

Day 3 – Wednesday, 28 November 2007
Plenary Session 1.30pm-3.30pm

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Organisation: Ministry of Social Development, New Zealand

Presentation Title: New Zealand's official Information Act: public policy, accountability and participation.

The Official Information Act (OIA) is one of several pieces of legislation that provides for New Zealand's approach to "open government". It was the first of several laws passed in the 1980s and 1990s to make access to information of various kinds more free.

The OIA is focused in part on the way laws and policies are made and administered. It plays a key role in supporting public participation in the policy process and Government's accountability to the public for how these activities are carried out. It was anticipated that the OIA's impact would be seen over time; one of its main purposes is to "increase progressively the availability of official information to the people of New Zealand".

When the OIA was passed in 1982, policy processes were not carried out as they are today. Its introduction pre-dated some New Zealand government departments establishing policy roles. Modern public policy approaches have developed with the influence of pervasive legislation that promotes openness and accountability. Recently it is not uncommon for policy information to be made pro-actively available to support peoples' participation in the democratic process. Once upon a time this information would have been "sensitive".

The paper examines how three sets of provisions are applied in practice to most requests, with a focus on requests where complex issues arise. First, the Act establishes some principles about how a democracy should work (a "public interest"). Secondly, it sets out administrative provisions that say how requests will be treated. Thirdly, it sets out principles that must be weighed against the public interest to decide when information should be withheld.

Applying a principle-driven Act provides challenges for public service departments, particularly where requests require fine and subjective judgments to be made. This requires people who understand what the OIA was intended to achieve and can argue decisions made under its provisions. Several examples of how this works in practice, and the approach of one public service department to making its OIA-related decisions consistently and in a transparent way, will be considered.

Many questions arise: What impact has the OIA had on the type and quality of advice that public servants provide? What constitutes a "sensitive" request and how is it to be managed? How well do the OIA's provisions match today's variety of different policy processes? How has access to information changed what requestors seek, and has it engendered trust? Has, in general, the OIA met its goals in respect of accountability and participation?