

Guidance Note

Responsibilities under the Official Information Act

Purpose of this guidance note

This guidance outlines responsibilities of the Community Housing Regulatory Authority (the Authority) and community housing providers (CHPs) under the Official Information Act 1982 (the OIA).

Introduction

The OIA requires that all information shall be made available on request unless there is good reason for withholding it.¹ This guidance discusses the practical implications of that principle for you as a CHP and for the information that you provide to the Authority.

Official information is any information held by a government department, Minister or other organisation subject to the OIA. This can take a wide range of forms, including:

- documents, reports, memoranda, letters, emails and drafts
- non-written information, such as video or audio recordings
- the reasons for any decisions that have been made about you
- manuals that set out internal rules, principles, policies or guidelines for decision making
- agendas and minutes of meetings, including those not open to the public.
- information that is known to an agency but has not yet been written down.

Any New Zealand citizen or resident, or person in New Zealand, or their body corporate equivalents, may request official information.

The Authority's responsibilities

The Authority, which is part of the Ministry of Housing and Urban Development (the Ministry), is subject to the OIA and must respond to requests for information in accordance with the OIA's provisions.

The OIA requires that responses to OIA requests be made as soon as reasonably practicable, and in any case not later than 20 working days. If your CHP is involved in an OIA request the Ministry will try to give you as much time as possible for the consultation phase, but the Ministry must make every effort to comply with the OIA's tight deadlines.

In keeping with the principle of availability, the Ministry must weigh the public interest of releasing information against any reason to withhold the information. The OIA presumes that information will be released, unless there is good reason to withhold it.

There are limited reasons under the OIA to withhold information.² The most common reasons include to protect:

- people's right to privacy
- information supplied in confidence, if releasing that information could prejudice the supply of similar information, or information from the same source, in the future
- legal privilege

¹ s.5 OIA – Principle of availability

² s.9 OIA – Other reasons for withholding official information

- free and frank discussion between Ministers, members of an organisation, or public agencies
- the ability to carry out commercial activities or negotiations.

The Ministry's Ministerial Services team will coordinate the response to an OIA request, including any necessary consultation with other relevant business groups within the Ministry, such as the Authority. CHPs are consulted on any proposed release, but the Ministry is responsible for the final decision on the scope and nature of release.

CHPs' responsibilities

CHPs should be aware that all information they provide to the Authority is official information and may be released in line with the requirements of the OIA.

When sending any supporting evidence to the Authority please **do not** include tenant names or other identifiable information about your tenants. The Authority does not require this information. Generally the only time the Authority needs to see identifiable tenant information is when we discuss specific tenant complaints with CHPs.

If information we hold is proposed for release, you will be consulted beforehand and will be able to provide comments on the proposed release, including whether you consider any information should be withheld because it meets the criteria for withholding information contained in the OIA.

Please note, however, that the final decision on release is ultimately made by the Ministry, which must uphold the OIA's requirements fairly and consistently.

Appeals to the Ombudsman

If a requester is unhappy with the response to their request, including its contents, any omissions or its timeliness, they can complain to the Ombudsman. The Ombudsman can

consider most matters concerning an agency's decision making on an official information request and make a recommendation on the matter to the agency concerned.

Further information

If you have any concerns or questions on how the OIA works in practice, please contact us at chra@hud.govt.nz.

For more information about how the Authority handles potential releases under the OIA, visit:

www.ombudsman.parliament.nz/resources/oia-ministers-and-agencies-guide-processing-official-information-requests.