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## 12. Official information

This section outlines the council's requirements for how it handles official information.

### 12.1 Council-held information

#### a. What is official information?

Official information includes material held in any format, such as:

- written documents, reports, memoranda, letters, notes and emails (this includes draft documents and hand-written notes)
- non-written documentary information, such as material stored on or generated by computers, including databases, video, or tape recordings
- information known to the council but not yet recorded, in writing or otherwise (including knowledge of a particular matter held by an officer, employee or member of the council in their official capacity)
- documents and manuals setting out decision-making policies, principles, rules or guidelines

#### b. Applying the Local Government Official Information and Meetings Act 1987

The council must hold the information for the Local Government Official Information and Meetings Act 1987 (LGOIMA) to apply. It does not matter where it originated or where it is currently located, as long as it is held by the council. For example, a third party may have created the information and sent it to the council, or it may be held in an employee's memory.

The council is not obliged to form an opinion or create new information in order to answer a request; however, it can create new information if it chooses to.

Information held by elected members, officers and employees in their official, rather than personal, capacities is deemed to be held by the council [1]. However, information held in a personal capacity can become official information if it is used subsequently for official purposes.

Auckland Council may contract private individuals, companies or other organisations to carry out work on its behalf. Similarly, information held by these individuals is also deemed to be held by the council if it is held in an official capacity [2].

## 12.2 Overview of the LGOIMA

### a. Purpose

The Local Government Official Information and Meetings Act 1987 has three key purposes. They are:

1. to progressively increase the availability of official information held by local authorities and promote the open and public transaction of business at meetings. This is to enable more effective public participation in decision-making, and promote the accountability of elected members and officials
2. to provide people with proper access to official information relating to them
3. to protect official information and the deliberations of local authorities in a way that is consistent with the public interest and the protection of personal privacy [1].

### b. Information requests

Any individual or group [2] may make a request for official information. This can be made to anyone in the council and does not need to refer to the LGOIMA. The LGOIMA contains rules for handling requests and provides a right to complain to the Ombudsman in certain situations.

### c. The principle of availability

Official information should be made available unless one or more of the grounds for withholding (which are listed in LGOIMA) applies [3]. This is the 'principle of availability' and should always be kept in mind when considering how best to respond to a request.

### d. Meetings

The LGOIMA also contains provisions dedicated to the conduct of council meetings.

With some exceptions, Part 7 requires that:

- meetings are publicly notified
- agendas, reports and minutes are publicly available
- meetings are open to the public unless there is good reason for excluding them.
- members of the public can ask the Ombudsman to investigate if dissatisfied with the council's conduct of meetings.

### **12.3 Privacy Act**

The Privacy Act 1993 controls how agencies collect, use, disclose, store and give access to information which may lead to an individual's identification, such as names, birth dates, addresses, financial data and employment details. It does not include company or organisational information.

**a. Purpose**

The Privacy Act's aim is to promote and protect individual privacy. The focus is on purpose, not consent. When the council collects information, it must make it very clear why it is collecting their information and what it intends to do with it. Because the council only has to make individuals aware of what it will do with their information, it does not require their consent.

**b. Privacy principles**

At the heart of the Privacy Act are 12 principles:

<b>Principle</b>	<b>Summary</b>
<b>Principle 1</b> – purpose for collection	Only collect the information you need
<b>Principle 2</b> – source of information	Get it from the person concerned
<b>Principle 3</b> – what to tell an individual	Tell them what you are doing
<b>Principle 4</b> – manner of collection	Be ethical when you are doing it
<b>Principle 5</b> – storage and security	Take care of the information once you've got it

<b>Principle 6 – access</b>	They can see it if they want to
<b>Principle 7 – correction</b>	They can correct it if it's wrong
<b>Principle 8 – accuracy</b>	Make sure it is accurate before you use it
<b>Principle 9 – retention</b>	Get rid of it when you're done with it
<b>Principle 10 – use</b>	Only use if for the purpose you obtained it for
<b>Principle 11 – disclosure</b>	Only disclose the information if that is why you obtained it
<b>Principle 12 – unique identifiers</b>	Be careful with unique identifiers

These principles reflect internationally accepted standards for handling personal information

## 12.4 Ombudsmen Act

Ombudsmen are Officers of Parliament and Commissioners for Investigations. In the local government context, they have three roles:

- a. **LGOIMA information requests** - a requestor can ask the Office of the Ombudsman to review the council's response to their request
- b. **Protected Disclosures Act 2000 (or whistle-blowers' act)** – the Office of the Ombudsman receives disclosures regarding matters of serious wrongdoing by an organisation, and has the power to investigate while protecting the whistleblower
- c. **Maladministration** - an ombudsman can investigate and make recommendations to the council on most decisions (by both elected members and council staff) where there are no formal appeal processes for that type of decision. An investigation would focus on ascertaining whether a decision was:
  - contrary to law
  - unreasonable, unjust, oppressive, or improperly discriminatory, based wholly or partly on a mistake of law or fact or was wrong
  - a discretionary power that had been exercised for an improper purpose or on irrelevant grounds.

Legal Services respond to complaints investigated by the Office of the Ombudsman on behalf of the council.

## 12.5 Archives

- a. Archives are records created or received by the council or legacy councils required to be kept permanently under the Public Records Act 2005. Good information management practices and record-keeping enables the council to:
  - know what information it holds
  - know where that information is kept
  - know that it can rely on accessing the correct version of information.
- b. Archived collections and services are available to council staff, elected members and the public. Records can be searched via the archives database (which contains descriptions of more than 311,000 records) and viewed by visiting repositories in south, west, north and central Auckland.
- c. The Government Chief Archivist has published a standard for the appropriate management of public sector records and information. This covers the:
  - creation and maintenance of records
  - classification and organisation of records
  - assignment of metadata to records and aggregations

- provision of access to records
  - appraisal of records and disposing of them appropriately
  - maintaining the integrity of records
  - managing records systematically.
- d. Council does not have to keep all the information it creates or hold it indefinitely. However, the council is obliged to take a systematic approach to records management.
- e. There are more stringent requirements for material that is defined as a protected record [2], including agendas, minute books, records of senior management meetings and other key documents. This material must be archived for posterity.
- f. In common with other entities, the council is also required to keep records for tax and employment purposes.

More information about Corporate Records & Archives can be found [here](#).

## **12.6 How the council responds to information requests**

### **12.6.1 Responding to information requests**

If you need a lot of information, or if you can't find the information on this website or from our staff, there are two types of information requests we can help you with:

1. Official information requests under the Local Government Official Information and Meetings Act 1987
2. Information privacy request under the Privacy Act 1993

You can make a LGOIMA request for any information that we hold, such as:

- a) policies and procedures
- b) reasons for a decision or our decision-making process
- c) drawings or images
- d) records.

You can make a privacy request for access to, or correction of, information that we hold about you.

### **12.6.2 Withholding information**

We may withhold or refuse to give information for reasons specified in sections 6, 7 and 17 of the Local Government Official Information and Meetings Act 1987.

If we withhold or refuse to give information, we will explain the reason why.

For information about withholding personal information, see sections 27 to 29 of the Privacy Act 1993.

### **12.6.3 Communicating the decision**

- a) We will provide you with a decision about your request within 20 working days.
- b) We will let you know as soon as possible if:
  - we cannot meet the deadline
  - we need more information
  - the information is held by another government organisation and we need to transfer your request.

You can ask us to treat your request as urgent. If you do, you need to provide a reason. One of our team will advise you on what is possible.

### **12.6.4 Publishing information**

- a) We regularly publish LGOIMA responses that are of interest to the general public. When we publish these responses, we withhold the names of individual requestors to protect their privacy.
- b) Published LGOIMA responses can be found on our website [here](#).

## **12.7 Footnotes**

### **12.1 Council-held information**

[1] Section 2(3) LGOIMA

[2] Section 2(6) LGOIMA

### **12.2 Overview of the LGOIMA**

[1] Sections 6, 7, 8 and 17 LGOIMA

[2] Section 10(1) LGOIMA

[3] Sections 5 LGOIMA

[4] Sections 6, 7, 8 and 17 LGOIMA

### **12.5 Archives**

[1] <http://records.archives.govt.nz/managing-records2/records-management-standard/>

[2] <http://archives.govt.nz/advice/guidance-and-standards/guidance-audience/advice-local-authorities/list-protected-records-loc>

## **Key Documents**

**Appointment and Remuneration Policy for Boards Members of Council Organisation**

**Civil Defence Emergency Management Act 2002**

**Code of Conduct**

**Code of conduct for elected members**

**Interpretation Act 1999**

**Ngāti Whātua Orākei Claims Settlement Act 2012**

**Ngāti Whātua o Kaipara Claims Settlement Act 2013**

**Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008**

**Local Boards Standing Orders**

**Local Electoral Act 2001**

**Local Government Act 2002**

**Local Government (Rating) Act 2002**

**Local Government (Auckland Council) Act 2009**

**Local Government Official Information and Meetings Act 1987**

**Public Audit Act 2001**

**Standing Orders**