



15 February 2021

Peter Newport

Sent via email to peter.newport@crux.org.nz

Dear Peter,

REQUEST FOR OFFICIAL INFORMATION – PARTIAL RELEASE OF INFORMATION

Thank you for your request for official information dated 11 January 2021. You requested the following information from the Queenstown Lakes District Council (QLDC):

- The correspondence related to the Chief Executive (CE) recruitment process.

QLDC response

We conducted a number of email archive searches to determine how best to answer this information request. Our initial searches looked for the key words ‘chief executive’, ‘CE’, ‘recruitment’ and ‘process’ within any part of any email. These searches brought back thousands of emails, most of which were out of scope of your particular query, because all four key words searched are common words used in all aspects of QLDC work. We therefore determined that broad searches for the requested correspondence had to be declined in accordance with section 7(2)(f)(i) of the Local Government Official Information and Meetings Act 1987 (LGOIMA). We provide more details as to our rationale for this later in this response.

In order to target emails directly within the scope of your request, and to enable the internal review of a manageable number of emails related to this matter, we settled on this search:

- Date range: 1 July 2020 – 11 January 2021 (the date we received your request), and
- The subject line of the email had to include: ‘Chief Executive Recruitment’, or ‘CE Recruitment’.

The above request found 125 emails. We then removed all duplicate emails and all ‘out of office’ reply emails – this left us with 68 emails and email chains to review.

The link below includes 63 emails and one attachment. Of the 68 emails, five were withheld in full and 19 required redactions – we provide our rationale for these decisions later in this response. There were also a number of emails that included attachments. One attachment has been released with redactions, while the rest have been withheld in full. We also provide our rationale for these decisions later in this response.

[Documents](#)

Please note this link will expire after 30 days.

Decision to withhold remaining information requested

Substantial collation and research – correspondence

We have to decline your broad request for the correspondence relating to the CE recruitment process, under section 7(2)(f)(i) of the LGOIMA. Section 7(2)(f)(i) of the LGOIMA provides that information requests may be refused if the information requested cannot be made available without substantial collation or research. In this case, if we were to review thousands of emails, first identifying which were within scope of your request, and secondly checking all to determine whether LGOIMA withholding grounds apply, substantial staff time would need to be dedicated to this one request. This would be too big an impact on the resources of the QLDC Governance team, and any other staff who would need to support the preparation of our response.

We considered whether charging or extending the timeframe for responding to your request would help, as required by section 17A of the LGOIMA. However, we decided that settling on a more targeted email archive search criteria would adequately source the information you requested, and enable us to answer your request within 20 working days. The search we settled on demonstrates that refining the search criteria enables the provision of the information sought while avoiding substantial collation.

Free and frank expression of opinion – attachments withheld in full

There were seven attachments withheld entirely in accordance with section 7(2)(f)(i) of the LGOIMA. Section 7(2)(f)(i) of the LGOIMA provides that good reason for withholding official information exists if the withholding of the information is necessary 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’. In this case, the attachments were draft documents that included suggested edits and staff comments. If released, the future exchange of free and frank opinions, when drafting documents, could be inhibited and that inhibition would prejudice the effective conduct of public affairs at QLDC. The following draft attachments have been withheld for this reason:

- Email 3 attachment – ‘Procurement plan CE Recruitment Process (003)’
- Emails 12, 13, 15, 23, 26 and 28 attachments – ‘Delegations - CE Recruitment Process August 2020’

It also needs to be noted that the ‘Delegations - CE Recruitment Process August 2020’ document was, in its final form, subsequently presented to council with the public excluded. We therefore also withhold this draft document under sections 7(2)(a) and 7(2)(j) of the LGOIMA, in line with the withholding grounds that were cited for the council meeting. We explain these two provisions in more detail later in this response.

Commercial sensitivity – emails and attachment redacted

Four of the emails shared with you include redactions, in accordance with section 7(2)(b)(ii) of the LGOIMA. Section 7(2)(b)(ii) of the LGOIMA provides that good reason for withholding information exists if making the information available ‘would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information’ unless other considerations exist which render it desirable in the public interest to release the information. In this case, the redactions were necessary to protect the commercial position of companies who put in a tender for the CE recruitment contract, as well as the company who was awarded the contract. The following emails were redacted for this reason:

- (4) CE Recruitment process – recruiters_Redacted

- (5) RE_ CE Recruitment process - Appointing recruiter_Redacted
- (6) Re_ CE Recruitment process - Appointing recruiter_Redacted
- (7) Re_ CE Recruitment process - Appointing recruiter_Redacted

There are also four attachments (from email four), that we have withheld in full, under section 7(2)(b)(ii) of the LGOIMA. The four documents were four different proposals from four different companies who put in tenders for the CE recruitment contract. We have considered these four documents commercially sensitive, for the same reason as is detailed above.

There is one attachment from email four that we have shared with minor redactions. These redactions were also done in accordance with section 7(2)(b)(ii) of the LGOIMA, and for the same rationale as is detailed above. The following attachment includes redactions:

- Email 5 – Procurement plan CE Recruitment Process_Redacted

Legal privilege – emails withheld and redacted

Some emails have been redacted in accordance with section 7(2)(g) of the LGOIMA – legal privilege. Section 7(2)(g) of the LGOIMA provides that good reason for withholding official information exists if the withholding of the information is necessary to maintain legal professional privilege. In this case, there were six emails that included advice sought by QLDC staff, from QLDC’s Legal team. The following emails included redactions for these reasons:

- (13) Delegations - CE Recruitment Process August 2020.docx_Redacted
- (26) FW_ Delegations - CE Recruitment Process August 2020.docx_Redacted
- (27) RE_ Delegations - CE Recruitment Process August 2020.docx_Redacted
- (28) Delegations - CE Recruitment Process 2020.docx_Redacted
- (29) RE_ Delegations - CE Recruitment Process 2020.docx_Redacted
- (44) RE_ Follow up- dates and timing CE recruitment process_Redacted

Out of scope information – emails redacted

Two emails also have some minor redactions due to the content being out of scope of your information request. The first redacted comments in both of the following emails were redacted for this reason:

- (34) RE_ PX - Chief Executive recruitment process 2020_Redacted
- (35) RE_ PX - Chief Executive recruitment process 2020_Redacted

There were also five emails that we’ve withheld due to them being out of scope of your request – emails 52, 53, 54, 65 and 67. These five emails related to another official information request, on a different topic to this one.

Privacy and improper gain or improper advantage – attachments withheld in full and some emails redacted

A number of attachments have been withheld in full in accordance with sections 7(2)(a) and 7(2)(j) of the LGOIMA. Section 7(2)(a) of the LGOIMA provides that there is a good reason for withholding official information when the withholding of information is necessary to protect the privacy of natural persons. Section 7(2)(j) provides that good reason for withholding information exists if the withholding of the information is necessary to prevent the disclosure or use of official information for improper gain or improper advantage. The attachments in emails 31, 36, 37, 38 and 45 are all the

same documents, and they are all documents that were presented to council with the public excluded, on the matter of recruiting a CE for QLDC. We are now withholding these attachments in full, for the same reasons as were cited for excluding the public from the council meeting.

Email 46 had two attachments, one being the council paper that appeared in all the other emails just noted, and another document that contained details of CE applicants. We have withheld the second document entirely in accordance with section 7(2)(a) of the LGOIMA, to protect the privacy of the applicants.

Emails 58, 60 and 61 all included the same attachment – minutes from the council meeting that discussed the CE recruitment process. These minutes are withheld for the same reasons as are detailed above, in relation to the papers on this matter that were presented at that council meeting.

The attachments in 63 and 66 are the same and have been withheld in full in accordance with section 7(2)(a) of the LGOIMA. All documents included personal details about an individual, so must be withheld to protect their privacy. In addition, the following emails include redactions for the same reason:

- (48) RE_ CE Recruitment Process 8 October 2020.docx_Redacted
- (49) RE_ CE Recruitment Process 8 October 2020.docx_Redacted
- (63) CONFIDENTIAL material for interview QLDC CE Recruitment Process_Redacted
- (66) FW_ CONFIDENTIAL material for interview QLDC CE Recruitment Process_Redacted

Lastly, the attachment in email 68 has also been withheld in full under section 7(2)(a) of the LGOIMA. The council meeting, at which these minutes were taken, excluded the public. The minutes therefore also need to be withheld for the same reason – to protect the privacy of CE candidates.

In addition to attachments being withheld in full, there were some redactions within some emails that were necessary due to them directly referring to parts of the publicly excluded papers. These redactions have therefore been done in accordance with the same withholding grounds used for the publicly excluded papers – sections 7(2)(a) and 7(2)(j) of the LGOIMA. The following emails include redactions for these reasons:

- (31) PX - Chief Executive recruitment process 2020_Redacted
- (32) Re_ PX - Chief Executive recruitment process 2020_Redacted
- (33) Re_ PX - Chief Executive recruitment process 2020_Redacted
- (34) RE_ PX - Chief Executive recruitment process 2020_Redacted
- (35) RE_ PX - Chief Executive recruitment process 2020_Redacted

Public interest considerations

We have considered the interests of the public when making decisions to withhold requested information, including considerations in favour of release, whether the disclosure of the information would actually promote those considerations, and whether those considerations outweighed the need to withhold the information.

Promoting the accountability and transparency of local authority members and officials is in the public interest, as is the general public interest in “good government”. Where possible, we have favoured release of documents subject to redactions to give effect to the public interest. However, we consider that the public interest in making council papers available does not outweigh the

importance of protecting the privacy of individuals, or ensuring a fair and transparent process when appointing staff.

The same applies to the commercially sensitive information that was redacted in this response. Revealing commercially sensitive information would be highly detrimental to any companies concerned, and the public interest in knowing that sensitive information does not outweigh that need to protect companies from potential harm.

We have also considered the interests of the public when making the decision to withhold the legally privileged correspondence, and the draft attachments that included free and frank expression of opinion. Like in the above situation, we have considered the public interest in favour of release, and whether those considerations outweighed the need to withhold the correspondence and draft attachments.

In the case of legally privileged emails, it is important that QLDC staff can seek legal advice to ensure that QLDC is always acting in accordance with the law. Doing so promotes accountability. Consequently, we do not consider that the public interest in the release of these emails outweighs the considerations in favour of withholding the information.

Similarly, regarding the attachments we have withheld due to free and frank expression of opinion, we consider that it is necessary for our staff to be able to freely discuss and revise draft documents without their preliminary or other frank views being inhibited by potential disclosure. This enables all opinions to be expressed and promotes a considered outcome. We consider that this is not outweighed by the public interest in release.

Proactive release

Please note that we will proactively release this response in accordance with our [Proactive Release](#) policy. This is to ensure we maintain a high level of transparency when releasing official information to you.

Right to review the above decision

Note that you have the right to seek an investigation and review by the Ombudsman of this decision. Information about this process is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please contact Naell.Crosby-Roe@qldc.govt.nz (Governance, Engagement & Communications Manager).

We trust this response satisfactorily answers your request.

Regards,

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line and a flourish.

Maddy Patterson
Senior Governance and Official Information Advisor