

Official Information Policy

Contents

Policy Owner and Approval	2
Next Review Date	2
Effective Date.....	2
Introduction	3
Purpose and Scope	3
Definitions	3
Overview	4
The OIA.....	4
Public Records Act 2005.....	4
Requests for Information.....	4
Information Requests.....	4
Information that pre-dates 5 April 2012	5
Time Limits for Answering Requests	5
Escalation	5
Transfer.....	5
Response to Information Requests.....	6
Providing Information.....	6
Alternative methods of providing information	6
Conditions relating to future use by requester.....	6
Refusal to provide information/ Withholding of information	6
Charge for Providing Information.....	6
Right to review decision	7
Refusing Information Requests.....	7
Administrative Reasons for Refusal.....	7
Consultation with the requester	7
Withholding Information	7
Conclusive Reasons for Withholding Information.....	7
Good Reasons for Withholding Information.....	8
Public Interest Balancing Exercise	8
Third Party Consultation	8
Payments to Third Parties	9
Request for Information Regarding Decisions Affecting the Requester.....	9
Non-disclosure of Information on which Findings Were Based.....	9
Company Requests for Personal Information.....	10
Requests by Corporate Entities	10
Relevant Links.....	11
Procedures.....	11
Relevant References and Resources	11
Version Control	12

**Policy Owner
and Approval**

- The Owner of this Official Information Policy (“**Policy**”) is the Chief Executive.
 - This Policy has been approved by the Board.
 - The Committee responsible is the Audit and Risk Committee.
-

**Next Review
Date**

June 2024

Effective Date

20 March 2013

Introduction

Purpose and Scope

The purpose of this Policy is to provide an overview of the Official Information Act 1982 (the “**OIA**”) and provide guidelines for dealing with requests for Official Information to ensure Southern Response and its Personnel comply with the OIA.

The OIA should always be referred to and followed in the first instance. Should any matter in this policy conflict with the OIA, the OIA will prevail.

This Policy applies to all Personnel who deal with requests for Official Information (including requests by companies and other corporate entities, for their own Personal Information that are governed by the OIA).

This Policy accords with the values and other core principles of Southern Response.

Southern Response’s *Information Request Process* document provides more detailed guidance for Personnel processing requests for information that are governed by the OIA and the Privacy Act 2020.

Definitions

For the purpose of this Policy:

“**Personnel**” means all employees and other personnel providing services to, or associated with, Southern Response (e.g. independent contractors and Directors).

“**Official Information**” means any information held by Southern Response. This could include:

- documents (including drafts), reports, memoranda, letters, costings, policy papers, emails and text messages;¹
- non-written information, such as video or audio recordings;
- statistical information;
- information held by contractors working on behalf of Southern Response;
- documents or manuals setting out internal rules, principles, policies or guidelines in accordance with which decisions or recommendations are made; and
- information regarding a decision or recommendation made in respect of the requester (subject to the restrictions set out below under “Information Regarding Decisions Affecting the Requester”).

“**Personal Information**” means any Official Information held by Southern Response about an identifiable person.

“**Legal Process Manager**” a member of Personnel, under the supervision of the General Counsel, who is responsible for managing requests for information governed by the OIA.

“**Evaluative Material**” is material compiled solely for the purpose of:

- determining the suitability, eligibility, or qualifications of the person to whom the material relates for:
 - employment or for appointment to office;
 - promotion in employment or office or for continuation in employment or office;
 - removal from employment or office; or
 - the awarding of contracts, awards, or other benefits;
- determining whether any contract, award or benefit should be continued, modified, or cancelled; or
- deciding whether to insure any person or property or to continue or renew the insurance of any person or property.

Overview

The OIA

The OIA provides that Official Information held by organisations such as Southern Response should be made available to the public upon request, unless there is good reason for withholding such Official Information (see “Refusing Information Requests” and “Withholding Information” below).

The OIA does not generally cover requests by natural persons for Personal Information about themselves (as that type of request is covered by the Privacy Act 2020).

However, the OIA does cover requests by registered companies and other corporate entities for their own Personal Information. Specific requirements under the OIA for this type of request for Official Information are outlined in a separate section of this Policy (see “Company Requests for Personal Information” below).

Southern Response also advises both shareholding Ministers on a ‘no surprises’ basis of all significant, topical or potentially contentious requests for Official Information. This does not include requests by companies and other corporate entities for their own insurance claim files or other Personal Information.

Public Records Act 2005

The Chief Archivist has determined that Southern Response is not a public office and is not subject to the regulatory requirements of the Public Records Act 2005. Notwithstanding that, Southern Response adheres to good business practices in recordkeeping.

Requests for Information

Information Requests

Southern Response operates in a transparent and open manner to provide requested Official Information. The objective is to supply rather than withhold Official Information. Using the refusing or withholding provisions of the OIA should be a last resort.

When Southern Response Personnel receive a request for Official Information, they should immediately pass it on to the Legal Process Manager who will provide a copy of the request to the Chief Executive, members of the Board, and the Ministers’ Office as appropriate.

Each request received by Southern Response should be considered on its merits, in light of the principles set out in this Policy and the OIA.

Each request shall be recorded as being received on the date of first receipt by Southern Response.

Requests for information do not need to refer to the OIA or be made in a particular way in order to constitute a request for Official Information under the OIA. If it is unclear whether a communication is a request for Official Information, the Legal Process Manager will assess the request and, if necessary:

- consult with the requester to clarify the request; and/or
- consult with the General Counsel to assess whether the request should be treated as a request for Official Information under the OIA.

Under the OIA (section 12(1A)), it is Southern Response’s responsibility to determine whether a request for information ostensibly brought under the OIA should in fact have been brought under the Privacy Act 2020. The nature of the request and the identity of the requester are the primary bases for determining which Act properly applies. For example, requests by natural persons that are limited to seeking a customer’s own personal information should be dealt with as requests for information under the Privacy Act 2020 and responded to accordingly.

Southern Response is committed to the wellbeing of its Personnel and to ensuring all

¹ The *Text Message Management Policy* provides specific guidance on the retention of text messages.

Personnel have a safe and healthy working environment. Any request made under the OIA for security-sensitive information, will be considered in light of Southern Response's obligations pursuant to the Health and Safety at Work Act 2015, which amongst other obligations, include providing and maintaining a work environment that is without risk to health and safety.

Information that pre-dates 5 April 2012

Information held by Southern Response that pre-dates the change of ownership of Southern Response to the Crown (i.e. information created before 5 April 2012) may still be the subject of an Official Information request but careful consideration of the disclosure of such information is required. Information which relates to that part of AMI's business which was sold to IAG may be held by Southern Response as agent only and for that reason should not necessarily be disclosed in response to an OIA request.

Legal advice must be sought before releasing any Southern Response information that pre-dates 5 April 2012.

Time Limits for Answering Requests

A decision on whether the OIA request is to be granted (and for what cost, if any) must be communicated to the requester as soon as reasonably practicable and no later than **20 working days** after the day on which the request was received by Southern Response. The substantive response (providing the Official Information requested and/or grounds for refusing or withholding) may follow after this period, but again should be communicated to the requester as soon as reasonably practicable.

An amended or clarified request can be treated as a new request (for the purpose of calculating the timeframe) unless the clarification is sought by Southern Response more than seven working days after receiving the original request.

A requester may ask that the request be treated as urgent, but must give reasons for seeking urgency.

The time limit for answering requests can be extended in certain circumstances, but the requester will need to be advised of the extension and the reasons for it within the initial 20 working day period.

Escalation

If the Legal Process Manager is not available, the General Counsel will appoint an acting Legal Process Manager to manage requests for Official Information that are governed by the OIA and this Policy.

Transfer

Where a person requests Official Information from Southern Response but the Official Information:

- is not held by Southern Response; and
- is instead believed to be either held by, or more closely connected to the functions of another department, Minister, organisation or local authority,

then Southern Response shall promptly (and within 10 working days after receiving the request for Official Information) transfer that request to that other entity.

Response to Information Requests

Providing Information

There are a number of different ways that a request can be satisfied, for example, the Official Information could be:

- released in its entirety (i.e. full copies provided);
- provided with deletions or alterations as are necessary to preserve the interests protected by the withholding grounds; or
- released in its entirety subject to an agreement to pay a reasonable charge.

In general, the Official Information should be released in the form requested by the requester, unless this would:

- impair efficient administration;
- be contrary to a legal duty in respect of the document; or
- prejudice the interests protected by the “Withholding Information” grounds set out below.

Where the Official Information is not provided in the way preferred by the requester, reasons should be provided to the requester for not providing it in that way.

Alternative methods of providing information

Official Information can also be:

- provided by making arrangements for the requester to hear or view any relevant sounds or images;
 - provided by way of a transcript, excerpt, summary or oral briefing;
 - made available by giving the requester a reasonable opportunity to inspect documents in person.
-

Conditions relating to future use by requester

In some circumstances, Official Information may be released subject to certain restrictions regarding the use, communication or publication of the Official Information made available pursuant to a request which could include a condition that it be kept confidential or that the Official Information may not be republished without a specific contextual statement.

Refusal to provide information/ Withholding of information

The grounds under which Official Information can be refused or withheld are outlined in the relevant sections of the Policy below.

Charge for Providing Information

Most requests will be answered free of charge but the OIA allows Southern Response to impose a reasonable charge, having regard to the cost of labour and materials involved in fulfilling the request.

Charging for significant or onerous preparation or collation that may be required to provide the Official Information, is at the discretion of the Chief Executive. Any proposed charge for supplying the Official Information will be advised to the requester as soon as reasonably practicable and no later than 20 working days after the date the request was received.

For guidance on when, what and how to charge, see the guidelines provided by the Ombudsman from time to time.

Southern Response payments to third parties who are consulted in relation to Official Information requests are discussed in the “Third Party Consultation” section of this Policy below.

Right to review decision

If a request for Official Information is to be refused, in full or in part, the requester must be told the reason for the refusal (and if requested, the grounds in support of that reason) and be given information about the right to seek an investigation and review of the decision by the Ombudsman.

If the request is to be granted, but charges or conditions applied, the requester must be told the reason for the decision and given information about the right to seek an investigation and review of the decision by the Ombudsman.

Refusing Information Requests

Administrative Reasons for Refusal

Under the OIA (section 18), requests for Official Information may be refused if:

- the making available of the Official Information would be contrary to the provisions of a specified enactment or constitute contempt of Court or the House of Representatives;
 - the Official Information is, or will soon be, publicly available;
 - the Official Information requested does not exist or, despite reasonable efforts to locate it, cannot be found;
 - the Official Information cannot be made available without substantial collation or research;
 - the Official Information is not held and the person dealing with the request has no grounds for believing that the Official Information is either held or more closely connected with the functions of another Department, Minister of the Crown, Organisation or local authority; or
 - the request is frivolous or vexatious or the Official Information requested is trivial.
-

Consultation with the requester

If a request is likely to be refused on one of the grounds listed above, Southern Response must (before the request is refused), consider whether consulting with the requester would assist the requester to make the request in a form that would remove the reason for the refusal.

Withholding Information

Conclusive Reasons for Withholding Information

Requested Official Information may be withheld where there is a conclusive reason for withholding the Official Information.

Under the OIA (section 6), a conclusive reason will exist for withholding Official Information where the making available of that Official Information would be likely to:

- prejudice the security, defence or international relations of New Zealand;
- prejudice the entrusting of Official Information to the Government of New Zealand from the Government of another country or an international organisation;
- prejudice the maintenance of the law (including the prevention, investigation, detection of offences and right to a fair trial);
- endanger a person's safety; or
- damage seriously the economy of New Zealand by disclosing prematurely decisions to change or continue Government economic or financial policies relating to certain areas.

Once it has been decided that section 6 (conclusive reasons) applies, the Official Information can be withheld automatically. It is not necessary to have regard to public interest factors in favour of release.

Good Reasons for Withholding Information

Subject to the public interest balancing exercise outlined in the next section of this Policy (below), a good reason for withholding Official Information exists under the OIA (section 9) if withholding the Official Information is necessary to:

- protect the privacy of natural persons (including deceased natural persons);
- protect trade secrets or Official Information that would be likely to prejudice unreasonably the commercial position of the person who supplied or who is the subject of the Official Information;
- protect Official Information which is subject to an obligation of confidentiality or which, if released, would prejudice the supply of such similar information or damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to the substantial economic interests of New Zealand;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain constitutional conventions which protect collective and individual ministerial responsibility and the political neutrality of officials;
- maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers or officials and the protection of Ministers and officials from improper pressure or harassment;
- maintain legal professional privilege;
- enable a Minister of the Crown, public service agency or organisation to carry out, without prejudice or disadvantage, commercial activities or negotiations; or
- prevent the disclosure or use of Official Information for improper gain or improper advantage.

Public Interest Balancing Exercise

Once it has been decided that section 9 (good reason to withhold) applies, the Official Information can only be withheld if, in the particular circumstances, the reason for withholding of the Official Information is not outweighed by other public interest considerations which render it desirable to make the Official Information available.

The OIA does not set out any criteria that should be considered when making this assessment. However as a guide, the following is a list of matters that should normally be considered when deciding whether public interest considerations outweigh the withholding of the Official Information (but these are not determinative of the outcome):

- ability of the public to participate in state processes;
- accountability of Ministers and officials;
- the context in which the Official Information was generated including:
 - the policy/decision making process to which the Official Information relates;
 - the stage of development of the policy/decision making process;
 - the relevance of the Official Information - is it still useful to the process or any other policy/decision making process?;
 - is any of the Official Information sought already in the public domain?; and
 - what decisions have been made in relation to the Official Information being sought?

Third Party Consultation

Southern Response sometimes receives requests for third party Official Information, which includes:

- Official Information that Southern Response has received from third parties (including, for example, commercial information provided to Southern Response by entities engaged in business with Southern Response);
- Official Information that Southern Response holds about third parties (including,

for example, internal Southern Response communications); and

- Official Information held by third party contractors relating to Southern Response.

Whenever possible and practical to do so, Southern Response consults with the third parties concerned to provide them with an opportunity to advise Southern Response:

- whether disclosure of the third party Official Information would harm the third party;
- if so, the nature and extent of the harm;
- how the harm would be caused by the release of the third party Official Information; and
- whether the harm relates to an interest protected under one of the withholding provisions of the OIA (section 6 conclusive reasons or section 9 good reasons).

Southern Response takes third party concerns into account when deciding whether to withhold third party Official Information. However, Southern Response is not bound by the third party's views when deciding whether to release the third party Official Information under the OIA.

Payments to Third Parties

As a general rule, Southern Response does not pay third parties for time, effort or cost incurred consulting with Southern Response about requests under the OIA for third party Official Information.

However, in exceptional circumstances, Southern Response may reimburse a third party for some or all of their time, effort, or cost if payment is authorised in writing by the Chief Executive.

For example, where Southern Response receives an OIA request for Official Information that is held by or relates to an independent contractor, it may be appropriate, in exceptional circumstances, for Southern Response to reimburse the contractor for the time or expense incurred searching for or collating Official Information requested under the OIA from Southern Response.

Authority for Southern Response payments to third parties will be rare. The general expectation is that contractual arrangements between Southern Response and third parties will require appropriate administrative arrangements to ensure that Official Information held by third parties is either transferred to Southern Response for processing or otherwise stored in a manner that makes such work unnecessary.

Request for Information Regarding Decisions Affecting the Requester

Official Information includes information regarding a decision or recommendation made by Southern Response in respect of the requester. For example, a requester could request Official Information regarding a decision by Southern Response to turn down their insurance claim.

Usually, the reason and explanation would be included within the declinature decision and provided under the Privacy Act 2020.

In this situation, a requester has the right under the OIA (section 23) to receive a written statement of:

- the findings on material issues of fact;
- a reference to the Official Information on which the findings were based (unless there is a reason for not providing this Official Information as set out below); and
- the reasons for the decision or recommendation.

Such a request must be made within a reasonable time of the making of the decision or recommendation.

Non-disclosure of Information on which Findings Were Based

In respect of a request for Official Information of the type referred to above (under section 23), a reference to Official Information on which the findings were based does not have to be given if:

- the Official Information is Evaluative Material and the disclosure would breach an express or implied promise:
 - which was made to the person who supplied the Official Information; and

- which was to the effect that the Official Information or the identity of the person who supplied it or both would be held in confidence; or
 - the disclosure of the Official Information (being information that relates to the physical or mental health of the person making the request) would be likely to prejudice the physical or mental health of that person (after consultation, where practicable, with the requester's medical practitioner); or
 - in the case of a natural person under the age of 16, the disclosure of that Official Information would be contrary to that person's interests; or
 - the disclosure of that Official Information (being information in respect of a person who has been convicted of an offence or is or has been detained in custody) would be likely to prejudice the safe custody or the rehabilitation of that person.
-

Company Requests for Personal Information

Requests by Corporate Entities

Southern Response must ensure Personal Information requested by a company or corporate entity is provided only to:

- the company or corporate entity;
- an authorised representative of the company or corporate entity; or
- the company or corporate entity's agent.

Under the OIA the grounds for refusing requests by companies and other corporate entities for their own Personal Information are narrower than the grounds for refusing requests for Official Information generally.

Southern Response may refuse requests by companies or corporate entities for their Personal Information under section 27 of the OIA if the disclosure would:

- prejudice the security, defence or international relations of New Zealand;
- prejudice the trusting of Official Information to the Government of New Zealand from the Government of another country or an international organisation;
- prejudice the maintenance of the law (including the prevention, investigation, detection of offences and right to a fair trial); or
- endanger a person's safety;
- disclose a trade secret or be likely to unreasonably prejudice the commercial position of the person who supplied or is the subject of the Personal Information and there is no countervailing public interest in disclosure;
- involve the unwarranted disclosure of the affairs of another person or of a deceased person; or
- breach legal professional privilege.

Southern Response may also refuse requests by companies for their Personal Information under section 27 of the OIA if:

- the Personal Information is Evaluative Material and disclosure would breach an express or implied promise which was made to the person who supplied the Official Information and which was to the effect that the Official Information or the identity of the person who supplied it or both would be held in confidence; or
- the request is frivolous or vexatious or the Personal Information requested is trivial.

Where Personal Information is provided to companies or corporate entities in response to requests by those companies or corporate entities for their Personal Information under section 24 of the OIA, the Personal Information will be redacted in accordance with section 27 of the OIA where there is good reason for withholding the Personal Information.

Southern Response will give the company or corporate entity the reasons for redacting the Personal Information and advise the company or corporate entity of its right to seek an investigation or review of the decision to redact the Personal Information (in

accordance with section 19 of the OIA).

Where a company or other corporate entity is given access to its Personal Information under section 24 of the OIA, the company or corporate entity will be advised of its right to request correction of its Personal Information.

Relevant Links

Procedures

- Southern Response's *Information Request Process*
 - Southern Response's *Information Gathering Policy*
 - Southern Response's *Text Message Management Policy*
 - Southern Response's *Privacy Policy*
-

Relevant References and Resources

- Privacy Act 2020
 - Official Information Act 1982
 - Ombudsmen Act 1975
 - Cabinet Manual 2017
 - Office of the Ombudsman
 - Office of the Privacy Commissioner
-

Version Control

Version	Date	Description
0.1	29/07/2012	Policy created
0.2	13/08/2012	Updated with feedback from Legal Counsel and CERA Liaison Manager
0.3	20/8/2012	Updated with feedback from Chief Corporate Officer
1.0	25/9/2012	Updated to Board policy
1.1	21/1/13	Updated to address Privacy Act relationship
1.2	20/02/13	Updated to address Privacy Act relationship V2
1.3	15/03/13	Updated with feedback from Governance Committee
1.4	22/3/2013	Approved by Board
2.1	10/6/2014	Updated according to Policy Review Cycle
2.2	17/6/2014	Approved by the Governance Committee subject to amendments agreed.
2.3	20/6/2014	Amended Policy approved by the Board
3.0	27/05/2015	Scheduled review. Amendments to align with the changes to the Ombudsmen Act and official information legislation. effective 26 March 2015
3.1	15/06/2015	Governance Committee approved and recommended to the Board.
3.2	19/06/2015	Board approved.
4.0	20/11/2015	Review to clarify the references in the Policy to the relevant sections of the Act.
4.1	31/12/2015	Review in preparation for proactive release.
4.2	25/01/2016	Legal review
4.3	03/02/2016	Governance Committee reviewed and recommended to the Board
4.4	19/02/2016	Board approved.
5.1	17/06/2016	Renewal approved by the Board with no change.
6.0	19/06/2017	Scheduled review (GM - Legal & Strategy)
6.1	14/07/2017	Governance Committee reviewed and recommended to the Board
6.2	21/07/2017	Board approved.
7.0	05/03/2019	Review to incorporate text messaging, Ombudsman's guide for charging and to reflect the composition of Board Committees (Senior Legal Advisor)
7.1	25/03/2019	CEO and GM - Legal & Strategy review
7.2	18/04/2019	Board approved.
7.3	25/05/2020	Position title changes.
7.4	10/03/2021	Scheduled review by Company Secretary
7.5	19/05/2022	Legal Team review for overall consistency with Privacy Policy and internal process documents plus addition of new sections relating to requests for Personal Information of companies and other corporate entities under the OIA
	27/05/2022	Board approved subject to minor amendment