

1. PRINCIPLE AND PURPOSES OF THE LEGISLATION

Principle of Availability

The principle of availability underpins the whole Official Information Act (OIA). It is set out in section 5 of the Act:¹

“Principle of availability – The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that **the information shall be made available unless there is good reason for withholding it.**” (Emphasis added)

This principle should always be kept in mind when an agency is considering how best to respond to a request for official information.

Purposes of the Act

The guiding principle is reflected in the purposes of the OIA. Section 4² of the OIA sets out the purposes that Parliament intended to be achieved in enacting the legislation. Section 4 states:

“Purposes - The purposes of this Act are, consistently with the principle of the Executive Government’s responsibility to Parliament, -

- (a) *To increase progressively the availability of official information to the people of New Zealand in order-*
 - (i) *To enable their more effective participation in the making and administration of laws and policies; and*
 - (ii) *To promote the accountability of Ministers of the Crown and officials,-*

and thereby to enhance respect for the law and to promote the good government of New Zealand:
- (b) *To provide for proper access by each person to official information relating to that person*
- (c) *To protect official information to the extent consistent with the public interest and the preservation of personal privacy.”*

¹ Section 5 LGOIMA

² Section 4 LGOIMA

With regard to personal information about natural persons, this purpose is now principally achieved under the Privacy Act.

The purposes recognise that implicit in the application of the OIA there will often be a tension between:

- ❖ considerations favouring disclosure of information; and
- ❖ considerations favouring withholding information.

Considerations favouring withholding are set out in sections 6, 7, 9 and 18 of the OIA.³ These range from:

- ❖ reasons for refusal that relate to the administrative difficulty in complying with a request; to
- ❖ reasons for refusal based on the harm that may be caused by disclosure of the information at issue.

³ Sections 6, 7 and 17 LGOIMA

