Proactive release of information policy

## Introduction

Under New Zealand’s Open Government Partnership [Third National Action Plan 2018-2020](https://ogp.org.nz/new-zealands-plan/third-national-action-plan-2018-2020/) (the Action Plan), the Government has committed to improving agency practices around proactive release of information and of [Official Information Act 1982](http://www.legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html) (OIA) request responses. This policy describes how the Mental Health and Wellbeing Commission (the Commission) will ensure that it participates in government initiatives to increase the availability of official information that is not expressly prepared for publication.

Many of the documents produced by the Commission will be intended for publication, for instance, consultation documents, consultation reports, media releases and position statements. These form part of the Commission’s communications and engagement approach rather than the proactive release of information.

The policy applies to all Commission employees and contractors (staff) and to Board members. The Proactive release of information procedures set out the process to be followed.

## Policy

### Proactive release of information

Proactive release of information promotes good government, openness and transparency and fosters public trust and confidence in the Commission. By making a broader range of information on the Commission’s work readily accessible, it also helps to reduce administrative burden – both on individuals who no longer need to make requests for information, and on the Commission in responding to requests.

All information that is proactively released will comply with the Commission’s communications standards and visual identity guidelines to ensure that it is easy to understand and accessible; see the Communications policy.

The Commission will proactively publish information that informs the public about how it undertakes its functions and / or could be of interest to the wider public, e.g. notes from Board meetings, research and information briefings to the Board or Minister that may be of wider interest, speeches and presentations, and media statements. ­­

The Commission will proactively publish its reports to Te Kawa Mataaho Public Service Commission on the number of OIA requests received, the number of complaints notified by an Ombudsman, and how the Commission met the timeliness requirements of the OIA (see the Official Information Act policy).

Before information is proactively released our relevant considerations will include:

* the guidance set out in the [Cabinet Manual paragraphs 8.4 and 8.14 – 19](https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-1) and the [agency guidance for proactive release of official information](https://www.publicservice.govt.nz/assets/Legacy/resources/oia-proactive-release-dec2017.pdf). Only Ministers may approve the proactive release of Cabinet material
* the requirements of the [Privacy Act 2020](http://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html)
* the requirements of the [Health Information Privacy Code 2020](https://privacy.org.nz/privacy-act-2020/codes-of-practice/hipc2020/)
* any legal risk to the Commission.

### Proactive release of OIA request responses

The Commission will publish responses to OIA requests that are appropriate for wider publication. We will exercise due diligence before proactively making the responses available and assess the potential effect of publishing them including considerations relevant to the preservation of personal privacy.

Relevant considerations may include:

* whether there has been more than one request for the information, or on the topic the information covers
* whether the information would be of general interest to the public
* whether release of the information to an audience wider than the requester would create any legal risk to the Commission
* the requirements of the [Privacy Act 2020](http://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html)
* the requirements of the [Health Information Privacy Code 2020](https://privacy.org.nz/privacy-act-2020/codes-of-practice/hipc2020/).

The Commission will advise OIA requesters that the information we provide them in our response may be published on our website. Before publication, we will remove personal details that would reveal the identity of the requester.

### Redactions

The Commission may choose to make redactions to proactively published information. Where appropriate, these redactions will be identified with the relevant sections of the OIA.

If redactions have been made to documents which have been proactively released and it is determined later that more information can be made available, the Commission may revise and update its published responses.

### No surprises

Releases of information are made on a “no surprises” basis, which means, where appropriate, the responsible Minister should be informed of the release in advance. Where a decision is made in advance to proactively release a paper written to the Board or the Minister, the paper will have a noting recommendation that says this.

The Commission will make every effort to advise all other parties involved in the creation of the information, or any stakeholders potentially impacted by the information being released, in advance of the release.

## Responsibilities

Commission staff must comply with this policy. They should consult with the Chief Executive if they are unable to ascertain the level of individual responsibility for non-compliance with this policy.

The Planning and Accountability Lead is responsible for updating this policy in accordance with review timelines.

## Non-compliance with policy

Failure to comply with this policy may result in the Commission taking disciplinary action in accordance with the Code of conduct.

## Related documents

[Agency guidance for proactive release of official information](https://www.publicservice.govt.nz/assets/Legacy/resources/oia-proactive-release-dec2017.pdf)

[Cabinet Manual paragraphs 8.4 and 8.14 – 19](https://dpmc.govt.nz/our-business-units/cabinet-office/supporting-work-cabinet/cabinet-manual/8-official-information-1)

Code of conduct

Communications policy

[Health Information Privacy Code 2020](https://privacy.org.nz/privacy-act-2020/codes-of-practice/hipc2020/)

[Official Information Act 1982](http://www.legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html)

Official Information Act policy

[OGP Third National Action Plan 2018-2020](https://ogp.org.nz/new-zealands-plan/third-national-action-plan-2018-2020/)

[Privacy Act 2020](http://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html)

[Proactive release of information procedures](https://mhwcnz.sharepoint.com/:w:/r/sites/resources/Policies%20and%20Procedures/Word%20Versions/Proactive%20release%20of%20information%20procedures%202023.docx?d=we3052704188e4a9ab443587c20f1e2d5&csf=1&web=1&e=DGLPbw)

## Policy details

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| **Owner:** | Planning and Accountability Lead |
| **Approver:** | Mental Health and Wellbeing Commission Board, with effect from 31 / 03 / 2021 |
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| **Next review:** | March 2025 |