

Chairperson and Committee Members
AUDIT AND RISK COMMITTEE

13 SEPTEMBER 2018

Meeting Status: **Public Excluded**

Purpose of Report: For Information

**UPDATE ON STATUTORY COMPLIANCE ISSUES,
INVESTIGATIONS AND STATUS OF COUNCIL BYLAWS
1 APRIL 2018 TO 30 JUNE 2018**

PUBLIC EXCLUDED SESSION

1 The reason for this report being considered in Public Excluded is:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Grounds under Section 48(1) for the passing of this resolution
To update the committee on statutory compliance issues reported to Audit, current Ombudsman and/or Privacy Commissioner investigations and any other external investigations or mediations.	Section 7(2)(f)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority, or any persons to whom section 2(5) of this Act applies, in the course of their duty. Section 7(2)(g) – maintain legal professional privilege.	Section 48(1)(a): that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.

PURPOSE OF REPORT

2 This report provides the Audit and Risk Committee with:

- a) an update on issues associated with legislative compliance declarations made to external auditors Ernst and Young for legislation selected by the auditors as 'key' acts;
- b) an overview of the progress of current investigations by the Office of the Ombudsman and the Office of the Privacy Commissioner;
- c) an update on official information statistics for the fourth quarter of 2017/18;
- d) a litigation status report; and
- e) a bylaw monitoring report.

3 The purpose of each component of this report is now included as **Appendix D**.

DELEGATION

- 4 The Audit and Risk Committee has authority under the following delegation in the Governance Structure, Section B.3:

This Committee will monitor the Council's financial management and reporting mechanisms and framework and review the audit and risk function, ensuring the existence of sound internal systems.

CURRENT STATUS

Legislative Compliance Declarations

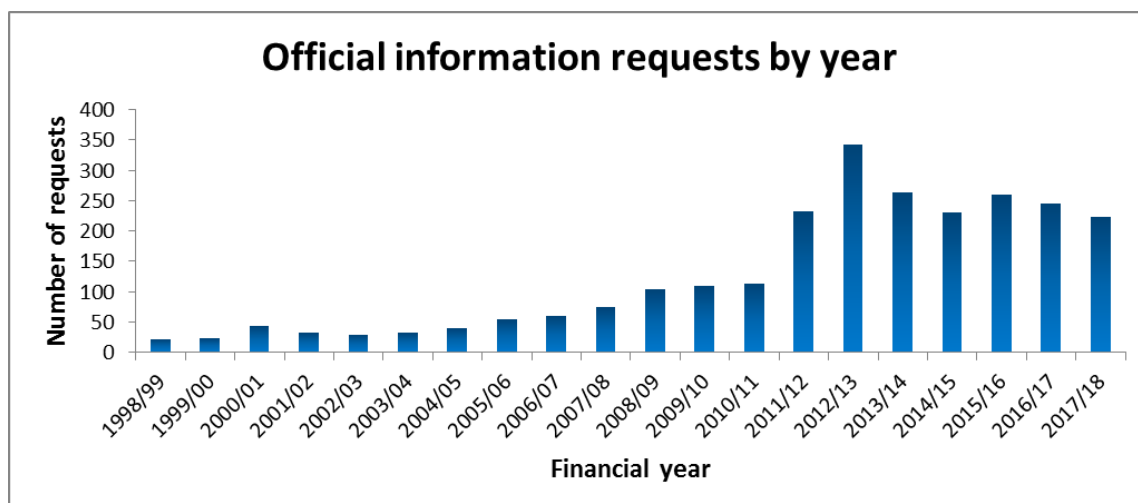
- 5 There were no issues of statutory non-compliance declared to have occurred in relation to the 'key' acts identified by the council's external auditors during the fourth quarter of 2017/18.

Ombudsman and Privacy Commissioner Investigations

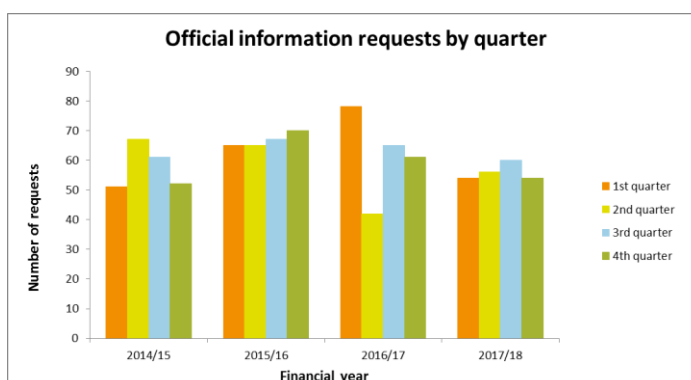
- 6 At the time of writing this report there are two Office of the Ombudsman investigations that have recently been closed.
- 7 At the time of writing this report there are no investigations that are being carried out by the Privacy Commissioner.
- 8 An overview of the Ombudsman complaints is attached as Appendix A to this report.

Official Information Requests

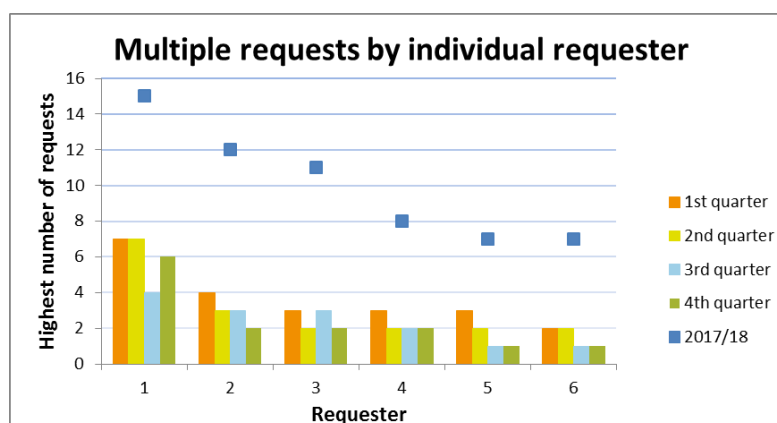
- 9 The below graph tracks the number of official information requests by year.



- 10 The Council received 54 requests within the fourth quarter of 2017/18 in comparison with 61 in the fourth quarter of 2016/17.
- 11 This graph depicts the number of requests by quarter compared to the last three financial years.



- 12 The following graph shows the highest number of requests by specific requesters by quarter and for 2017/18.



Additional Investigations/Mediations or Other Compliance Matters

- 13 Information in relation to the current status of litigation is contained in Appendix B.

Bylaw monitoring

- 14 Information in relation to the current status of the bylaws is contained in Appendix C including updates to the Beach, Dog Control, Control of Alcohol in Public Places, Solid Waste and Trade Waste Bylaws. All other Bylaws required no further status updates.

CONSIDERATIONS

Policy considerations

- 15 There are no policy considerations in relation to the information provided in this report.
- 16 Council interaction with the Office of the Ombudsman and the Office of the Privacy Commissioner is managed through Council's in-house legal team.
- 17 The legal requirements of LGOIMA, LGA 2002 and the Privacy Act are well established in the Council's processes.

Financial considerations

- 18 There are no financial considerations in relation to the information outlined in this report outside of any litigation liabilities stipulated in Appendix B.

SIGNIFICANCE AND ENGAGEMENT

- 19 This report is for the purpose of providing information only and does not trigger the Council's Significance and Engagement policy.

RECOMMENDATIONS

- 20 That the Audit and Risk Committee:
- i. **note** that there were no statutory compliance issues associated with the 'key' acts identified in the fourth quarter of the 2017/18 year;
 - ii. **note** the current status of Ombudsman and Privacy Commissioner investigations, official information requests, bylaws and litigation;

- iii. **agree** that this report, appendices (C) and (D) and resolutions only be released from public excluded business; and
- iv. **agree** that appendices (A) and (B) be excluded from public release.

Report prepared by

Approved for submission

Approved for submission

**Sarah Lloyd
Senior Advisor,
Corporate Planning
and Reporting**

**Kevin Black
Acting Group Manager
Strategy and Planning**

**Janice McDougall
Acting Group Manager
Corporate Services**

ATTACHMENTS

- Appendix A Ombudsman and Privacy Commissioner investigations
- Appendix B Litigation report
- Appendix C Bylaw status
- Appendix D Background to the report

Appendix C - Bylaw Status – updates in *bold italics*

Name of bylaw	Owner	Date bylaw approved by council	Review required to be completed by	Progress	Expected review timeframe	Risk	Status
Beach Bylaw 2009	Community Services	28 May 2009	28 May 2019 (final date for review 28/05/21)	An amendment was approved on 28 September 2017 to align the Bylaw with the Fire and Emergency New Zealand Act 2017. Initial work on the review is not expected to start until July 2018.	<i>Jan/ Feb 2019</i> – December 2019	<i>The Beach Bylaw is likely to be controversial and will be impacted by GWRC Proposed Natural Resources Plan.</i>	<i>Review commencement moved from September 2018 to early 2019.</i>
Cemeteries Bylaw 2016	Community Services	29 Sept 2016	29 Sept 2026 (final date for review 29/09/28)				Not currently under review.
Control of Alcohol in Public Places Bylaw 2013	Strategy and Planning	18 Jul 2013	18 Dec 2018 (final date for review 18/12/18) Review required five years from 18 Dec 2013 due to section 11 of the Local Government (Alcohol Reform) Amendment Act 2012.	The project team has been established and a project plan developed. <i>Have met</i> with local stakeholders (e.g. Police and Regional Public Health), <i>and received data from Police. A report is going to Council on 6 September 2018 with a request to adopt the Statement of Proposal and commence the consultation process.</i>	October 2017 – December 2018	<i>Consultation will be open for 4 weeks, starting in late September. Following the consultation process, the timeframe for a hearing and a final Council report will be tight.</i>	<i>Report to Council on 6 September 2018.</i>

Name of bylaw	Owner	Date bylaw approved by council	Review required to be completed by	Progress	Expected review timeframe	Risk	Status
Dog Control Bylaw 2008	Regulatory Services	11 Dec 2008	11 Dec 2018 (final date for review 11/12/20) NB: Dog policy review must be undertaken alongside the bylaw review	<i>The Dog Bylaw is in the formal consultative process.</i>	June 2017 – December 2018		On track.
Food Safety Bylaw 2006	Regulatory Services	Amendment to the Food Safety Bylaw approved by Council 17 March 2016.	Approved by legal that a full review no longer required as Bylaw required to be revoked in 2019			No risk as Bylaw superseded by Food Act 2014	Will be revoked in 2019 at the end of transition period of the Food Act 2014.
General Bylaw 2010	Strategy and Planning	29 Jan 2010	28 January 2020 (final date for review 28/01/22)	All future bylaw drafts are to be written independently without referencing the General Bylaw.			Not likely to be reviewed.
Keeping of Animals, Bees and Poultry Bylaw 2010	Regulatory Services	3 June 2010	3 June 2020 (final date for review 03/06/22)		June 2019 – June 2020		Not currently under review.

Name of bylaw	Owner	Date bylaw approved by council	Review required to be completed by	Progress	Expected review timeframe	Risk	Status
Public Places Bylaw 2017	Community Services	29 June 2017	29 June 2027 (final date for review 29/06/29)				Not currently under review.
Solid Waste Bylaw 2010	Infrastructure Services	22 April 2010	22 April 2020 (final date for review 22/04/22)	Solid Waste Bylaw is to be reviewed early in line with the rest of the region as part of the Regional Waste Plan actions.	Work on this review is likely to commence in late 2018 and progress through to completion in 2019	Currently none identified by staff	Not currently under review.
Speed Limit Bylaw 2015	Infrastructure Services	15 Oct 2015	Review as required				Likely only to be triggered by change in legislation or amendment to the General Bylaw.

Name of bylaw	Owner	Date bylaw approved by council	Review required to be completed by	Progress	Expected review timeframe	Risk	Status
Trade Waste Bylaw 2007	Infrastructure Services	14 Nov 2007	14 Nov 2017 (final date for review 14/11/19)	Section 148 of LGA02 has special requirements for trade waste bylaws. Programme of work now to be completed by quarter three 2018/19 for logistical purposes . Draft changes to the bylaw are complete. The special consultative process is planned for Sept/Oct 2018 . The existing trade waste fees have been restructured during the LTP process to align better with the existing bylaw. A review of cost recovery and introduction of fees is proposed to be included the consultation for the 2019/20 annual plan .	April 2016 – March 2019	Any new fees identified during the bylaw review process will likely come under scrutiny by businesses that generate trade waste during the review process.	On track.
Traffic Bylaw 2010	Infrastructure Services	24 June 2010	24 June 2020 (final date for review 24/06/22)				Not currently under review.
Water Supply Bylaw 2013	Infrastructure Services	29 Aug 2013	29 August 2023 (final date for review 29/08/25)				Not currently under review.

Appendix D

BACKGROUND TO THE REPORT

Legislative Compliance Declarations – Statutory Compliance Issues

- 1 The background to this report is now listed in this Appendix D. Each quarter group managers complete a legislative compliance declaration setting out the significant legislative requirements and declaring whether or not, to the best of their knowledge, they are aware of any compliance issues or breaches of legislation during the previous three month period in respect of the acts determined as 'key' by the council's external auditors.
- 2 Those 'key acts' are:
 - Local Government Act 2002
 - Local Authorities (Members' Interests) Act 1968
 - Local Government (Rating) Act 2002
 - Local Government (Financial Reporting and Prudence) Regulations 2014
 - Building Act 2004
 - Resource Management Act 1991
- 3 The declaration does not include instances when Council has exceeded statutory time frames for processing resource and building consent applications as reported to the Council's Operations and Finance Committee in regular quarterly reports.

Ombudsman and Privacy Commissioner Investigations

- 4 Council staff also track the receipt and management of investigations being carried out by the Ombudsman or Privacy Commissioner in relation to any complaints received about the actions of the Council.
- 5 Under the Ombudsmen Act 1975 the Ombudsman can investigate complaints about the administrative acts and decisions of central and local government agencies. Under the Official Information Act 1982 and LGOIMA the Ombudsman can also handle complaints and investigate the administrative conduct of these agencies in relation to official information requests. Official information requests received by the Council fall under LGOIMA.
- 6 The Privacy Commissioner administers the Privacy Act 1993. The Privacy Act governs how individuals, organisations and businesses collect, use, disclose, store and give access to personal information. The Privacy Commissioner can investigate complaints about actions that may breach the provisions of the Privacy Act.

Official Information Requests

- 7 Council monitors official information requests to ensure pertinent and timely responses are supplied. Staff provide a regular update on the number of official information requests received by Council and provide an indication of the impact of multiple requesters.

Bylaw Monitoring

- 8 In 2015, work was undertaken to strengthen the processes supporting the Council's management of its bylaws. This included a legal review undertaken to confirm the status of each bylaw, and the introduction of updated processes to ensure effective bylaw management across Council.
- 9 Council currently has 13 bylaws. Council monitors the status of these bylaws, and regularly reports on them to the committee.

Additional Investigations/Mediations or Other Compliance Matters

- 10 Staff will also report on any additional investigations or mediations carried out by other external agencies as well as informing the committee of any other relevant compliance matters including an update on the current litigation status.