

Chairperson and Committee Members
AUDIT AND RISK COMMITTEE

10 AUGUST 2017

Meeting Status: **Public Excluded**

Purpose of Report: For Decision

**UPDATE ON STATUTORY COMPLIANCE ISSUES,
INVESTIGATIONS AND THE STATUS OF COUNCIL BYLAWS
FOR 1 APRIL 2017 TO 30 JUNE 2017**

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
<p>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.</p>	<p>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.</p> <p>Section 7(2)(g) – maintain legal professional privilege.</p>	<p>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.</p>

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 2016/17;
- d) a bylaw monitoring report;
- e) a litigation status report; and
- f) an update on weathertight claims.

DELEGATION

- 3 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.

BACKGROUND

Legislative Compliance Declarations – Statutory Compliance Issues

- 4 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.
- 5 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
- 6 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

- 7 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.
- 8 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.
- 9 The Privacy Commissioner administers the Privacy Act 1993 (Privacy Act). 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

- 10 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

- 11 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.
- 12 Council currently has 14 bylaws. Council monitors the status of these bylaws, and regularly reports on them to the committee.

Additional Investigations/Mediations or Other Compliance Matters

- 13 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.

CURRENT STATUS

Legislative Compliance Declarations

- 14 There was one issue 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 2016/17.
- 15 In regards to the Building Act 2004; the Earthquake-prone, and Dangerous and Insanitary Buildings Policy 2006 has not been renewed within the last 5 years as required by section 132 of the Act. This was because of the anticipated amendment of this requirement which came into effect on 1 July 2017.

Ombudsman and Privacy Commissioner Investigations

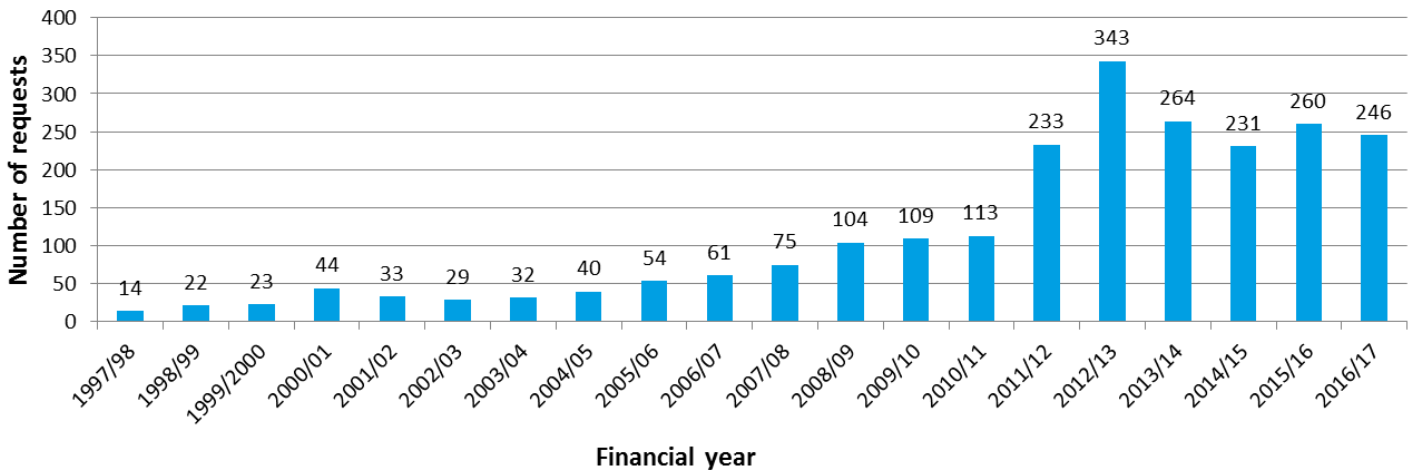
- 16 At the time of writing this report there are two investigations being carried out by the Office of the Ombudsman.
- 17 At the time of writing this report there are no investigations that are being carried out by the Privacy Commissioner.
- 18 The complaint that was referred to the Human Rights Tribunal has since been withdrawn by the complainant
- 19 An overview of Ombudsman and Privacy Commissioner complaints is attached as Appendix A to this report.

Official Information Requests

20 The Council received a total of 246 official information requests during 2016/17 compared to 260 in 2015/16.

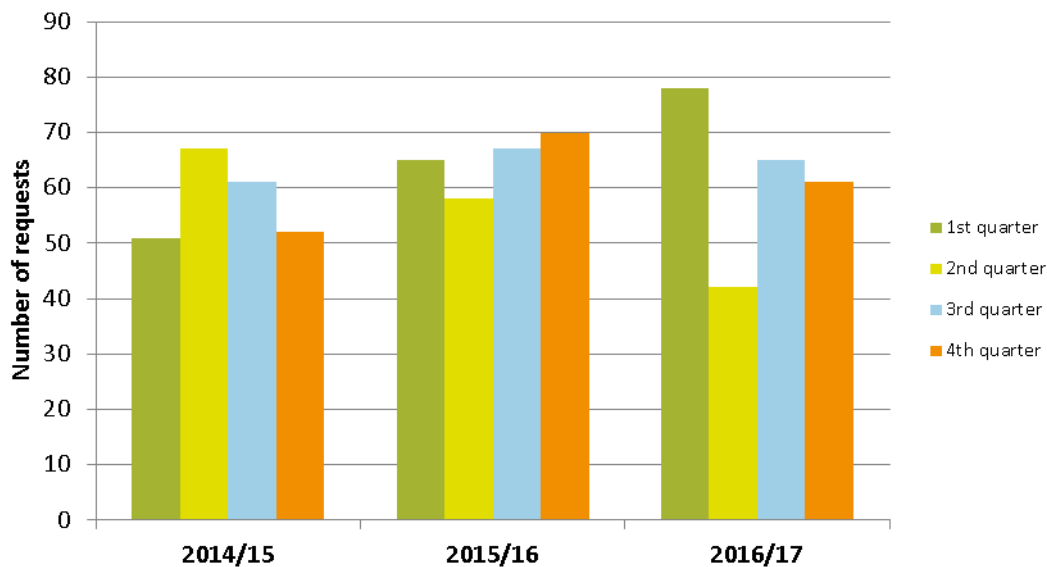
21 The below graph tracks the number of official information requests by year.

Total number of official information requests

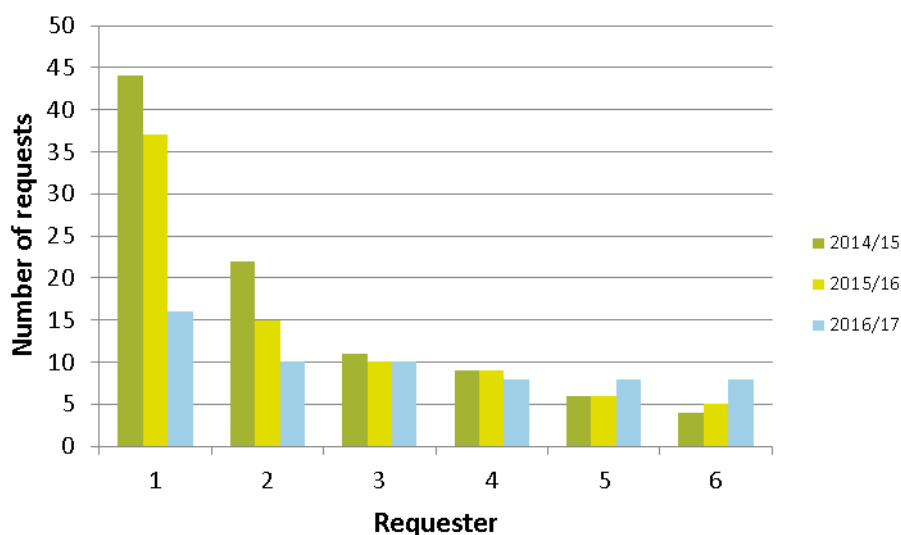


22 The Council received 61 requests within the fourth quarter of 2016/17 in comparison with 70 in the fourth quarter of 2015/16.

23 The below graph depicts the number of requests by quarter over the last three financial years.



- 24 The highest number of multiple requests received from specific individuals has decreased considerably in 2016/17 compared to the previous two financial years. The same two requesters have remained at the top of the list in 2014/15, 2015/16 and 2016/17.
- 25 The following graph shows the top 6 requesters over the last three financial years. Second and third position both made 10 requests each in 2016/17. Fourth, fifth and sixth each made 8 requests.



Bylaw monitoring

- 26 Information in relation to the current status of the bylaws is contained in Appendix B.

Additional Investigations/Mediations or Other Compliance Matters

- 27 Information in relation to the current status of litigation is contained in Appendix C.
- 28 Information in relation to the current status of weathertight claims is contained in Appendix D.

CONSIDERATIONS

Policy considerations

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

Financial considerations

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

SIGNIFICANCE AND ENGAGEMENT

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

RECOMMENDATIONS

34 That the Audit and Risk Committee:

- i. **note** that there were no statutory compliance issues associated with the 'key' acts identified in the third quarter of the 2016/17 year.
- ii. **note** the current status of Ombudsman and Privacy Commissioner investigations, official information requests, bylaws and litigation;
- iii. **agree** that this report, appendix (B) and resolutions only be released from public excluded business; and
- iv. **agree** that appendices (A), (C) and (D) be excluded from public release.

Report prepared by	Approved for submission	Approved for submission
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ATTACHMENTS

- Appendix A Ombudsman and Privacy Commissioner investigations
- Appendix B Bylaw status
- Appendix C Litigation report
- Appendix D Weathertight claims update