

8 April 2019

[REDACTED]

[REDACTED]

Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA).

I refer to your official information request we received on 20 March 2019 requesting the following:

"I'd like to please request the following regarding Mayor Gurnathan's apology to Mr and Mrs Osborne published in media today:

- *Was any legal advice and representation provided to Mayor Gurnathan by Council?*
- *If so, what was the cost of any legal advice and representation provided to Mayor Gurnathan by Council?*
- *Did the Council pay any of the costs associated with the publication of Mayor Gurnathan's apology to the Osbornes in media?*
- *If so, how much did Council pay?"*

On 23 March 2019 we received two further requests from you as follows:

- *What defamation insurance does the Council currently hold?*
- *How much does that insurance cost per year and what is the excess on it?*
- *What, if any, of that excess has the Council paid in relation to the defamation case and settlement against the Mayor by the Osbornes?*
- *Whether any Council funds were used to pay for any advertisements for the apology from Mayor Gurnathan to the Osbornes published in media this week?*
 - *If so, what advertisements did the Council pay for?*
 - *And how much did those advertisements cost?*
- *Whether any Council funds were used to pay for or contributed to the settlement agreed with the Osbornes?*
 - *And, if so, how much did the Council pay or contribute to that settlement?*

Council decision regarding your request

- *Was any legal advice and representation provided to Mayor Gurnathan by Council?*

The Council holds an insurance policy that responds to defamation claims. Council's insurer accepted that the Mayor made the comments that lead to the defamation claim in his capacity as Mayor and therefore the Council was entitled to make a claim against the policy. The insurer's lawyer advised the Council in relation to the matter. The Council's in-house lawyer liaised with the insurer's lawyer.

- *If so, what was the cost of any legal advice and representation provided to Mayor Gurunathan by Council?*

As noted above legal advice was provided to the Council. After the payment of the excess the Council's insurers paid for their lawyers. The Council's in-house lawyer billed the Council for \$4,250 (excluding GST) for work carried out during February 2019.

- *Did the Council pay any of the costs associated with the publication of Mayor Gurunathan's apology to the Osborne's in media?*

No. These costs will be paid by the Council's insurers.

- *If so, how much did Council pay?"*

Not applicable – see above answer.

- *What defamation insurance does the Council currently hold?*

The Council holds an insurance policy that responds to defamation claims. This is part of the Council's professional indemnity insurance cover.

- *How much does that insurance cost per year and what is the excess on it?*

The insurance cover for defamation claims is included in the Council's professional indemnity policy. There is no breakdown of the costs for all the matters within the scope of the professional indemnity cover. Your request is therefore declined on the basis that the information you have requested is not held by the Council (see section 17(g) of LGOIMA).

In the event your request is for the cost of the Council's professional indemnity cover, your request is declined under section 7(2)(b)(ii) on the grounds that disclosure of this information would prejudice the commercial position of the Council's insurer. The Council's insurers have confirmed that they regard the pricing information as commercially sensitive. The insurance industry is highly competitive and disclosure of this information would effectively disclose the insurer's charging policy.

The excess on the professional indemnity policy is \$10,000.

- *What, if any, of that excess has the Council paid in relation to the defamation case and settlement against the Mayor by the Osbornes?*

The Council has paid the excess of \$10,000.

- *Whether any Council funds were used to pay for any advertisements for the apology from Mayor Gurunathan to the Osbornes published in media this week?*

Council did not pay for the advertisement for the apology. This will be paid by the Council's insurers.

- *If so, what advertisements did the Council pay for?*

See above answer.

- *And how much did those advertisements cost?*

See above answer.

- *Whether any Council funds were used to pay for or contributed to the settlement agreed with the Osbornes?*
 - *And, if so, how much did the Council pay or contribute to that settlement?*

The terms of the settlement are confidential. Council did not pay any money apart from payment of the excess referred to above.

You have the right to request the Ombudsman to review this decision. Complaints can be sent by email to info@ombudsman.parliament.nz, by fax to (04) 471 2254, or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely



Tim Power
Senior Legal Counsel
Te Poutoko Ture