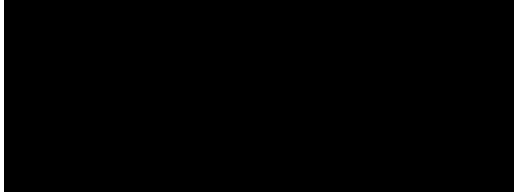




31 May 2024



Tēnā koe

Request for information about pre-Official Information Act practice of release of Law Officer information

Our Ref: OIA353/1

1. Your email to Crown Law of 5 May 2024 asks that we direct you to any “pre-[Official Information Act 1982] practice of Crown Law releasing Law Officer-related information”. If no such information exists, you ask that we advise:
 - 1.1 “What was the legal basis for Crown Law's pre-OIA practice of releasing law-officer-related information to the public?”
 - 1.2 “Has this practice ceased?”
 - 1.3 “If so, what are the reasons for the cessation, including the legal basis for stopping the practice.”
 - 1.4 “If the practice remains - can Crown Law/the Ombudsman please advise what type of information held by Law Officers could be released on this basis or, as SG Neazor mentioned “*information about the exercise..of the Law Officers' powers*”.”
2. We have considered your requests and set out our response below.
3. The Attorney-General is concurrently a Minister with political responsibilities and the senior Law Officer of the Crown with principal responsibility for the government’s administration of the law.¹ The Ombudsmen have noted that in his or her role as senior Law Officer, the Attorney-General falls outside the scope of the Official Information Act 1982.² Accordingly, information about release of Law Officer-related information is not official information that is subject to the

¹ See John McGrath “Principles for sharing law officer power: the role of the New Zealand Solicitor-General” (1998) 18 NZULR 197 at 203. This can be accessed by visiting: www.crownlaw.govt.nz/assets/Uploads/NZULR.PDF

² Sir Brian Elwood *Request for legal advice provided to the Attorney-General by Ministry of Justice—Attorney-General not subject to Act* (February 2019, Case No W41067). This can be accessed by visiting: www.ombudsman.parliament.nz/resources/request-crown-law-office-legal-advice-given-minister

Official Information Act.³

Practice of releasing information before Official Information Act

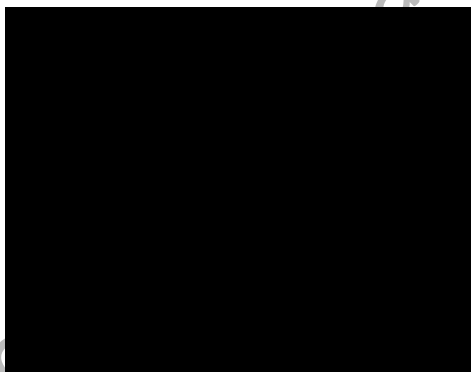
4. We are not aware of any documented Crown Law policy on the release of Law Officer-related information applying before the enactment of the Official Information Act.

Current practice of releasing information

5. Crown Law's current policy on release of information that is not within the scope of the Official Information Act and which relates to Law Officer functions is that, where appropriate and to the extent possible, we proactively release information and documents that are likely to be of interest to the public.⁴
6. While we have not located any documented policy on the release of Law Officer-related information that applied before enactment of the Official Information Act our understanding and experience is that the practice referred to by former Solicitor-General Neazor operated both before and after enactment of the Act and is reflected in the policy referred to above.
7. You will understand from the above that the decision whether to release any Law Officer-related information is taken on a case-by-case basis.
8. You may wish to visit the "Publications" tab on our website, where publicly released documents are available for download.⁵ For documents relating specifically to Law Officer functions, the "Opinions" tab, "Speeches" tab and "Guidelines, Protocols & Articles" tab may be of interest to you.

Other matters

9. You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.



³ See Cabinet Office *Cabinet Manual 2023* at [8.28].

⁴ See our website: www.crownlaw.govt.nz/publications/proactive-release-of-responses-to-oia-requests/

⁵ See our website: www.crownlaw.govt.nz/