

11.2 UPDATE ON STATUTORY COMPLIANCE ISSUES, INVESTIGATIONS AND STATUS OF COUNCIL BYLAWS 1 APRIL 2019 TO 30 JUNE 2019

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Section under the Act	The grounds on which part of the Council or Committee may be closed to the public are listed in Section 48(1)(a)(i) of the <i>Local Government Act 2002</i> .
Sub-clause and Reason:	Section 7(2)(a), Section 7(2)(b)(ii), Section 7(2)(g) and Section 7(2)(h) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons, the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information, the withholding of the information is necessary to maintain legal professional privilege and the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities.

PURPOSE OF REPORT

- 1 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 2018/19;
 - d) a litigation status update report; and
 - e) a bylaw monitoring report.

DELEGATION

- 2 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

- 3 The background to each component of this report is now included as **Appendix C**.

CURRENT STATUS

Legislative Compliance Declarations

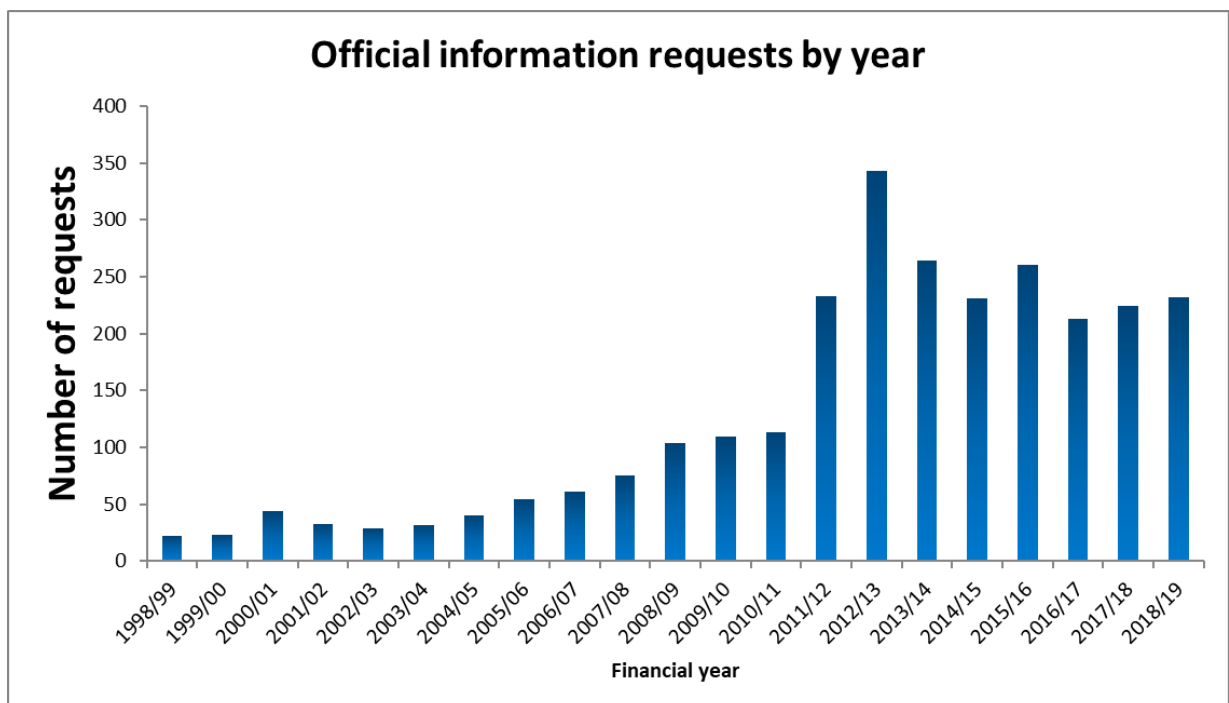
- 4 There were no issues of statutory non-compliance declared to have occurred in relation to the ‘key’ acts identified by the council’s external auditors during the fourth quarter of 2018/19.
- 5 Under the Local Government Official Information and Meetings Act S13(1), there was one instance of a breach of the statutory timeframe to provide a response within twenty (20) working days. The response has since been sent.

Ombudsman and Privacy Commissioner Investigations

- 6 At the time of writing this report there are no Office of the Ombudsman investigations that are open and there have been no new investigations in the fourth quarter of 2018/19.
- 7 It is worth noting that the Ombudsman is to commence publishing data on LGOIMA complaints. The first publication of LGOIMA complaints data will be on 4 September 2019, and will cover the period 1 January–30 June 2019. The three complaints that appeared during the 2018/19 period will be included in the publication. These complaints were resolved with no deficiencies found.
- 8 At the time of writing this report there are no Privacy Commissioner investigations that are open and there have been no new investigations in the fourth quarter of 2018/19.

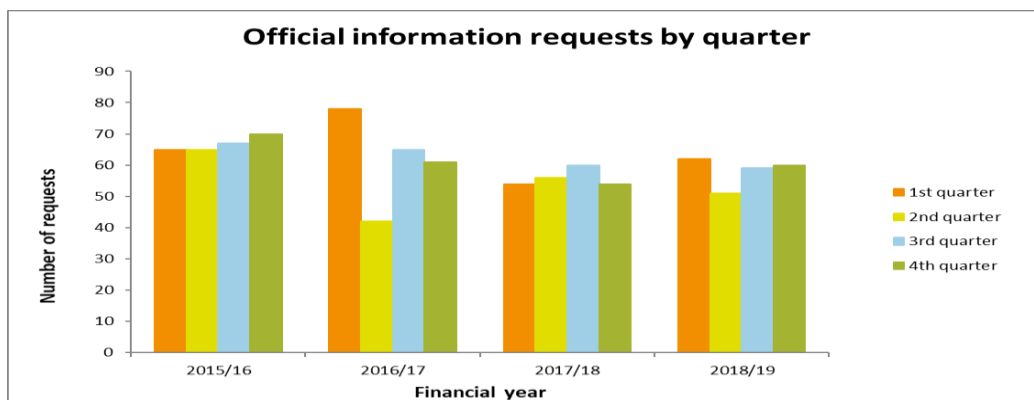
Official Information Requests

- 9 The below graph tracks the number of official information requests (OIR) by year. 232 requests were processed through the official information request process in 2018/19 in comparison to 224 request in the 2017/18 period.

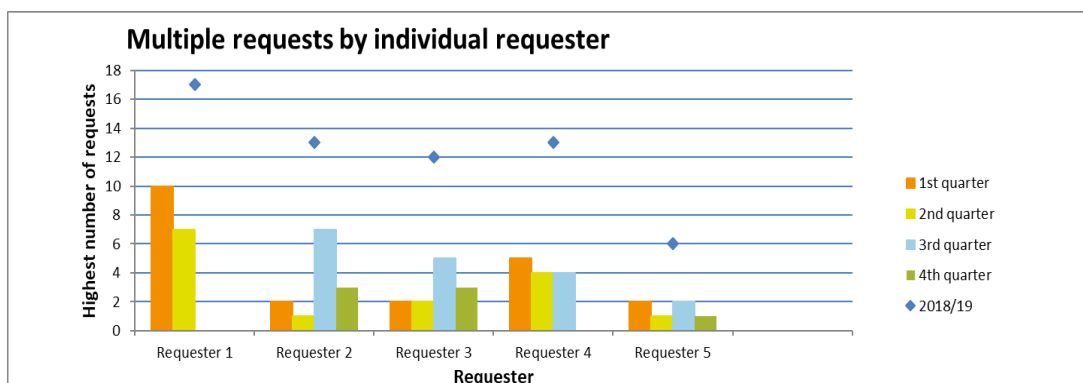


- 10 The Council received 60 requests within the fourth quarter of 2018/19 in comparison with 54 in the fourth quarter of 2017/18.

- 11 The below graph depicts the number of requests by quarter compared to the last three financial years.



- 12 The highest number of requests made by an individual this year is 17. This particular requester has made no OIR requests during the last two quarters of 2018/19. One particular journalist has made 12 OIR requests this year. Another particular individual has made 13 requests. We have received a total of 13 from the NZ Taxpayers' Union which remains unchanged from the last report.
- 13 This graph depicts the number of requests by individuals by quarter during 2018/19.



Additional Investigations/Mediations or Other Compliance Matters

- 14 Information in relation to the current status of litigation is contained in Appendix A.

Bylaw Monitoring

- 15 The current time frame for reviewing bylaws was approved by the Council on 31 January 2019 as part of the Policy Work Programme. At this meeting legal counsel advised that the two-year grace period after the review date should not be relied upon for general work programming purposes. A further update to the Strategy and Policy Committee meeting on 5 September 2019 is scheduled however no changes to bylaw timeframes are proposed.

Information in relation to the current status of the bylaws is contained in Appendix B including updates to the Beach Bylaw, Dog Control, Keeping of Animals, Bees and Poultry, Solid Waste, Speed Limit Bylaw and Traffic Bylaws. All other Bylaws required no further status updates.

CONSIDERATIONS

Policy considerations

- 16 There are no policy considerations in relation to the information provided in this report.

Legal considerations

- 17 The Council interaction with the Office of the Ombudsman and the Office of the Privacy Commissioner is managed through Council's in-house legal team.
- 18 The legal requirements of LGOIMA, LGA 2002 and the Privacy Act are well established in the Council's processes.

Financial considerations

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

Tāngata whenua considerations

- 20 There are no tāngata whenua considerations arising from this report.

SIGNIFICANCE AND ENGAGEMENT

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

RECOMMENDATIONS

- 22 That the Audit and Risk Committee:
 - i. note that there was no statutory non-compliance with the 'key' acts identified in the fourth quarter of the 2018/19 year;
 - ii. note the current status of Ombudsman and Privacy Commissioner investigations, official information requests, bylaws and litigation;
 - iii. agree that this report, appendices (B) and (C) and resolutions only be released from public excluded business; and
 - iv. agree that appendix (A) and be excluded from public release.

APPENDICES

1. Appendix A: Litigation Status Update
2. Appendix B: Bylaw Status
3. Appendix C: Background to this Report