

LAW COMMISSION

**REVIEW OF OFFICIAL INFORMATION ACT 1982 AND
LOCAL GOVERNMENT OFFICIAL INFORMATION AND
MEETINGS ACT 1987**

The Law Commission has been asked by Government to review the Official Information Act 1982 (OIA). Since Parts I to VI of the Local Government Official Information and Meetings Act 1987 (LGOIMA) are in most respects identical, or almost identical, to the OIA, our review will also include the relevant parts of this Act.

Both Acts have been successful in promoting a culture of openness in relation to central and local Government activities and their underlying principles are not in question. But after 20 or more years the operation of the Acts are still sometimes attended by problems and these have been exacerbated rather than resolved by the explosion of information technology.

In **early 2010** the Commission will present options for improving the law and practice of the OIA and LGOIMA in a published Issues Paper and will seek comment and submissions from the wide audience of people who use or are interested in the operation of these Acts. It may well be that many of the problems identified will not be able to be addressed by legislative change and that we shall need to consider improving practice.

We now seek the views of all those regularly involved and familiar with the operation of the OIA or LGOIMA, both officials and requesters, in order to refine our understanding of the problems and to hear what works well, at the outset of our review. At this stage we are not seeking detailed submissions, rather indications of where problems lie and ideas for further exploration or reform. In preparing the survey we benefitted from recent research into the operation of the OIA published by Nicola White,¹ and Steven Price.²

The survey briefly summarises the often overlapping topics that the Law Commission has identified as important. We have not attempted to cover all aspects at this stage and welcome views on any other matters of concern arising from experience with the Acts. Most of the questions can be answered by both officials and requesters but a few are primarily for officials. The survey is intended as a guide to stimulate thinking rather than a template for comment on every issue.

The survey is on the Law Commission's talklaw website <http://talklaw.co.nz/talkofficialinformation>, which also provides an online forum for public comment and discussion. Responses can be sent online or sent to PO Box 2590, Wellington. When responding please identify yourself and your organisation if applicable.

Responses should be with the Commission by 15 February 2010.

¹ Nicola White *Free and Frank: Making the Official Information Act 1982 work better* (Institute of Policy Studies, Victoria University of Wellington, 2007):

² Steven Price *The Official Information Act 1982: A Window on Government or Curtains Drawn* (Occasional Paper 17, New Zealand Centre for Public Law, Victoria University of Wellington) http://www.medialawjournal.co.nz/downloads/OP_Price.pdf

SURVEY OF REQUESTERS AND OFFICIALS

1 Overview of the Act

OIA and LGOIMA have the same straightforward framework which is recognised as one of the strengths of the legislation. Both Acts provide one principle of general availability of information followed by specific reasons for withholding information. This framework has proved to be flexible in changing circumstances yet robust enough to maintain the core integrity of the Act. None of the four OIA amending acts since 1982 have altered this basic structure.

Nevertheless the Acts have been in force for over 20 years during which time there have been very substantial changes to Parliament, to governance procedures, and in technology. The provisions are now being applied in an operating landscape with different political accountabilities than in the 1980s and without reliance on paper based information systems.

Moreover, drafting styles have changed since the 1980s. Modern legislation is usually drafted with a wide audience in mind, and avoids the more legalistic language that prevailed in the 1980s. Misunderstanding about what the OIA and LGOIMA require can affect both requesters and officials.

This review is an opportunity to check how effective and accessible the legislation is for users today, and to ask for views on the overall conceptual framework. If the legislative provisions in both Acts continue to be almost identical, it might be easier for the public to find all official information provisions in the same act.

Topic 1 Questions

(a) Do you find the OIA and/or LGOIMA easy to read and understand?

(b) What changes would make the Acts easier to follow?

(c) Do you have any comment on the overall framework of either Act?

(d) What advantages or disadvantages would there be in having the official information legislation for both local and central government in the same act?

2 Applying the Act

2.1 Case-by-case consideration

Each request for official information must be considered individually, on a case-by-case basis. Unlike the position in some jurisdictions, there are neither rules nor blanket exemptions for classes of document, apart from information subject to professional legal privilege. Ombudsmen Case Notes and Guidelines provide some guidance, but there is no formal system of precedent to guide decision making. Officials must identify the particular harm that could result from release of the information.

The case-by-case approach gives these Acts flexibility as circumstances change. Indeed the main rationale is that the harm flowing from release may differ according to when the decision to release is made. But flexibility can lead to a perception of inconsistent decisions by agencies and repeated requests for the same kind of information. Requesters have observed considerable variance between agencies

operating under the OIA.

Treating each case on its individual merits runs somewhat counter to the more natural approach of officials to base their response on how similar requests were treated previously. The sheer volume of requests can also be an obstacle to individual consideration by officials.

No doubt in recognition of these difficulties, the Ombudsmen have recently begun to indicate “general approaches” to commonly recurring matters, such as public sector contracts and severance payments. This level of guidance seems to be a useful development.

Topic 2.1 Questions

- (a) What is your experience with the case-by-case approach?*
- (b) How important is it for upholding the principles of the Act?*
- (c) How helpful do you find the Case Notes and Guidelines of the Ombudsmen?*
- (d) Would you like more general guidance from the Ombudsmen on frequently recurring situations?*

2.2 Two stage test:³

Sections 9 and 7 lists reasons for withholding information and require officials to apply a twofold test to decide whether or not to release information. Information must be released if the answer to both questions is yes:

1. Is it necessary to withhold any of the requested information in order to protect the interests specified in the listed sections?
2. If so, is the interest in withholding outweighed by the public interests favouring disclosure?

The public interest test underlines the overarching approach of the Acts – open access to information unless there are specific reasons to withhold it. Research suggests, however, that officials who routinely answer requests find the two stage approach cumbersome, and that the public interest test is not always separately considered once grounds have been found for withholding information.

Topic 2.2 Questions

- (a) What is your experience with the two stage test?*
- (b) How important is it for upholding the principles of the Act?*
- (c) Have you any suggestions for improvement?*

3 Reasons for withholding information

Reasons for withholding information are set out in both Acts.⁴ We are interested in views on all these statutory grounds, but five in particular appear to have been problematic.

³ OIA s 9. LGOIMA s 7.

⁴ OIA ss 6, 7, 9, 18, and 27. LGOIMA s 6, 7, 9, 17.

3.1 Maintenance of the law⁵

In both Acts section 6 provides conclusive reasons for withholding information; grounds that cannot be overridden by any public interest in favour of release. LGOIMA has two conclusive reasons, identical to those in the OIA, whereas the OIA has several other grounds. Information can be withheld under both acts if release would prejudice the “maintenance of the law”. This ground has been criticised as being unhelpfully vague and appears sometimes to be applied indiscriminately.

We are also interested in the difference between conclusive grounds for withholding information and grounds that must be balanced against the public interest. Whether or not all the reasons in section 6 should be treated as ‘conclusive’ rather than having to be balanced against the public interest in disclosure, and whether any other conclusive grounds should be added to section 6, are questions for this review.

Topic 3.1 Questions

- (a) What is your experience with the s6 conclusive grounds for withholding information?*
- (b) What is your experience with the s6 maintenance of law ground?*
- (c) Should any of the grounds in s6 be subject to the public interest test?*
- (d) Should any other conclusive grounds be added to s 6?*

For officials

- (e) In what circumstances do you commonly apply the s6 maintenance of law ground?*

3.2 Good government⁶

Under these provisions, information can be withheld:

- to maintain constitutional conventions to protect Government confidentiality & officials’ neutrality (OIA only);
- to maintain effective conduct of public affairs by free and frank expression of opinions by, to, or between Ministers and officials; or
- because the information will soon be publicly available.

These provisions balance the need to ensure effective government decision-making with the public interests in effective public participation, transparency and accountability. They are commonly relied on reasons for withholding information but are difficult to interpret and apply, particularly in relation to the timing of release of information that is not finalised policy. Elected representatives inevitably have a strong interest in the timing and nature of release of information with strong public interest, whether good or bad news.

Topic 3.2 Questions

- (a) What is your experience of the provisions that enable information to be withheld on the basis of enabling good government?*
- (b) Have you any suggestions for improvement?*

For officials

- (c) Which of the “good government” grounds is most often relied on?*
- (d) How is it decided whether the Agency or Minister makes decisions about the release of information?*

⁵ OIA s 6(c). LGOIMA s 6(a).

⁶ OIA ss9(2)(f), 9(2)(g), 18(d). LGOIMA ss 7(2)(f), 17(d).

3.3 Commercial interest⁷

Under these provisions, information can be withheld:

- where release would disclose a trade secret or unreasonably compromise a commercial position;
- to protect confidential information if disclosure would prejudice supply of similar information or damage public interest;
- where disclosure would prevent a Minister or an organisation from carrying out commercial activities or entering into negotiations.

These provisions are used relatively frequently and the interpretation of the Ombudsmen is fairly settled. However, there is little data about how restrictive or useful these provisions are for requesters, nor how straightforward they are for officials to apply. The last 20 years have seen greater commercialisation by some agencies and authorities in carrying out their functions, which may have led to a reduction of access to information held by them.

Topic 3.3 Questions

(a) What is your experience of the commercial interest withholding provisions and the way they are applied?

(b) Have you any suggestions for improvement?

3.4 Privacy⁸

This provision allows an agency to withhold information to protect the privacy of natural persons, both alive and deceased. Evidence suggests that protection of privacy is one of the most widely cited but misunderstood and inconsistently applied reasons for withholding information. This may result in the inappropriate release of personal information in some cases, or the withholding of information on dubious grounds in others.

The definition of “official information” includes “personal information,” so there is an interface between OIA/LGOIMA and the Privacy Act 1993 but this interface can be problematic.⁹

Topic 3.4 Questions

(a) What is your experience of the privacy withholding provision, and of its alignment with the Privacy Act 1993?

(b) What might improve the situation?

3.5 Processing difficulties¹⁰

Both Acts allow information to be withheld if the material cannot be made available without substantial work. In such cases, provisions added in 2003 require officials to consider whether consulting with the requester could narrow the request and also

⁷ OIA ss9(2)(b), (ba), (i), (j). LGOIMA ss 7(2)(b), (c), (h), (i).

⁸ OIA ss9(2)(a), 12(1A). LGOIMA ss 7(2)(a), 10(1A).

⁹ The interface between the OIA and the PA is also being considered as part of the Law Commission’s Review of Privacy.

¹⁰ OIA ss 18(f), 18A, 18B. LGOIMA ss 17(f), 17A, 17B.

whether the problem can be solved by charging or extending the time limit.¹¹ These provisions can be useful in managing constant requests for the same information.

Research into the operation of the OIA suggests there is little consistency of approach in that some agencies will go to considerable trouble to provide large amounts of information while others decline to do so. There is little evidence, as yet, of the new provisions being routinely applied where large amounts of material is requested.

The problems with collating large amounts of information, as they existed in the 1980s, have been transformed by the ability to store and transmit information electronically. However, the retrieval and filing of electronic information pose a new range of issues, discussed in section 5 below.

Topic 3.5 Questions

- (a) What is your experience of the provisions that enable information to be withheld because release would require substantial work?*
- (b) How appropriate are they today?*
- (c) Have you any suggestions for improvement?*

3.6 Withholding provisions in general

The provisions discussed above were selected on the basis of their frequent use and difficulty of application. We are interested in hearing any concerns about the other reasons for withholding information provided for in the Acts. There may also be additional grounds that should be added to those currently available.

Topic 3.6 Questions

- (a) Do you have comment about any other grounds for withholding information?*
- (b) Should additional grounds for withholding information be added to those already provided for in the Acts?*
- (c) Should any of the current grounds be removed, amended or clarified?*

4 Scope of the Act

The organisations subject to the OIA are listed in Schedule 1 of the OIA or in Part 1 or 2 of Schedule 1 to the Ombudsmen Act 1975. The organisations subject to LGOIMA are the local authorities and public bodies named in Schedule 1 of that Act, and include all committees, subcommittees, etc of these authorities and bodies.

The combined effect of the two Schedules relating to the OIA is that almost all organisations responsible to central Government in some way come within scope. However, there is wide variation in the governance structures and objectives of the organisations covered by the OIA, and the rationale for some organisations to be in or out is not always transparent.

The extension of the Act to state enterprises that operate commercially has been contentious, especially where there are competing private companies not subject to the OIA. The House of Representatives is not within the Act and nor are the agencies that

¹¹ OIA ss 18A, B. LGOIMA ss 17A, B.

service the House, such as Parliamentary Service, the Office of the Clerk, and Parliamentary Counsel Office. Information held by Courts is excluded altogether but tribunals are only excluded in relation to their “judicial functions”. Commissions of Inquiry are excluded. There may be similar issues in determining the appropriate scope for LGOIMA.

Topic 4 Questions

- (a) Are there organisations covered by the OIA or LGOIMA that should be excluded?*
- (b) Are there organisations not covered by the OIA or LGOIMA that should be included?*
- (c) What rationale should be applied to determine which organisations should be in the scope of OIA and LGOIMA?*

5 Information Technology

Technological advances have transformed the format of information held by agencies and therefore how information is stored. This includes not only e-mail, meta-data and the internet, but also texts, instant messaging, wikis and blogs. While the framework of the OIA and LGOIMA can accommodate the computer age, some current practice and procedures for managing official information may be anachronistic. Increasingly officials manage content rather than documents.

In a paper based system, as when the OIA was developed, each document had a distinct number and was stored on the relevant file. Getting rid of paper required time and a physical action, such as shredding. Now documents are created, circulated, amended and deleted instantly. Agency policy about retention of electronic information for OIA purposes probably varies widely, particularly in relation to the status of drafts and emails that contain significant content.

To be accessible, electronic documents must not only be retained they must include meta-data that enables them to be traced electronically. Even if the information is retained effectively in the first place, it may become inaccessible in future because of technological change. Up-front planning is required to retain and maintain access to electronic official information. (Archives NZ administers the Public Records Act 2005 and gives advice on digital record keeping, see also section 7.3 below.)

Agencies are fast realising the enormous advantages of the internet, such as the capacity to publish large amounts of information and raw data that requesters can look up for themselves. It has been suggested that in this electronic age OIA and LGOIMA should require agencies and authorities to categorise and publish certain public interest information pro-actively.

Topic 5 Questions

- (a) How is IT transforming information management, and what will this mean for the OIA and LGOIMA?*
- (b) What changes to the OIA and LGOIMA would encourage better use of the efficiencies and advantages available through IT?*
- (c) Should the OIA and LGOIMA include provisions to require or encourage pro-active publication of information by agencies?*

6 Administrative Compliance

6.1 Timeframes & delay¹²

Recent research for the OIA suggests there is wide variation in how the 20 day rule is applied, and that it is sometimes not observed. It also seems to have become the de facto deadline, even if that amount of time is not required.

Some requesters claim that delays are used to frustrate release for political reasons, and that the needs of the requester are not considered. Officials sometimes find that 20 days is unrealistic in light of departmental and ministerial checking processes. In recent years, the Ombudsmen have taken a stronger line in investigating complaints about delay.

6.2 Extension of time¹³

If a large amount of work is involved or if consultation is needed to make a decision, officials can extend the timeframe by giving requesters a new date and the reasons for it within the 20 day limit. Again OIA research suggests this provision is not always observed in that the extension is not communicated within 20 days, or the new date is not met. It is sometimes difficult to assess how long will be required, especially if the request requires collaboration between officials.

The provisions to seek extension of time are not always used effectively, possibly because there is a general lack of awareness that officials can actually extend the maximum time limits.

6.3 Transfer of requests¹⁴

Transfers to other agencies, where it is appropriate, must be made promptly and within 10 working days of receiving a request (unless a time limit is explicitly extended). This is not straightforward when several agencies have to collaborate, or at least consult about how to provide the information. The need for transfer may not be recognised initially, or consultation may take so long that the transfer goes over the 10 day notification deadline. It seems that requesters are also sometimes simply told to direct their inquiry elsewhere, and that the possibility of including relevant information from other agencies may not be considered at all.

In the central Government context, transfers to Ministerial offices have increased, which further increases the likelihood of delay. Despite informal guidance from Ombudsmen and State Services, there appears to be considerable variation in practice and understanding about the correct processes for managing information requests as between Ministers' offices and agencies. We have already adverted to this in 3.2.

6.4 Charges¹⁵

In relation to the OIA, the Ministry of Justice produces administrative guidelines on charging for information, available on its website. Local authorities are not covered by these although some have chosen to prepare policies consistent with them.

¹² OIA s 15(1). LGOIMA s 13(1).

¹³ OIA ss 15A(1), (2). LGOIMA ss 14(1), (2).

¹⁴ OIA s 14. LGOIMA s 12.

¹⁵ OIA s15(2). LGOIMA s 13(2).

Ensuring that charges are maintained at reasonable levels and applied consistently is not easily achieved. Recent research with the OIA suggests that charges are not often imposed, and if they are there is such wide variation in practice that charging seems arbitrary, and sometimes not in accordance with the guidelines. LGOIMA has a regulation making power in relation to charges and states that charges under the Act shall not exceed the prescribed amount, but there are no such prescribed charges.

Some requesters have suggested that unreasonable charges may be imposed to deter requests for large amounts of information.

Topic 6.1-6.4 Questions

- (a) What problems do you experience with timeframes, transfer of requests and charging?*
- (b) What other problems do you find with the administration of the Acts?*
- (c) What measures might alleviate the problems you experience?*

7 Administrative issues for officials

7.1 Workplace management

Applying each Act requires balancing competing interests, which is a complex task, especially if unfamiliar with the whole framework of each Act. It is often devolved to the unit holding the information and research suggests that many breaches of the OIA and LGOIMA result from a misreading of the relevant Act rather than from any deliberate attempt to evade its provisions.

Processing information requests is not always a well-resourced activity. In larger organisations there are usually internal controls to check compliance and quality control of responses, but these controls differ in effectiveness. The Ombudsmen currently run training sessions for agencies that request them. Some commentators have suggested there could be better advisory support, administrative systems and training for officials handling requests.

Topic 7.1 Questions for Officials

- (a) What procedures are in place to ensure administrative compliance with timeframes, transfers and charges?*
- (b) How well are the OIA and LGOIMA understood by officials responding to requests?*
- (c) What support and training do officials receive and what might improve skills?*

7.2 Large requests & workload

Some officials find administering information requests an increasing burden because of vague or all-encompassing requests.

There appear to be growing numbers of “fishing” requests from the media and from political opposition parties or groups. In turn, requesters find that officials sometimes “read down” and interpret questions in an unduly narrow manner. Deciding what is relevant to a request, given the plethora of papers, drafts, memos, and emails, can pose real difficulties for officials.

Topic 7.2 Questions for officials

- (a) *What is the impact of OIA and LGOIMA inquiries on your other work?*
- (b) *How do you deal with wide-ranging “fishing” requests?*
- (c) *Have you any suggestions for improving the situation?*

7.3 Interface with the Public Records Act 2005 (OIA only)

The Public Records Act 2005 (PRA), administered by Archives NZ, places a duty on agencies to create and maintain records of its affairs “in accordance with normal, prudent business practice.” Agencies must maintain all their records “in an accessible form, until disposal is authorised in accordance with the Act”. Public records include documents, images, sound, speech, or data compiled, recorded or stored in written or recorded form. This broad definition covers a vast array of records created or received in any agency.

Potentially all this information can be sought and considered for release under the OIA. In considering best practice for the OIA, this review will also consider its interface with the PRA, and the process for managing records under that Act.

Topic 7.3 Questions for Officials

- (a) *What is your experience of compliance with the Public Records Act 2005 and its relationship to the OIA?*
- (b) *Have you any suggestions for improvement?*

8 Possible Sanctions

Decisions by the Ombudsmen take the form of recommendations that are binding on agencies, subject to a veto that can be exercised by Cabinet to override the recommendation in the case of the OIA,¹⁶ and subject to the passing of a resolution against release by a local authority.¹⁷ The requirement for a Cabinet decision rather than one by an individual Minister was introduced in 1987. Since then, all Ombudsmen recommendations have been implemented, which means that serious breaches of the Act are rectified despite the fact that the Act provides no sanctions for breaches.

Anecdotal evidence suggests that the vast majority of breaches are inadvertent and not a result of any intent to defeat the provisions of these Acts, but there may be some cases where, for one reason or another, there is a deliberate intention to avoid the release of information. There may also be inadvertent but very serious breaches. Some have suggested there should be power to impose sanctions for serious breaches of the Act.

Topic 8 Questions

- (a) *Should sanctions be imposed for any breach of these Acts?*
- (b) *If so, what sort of breaches, and what sort of sanctions?*

¹⁶ OIA s 32.

¹⁷ LGOIMA s 32.

9 Role of Ombudsmen

There is general agreement from commentators that oversight and guidance on the operation of the OIA and LGOIMA benefits from leadership from an independent and authoritative body. Currently the Ombudsmen perform this leadership function. Their role is twofold: investigating complaints on a case-by-case basis and giving informal guidance on OIA and LGOIMA through publications such as the Practice Guidelines and assistance with training.

The guidance role of the Ombudsmen has developed in the absence of any central agency with responsibility for operation of these Acts. The dual role may have placed some pressure on Ombudsmen resources which may impact on the speed of decision making and the extent of the assistance which is able to be provided.

In practice Ombudsmen perform the vital function of being the final arbiter on decisions of officials about release of official information in relation to both Acts. Although there is provision under the OIA for the Governor-General to direct otherwise by Order in Council, this provision has never been used. Under LGOIMA, the local authority can, by resolution at a meeting, decide not to observe the Ombudsmen's recommendation.

Topic 9 Questions

- (a) What is your view about the dual functions of the Ombudsmen?*
- (b) Should the Ombudsmen continue to investigate OIA and LGOIMA complaints?*
- (c) Should the Ombudsmen provide guidance and assistance with training?*
- (d) Is a single review mechanism sufficient?*

10 General

We have asked questions about aspects of the OIA and LGOIMA where some issues of concern have been raised. There may be other aspects you wish to comment on, including what works well. We welcome such comment.

Topic 10 Question: *Are there any other aspects of OIA or LGOIMA you wish to comment on?*

SUMMARY

OFFICIAL INFORMATION SURVEY QUESTIONS

1 Overview of the Act

- (a) Do you find the OIA and/or LGOIMA easy to read and understand?
- (b) What changes would make the Acts easier to follow?
- (c) Do you have any comment on the overall framework of either Act?
- (d) What advantages or disadvantages would there be in having the official information legislation for both local and central government in the same act?

2 Applying the Act

2.1 Case-by-case consideration

- (a) What is your experience with the case-by-case approach?
- (b) How important is it for upholding the principles of the Act?
- (c) How helpful do you find the Case Notes and Guidelines of the Ombudsmen?
- (d) Would you like more general guidance from the Ombudsmen on frequently recurring situations?

2.2 Two stage test

- (a) What is your experience with the two stage test?
- (b) How important is it for upholding the principles of the Act?
- (c) Have you any suggestions for improvement?

3 Reasons for withholding information

3.1 Maintenance of the law

- (a) What is your experience with the s6 conclusive grounds for withholding information?
- (b) What is your experience with the s6 maintenance of law ground?
- (c) Should any of the grounds in s6 be subject to the public interest test?
- (d) Should any other conclusive grounds be added to s 6?

For officials

- (e) In what circumstances do you commonly apply the s6 maintenance of law ground?
release of information?

3.2 Good government

- (a) What is your experience of the provisions that enable information to be withheld on the basis of enabling good government?
- (b) Have you any suggestions for improvement?

For officials

- (c) Which of the “good government” grounds is most often relied on?
- (d) How is it decided whether the Agency or Minister makes decisions about the

3.3 Commercial interest

- (a) What is your experience of the commercial interest withholding provisions and the way they are applied?
- (b) Have you any suggestions for improvement?

3.4 Privacy

- (a) What is your experience of the privacy withholding provision, and of its alignment with the Privacy Act 1993?

(b) What might improve the situation?

3.5 Processing difficulties

(a) What is your experience of the provisions that enable information to be withheld because release would require substantial work?

(b) How appropriate are they today?

(c) Have you any suggestions for improvement?

3.6 Withholding provisions in general

(a) Do you have comment about any other grounds for withholding information?

(b) Should additional grounds for withholding information be added to those already provided for in the Acts?

(c) Should any of the current grounds be removed, amended or clarified?

4 Scope of the Act

(a) Are there organisations covered by the OIA or LGOIMA that should be excluded?

(b) Are there organisations not covered by the OIA or LGOIMA that should be included?

(c) What rationale should be applied to determine which organisations should be in the scope of OIA and LGOIMA?

5 Information Technology

(a) How is IT transforming information management, and what will this mean for the OIA and LGOIMA?

(b) What changes to the OIA and LGOIMA would encourage better use of the efficiencies and advantages available through IT?

(c) Should the OIA and LGOIMA include provisions to require or encourage proactive publication of information by agencies?

6 Administrative Compliance

6.1 Timeframes & delay; Extension of time; Transfer of requests; Charges

(a) What problems do you experience with timeframes, transfer of requests and charging?

(b) What other problems do you find with the administration of the Acts?

(c) What measures might alleviate the problems you experience?

7 Administrative Issues for Officials

7.1 Workplace management

(a) What procedures are in place to ensure administrative compliance with timeframes, transfers and charges?

(b) How well are the OIA and LGOIMA understood by officials responding to requests?

(c) What support and training do officials receive and what might improve skills?

7.2 Large requests & workload

(a) What is the impact of OIA and LGOIMA inquiries on your other work?

(b) How do you deal with wide-ranging “fishing” requests?

(c) Have you any suggestions for improving the situation?

7.3 Interface with the Public Records Act 2005

- (a) What is your experience of compliance with the Public Records Act 2005 and its relationship to the OIA?
- (b) Have you any suggestions for improvement?

8 Possible Sanctions

- (a) Should sanctions be imposed for any breach of these Acts?
- (b) If so, what sort of breaches, and what sort of sanctions?

9 Role of Ombudsmen

- (a) What is your view about the dual functions of the Ombudsmen?
- (b) Should the Ombudsmen continue to investigate OIA and LGOIMA complaints?
- (c) Should the Ombudsmen provide guidance and assistance with training?
- (d) Is a single review mechanism sufficient?

10 General

Are there any other aspects of OIA or LGOIMA you wish to comment on?

SUMMARY

OFFICIAL INFORMATION SURVEY QUESTIONS

Official or Requester

Usual involvement with official information, eg media, legal adviser, prepare responses, politician, research, public interest group

Name (optional)

Organisation (if applicable)

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- (a) Do you find the OIA and/or LGOIMA easy to read and understand?
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- (c) How helpful do you find the Case Notes and Guidelines of the Ombudsmen?
- (d) Would you like more general guidance from the Ombudsmen on frequently recurring situations?

2.2 Two stage test

- (a) What is your experience with the two stage test?
- (b) How important is it for upholding the principles of the Act?
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3 Reasons for withholding information

3.1 Maintenance of the law

- (a) What is your experience with the s6 conclusive grounds for withholding information?
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For officials

- (e) In what circumstances do you commonly apply the s6 maintenance of law ground?

3.2 Good government

- (a) What is your experience of the provisions that enable information to be withheld on the basis of enabling good government?
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- (b) How appropriate are they today?
- (c) Have you any suggestions for improvement?

3.6 Withholding provisions in general

- (a) Do you have comment about any other grounds for withholding information?
- (b) Should additional grounds for withholding information be added to those already provided for in the Acts?
- (c) Should any of the current grounds be removed, amended or clarified?

4 Scope of the Act

- (a) Are there organisations covered by the OIA or LGOIMA that should be excluded?
- (b) Are there organisations not covered by the OIA or LGOIMA that should be included?
- (c) What rationale should be applied to determine which organisations should be in the scope of OIA and LGOIMA?

5 Information Technology

- (a) How is IT transforming information management, and what will this mean for the OIA and LGOIMA?
- (b) What changes to the OIA and LGOIMA would encourage better use of the efficiencies and advantages available through IT?
- (c) Should the OIA and LGOIMA include provisions to require or encourage pro-active publication of information by agencies?

6 Administrative Compliance

6.1 Timeframes & delay; Extension of time; Transfer of requests; Charges

- (a) What problems do you experience with timeframes, transfer of requests and charging?
- (b) What other problems do you find with the administration of the Acts?
- (c) What measures might alleviate the problems you experience?

7 Administrative Issues for Officials

7.1 Workplace management

- (a) What procedures are in place to ensure administrative compliance with timeframes, transfers and charges?
- (b) How well are the OIA and LGOIMA understood by officials responding to requests?
- (c) What support and training do officials receive and what might improve skills?

7.2 Large requests & workload

- (a) What is the impact of OIA and LGOIMA inquiries on your other work?
- (b) How do you deal with wide-ranging “fishing” requests?
- (c) Have you any suggestions for improving the situation?

7.3 Interface with the Public Records Act 2005

- (a) What is your experience of compliance with the Public Records Act 2005 and its relationship to the OIA?
- (b) Have you any suggestions for improvement?

8 Possible Sanctions

- (a) Should sanctions be imposed for any breach of these Acts?
- (b) If so, what sort of breaches, and what sort of sanctions?

9 Role of Ombudsmen

- (a) What is your view about the dual functions of the Ombudsmen?
- (b) Should the Ombudsmen continue to investigate OIA and LGOIMA complaints?
- (c) Should the Ombudsmen provide guidance and assistance with training?
- (d) Is a single review mechanism sufficient?

10 General

Are there any other aspects of OIA or LGOIMA you wish to comment on?