



GREEN PAPER

DRAFT FOR DISCUSSION

Reforming the Official Information Act 1982

Concerns, evidence and options for a more open, accountable and workable official information system in New Zealand

Transparency International New Zealand (TINZ)

August 2026

This is a discussion draft. It does not represent a final or formal position of Transparency International New Zealand.

Status of this paper

This Green Paper has been prepared by Transparency International New Zealand (TINZ). It is a discussion document, not a final statement of TINZ policy.

Its purpose is to bring together, in one place, the substantial body of evidence and analysis on the operation of the OIA that already exists – from the Law Commission's 2012 review, the then Chief Ombudsman's 2015 systemic investigation *Not a Game of Hide and Seek*, the Ministry of Justice's 2019 targeted engagement with the public and agencies, the Office of the Ombudsman, and recent government-commissioned research into the cost of the system – and to use that evidence to frame the issues, identify options, and pose questions for further discussion.

It precedes, rather than pre-empts, TINZ taking a formal position. Following circulation of this paper, TINZ intends to convene a forum of media, agencies, academics, the private sector and non-government organisations to test the issues and options set out here. A final report, with specific recommendations, is expected to follow.

Comments, corrections and submissions on this paper are welcome and will inform that final report.

Contents

1. Executive summary.....	4
2. Introduction	5
3. Why reform is being considered: the evidence base	6
4. Key concerns	10
5. Options for reform	14
6. International comparisons.....	17
7. Questions for consultation	18
8. Next steps	19
Appendix: sources and further reading.....	20

1. Executive summary

New Zealand's Official Information Act 1982 (OIA) was, at the time of its enactment, a landmark piece of legislation. It replaced a presumption of official secrecy with a presumption that information should be made available unless there is good reason to withhold it. Its fundamentals - a case-by-case, harm-based approach to disclosure, overseen by the Ombudsman rather than by fixed categories of secrecy - have been repeatedly endorsed as sound, including by the Law Commission in its 2012 review and by successive Chief Ombudsmen.

However, a substantial body of evidence - drawn from the Law Commission's 2012 review, the Ministry of Justice's 2019 targeted engagement with the public and agencies, the Office of the Ombudsman's own observations, and cost-modelling work commissioned by the Ministry of Justice in 2025 and 2026 - points to serious and, in some respects, worsening problems with how the Act operates in practice, and to gaps in the legislation itself that have never been addressed.

This Green Paper draws that evidence together and poses questions and options for reform. It is a discussion document prepared by TINZ, intended to inform a forum of experts and stakeholders later in 2026, ahead of a final TINZ report with recommendations.

The concerns addressed in this paper include:

- Chronic delays in responding to requests, with the statutory 20-working-day limit frequently treated as a target rather than a maximum, and heavy reliance on extensions.
- A defensive culture within parts of the public service, including pressure on officials to avoid creating written records that might later be requested, and a tendency to prioritise protecting Ministers from embarrassment over transparency.
- Ministerial and political interference in decisions that the Act intends officials to make independently.
- Weak enforcement: the Ombudsman can investigate and recommend, but cannot compel compliance or penalise agencies for non-compliance, and the Office itself faces capacity and timeliness pressures.
- Gaps in coverage created by the contracting-out and privatisation of public functions, which places some service delivery beyond the direct reach of the Act.
- A near four-fold increase in the volume of requests since 2016, and a corresponding rise in the estimated cost of the system to more than \$180 million a year, raising genuine questions about the sustainability of the current model if left unreformed.
- Legislation that is now more than four decades old, with structure and language that both the Law Commission and successive Ombudsmen have found difficult for the public and agencies alike to navigate.

This paper does not propose a single blueprint for reform. It sets out a range of options canvassed by the Law Commission, the Ombudsman, government officials and international comparators - including a statutory duty of proactive release, a strengthened or new independent oversight function, enforcement mechanisms including possible penalties, and

closing coverage gaps - and invites feedback on their merits and risks, before TINZ finalises its position.

2. Introduction

2.1 About Transparency International New Zealand

Transparency International New Zealand (TINZ) is the New Zealand chapter of Transparency International, the global civil society organisation leading the fight against corruption. TINZ works to promote transparency, integrity and accountability in New Zealand's public and private sectors, including through research, advocacy and public education.

Access to official information is central to that mission. Open access to government-held information allows citizens, media, businesses and civil society to scrutinise how public power and public money are used, and is widely recognised internationally as one of the most effective safeguards against corruption and abuse of power.

2.2 Purpose and status of this Green Paper

This paper sets out the case for reforming the OIA: the evidence of how the Act is currently working, the concerns that evidence raises, and a range of options for addressing them. It is framed around questions and options rather than fixed conclusions, and does not represent a final or formal position of TINZ.

TINZ agreed in March 2026 to pursue a project on OIA reform. This paper is the first output of that project. It will be tested with stakeholders, including at a forum of media, agencies, academics, the private sector and non-government organisations, ahead of a final report with recommendations.

2.3 About the Official Information Act 1982

The OIA allows any person to request official information held by government Ministers and specified public sector agencies. It sets out rules for how such requests must be handled, including a default 20-working-day response period, a set of grounds on which information may lawfully be withheld, and a right to complain to the Ombudsman if a requester is dissatisfied with an agency's decision.

The purpose of the OIA, as set out in the Act itself, is to increase the availability of official information in order to enable effective public participation in the making and administration of laws and policies, and to promote the accountability of Ministers and officials – thereby enhancing respect for the law and promoting good government.

The Act has been in force for over 40 years and has been subject to only minor legislative amendment, in 2003, 2015 and 2016. A closely related statute, the Local Government Official Information and Meetings Act 1987 (LGOIMA), applies an equivalent regime to local authorities. Most provisions of the two Acts are identical or near-identical, and many members of the public do not distinguish between them. This paper focuses primarily on the OIA, but many of the issues and options discussed apply equally to LGOIMA.

3. Why reform is being considered: the evidence base

Concerns about the operation of the OIA are not new, and are not unique to TINZ. Over more than a decade, government and independent bodies have repeatedly examined the Act and reached broadly consistent conclusions: that its fundamentals remain sound, but that both the legislation and, more urgently, the practice around it require attention. This section summarises that body of work, which this Green Paper draws on directly.

3.1 The Law Commission's 2012 review

In 2012, the Law Commission published *The Public's Right to Know*, a comprehensive review of the OIA and LGOIMA (NZLC R125). The Commission concluded that the fundamentals of the Act - the presumption of availability and the case-by-case approach to decision-making - remained sound, but recommended “significant legislative amendment” across a wide range of areas, ultimately proposing that both Acts be redrafted and re-enacted.

The Commission's 423-page report contained 137 numbered recommendations, spanning decision-making and guidance, the withholding grounds, timeframes and charging, burdensome requests, complaints and enforcement, proactive release, oversight, and the structure of the legislation itself. Key recommendations that remain directly relevant to this paper include:

- A statutory duty on agencies to take reasonably practicable steps to proactively release official information, rather than leaving this to government policy (Recommendations 85–88).
- The establishment of a statutory oversight office or office-holder, separate from the Ombudsman's complaint-handling function, responsible for policy advice, review, statistical oversight, promotion of best practice, training oversight and annual reporting (Recommendations 107, 115).
- Amendments to address requests that place an unreasonable strain on agency resources, including clarification of the “substantial collation or research” and “frivolous or vexatious” refusal grounds (Chapter 9 of the report).
- Removal of the requirement that requesters be New Zealand citizens, permanent residents, or otherwise present in New Zealand (Recommendation 134).
- Comprehensive review and clarification of which agencies, including State-owned enterprises and Parliamentary agencies, should be covered by the Act (Recommendations 116–131).
- A full redraft and re-enactment of the OIA and LGOIMA, reordered into a more logical structure and with modernised language (Recommendation 136).

The Government of the day chose not to progress this legislative reform. Instead, it endorsed a programme of operational and practice improvements, delivered principally by the State Services Commission and the Office of the Ombudsman. This choice - practice improvement instead of legislative change - has shaped the OIA landscape for the past decade, and is itself a central question this Green Paper revisits.

3.2 The Chief Ombudsman's 2015 systemic investigation: Not a Game of Hide and Seek

In December 2015, Chief Ombudsman Dame Beverley Wakem published *Not a Game of Hide and Seek*, the report of a systemic, own-motion investigation under section 13(3) of the Ombudsmen Act 1975 into the OIA practices adopted by 12 selected central government agencies. It was, at the time, the most comprehensive practice-focused review of OIA administration undertaken since the Act's enactment, drawing on more than 2,500 submissions and survey responses, around 300 interviews with officials and requesters, and 37 agency visits.

The investigation found that the OIA's fundamentals remained sound and that most agencies were compliant with the Act on a day-to-day basis, but identified five areas of increasing risk to its effective operation: leadership and culture; organisation structure, staffing and capability; internal policies, procedures and resources; current practices; and performance monitoring and learning. Among its key findings:

- Agencies were receiving mixed messages from Ministers about their expectations of OIA compliance, and over 40 percent of surveyed government workers did not know whether their chief executive or senior managers held a “pro-disclosure” attitude.
- A small number of ministerial officials had attempted to limit the scope of requests or change an agency's proposed decision for unwarranted reasons – attempts that agency officials rejected, but which the Chief Ombudsman reported to the Prime Minister's office.
- 79 percent of agencies did not require senior decision-makers to undertake any OIA training, and 60 percent of surveyed staff had not received OIA training from their agency in over four years.
- Agencies interpreted the Cabinet Manual's “no surprises” principle inconsistently, with some treating it as requiring Ministerial clearance or approval of a proposed OIA response rather than simply keeping Ministers informed.
- Record-keeping of agencies' decisions on OIA requests was sporadic, and inconsistent counting practices – including some agencies folding ministerial correspondence and Parliamentary questions into their OIA statistics – obscured the true picture of agencies' OIA workload and compliance.

The report made around 40 recommendations directed principally at agencies, the Ministry of Justice and the State Services Commission, and proposed that the Office of the Ombudsman develop a model protocol governing ministerial consultation on OIA requests. Consistent with the Government's response to the Law Commission's 2012 review, its focus was almost entirely on practice and culture rather than legislative change – reinforcing, a decade before this Green Paper, the pattern of addressing OIA concerns through administrative rather than statutory reform that this paper revisits. Several of its findings anticipated concerns raised again in the Ministry of Justice's 2019 engagement discussed below, and remain directly relevant to the concerns this paper sets out in section 4.

3.3 The Ministry of Justice's 2019 targeted engagement

In 2018, Cabinet agreed that the Ministry of Justice would undertake targeted engagement on the OIA to inform a decision on whether to progress a formal legislative review. Between March and May 2019, the Ministry received 284 written submissions and held discussions with eight experts, including the Chief Ombudsman, the Privacy Commissioner, and members of the Law Commission.

The resulting Summary of Submissions found that most submitters considered the fundamentals of the OIA to remain sound, but identified a wide range of practice and legislative issues. The most commonly raised concerns were the culture within the public sector towards OIA requests, the quality and timeliness of responses (particularly the extent to which information is withheld), the lack of resourcing at the Office of the Ombudsman, and the Act's inability to ensure compliance.

Close to half of submitters considered that the problems related to both legislation and practice; most favoured some degree of legislative change. Only two of the 284 submitters considered that no legislative change was required at all.

Officials' own assessment, set out in a briefing to the Minister of Justice in September 2019, concluded that while a first-principles review was not needed, there was "an opportunity to consider improving the openness, transparency and accessibility of government information" and recommended a review focused on accessibility, coverage, the withholding grounds, burdensome requests, the Treaty of Waitangi, compatibility with other legislation, oversight, enforcement, and proactive release. That review did not proceed.

3.4 The Office of the Ombudsman's perspective

As part of the 2019 engagement, then Chief Ombudsman Peter Boshier – now a member of the TINZ Board – set out his views on the Act in a letter to the Secretary for Justice. His assessment, consistent with the Law Commission's, was that the fundamentals of the OIA are sound, but that a number of specific reforms would have real impact. These included:

- Expanded statutory obligations on agencies, including a duty to proactively release information, appoint dedicated information officers, and collect and publish statistical data.
- A statutory oversight office or office-holder, to provide coordination and leadership that neither the Ombudsman nor the (then) State Services Commission was mandated or resourced to provide.
- Extending the Ombudsman's own-motion practice investigations, presently limited to agencies covered by the Ombudsmen Act 1975, to all agencies subject to the OIA and LGOIMA, closing a notable gap that, at the time, excluded the New Zealand Police despite Police being the single largest recipient of OIA requests.
- Measures to preserve the legal primacy of the OIA against inconsistent provisions in other legislation.
- Consideration of new offence provisions for wilful interference with the lawful operation of the Act, drawing on equivalent provisions in the Australian Capital Territory, New South Wales, Tasmania and Queensland.

- Removal of the eligibility requirement restricting who may make a request.

The Ombudsman noted that, by 2019, issues around OIA compliance had already affected New Zealand's ranking in the World Press Freedom Index, and that public advocacy campaigns (such as the social media campaign “#fixtheoia”) reflected “a problem with how the Act is perceived as working, and consequently, with its credibility.”

3.5 Recent work on the cost and sustainability of the system

In late 2025 and early 2026, the Ministry of Justice commissioned external consultants, Tregaskis Brown, to model the cost to government of responding to OIA requests. Their findings, reported to the Minister of Justice in December 2025, are striking:

- The number of OIA requests completed across the public service grew by 394 percent between the 2015/16 and 2024/25 financial years, from 40,273 to 158,862 responses a year.
- The estimated cost of responding to these requests grew by 293 percent over the same period (adjusted for inflation), from approximately \$46.7 million to \$183.6 million a year, an average annual growth rate of 16.2 percent.
- On current trends, the estimated cost is forecast to reach approximately \$342 million a year by 2030/31.
- Six agencies – New Zealand Police, the Natural Hazards Commission (formerly the Earthquake Commission), the Department of Corrections, the New Zealand Defence Force, Fire and Emergency New Zealand, and the New Zealand Customs Service – now account for 77 percent of all completed responses, the great majority of which are described as routine and transactional.

The consultants also found significant gaps in the data agencies and the Public Service Commission collect, meaning the true drivers of cost, as opposed to volume, are not well understood. They recommended further research into cost drivers, expanded proactive release (including automated and AI-assisted tools to deflect routine queries before they become formal requests), and the establishment of formal cost-tracking mechanisms across government.

This work matters for TINZ's purposes in two ways. First, it demonstrates that the current settings are placing real and growing strain on the system - strain that, left unaddressed, creates pressure for changes that could weaken rather than strengthen the public's right to know. Second, it shows central government is again actively considering OIA reform, with officials advising Ministers on possible approaches to public consultation during 2026. TINZ's engagement on this topic is therefore timely.

4. Key concerns

Drawing on the evidence summarised in section 3, this section sets out, in more detail, the concerns TINZ considers central to any discussion of OIA reform.

4.1 Chronic delays

Timeliness was the single most common concern raised in the Ministry of Justice's 2019 engagement, affecting over a third of all submitters. The core complaint was not simply that responses sometimes arrive late, but that agencies routinely treat the 20-working-day statutory period as a target to be met on the final day, rather than the outer limit envisaged by the phrase “as soon as reasonably practicable.”

Submitters reported receiving substantive responses only in the closing hours of the twentieth day, extensions sought as a matter of routine rather than genuine necessity, and, in some cases, no response at all without repeated follow-up. Complaints to the Ombudsman about delay are themselves subject to lengthy queues: submitters in 2019 reported Ombudsman investigations taking as long as two years, by which time the information sought may no longer be of practical use.

The pattern suggests that, for a meaningful share of agencies, timeliness is being managed as a compliance metric - something to be reported favourably in statistics - rather than as a genuine service standard geared to the requester's need for the information.

This is not a new observation. The Chief Ombudsman's 2015 investigation, *Not a Game of Hide and Seek*, found that most agencies' OIA performance measures were tied directly to the 20-working-day maximum rather than to the quality or timeliness of the response itself, and that inconsistent counting practices, including some agencies folding ministerial correspondence into their own OIA statistics, made it difficult for either the public or the agency to see a true picture of performance. That the same pattern is still being reported a decade later suggests the underlying incentive, not just individual agency practice, needs attention.

4.2 A culture of avoidance and defensive record-keeping

Close to 40 percent of 2019 submitters raised concerns about the culture surrounding OIA requests within the public sector, describing agencies as risk-averse and focused on avoiding the disclosure of anything that might embarrass the agency or its Minister.

Of particular concern to TINZ is evidence, both from that engagement and from other sources, of a practice sometimes described as “avoiding documentation to avoid OIA-ing” - that is, officials being discouraged, formally or informally, from creating written records of advice, decisions or discussions, precisely because a written record could later be requested. Submitters to the 2019 engagement described related practices: keeping documents permanently marked as “draft,” relying on “off-diary” or unminuted communications, and applying a public-relations “spin” to information released rather than presenting it factually.

This is a serious concern from a transparency and accountability perspective, and arguably a more corrosive one than delay. A late but complete official record can eventually be obtained; a decision that was never documented cannot. As one 2019 submitter put it, *“While the letter of the law is observed, the spirit is not.”*

This dynamic sits in tension with the Government's own “no surprises” policy, under which officials are expected to keep Ministers informed of matters likely to attract public or media attention. Where that expectation is allowed to shade into using official channels to manage political risk rather than to record decisions accurately, the underlying purpose of the OIA, enabling scrutiny of how public power is exercised, is undermined regardless of how quickly requests are technically answered.

These concerns are longstanding. Writing in December 2015, Chief Ombudsman Dame Beverley Wakem titled her own systemic investigation into agency practice *Not a Game of Hide and Seek* precisely because she found agencies' record-keeping of OIA decisions to be sporadic, with some recording neither the decision reached nor the consultations that informed it, and some agencies' interpretation of the “no surprises” principle already shading into seeking Ministerial clearance or approval of a proposed response rather than simply keeping Ministers informed. That a near-identical dynamic was still being reported by submitters four years later, and remains a concern raised with TINZ today, indicates that the practice reforms which followed the 2015 investigation have not fully addressed the underlying culture.

4.3 Ministerial and political interference

Around 15 percent of 2019 submitters expressed the view that responses to OIA requests are directly or indirectly influenced by Ministers or ministerial staff, including some officials who described experiencing direct pressure to withhold information or alter the timing of a release. TINZ's own discussions in June 2026 identified similar concerns, including “gaming” by some Ministers and agencies - for example, releasing information selectively to favoured media outlets ahead of, or instead of, a formal OIA response.

The OIA itself does not prohibit Ministers' offices from being consulted on OIA responses prepared by departments, and some degree of consultation is often legitimate and unavoidable. The concern is the absence of any clear, public statutory framework distinguishing appropriate consultation from inappropriate interference in what the Act intends to be an operational, not political, decision. The Law Commission and the Ombudsman have both suggested that clearer protocols, potentially given statutory or Cabinet Manual force, would help; TINZ considers this an area meriting particular attention, given how directly it touches on public trust in the impartiality of the system.

The Chief Ombudsman's 2015 investigation reported direct evidence of this problem: it found that a small number of ministerial officials had attempted to limit the scope of OIA requests, or to change an agency's proposed decision, for unwarranted reasons. Agency officials rejected those attempts and the resulting decisions complied with the Act, but the then Chief Ombudsman considered the pattern serious enough to alert the Prime Minister's office and to propose a model protocol governing ministerial consultation on OIA responses. That such a protocol was contemplated in 2015, and that concerns about ministerial influence persist today, suggests the issue has not been resolved by guidance alone.

4.4 Weak enforcement framework and Ombudsman capacity

Around one in five 2019 submitters considered that the OIA does not meaningfully incentivise compliance, because it contains no penalties or sanctions for agencies that breach it. The Ombudsman can investigate a complaint and make a recommendation, and in practice most agencies comply with Ombudsman recommendations, but there are no offences or penalties and only limited consequences if agencies do not comply, and the Governor-General retains a rarely used but constitutionally significant power to override an Ombudsman's recommendation by Order in Council.

This is compounded by capacity pressures within the Office of the Ombudsman itself. As noted above, investigation delays of up to two years were reported by 2019 submitters, undermining the practical value of the complaints mechanism even where an agency is ultimately found to have acted wrongly.

International comparators – covered in more detail in Section 6 - show that other jurisdictions have gone further. For example, several Australian states have introduced statutory offences with financial penalties. Both the United Kingdom and Canada (at the federal level) have similar offences and financial penalties.

In relation to making binding orders rather than recommendations, the United Kingdom's Information Commissioner's Office can issue public authorities with binding enforcement notices.

TINZ has identified the absence of consequences for inaction as a priority issue: without a real cost to non-compliance, an agency's incentive calculus when weighing the effort of disclosure against the risk of withholding remains skewed toward withholding.

4.5 Contractor and coverage loopholes

The OIA applies to specified government departments, Ministers, and other listed bodies. It also applies to independent contractors where they are delivering services on behalf of, or substantially funded by, government but this obligation needs to be made crystal clear.

As government has increasingly contracted out service delivery - from social and community services to infrastructure and technology - this creates a growing accountability gap: information about the performance of, and public money spent on, contracted services can be harder to access than equivalent information about the same service if delivered directly by a public agency. The 2019 engagement and the Law Commission's 2012 review both identified related coverage anomalies, including the inconsistent treatment of State-owned enterprises (some are covered by the Act and some are not, for reasons that are not always clear), and the complete exclusion of Parliamentary agencies such as the Office of the Clerk.

These gaps matter disproportionately from an anti-corruption perspective, since they concern precisely the areas – procurement, contracting, and the use of public money by non-government entities – where transparency does the most to deter and detect misconduct.

4.6 Sustainability and cost pressures

The scale of growth in OIA volumes and cost, set out in section 3.5, is a genuine and legitimate concern, not simply a matter of agency convenience. A system whose cost has grown by nearly 300 percent in under a decade, and is forecast to nearly double again by 2030/31, is not obviously sustainable in its current form, and the pressure this creates is likely, in TINZ's assessment, to become one of the primary drivers of the next round of legislative reform – whichever government undertakes it.

This creates both a risk and an opportunity for transparency advocates. The risk is that cost pressure is used to justify narrowing the right to request information, raising the bar for what agencies must do, or introducing broad discretionary refusal powers of the kind now being debated in Australia's proposed Freedom of Information Amendment Bill 2025 (which includes a discretionary 40-hour processing cap as a ground for refusal). The opportunity is that much of the identified cost growth is concentrated in a small number of agencies handling high volumes of routine, transactional requests - precisely the kind of demand that well-designed proactive release, self-service tools, and modern information management could reduce, without in any way narrowing the underlying right of access.

TINZ considers that any response to cost pressure should be judged against a clear test: does it reduce the burden of the system while preserving or enhancing the substantive right to know, or does it reduce cost by making that right harder to exercise? Options that address demand (through proactive release and better self-service) sit more comfortably with the purpose of the Act than options that would reduce cost by narrowing supply.

4.7 Outdated and inaccessible legislation

The OIA is now more than 44 years old. Both the Law Commission and the Office of the Ombudsman have observed that its language and structure have become difficult to navigate: provisions are not always arranged in a logical order, key concepts such as the public interest override and the power to charge are described as “hidden” within longer sections, and terminology has not kept pace with changes in how information is created, stored and shared. The Ombudsman's own published guidance has, in effect, become a necessary “translation” of the Act for both requesters and agencies - itself a signal that the primary legislation is not doing its job of being publicly accessible.

5. Options for reform

This section sets out options that have been proposed, in whole or in part, by the Law Commission, the Ombudsman, government officials, submitters to the 2019 engagement, or international comparators. TINZ has not adopted a position on any of these options. They are presented here to be tested and debated, including at the forum planned for later in 2026.

5.1 Legislative modernisation: redraft and re-enact the Act

The Law Commission's core structural recommendation - that the OIA and LGOIMA be redrafted and re-enacted in modern, logically ordered language - has never been implemented. A fresh Act would create an opportunity to consolidate the numerous piecemeal changes recommended over the past 14 years into a single, coherent instrument, and to give appropriate prominence to core concepts such as the presumption of availability and the public interest test. The risk is that a full redraft is a large undertaking, and that opening the Act to wholesale amendment creates opportunities for provisions to be weakened as well as strengthened.

5.2 A statutory duty of proactive release

Presently, agencies are encouraged, but not required, to publish information proactively. A statutory duty, recommended by the Law Commission and supported by the Ombudsman, and consistent with the direction of recent Ministry of Justice and Public Service Commission work, would place a positive obligation on agencies to make information available without waiting for a request, taking into account matters such as public interest and agency resourcing. Well targeted, this could directly reduce the volume of routine requests (and therefore cost) while increasing, rather than decreasing, the practical availability of information. Design questions include whether the duty should mandate specific categories of information or simply require agencies to have and report against a proactive release strategy, and whether existing protections from liability for information released in response to a request should extend to proactive release.

5.3 An independent oversight function

Both the Law Commission and the Ombudsman have called for a statutory oversight office or office-holder, distinct from the Ombudsman's complaint-handling role, to provide system-wide leadership: policy advice, statistical collection, promotion of best practice, training oversight, and annual reporting to Parliament. This function does not presently exist in a form that covers Ministers, Parliamentary agencies and local government as well as core central government agencies. Options range from creating a new statutory office (an "Information Commissioner" model, as used in several comparable jurisdictions) to formally expanding and resourcing an existing body, such as the Ombudsman or the Public Service Commission, to perform this role.

5.4 Enforcement mechanisms, including possible penalties

As discussed in section 4.4, the OIA presently contains no offences or corresponding financial or other penalties for non-compliance. Options canvassed by the Ombudsman and by TINZ include introducing statutory offences (following the Australian state models) for conduct such as directing an unlawful withholding decision, improperly influencing a decision-maker, or deliberately destroying records to prevent disclosure; giving the Ombudsman a stronger power to compel release following an investigation, rather than only recommend it; and formal reporting of agency non-compliance to Parliament. Any move in this direction would need to be carefully designed to target wilful or systemic non-compliance, rather than genuine error, and to avoid creating incentives for even greater defensiveness or under-documentation. Care is also required to ensure any changes also take account of existing obligations relating to the creation and maintenance of public records under the Public Records Act 2005.

A further, more novel option raised within TINZ is whether an independent, potentially AI-assisted, triage or resolution mechanism could help address Ombudsman capacity constraints – for example, by resolving straightforward, high-volume, low-complexity complaints more quickly, freeing Ombudsman investigators to focus on complex and contested cases. This option is at an early and speculative stage and would require careful safeguards, but is flagged here as one avenue worth testing with stakeholders.

5.5 Addressing burdensome and vexatious requests responsibly

The Law Commission's 2012 report devoted a full chapter to the legitimate pressure that certain requests - whether broad “fishing” requests, repeated requests from the same requester, or requests timed to coincide with sensitive periods - can place on agency resources. Clarifying the “substantial collation or research” and “frivolous or vexatious” refusal grounds, and requiring agencies to give clearer reasons when relying on them, could provide agencies with legitimate relief without narrowing the underlying right of access. TINZ considers it important that any reform in this area is balanced against the risk, evident in some overseas proposals, that broadly framed refusal powers based on cost or complexity could be used to deflect requests that are demanding but legitimate, including, often, the very requests most likely to expose wrongdoing.

5.6 Extending and clarifying coverage

Options here include clarifying and updating the schedules of agencies covered by the Act (so that similar entities, such as State-owned enterprises, are treated consistently); bringing Parliamentary agencies within scope; and considering mechanisms - whether through direct application of the Act, or through contractual obligations imposed on funding agencies - to ensure that information about publicly funded services delivered by private contractors remains accessible.

5.7 Protecting the primacy of the OIA

The Ombudsman has highlighted instances where other, more recently enacted legislation has unintentionally overridden or undermined the OIA's presumption of availability. Options include a statutory primacy clause (of the kind used in some Australian states), and a

requirement that the Ombudsman be consulted on any legislation that could affect the operation of the OIA before it is introduced.

5.8 Formalising rules on ministerial involvement

Clearer, ideally statutory or Cabinet Manual, guidance on the appropriate boundaries of ministerial and ministerial-office involvement in OIA decisions, addressing both the fact and the perception of political interference identified in section 4.3, is an option that could be pursued relatively quickly and without wholesale legislative change.

This is not a novel suggestion: the Chief Ombudsman proposed a model protocol on ministerial consultation on OIA requests as long ago as 2015, following her *Not a Game of Hide and Seek* investigation. The fact that concerns about ministerial interference persist a decade later is itself an argument for giving such a protocol statutory or Cabinet Manual force, rather than leaving it as guidance.

5.9 Better data and cost transparency

The 2025/26 cost-modelling work identified significant gaps in what agencies and the Public Service Commission currently capture about OIA requests, including the nature, complexity and true cost of responses. Requiring more consistent data collection and public reporting, as recommended by both the Law Commission in 2012 and the Tregaskis Brown costing report in 2025, would improve the evidence base for future decisions and increase system-wide accountability in its own right.

5.10 Removing the eligibility requirement

Both the Law Commission and the Ombudsman have recommended removing the requirement, in section 12 of the OIA, that requesters be a New Zealand citizen, permanent resident, or otherwise present in New Zealand. No equivalent restriction exists under LGOIMA, and comparable jurisdictions including the United Kingdom, Ireland, Australia and the United States do not restrict eligibility to request information. The restriction is also, in practice, easily circumvented through requests made by proxy, meaning it may do more to create friction for legitimate requesters than to prevent any misuse.

6. International comparisons

New Zealand's OIA framework is broadly comparable to freedom of information regimes in Australia, the United Kingdom and Canada, though direct comparisons require caution given differences in administrative arrangements and data availability.

6.1 Australia

Australia's Office of the Australian Information Commissioner provides comprehensive annual reporting, including detailed cost analysis: its 2023/24 report identified a total cost of AUD \$86.2 million, averaging AUD \$4,040 per decided response – comparable to New Zealand's estimated average cost per response once adjusted for exchange rates. Several Australian states and territories - including the Australian Capital Territory, New South Wales, Tasmania and Queensland - have introduced statutory offence provisions for wilful interference with freedom of information conduct such as directing an unlawful decisions, improperly influencing a decision-maker, or deliberately destroying or concealing records to prevent disclosure, with financial penalties attaching to those offences.

6.2 United Kingdom

The United Kingdom's Information Commissioner's Office focuses on quarterly performance reporting rather than cost data, limiting direct cost comparisons. Notably, both the United Kingdom and Australia show materially lower request volumes relative to population size than New Zealand - a difference that may reflect a narrower regime focus on personal information, different response timeframes, or the distribution of services between central and local government, and which merits further investigation rather than being assumed to reflect New Zealand-specific dysfunction. The United Kingdom's Information Commissioner's Office can issue public authorities with binding enforcement notices. This has included enforcement notices being issued to public authorities for systematically failing to meet statutory deadlines and ordering them to clear backlogs and publish action plans to improve compliance. Failure to comply with an enforcement notice can result in a public authority being placed in contempt of court.

6.3 Canada

In June 2025, the Treasury Board of Canada Secretariat launched a statutory five-yearly review of its Access to Information Act, considering matters including facilitating access, declassification of historical records, Indigenous access to information, and oversight and compliance. A standing statutory requirement for periodic review, rather than reform depending on the initiative of any particular government, is itself an option New Zealand could consider, given that the OIA has gone 14 years without legislative change despite a comprehensive review recommending it in 2012. As discussed in section 4.4, Canada's Access to Information Act also contains similar offences to several of the Australian states for wilful interference with freedom of information decisions.

7. Questions for consultation

TINZ invites feedback on the following questions, among others, ahead of finalising its position on OIA reform. These questions will also form the basis of discussion at the forum planned for later in 2026.

1. Should New Zealand adopt a statutory duty on agencies to proactively release official information, and if so, how should that duty be designed and scoped?
2. Should an independent oversight body, such as an Information Commissioner, be established, or should the Office of the Ombudsman's existing role instead be strengthened and better resourced to perform this function?
3. Should the OIA include offences and corresponding financial penalties for wilful non-compliance, along the lines of the Australian states, United Kingdom and Canadian models? Who should the penalties apply to? Are there other non-financial measures that could be adopted, such as making compliance part of agency chief executives' key performance indicators? What safeguards would be needed to ensure such measures target genuine misconduct rather than honest error?
4. How should the growing cost of the OIA system be addressed without narrowing the public's substantive right to request and receive official information?
5. Does the position on private contractors and entities substantially funded by government and/or delivering public services, need to be better clarified regarding their obligations under the Act?
6. Is there a role for independent, potentially technology-assisted, mechanisms to help resolve straightforward complaints more quickly and reduce pressure on the Ombudsman's investigation capacity?
7. Should the eligibility requirement restricting who may make an OIA request be removed, consistent with the Law Commission's 2012 recommendation?
8. Should the OIA and LGOIMA be combined into a single Act, as considered but not resolved by the Law Commission in 2012, or should they remain separate but closely aligned statutes?
9. What formal protocols, if any, should govern the involvement of Ministers and ministerial staff in agency decisions on OIA requests?
10. Are there practical, low-cost measures – short of legislative change – that could meaningfully improve timeliness and reduce defensive record-keeping in the short term, while longer-term reform is considered?

8. Next steps

This Green Paper is the first stage of a wider TINZ project on OIA reform, agreed by the TINZ Board in March 2026. The project is expected to proceed as follows:

- Gathering information and drafting this Green Paper (completed).
- Circulation of this Green Paper for comment, and further gathering of views from the Deputy Ombudsman, relevant Australian counterparts, and other stakeholders.
- A forum of experts and stakeholders – drawn from media, government agencies, academia, the private sector and non-government organisations – to test the issues and options set out in this paper.
- Publication of a final TINZ report, with specific recommendations for reform, informed by the forum and by submissions received on this paper.

TINZ welcomes comments, corrections and submissions on this Green Paper. These should be directed to the TINZ Board.

Appendix: sources and further reading

This Green Paper draws on the following primary sources:

- New Zealand Law Commission, *The Public's Right to Know: Review of the Official Information Legislation* (NZLC R125, June 2012).
- Office of the Ombudsman, Dame Beverley Wakem, Chief Ombudsman, *Not a Game of Hide and Seek: Report on an Investigation into the Practices Adopted by Central Government Agencies for the Purpose of Compliance with the Official Information Act 1982* (December 2015).
- Ministry of Justice, *Official Information Act 1982 – report back on targeted engagement and next steps*, briefing to the Minister of Justice (27 September 2019), and accompanying *Consultation on the Official Information Act 1982: Summary of Submissions* (September 2019).
- Office of the Ombudsman, letter from Chief Ombudsman Peter Boshier to the Secretary for Justice, *Consultation on the Official Information Act (OIA)* (10 April 2019).
- Ministry of Justice, *Assessing cost drivers in the official information system*, briefing to the Minister of Justice (12 December 2025), and Tregaskis Brown Ltd, *Ministry of Justice: OIA Costing Report* (28 November 2025).
- Ministry of Justice and Public Service Commission, *correspondence and survey materials relating to 2026 research into OIA cost drivers* (March 2026).
- Transparency International New Zealand, *internal meeting notes on OIA reform* (15 June 2026).

Further information about Transparency International New Zealand, and about this project, is available from the TINZ website.