

Hit-and-miss official information access is mostly miss

Kathy Spencer

It is rare for an Official Information Act request to lead to a minister being sacked, but that's what happened in the case of Stuart Nash. After a Newsroom journalist asked for Stuart Nash's communications with his donors, it took over 20 months for an email to come to light that showed Nash had leaked details of Cabinet discussions.

The fact that this grievous breach of Cabinet confidentiality was kept out of the public eye for so long illustrates how ministers and government agencies can manipulate the OIA process.

While it is unusual to see such newsworthy and dramatic consequences, it is all too common for OIA requests to be mishandled and for information to be concealed.

This matters because transparency around government services, decisions and processes enables ministers and government agencies to be challenged and held to account.

A particularly concerning example was when the Ministry of Health delayed publishing mental health data for 2018 and 2019 until March 2021 while senior officials put a "risk lens" over it, argued about the "negative statistics", and debated cutting out some of the least impressive results.

Equally disturbing is the way Pharmac holds information close to its chest, making it very hard to track its spending and critique its performance. The panel appointed in 2021 to review Pharmac said: "Pharmac closely guards its information, leaving the public poorly informed about the decisions it makes."

When information *is* released, often figures that are vital for analysing and critiquing policies or progress are blacked-out. For example, cabinet papers that prioritise spending on new hospitals like those in Whangarei, Dunedin and Nelson, are impossible to analyse when entire tables of figures, involving hundreds of millions of taxpayer dollars, have been deleted.

Sometimes mishandling is simply down to a lack of knowledge within agencies, or inefficient processes. I had an example of this recently when I requested information about the need for GPs to issue repeat prescriptions for long-term medications (like statins for reducing cholesterol).

After the initial acknowledgement from Pharmac, I was advised that my request was being transferred to Te Whatu Ora who duly sent me a further acknowledgement.

Three weeks later, Te Whatu Ora advised me: "One of the relevant teams working on this request have come back asking for clarification regarding the first two questions of your request".

Another week went by and Te Whatu Ora sought further clarification: what did I mean by a "repeat" prescription? I decided to let it drop. Life is too short.

Unexpectedly, 38 working days after my request, I got a 3-page response with the promising news that some parts of my request had been granted. However, as I read on, I was told that for three of my questions, there was no data collected, therefore my requests were refused. On the fourth question, there was data, but it would be too much trouble to pull it together, therefore that request was also refused.

So, after all that, no useful information.

According to statistics published on the Public Service Commission's website, 97.7% of OIA requests completed in the latter half of 2022 were done on time, ie within 20 working days from the request being made.

That sounds extremely good until you realise that requests like mine would be counted as done on time, despite having taken 38 working days and providing me zero information. The clock is restarted by transfers, clarifications and extensions, and there's no attempt to measure the quality or usefulness of the response.

On a more positive note, it is important to acknowledge the wealth of information that government agencies put online, without anyone having to ask for it. The Chief Ombudsman has pushed for more information to be published promptly and routinely, reducing the need for requests.

An easy win here would be to publish OIA responses. However, despite the Chief Ombudsman's encouragement to do this, the statistics show that Te Whatu Ora and the Ministry of Health published only 20% of their OIA responses in the latter half of 2022. Many agencies didn't publish a single one.

What else needs to happen?

Reports by the Chief Ombudsman on individual agency performance, and Public Service Commission statistics, are helpful but they don't paint a full picture.

Missing is the experience and satisfaction of those actually using the OIA process. Users could be invited to provide a rating of between 1 and 5, with an opportunity to write a review, each time their request is completed. Ratings and reviews would be made public.

Many of us do this routinely for far less important services, like flights, oil changes, restaurants and airbnbs.

I will start the ball rolling. Despite my own OIA request being processed "on time" and probably considered a job well done by Te Whatu Ora, I give it one out of five.

Kathy Spencer was a Deputy Director-General in the Ministry of Health, a General Manager in ACC, and a Manager in the Treasury.