

Requests under the Local Government Official Information and Meetings Act 1987 (LGOIMA)

ORGANISATIONAL POLICY

POLICY REFERENCES

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| • Legal compliance: | LGOIMA 1987 Privacy Act 1993 Ombudsmen Act 1975 |
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1. Purpose

To outline the principles and guidelines which apply on receipt of a LGOIMA request.

2. Definitions

Information held for the purposes of this policy includes all information which is paper-based, electronic or in a person's memory. It also includes information held by elected members in their capacity as an elected member and information held by an independent contractor engaged by any local authority in his or her capacity as an independent contractor.

A Request can be received verbally or in writing. If the request is only received verbally we will record our understanding of what was asked for, provide our understanding to the requestor, and deal with it accordingly. Within this definition there are four trigger events which would characterise a request as a LGOIMA request:

- A degree of formality. The requestor uses the words 'request for information', 'official information', 'OIA' or 'LGOIMA';
- The response requires substantial time to collate or research;
- The material requested is likely to be withheld by Tasman District Council;
- The subject matter of request is a 'hot political topic' generating numerous requests and a coordinated response is required across the organisation.

Personal information is information about an identifiable individual.

3. Application

This policy applies to all Council employees and elected representatives.

4. Policy

Any request for information from the public will be treated in accordance with the Local Government Official Information and Meetings Act (LGOIMA). Information held by Council is to be made available unless there is good reason for withholding it.

5. Principles

- 5.1. Any request for information is considered a LGOIMA request - this can include all forms of communication including verbal, written and electronic requests. Our preference is to receive requests in writing to avoid misinterpretation or ask verbal requests to be clarified in writing.
- 5.2. A request by an individual for any of their own information held by the Council will be managed under the Privacy Act.
- 5.3. Requests may only be made for information already held; there is no obligation to create new information for the purposes of responding to a request.
- 5.4. Requests for opinion are not requests for official information.
- 5.5. All requests received will be dealt with as soon as is reasonably practicable and in no case later than 20 working days after the day on which the request is received.
- 5.6. Where the request has been amended or clarified after the date it was received, it can be considered a new request. This does not include where the council has asked for clarifications of amendments

- 5.7. If a person asks for information urgently, they must specify the reason(s) for urgency
- 5.8. In accordance with the general duty towards transparency and assistance under the Local Government Official Information and Meetings Act 1987 (the Act); the default position should be to release information unless there is very good reason under the Act not to.
- 5.9. This duty also extends to providing assistance to requestors through the request process, including helping requestors to clearly frame their request,
- 5.10. For requests that are likely to involve substantial collation and/or research, there may be a charge for staff time.

6. Recording and responding to requests

- 6.1. All members of staff can view LGOIMA requests, both past and present via the LGOIMA register on the intranet.
- 6.2. All requests, under the definition of this policy, will be recorded in the LGOIMA register, and a request number will be assigned. When a request has been allocated through this formal process, all responses/collated material must be referred back to LGOIMA staff and not directly to the requester.
- 6.3. The LGOIMA team will send a formal acknowledgement to the requester and allocate the request to a member of staff via the LGOIMA register.
- 6.4. That member of staff will receive an automated notification of the request and a timeframe within which a response must be given, i.e. 20 working days from the date after the request was received.
- 6.5. 20 working days excludes Saturdays and Sundays, Public Holidays and the period between 25 December and 10 January inclusive.
- 6.6. Requests for information that are not referred through a formal process, a 20 working day statutory time period for a response will still apply.
- 6.7. Where the request relates to a 'hot political topic' currently being debated by Council, responses must be properly coordinated between both LGOIMA and Communications staff to ensure consistency and identify opportunities for proactive release of related information.
- 6.8. Where there is an agreed protocol with another agencies e.g. a CCO, Council, a company or a Crown entity, the response must be properly coordinated between both LGOIMA and the other agency in accordance with the agreed protocol.
- 6.9. The LGOIMA team will finalise the response, apply the statutory wording and send this to the requester. The register will be updated indicating the request has been closed.

7. Withholding information/Refusal of request

- 7.1. Information falling within scope of the request will only require redactions and/or material to be withheld for privacy/confidentiality reasons.

- 7.2. The LGOIMA Act¹ states the conditions under which this can occur. The reasons for withholding official information include:
- 7.2.1 Commercial operations: to protect trade secrets; or to protect against prejudice of commercial positions of those who supplied the information; or to prevent the use of official information for improper gain or advantage; or to enable the local authority holding the information to carry on negotiations, without prejudice or disadvantage
 - 7.2.2 Members of the public: To protect privacy; or health and safety; or prevent or mitigate material loss
 - 7.2.3 Council operations: maintain effective conduct of public affairs through free and frank expression of opinions; or protect officers from improper pressure
 - 7.2.4 Protection of information which is subject to an obligation of confidence; or maintain legal privilege; or where it is about to be released into the public domain
- 7.3. These reasons have to be weighed up against the overall public interest of releasing the information.
- 7.4. If a response to a request requires material to be redacted or withheld, the Operational Governance Team will provide guidance. N.B. Requests for details of complainants can be dealt with at staff level where the only redactions relate to the identity and contact details of the complainant.

8. Council charges for information

- 8.1. Council's Schedule of Charges is set annually as either a part of the Council's Annual Plan or Long Term Plan.
- 8.2. If a response to a request requires a large amount of time to be spent gathering the material that falls within scope, the following charges may apply:
 - a. staff time for the first hour is free of charge; hereafter this will be charged at the prescribed rate of \$38 (GST inclusive) per half hour
 - b. photocopying charges at 20c per sheet, with the first 20 pages being copied free of charge
- 8.3. Under clause 13(4) of LGOIMA we have the ability to request the amounts due are paid in advance of the release of information.

9. Exceptions

LIMs

Land Information Memorandums (LIMs) are covered by section 44A of LGOIMA and are subject to a separate timeframe and charging regime. LIMs are only valid at their time of issue. Historical LIMs may be provided under this policy, clearly marked "not valid as a Land Information Memorandum".

¹ Part 1, sections 6, 7 and 17



Authorised by Janine Dowding
Chief Executive

20 January 2020

Date of approval: