal team at the SSC was established to progress work during this period. The Steering Group and internal team were disestablished with the creation of the new Integrity, Ethics and Standards team at SSC in July 2017, which picked up responsibility for official information initiatives.

Since 2017, the SSC has published OIA statistics for a range of government agencies. These statistics are available here: <https://ssc.govt.nz/resources/official-information-statistics/>.

In 2018, Cabinet approved the expansion of the proactive release of Cabinet material, for introduction from 1 January 2019. This completed a milestone under Commitment 7 of the OGP NAP 2016-2018.

Cabinet papers and key advice related to this initiative were released on the SSC website on 18 September 2018, under Strengthening Proactive Release Requirements here: <https://ssc.govt.nz/resources/proactive-releases/>.

Please find enclosed the documents listed in the table below which contain updates on the State sector's progress in enhancing their OIA practices.

Item	Date	Document Description	Decision
11	24 July 2017	Memo to the State Services Commissioner Official Information Capability Assessment Tool	Released in Full
12	20 December 2017	SSC Report: OIA Statistics Collection	Released in Part
13	20 December 2017	Open Government Holiday Reading Pack	Released in Part
14	16 March 2018	Aide Memoire Official Information Act: Overview of Changes Since Law Commission (2012) and Ombudsman (2015) Reports	Released in Full

I have decided to release the relevant parts of the documents listed above, subject to information being withheld under one or more of the following sections of the OIA, as applicable:

- section 9(2)(a) – to protect the privacy of natural persons, including deceased people
- section 9(2)(f)(iv) – to maintain the current constitutional conventions protecting the confidentiality of advice tendered by Ministers and officials

Similarly, some of the information has been marked as out of scope as it does not fall within the scope of your request and the document listed in the table below I am refusing under section 18(d) on the grounds that this information is publicly available at the link provided for in the table.

Item	Date	Document Description	Website link
15	20 February 2019	SSC Aide Memoire Meeting with Chief Ombudsman and Australian Information and Access Commissioners	<a href="https://ssc.govt.nz/assets/Legacy/resources/">https://ssc.govt.nz/assets/Legacy/resources/</a>

### Current work programme on the OIA

Dame Beverley made a number of insightful recommendations for how government can improve its performance and improve public confidence in how we comply with the Act. This is a theme that came through strongly in the submissions made by civil society during the development of Open Government Partnership National Action Plans 2016-2018 and 2018-2020.

One commitment in the most recent NAP was for the Ministry of Justice to test the merits of the review of the OIA. The Ministry of Justice, as the Ministry responsible for administering the OIA, has prepared advice to its Minister on this commitment. We are aware that the Ministry has replied to you directly on that matter.

Both the SSC and the Office of the Ombudsman have been working to improve the information and guidance on the OIA for both citizens and government agencies, and the SSC has been supporting agencies to proactively make more information available. The SSC guidance on proactive release can be found at: [OIA Guidance for agencies](#).

As noted above, the SSC's programme of work has been focused on assisting agencies to assess and build on their own capacity and capability, with the work programme informed via the OGP commitments and primarily progressed via the Official Information Forum (previously called the OIA Forum).

The Official Information Forum provides an opportunity for agency leaders and practitioners to come together to discuss official information practices, issues and to learn from each other. Documents from previous Forums can be found at: <https://ssc.govt.nz/resources/oia-forum/>.

A draft provisional programme for the Forum in 2020 is currently being developed by an agency reference group and is expected to be confirmed during February 2020. That provisional programme will be published once confirmed.

Proactive release is expected to feature prominently again in the 2020 forum programme currently being developed, in both a new stream of events for “new practitioners”, and the mainstream for Forum events.

Potential areas for additional or updated agency guidance in 2020 are currently being considered.

### **OIA Statistics**

Government agencies are committed to openness and transparency in the provision of public services to New Zealanders. The OIA gives New Zealanders the right to access information and is important for ensuring government is open and transparent.

The SSC publishes Official Information Act (OIA) statistics covering Crown entities and government departments subject to the OIA every six months. The next release of statistics is currently scheduled for 4 March 2020.

The OIA Statistics for the State services can be found at <https://ssc.govt.nz/resources/official-information-statistics/>.

You may also be interested to know that the Chief Ombudsman launched a new inquiry into whether central government agencies have addressed any weaknesses identified in this investigation five years ago. More information can be found here: <https://www.ombudsman.parliament.nz/news/chief-ombudsman-revisits-not-game-hide-and-see>

If you wish to discuss this decision with us, please feel free to contact [Ministerial.Services@ssc.govt.nz](mailto:Ministerial.Services@ssc.govt.nz).

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) and enclosed documents on the State Services Commission’s website.

Yours sincerely



Nicky Dirks  
**Managing Principal – Ministerial Services**  
**State Services Commission**