

## PROCEDURES FOR DEALING WITH REQUESTS UNDER THE OFFICIAL INFORMATION ACT 1982<sup>1</sup>

<b>Section</b>	Risk Management
<b>Contact</b>	Risk Manager
<b>Last Review</b>	December 2013
<b>Next Review</b>	December 2016
<b>Effective Date</b>	1 January 2014

### Request for Official Information:

Requests for University official information should be addressed to the Vice Chancellor, but could be received elsewhere within the University.

All requests for Official Information should be referred to the AVC Operations, International and University Registrar, Massey University, Palmerston North who has delegated authority to respond to requests for information. This task may be sub-delegated as specified in the Delegations Document.

Requests should be made in writing, and may be received by email. The University may, at its discretion request further information to clarify the request.

As a matter of principle the University will endeavour to provide official information as requested, within the constraints of the Official Information Act 1982.

All requests must be receipted, and responded to within the statutory period of 20 working days.

If a request is refused, the applicant will be told the reason for the refusal and the process to be followed in regard to lodging an appeal with the Ombudsman.

A request must be answered within 20 working days. A requestor may ask that the request be treated as urgent, but reasons should be provided for seeking urgency.

The time limit for answering requests can be extended in some cases, but the applicant will be told of the extension and the reasons for it.

Most requests will be answered free of charge. There is provision for the University to discuss with a requestor a possible charge in those situations where considerable research must be undertaken or additional staff time is required to meet the request before the information can be provided. Charges (if any) will reflect the rates published by the Justice Commission from time to time. Note: See also the University's Privacy Policy. There is no charge for providing readily accessible personal information

The University will endeavour to provide the information in the form requested (unless to do so would impair efficient administration, be contrary to a legal duty, prejudice the interests protected by withholding grounds) For example:

- Reasonable opportunity to inspect document
- Provide copy of document

<sup>1</sup> Acknowledgement; this procedure is based on the Official Information Policy used by University of Canterbury and has been replicated here with their consent.

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- Making arrangements for person to hear or view any relevant sounds or images
- Transcript, excerpt, summary or oral information with respect to words recorded or in a document (shorthand or code)
- Provide with deletions or alterations as are necessary to protect the interests protected by withholding grounds

### May the request be refused?

The information requested may be refused on one or more of the following grounds:

- There is good reason for withholding the information (see below)
- The University can neither confirm nor deny the existence or non-existence of the information requested to protect an interest identified as a conclusive reason to withhold information or to protect trade secrets or the commercial position of the person who supplied the information or is the subject of the information
- If the making available of the information would be contrary to the provisions of a specified enactment or constitute contempt of Court or the House of Representatives
- The information requested is or will soon be publicly available
- The document alleged to contain the information requested does not exist or cannot be found
- The information requested cannot be made available without substantial collation or research
- The information requested is not held and the person dealing with the request has no grounds for believing that the information is either held or more closely connected with the functions of another Department, Minister of the Crown, Organisation or local authority
- The request is frivolous or vexatious or that the information requested is trivial

### Good reasons for withholding information:

The Official Information Act lists Conclusive, Special and Other Reasons for withholding official information. The University identifies the most likely grounds that access to official information may be refused:

#### **Conclusive reasons (no balancing exercise with public interest)**

- Prejudice to security, defence or international relations of NZ
- Prejudice to the maintenance of the law
- Endangerment of a person's safety

#### **Other reasons (balancing exercise: unless public interest outweighs withholding reason)**

- Protect the privacy of natural persons (not incorporated)
- Protect trade secrets or the commercial position of the person who supplied or who is the subject of the information; or

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- Protect confidential information which, if released, would prejudice the supply of such similar information or damage the public interest
- Protect the health or safety of members of the public
- Protect the substantial economic interests of NZ
- Prevent or mitigate material loss to members of the public
- Maintain constitutional conventions and the effective conduct of public affairs
- Maintain legal professional privilege
- Enable a Minister of the Crown, Department or organisation to carry out, without prejudice or disadvantage, commercial activities or negotiations
  - Prevent the disclosure or use of official information for improper gain or improper advantage.

### Access internal rules affecting decisions:

#### The balancing exercise

The following is a list of matters the University will consider in the balancing exercise but are not determinative of the outcome:

- Ability of the public to participate in state processes
- Evidence that withholding the information will protect the interest including the content of the information sought
- The context in which the information was generated including:
  - The policy/decision making process to which the information relates
  - The stage of development of the policy/decision making process
  - The relevance of the information - is it still useful to the process or any other policy/decision making process?
  - Is any of the information sought already in the public domain?
  - What decisions have been made in relation to the information being sought?
- Wrongdoing by public servants/agents or mismanagement/waste
- Expectations of any individual to whom the information relates
- Concerns from the person giving the advice/opinion and the person holding the advice/opinion
- Protection of University staff and other associated people from improper pressure or harassment (what sort of behaviour will happen in response to release of information, against whom will the information be directed, does that person fit into the protected category and what is their contribution to the effective conduct of public affairs, how will that contribution be affected by the expected behaviour)
- Reasons why the requester is seeking the information (note the requester does not have to give these reasons)

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A key ground for withholding information for the University is where the information will lead to the access of internal rules affecting decisions or access to a written statement containing reasons by a decision. These are considered in below.

When withholding information on the grounds that it provides access to internal rules affecting decisions the following is relevant. The University identifies the most likely grounds that access to internal rules may be refused:

**Withholding grounds**

The document does not have to be provided to protect the following interests:

- security, defence or international relations of NZ
- prejudice to the maintenance of the law
- endangerment of a person's safety
- the privacy of natural persons (not incorporated)
- protect trade secrets or the commercial position of the person who supplied or who is the subject of the information
- protect confidential information which, if released, would prejudice the supply of such similar information or damage the public interest
- ability of a Minister of the Crown, Department or organisation to carry out, without prejudice or disadvantage, commercial activities or negotiations

**Access written statement containing reasons behind a decision affecting an individual by that individual:**

When withholding a written statement on the grounds that it provides access to reasons behind a decisions the following is relevant.

The University identifies what the written statement will contain (with exceptions) and the most likely grounds that access to the written statement may be refused:

The written statement will contain:

- The findings on material issues of fact
- A reference to the information on which the findings were based unless (not mandatory)
- The disclosure of the information or of information identifying the person who supplied it, being evaluative material (see definitions), would breach an express or implied promise
  - Which was made to the person who supplied the information; and
  - Which was to the effect that the information or the identity of the person who supplied it or both would be held in confidence

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- After consultation undertaken (where practicable) by or on behalf of the Department or Minister of the Crown or organisation with a natural person's medical practitioner, the Department or Minister of the Crown or organisation is satisfied that—
  - The information relates to that person; and
  - The disclosure of the information (being information that relates to the physical or mental health of the person making the request under this section) would be likely to prejudice the physical or mental health of that person; or
- In the case of a natural person under the age of 16, the disclosure of that information would be contrary to that person's interests; or
- The disclosure of that 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.

**Withholding grounds:**

Written statement does not have to be provided to protect the following interests:

- prejudice to security, defence or international relations of NZ
- prejudice to the maintenance of the law
- endangerment of a person's safety
- protect trade secrets or the commercial position of the person who supplied or who is the subject of the information

Document Management Control

Prepared by: Risk Manager

Authorised by: AVC Operations, International and University Registrar

Date reviewed: December 2013

Next review: December 2016

Effective Date: 1 January 2014