

## Pre-Submission Consultation Process for Crown Agencies

1. One of the Classification Office's functions is to classify publications submitted to it by specified Crown agencies under section 13 of the Films, Videos, and Publications Classification Act 1993.
2. The Crown agencies that have the right to submit publications are New Zealand Customs, New Zealand Police, and the Department of Internal Affairs.
3. Once a publication has been submitted the Classification Office must classify the publication under the Act. The classification of a publication as objectionable has the effect of being conclusive evidence in any proceedings, including the prosecutions under the Act<sup>1</sup>.
4. The Classification Office must act independently in performing its statutory functions and duties under the Act<sup>2</sup>.
5. It is important to those people who may be subject to prosecution by the Crown agencies that the classification of publications occurs independently and following the principles of natural justice.
6. It is equally important that publications are not submitted unnecessarily for classification. The submissions of publications that are unlikely to reach the high standard of objectionable or restricted publications will require significant Crown agency resources to submit, significant Classification Office resources to classify, and potentially significant uncertainty and distress for the owners or makers of those publications.
7. To avoid wastage and uncertainty the Classification Office offers the Government agencies the opportunity to consult the office on a publication, or a class of publications, before submission.
8. To ensure independence and transparency this document records the basis on which these consultations may occur.
9. A consultation is intended to give the Crown agency an indication of likely considerations if the publication were submitted for classification. This will help

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<sup>1</sup> *Section 41 of the Act.*

<sup>2</sup> *Section 77 of the Act*

the agency determine whether to submit publications or investigative paths it might take.

10. Examples of the likely considerations include:
  - a. What is the publication that could be submitted
  - b. What gateway criteria could be met
  - c. What element of the publication could promote and support
  - d. What specific consideration the Classification Office would have to have regard to if the publication were submitted.
11. The Crown agency after the consultation process may believe that it knows the likely outcome of the submission for classification. However, in a consultation the Classification Office does not provide the Crown agency with an indicative or likely classification.
12. The Classification Office has a rigorous process it undertakes before classifying a publication. This process includes obtaining submissions for natural justice purposes, peer review and quality assurances process, approval by a person with delegated authority to classify a publication on behalf of the Classification Office, and potentially even a community or expert consultation process. Until these processes are complete there is no classification.
13. The Classification Office will ensure that the guidance it offers the Crown agency in a consultation process is provided with the knowledge and skill of Classification Office staff. No assurances are given however that the actual classification process, after submission, will proceed on the same basis or reach the outcome the Crown agency expects.
14. To request a pre-submission consultation Crown agencies should contact the Classification Office Registrar (the Registrar) on +64 4 471 6770 or at [submissions@classificationoffice.govt.nz](mailto:submissions@classificationoffice.govt.nz) and request a "pre-submission consultation". In the event of an emergency that requires an immediate response, the Crown agency can use established communication with the Classification Office, the Deputy Chief Censor, or the Chief Censor.
15. A pre-consultation process will occur in a manner suitable for the Crown agency and the Classification Office. This can include correspondence, telephone calls, and meetings (in person or virtual).
16. If actual publications are to be viewed the Registrar will arrange a secure method for the Classification Office to view that publication. The Classification Office will

not hold the publications after the pre-submission consultation. The Registrar will arrange for the secure return of any publication.

17. The guidance offered is for the Crown agency's investigative and submission purposes only. If the Crown agency discloses the pre-classification process (for example to a defendant or a Court) this document should also be disclosed to ensure the limitations of a pre-submission consultation are clearly understood.