Ombudsman

Tuia kia ōrite · Fairness for all

Local Government Official Information and Meetings Act compliance and practice in

Queenstown Lakes District Council

Contents

Terminology and methodology

Queenstown Lakes District Council (the Council) - When we use the term 'the Council' this primarily relates to the operational arm of the organisation, unless the context suggests otherwise. When we are referring to the governance function, we use the term 'elected members'.

This investigation involved consideration of the Council's supporting administrative structures, leadership and culture, policies, processes, practices, decision-making and record-keeping.

Our investigation included a review of:

- publicly available material;

- relevant complaints to the Ombudsman;

- an agency questionnaire seeking internal documents and commentary relating to official information processing and practice (referred to throughout this report as the *'agency questionnaire'*;

- an online survey of the public (referred to throughout this report as the *'public survey')*;

- an online survey of Council staff (referred to throughout this report as the *'staff survey')*;

- an online survey of elected members (referred to throughout this report as the *'elected member survey')*;

- a sample of LGOIMA request files; and

- a sample of media information request files.

This investigation also included interviews with a number of key people to assist our understanding of each agency's LGOIMA culture, processes, and practices:

- my investigators spoke with a selection of staff and managers in different departments/teams involved in making decisions about, and preparing responses to, official information requests;

- the former Chief Ombudsman spoke with the Chief Executive of the Council during his tenure.

My opinion relates to the Council's practice during the period in which my investigation took place, being September 2024 to June 2025.[1]

Legislation referred to in this report

- [Local Government Act 2002](#) (LGA)

- [Local Government Official Information and Meetings Act 1987](#) (LGOIMA)

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[1] On occasion, we may look at material from outside the investigation period where particular issues warrant further investigation.

- [Ombudsmen Act 1975](#) (OA)
- [Public Records Act 2005](#) (PRA)
- [Bill of Rights Act 1990](#) (NZBORA)

Note from Chief Ombudsman John Allen

Since Peter Boshier's term as Chief Ombudsman ended on 28 March 2025, I have assumed responsibility for the self-initiated investigation into the Local Government Official Information and Meetings Act 1987 (LGOIMA) policies and practices of Queenstown Lakes District Council. Reference in this report to 'the former Chief Ombudsman' refers to Peter Boshier.

Summary

Leadership and culture

Strong leadership is an important factor in ensuring a council achieves the principles and purposes of the LGOIMA. Leaders who build and maintain a good culture are vital in developing an environment that promotes openness and transparency.

The online staff survey indicated that the Council is perceived by 96 percent of respondents to be strongly or moderately pro-openness and public participation. This was the highest result of the five agencies within the current tranche of LGOIMA investigations.[2]

The staff survey also showed that roughly three-quarters of respondents considered the Chief Executive and senior leadership team are strongly or moderately supportive of openness and transparency in its responses to information requests made under the LGOIMA. However, nearly a quarter of staff survey respondents didn't know the Chief Executive's approach to the LGOIMA or considered he was silent on the issue, which indicates more work can be done to spread awareness of key LGOIMA values to all staff.

We were impressed by staff statements that the Council 'recruits for openness', which demonstrates that it recognises the importance of a strong culture of openness and transparency, and tries to build this into staff culture at the earliest stage.

The Council employs multiple channels to communicate with the public about the work it is doing. Key information about Meetings and workshops is accessible via its website, and promoted via other channels, such as radio, and social media. A range of information, including responses to LGOIMA requests, is also proactively released on the Council's website.

The way the public perceives a Council's level of openness is fundamental to its level of trust in the Council and its decisions. Reponses to the online, public survey show that some respondents have a perception that decisions are being made 'behind closed doors' at closed Meetings and workshops, and that the views of the public are sometimes overlooked in council decision making. The Chief Executive addressed some of these perceptions in a meeting with the former Chief Ombudsman, noting that the Council has amended its practice around elected member workshops which, since March 2024, are open to the public by default.

The Council also needs to ensure good record keeping of closed meetings and workshops, and good practices around re-visiting material heard in closed sessions, releasing it when there is no longer a harm in doing so. This is likely to assist in improving public perceptions around the openness of council decision making.

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[2]   The other local authorities under investigation are:

- Auckland Transport.
- Marlborough District Council.
- Wellington City Council.
- Wellington Water.

The Council's strategic framework expressed in its Long Term Plan does not speak directly to transparency nor access to information. The Council should consider building a more explicit statement about transparency and access to information into its strategic framework which clearly links its commitment to releasing information to the public's ability to engage meaningfully in Council decision making.

Action points: Leadership and culture
The Chief Executive and senior leaders should build on the overall positive view of the Council and ensure there are clear, visible, regular statements to staff about the importance of the LGOIMA and the Council's commitment to openness and transparency.
Consider adding to the section of the Council's website dedicated to LGOIMA requests, an overarching statement of commitment to the LGOIMA principles and purposes.
Consider building a more explicit statement about transparency and access to information into the Council's strategic framework which clearly links the commitment to releasing information to the public's ability to engage meaningfully in Council decision making.

Organisation structure, staffing and capability

Councils should organise their structure and resources in a way which is appropriate for their size, responsibilities, and the level of public interest in the information held, and ensures that they meet their LGOIMA obligations.

The Council has a centralised model for handling LGOIMA requests, processing over 200 LGOIMA requests per year. This model is reliant on a core group of staff who are LGOIMA subject matter experts. The LGOIMA team seem well trained, supported and resourced, and discussions with staff indicate that the team is held in high regard in the Council.

The Council has adopted a practice of regular knowledge sharing between its LGOIMA and governance teams, which both sit within the Democracy Services team. Encouraging a learning culture around the LGOIMA shows a laudable commitment to ongoing improvement. This practice also assists resilience arrangements, with either team able to step into the complementary role where necessary to accommodate staff attrition or a spike in workload. The Council has an additional layer of LGOIMA resilience in its Knowledge Management Team, some members of which have been upskilled to assist LGOIMA Advisors if needed.

Although the Council includes LGOIMA content in its induction training, the staff survey showed that not all staff had received LGOIMA training. The Council should ensure all staff reliably receive LGOIMA training, which may be achieved, for example, by implementing mandatory refresher training.

The Council's existing suite of training for staff is accurate and reasonably comprehensive. Our minor suggestions for improvement include:

- highlighting the primary LGOIMA timeliness obligation which is that a decision must be made and communicated as soon as reasonably practicable;

- give consideration to the framing of 'test questions' within the LGOIMA training module to ensure accuracy around the use of commercial withholding grounds; and

- ensuring the training highlights the requirement to weigh section 7(2) withholding grounds against reasons in the public interest to release information.

The Council should also ensure there is appropriate LGOIMA training for those making decisions on LGOIMA requests.

Through the course of our investigation the Council advised that it is developing a Learning Management System which will enhance staff training.

It is also important the elected members have adequate and targeted LGOIMA training. Some respondents to the elected member survey suggest more in-depth and/or more frequent training would be welcomed.

The Council's existing LGOIMA training for elected members is essentially the same as that given to staff. While it is helpful for elected members to have this perspective, the training should also highlight aspects that are relevant to elected members, including:

- record keeping requirements;

- the distinction between requesting information under the LGOIMA and seeking information under the common law 'need to know' principle';

- the circumstances under which the Council might consult with elected members on LGOIMA requests.

It may be of benefit to survey elected members on their LGOIMA training needs and deliver training as indicated.

Although the Council offers training to staff on the use of its content management system, some staff who responded to the survey indicated that additional training on record keeping obligations and information management (IM) systems would be useful. It may benefit the Council to survey staff on their IM and record keeping training needs to ensure adequate training is available.

Action points: Organisation structure, staffing and capability
Review and update LGOIMA training for staff, incorporating our suggestions.
Ensure all staff receive LGOIMA training appropriate to their role.
Ensure advanced training is available for decision makers on technical aspects of the LGOIMA.
Review and update LGOIMA training for elected members, incorporating our suggestions.
Consider surveying elected members on their LGOIMA training needs and deliver training as indicated.

Action points: Organisation structure, staffing and capability
Assess the IM training needs of staff, which might include surveying staff on their IM and record keeping training needs, and deliver training as indicated.

Internal policies, procedures and resources

Any organisation subject to the LGOIMA should have resources, policies and procedures that enable staff to complete their responsibilities successfully. The suitability of these tools will impact whether an organisation can meet its obligations in an efficient and timely manner.

The Council's LGOIMA policy has a number of aspects that encourage good practice, and can be further enhanced by addressing some gaps in key areas. The policy should address the distinction between information which is available to elected members as part of their role, and information that can be requested under the LGOIMA. It should also highlight that, when information is requested under the 'need to know' principle, the onus is on elected members to show that information is necessary to perform their duties.

Across the country, there has been an observed rise in the number of requesters approaching councils who exhibit unreasonable or even threatening behaviour. The Council should develop clear policy around its approach to dealing with challenging requesters, while maintaining requesters' right to request information. It is important that this policy makes a clear distinction between challenging **requesters** and vexatious **requests**.

Once developed, the Council should publish its LGOIMA policy. This would demonstrate openness, and make clear the Council's approach to requests for urgency, charging, how it handles vexatious requests and how it handles challenging behaviours.

The Council should also develop a LGOIMA guidance document for staff reference. Although the Council advised that it refers to Ombudsman guides, it is beneficial for agencies to have their own, bespoke guidance. This guidance could also be integrated into staff training.

The Council's *'Elected members' handbook'* contains a substantial amount of guiding information on a range of topics, from purely operational matters, to elements of good governance. We note that aspects of the guidance relating to workshop practices were out of date. The handbook should be updated to reflect current practice.

The 'Information Request Guidance' helps elected members by clarifying what channels are available for information requests and we are pleased that this highlights the LGOIMA's key principle of availability.[3] We have identified further improvements which may be made, which includes highlighting public interest considerations in releasing information.

The Council uses an externally prepared document to provide advice on record keeping to elected members. It should complement this with its own guidance, with focus on information kept on personal devices, email and social media accounts.

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[3] Link to s 5 of the LGOIMA.

The Council has acknowledged that its practice around revisiting information heard in closed Meetings and workshops could be improved. In this respect, the Council may benefit from expanding its existing proactive release policy to include greater detail around this practice, and publishing the policy to promote accountability for adherence.

The Council has a practice of proactively releasing some LGOIMA requests, which is a good demonstration of openness. This practice should be supported by greater detail in the proactive release policy about the criteria for considering LGOIMA responses for release, and clarifying who is ultimately responsible for making this decision.

The Council should also ensure that the scope of its proactive release policy is clear.

Responses from the public survey show that there is an appetite for the Council to be more open with information about the work it is doing. We encourage the Council to consider what more it can do to ensure that the information it releases fits the needs of its residents and incorporate any findings into its proactive release policy.

The Council has a broad range of useful and largely accurate resources available to assist staff who prepare reports for Meetings and workshops. In order to assist the Council in its intention to improve its practice around revisiting and, where appropriate, releasing information heard in closed session, it would be useful for these resources to encourage staff to specify a date or a circumstance in which information provided for a closed Meeting or workshop can be proactively released.

We also encourage the Council to ensure the resources for staff promote consideration of reasons in the public interest to release information when section 7(2) withholding grounds are contemplated.

The Council's workshop resources should also make it clear that the Meetings provisions in Part 7 of the LGOIMA do not apply to Council workshops, although decisions to close workshops must be made reasonably, and may be tested by my Office, in response to a complaint.

Action points: Internal policies, procedures and resources
Review and update LGOIMA policy incorporating our suggestions, and publish LGOIMA policy once it is updated.
Develop LGOIMA guidance for staff.
Review and update Elected Member handbook to reflect current workshop practice.
Review and update Information Request Guidance incorporating our suggestions.
Ensure there is guidance for elected members about council information kept on personal devices and in personal email and/or social media accounts.
Review and update proactive release of information policy incorporating our suggestions, and ensuring alignment with the needs of residents. Publish this proactive release policy when finalised.

> Review and update resources for Meetings and workshops incorporating our suggestions.

Current practices

To assess the Council's current practices, we considered:

- whether the Council's practices demonstrate understanding and commitment to the principles, purposes and requirements of LGOIMA;

- if Council staff had good technical knowledge of LGOIMA; and

- if the Council is coping with the volume and complexity of its LGOIMA work and is compliant with the Act.

Through the course of this investigation, the Council advised us of its advancing practice in the proactive release of information. At the time of writing this report in April 2025, the Council provided us with a new document it has developed outlining procedures for reviewing and releasing material previously held in public excluded Meetings and workshops. This appears to provide a good framework for reviewing publicly excluded material and making a decision on its release, when applicable. We commend the Council for taking this step, noting that practices should be underpinned by sound policy.

The Council's LGOIMA team shows good understanding of the LGOIMA, and a strong commitment to meeting its obligations. The LGOIMA team generally employs good practices which facilitate quality LGOIMA responses and good adherence with timeliness obligations.

The Council showed good practice in relaying reasons for withholding information. We saw examples of thorough, plain-English reasons being given to requesters which went beyond simply quoting the legislation. In some cases, and where appropriate, it is positive that the Council advised requesters that withheld information could be released at a later date.

When searching for information requested under the LGOIMA, the LGOIMA team will conduct an initial search for information, in addition to the search conducted by relevant subject matter experts. This 'double-checking' is a good practice which helps to ensure that all information relevant to a request has been found.

The Council may consider keeping a record of LGOIMA requests with information withheld, and proactively releasing that information once the harm associated with its release no longer applies.

Good record keeping is also important for efficient LGOIMA practice. Review of files showed that there is a good retention of written communication, such as emails and letters. One area where the Council could look to improve would be to keep better records of spoken interactions, which was shown to be inconsistent.

Council staff should ensure that, where appropriate, a summary file note is kept within LGOIMA files where complex decisions, such as the reasoning behind withholding information, have been made. This requirement should be included within training and guidance material.

The Council generally has good adherence with LGOIMA timeliness obligations. Its sign-out process is appropriate and balances the needs of review with timely responses.

We reviewed the complaints handled by this Office about the Council's decisions on LGOIMA requests. Although the number of complaints received is low, the percentage of findings made against the Council was disproportionately high. These were instances where the withholding ground relied on by the Council was not upheld on review. We note that reputational risk, on its own, is not a valid reason under the LGOIMA to withhold information, and we encourage the Council to learn from Ombudsman complaint investigation outcomes to help ensure mistakes are not repeated.

We saw some vulnerabilities in the Council's handling of media information requests. In some instances, information was withheld without the requester being provided a valid reason, as required under section 18(a)(i) of the LGOIMA. There was also no referral to our Office if the requester was refused information, which is a requirement under section 18(b) of the LGOIMA. Accordingly, it is my opinion that the Council has acted contrary to legislation by not always meeting these obligations. I have not found it necessary to make a recommendation in this instance because the Council, in its response to my provisional opinion, has agreed to amend its practice and has already begun taking steps to do so.

Some public survey respondents noted that Council meetings and workshops were not always easy to attend. The Council has advised me that it is aware of this issue and it is taking steps to ensure access to Meetings for its constituents. The Council has begun conducting more Meetings outside Queenstown to increase their accessibility to the public. The Council also livestreams all Meetings of full council on its YouTube channel.

The same concern about accessibility was also associated with public forums, and the Council advised that it has taken recent steps to make available remote attendance for public forums.

The Council has a robust review process for ensuring good reason exists for hearing items in a public excluded session of a Meeting. We also commend the Council for its practice of putting forward 'dual reports' to Meetings to ensure as much information as possible on a topic may be heard in a public session, with privileged information heard in a closed session.

The Council has an opportunity to amend its Standing Orders to allow for a public forum preceding extraordinary Meetings. In response to my provisional opinion the Council advised that this topic will shortly come under consideration by elected members, and we look forward to seeing that outcome.

The Council has recently adopted an open by default policy for workshops, which is a laudable step and a sound demonstration of openness. Of course, not all workshops will be open. Where closed workshops are held it is important that their occurrence is publicised, and robust records are kept. The Council should also adhere to a well-laid out policy and process of reviewing and releasing material previously held in a closed session. This should go some way toward keeping everyone present at workshops accountable, and alleviate any potential public concerns about decisions made behind closed doors.

The Council should consider recording closed workshops where there is a likelihood the recording can be released in future. We further suggest that the topic of both open and closed workshops should be published in advance of their occurrence.

Action points: Current practices
Ensure records are kept of substantive discussions on LGOIMA requests.
Where necessary, keep a summary of the decision making process on LGOIMA requests which should include consideration of section 7(1) public interest considerations.
Ensure results from reviews such as Ombudsman investigations are incorporated into LGOIMA team training and into LGOIMA guidance.
Consider updating Standing Orders around public forums at extraordinary Meetings, giving consideration to the principles in section 14 of the Local Government Act.
Ensure robust record keeping of closed workshops, and consider recording closed workshops where there is a likelihood the recording can be released in future.
Publish the topic of workshops in advance of their occurrence.

Performance monitoring and learning

Although there are no specific requirements under the LGOIMA for the recording or assessment of information requests, there is an expectation that Councils should hold meaningful information around decisions made. To assess the Council's performance monitoring and learning, we considered a number of areas. This included how it captures meaningful information, reports performance and undertakes data analysis.

The Council regularly collects and reports information on LGOIMA request timeliness. This information is proactively published on the Council's website in monthly, quarterly and annual reports. This demonstrates openness and helps drive accountability. The Council may also consider adding the proactive release of LGOIMA responses as a performance reporting measure.

The Council may benefit from expanding the type of information collected and reported to senior leaders regarding LGOIMA requests. Collecting and analysing additional performance data could help the Council recognise emerging themes or trends; identify areas where it could proactively release more information; and establish if it has any resourcing or capacity issues. These insights could also lead to more tailored training and/or guidance.

The Council should consider how it handles media LGOIMA requests, and incorporate its LGOIMA compliance statistics, such as how many requests it proactively releases, into its responses. By doing this, the Council should be able to provide a more comprehensive and transparent view of its performance, and also highlight any areas for improvement in its media request handling.

Implementing a quality assurance process for LGOIMA requests is another area of opportunity for the Council. A quality assurance process should consider the whole process of LGOIMA request handling, not just the final response. The consideration of the handling process itself, if properly analysed, may lead to improvements such as greater consistency in responses, highlight processes leading to delays and identify upskilling opportunities for staff.

Action points: Performance monitoring and learning
Consider collecting more comprehensive data on LGOIMA request handling so that opportunities for performance improvement and for the proactive release of information can be identified, and include this in reporting to senior leaders.
Consider adding as a reporting measure, the number and/or percentage of LGOIMA responses the Council proactively publishes.
Consider including LGOIMA compliance statistics for media information requests into LGOIMA performance reporting.
Consider developing a quality assurance process for completed LGOIMA requests.

My opinion

Through the investigation process, we have identified a number of areas of good LGOIMA practice relating to LGOIMA request processing, and Meeting and workshop practices. The Council's LGOIMA team shows good understanding of the LGOIMA, and a strong commitment to meeting its obligations. The LGOIMA team generally employs good practices which facilitate quality LGOIMA responses and good adherence with timeliness obligations.

We were also pleased to see that staff have a positive impression of the Council's general approach to openness and transparency—the highest of all the local authorities in this tranche of LGOIMA investigations. We acknowledge that their view of the Council's openness does not always accord with the views of some members of the public.

We have also identified areas of vulnerability that we consider the Council should address, which have resulted in 26 suggested actions that we consider will improve the Council's practices. It was a concern to see that some information requests from the media did not always receive a response that aligned with the requirements of the LGOIMA. Accordingly, it is my opinion that the Council has acted contrary to legislation by not always meeting its legal obligations under section 18 of the LGOIMA to provide the reason when a request is refused and to advise the requester that they can make a complaint to me.
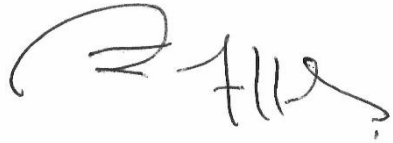
In its response to my provisional opinion, the Council advised that it agreed to all action points, and had begun internal discussions on how to implement them. The Council advised:

> *This action plan will be developed and led by the QLDC Democracy Services team and endorsed by the Executive Leadership Team to ensure it is given the necessary organisational focus and momentum.*

This response from the Council is very encouraging and I look forward to following up on its progress over the coming months.

I do not consider it is necessary to make a recommendation in this case because the Council has committed to amending its practice to ensure alignment with the LGOIMA by developing appropriate guidance and templates to ensure that any refusal is worded in accordance with the Act and clearly references the relevant section(s).

I extend my thanks to the Council for engaging positively with my Office throughout the investigation. I look forward to further productive engagement with the Council in the months to come as it works through my suggested action points.

John Allen
Chief Ombudsman
June 2025

Leadership and culture

Achieving the principle and purposes of the LGOIMA depends significantly on the culture of a council, and the attitudes and actions of its senior leaders. Elected members, chief executives, and senior managers, should take the lead in developing an environment that promotes openness and transparency within the organisation, with external stakeholders, and importantly, with their constituents. This environment should champion positive engagement with those who want to know and understand the work a council is doing.

To assess the Council's leadership and culture, we considered whether:

- elected members, the Chief Executive, senior leaders and managers demonstrated a commitment to the Council meeting its LGOIMA obligations and actively fostered a culture of openness;

- senior leadership had established an effective strategic framework which promotes a culture open to the release of information; and

- senior leadership demonstrated a commitment to proactive disclosure, and public participation with clear linkages to the Council's strategic plans creating a public perception, and a genuine culture, of openness.

When it is clear to staff that their leaders view compliance with LGOIMA as an opportunity to operate in a more transparent, engaging and accountable manner, they will follow.

Staff perceptions of the Council's openness

An online survey of staff showed that respondent's overwhelming perspective is that the Council is open about the work it does, and supportive of public participation. Staff were asked *'What is your impression of your Council's overall commitment to a strong culture of openness and public participation?'*

Staff impressions of the Council's overall commitment to a strong culture of openness and public participation, by percentage of staff[4]

Strongly or moderately pro openness and public participation	Strongly or moderately anti openness and public participation	They are silent on the issue or 'I don't know'
96	3	1

Of the five local authorities in this tranche of investigations, comprising three councils and two council-controlled organisations, 96 percent is the highest rating given by staff for being perceived as strongly or moderately-pro openness. Staff explained in their survey responses why they hold this perspective:

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[4]   Percentages have been rounded to the nearest whole number.

I've always seen a really professional approach to this and a desire to try and be as transparent as possible. Opening up workshops was not a problem.

I've seen many examples in that time of the great lengths that this organisation goes to in order to promote transparency, openness and public participation.

I believe our council's commitment to openness and transparency is exceptional. We have strong leadership and a culture that fully supports these values, ensuring we consistently meet the public's communication and openness expectations. There is still a lack of community understanding about LGOIMA and how they can get information, however. This is definitely still a work in progress.

The culture is great here and I'm happy with our leadership team, they work so hard and still get to know all the employees, I feel comfortable with each leader in my office and it's very much a team effort.

I have observed CE and the rest of the exec team leading by example. LGOIMA guiding principles are behind the cornerstone of our mahi for the community. The wider teams are well inducted, regarding LGOIMA. The democracy team have excellent and robust process and systems in place to support the success

A local authority's LGOIMA culture is also shown through its practices, such as its compliance with LGOMA obligations in relation to requests and Meetings, and in its practice around elected member workshops. We will discuss these further under *Current practices*.

Messaging to staff from senior leaders

Councils' senior leaders must role model open and transparent behaviour by ensuring that council practices and processes around conducting meetings and workshops are transparent, and promote accountability. They should also demonstrate clear knowledge and support for their obligations set out in the LGOIMA. Council chief executives must make clear, regular statements to staff and stakeholders in support of the principle and purposes of official information legislation, and remind staff about their obligations. Consistent, clear messaging and behaviours communicate a real expectation that councils are committed to openness and transparency.

Senior leaders can actively promote a culture of openness in their regular communications via, for example:

- statements published on intranet pages;

- as standing items in internal meetings; and

- high-level statements including written guidance.

In response to the agency questionnaire, the Council described multiple channels it uses to disseminate information to staff. These include a bi-monthly staff newsletter; a weekly 'stand up' meeting which provides an opportunity for face-to-face interactions between leadership and staff; and a fortnightly video message to staff from the Chief Executive.

We were impressed by the statements of several staff members my investigators spoke to who discussed 'recruiting for openness'. Both said that importance of openness as a basic tenet of public service is discussed with potential staff when they interview for roles at the Council. It appears that the messaging to staff about the importance of openness starts at the very beginning of their employment.

In the online survey, staff were asked *'Thinking about communications regarding the Council's commitment to promote openness and transparency in its responses to information requests made under the LGOIMA, how would you describe the messages sent by the following people?'*

Staff survey respondents' impressions of communications regarding the Council's commitment to promote openness and transparency in its responses to information requests made under the LGOIMA, by percentage of staff[5]

Leadership level	Strongly or moderately supportive of openness and transparency	Strongly or moderately negative about openness and transparency	'They are silent on the issue' or 'don't know'
Chief Executive	75	3	23
Senior Leadership	73	6	21

While we are pleased to see that nearly three quarters of staff responded positively, the fact that nearly a quarter of staff who responded to the survey 'don't know' the Chief Executive's approach to the LGOIMA demonstrates that more can be done to build staff awareness on this topic. The Council should optimise its use of mechanisms to communicate with staff to ensure the Chief Executive and senior leaders' commitment to openness and transparency in its responses to LGOIMA requests, is made clear in regular, on-going statements.

Action point
The Chief Executive and senior leaders should build on the overall positive view of the council and ensure there are clear, visible, regular statements to staff about the importance of the LGOIMA and the Council's commitment to openness and transparency.

Messaging to the public

The public's perception of a council's openness is heavily influenced by how easy people find it to participate in elected members' decision making; and by how easy it is to find records of the key proceedings related to those decisions. More generally, the public's experience of navigating council websites to find information relevant to them, and the helpfulness of a council's overall messaging about accessibility and openness, are also key to this perception.

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[5] Percentages have been rounded to the nearest whole number, therefore may not total 100 percent.

Both the *'Privacy and official information requests'* and the *'Council Meetings'* pages on the Council's website are located just two 'clicks' from the homepage. The *'Meetings'* section contains the following transparency notice:

> *Queenstown Lakes District Council is committed to transparent and accountable decision-making, so where possible meetings are conducted in public which means anyone is able to attend, participate and understand why and how decisions are made by the elected members. In some cases, there may be reasons to exclude the public from meetings or part of a meeting. Excluding the public must align with the reasons (or grounds) as described by sections 6 and 7 of the Local Government Official Information and Meetings Act 1987.*

Agendas and minutes for Meetings going back to 2016 can be found on the website, as can agendas and minutes for workshops going back to 2024, when the Council began opening them to the public. The '*Meetings'* section of the Council website also contains a registration form members of the public must complete and submit if they wish to speak at public forums. These typically occur before Council and Committee Meetings. This section of the website also contains a 4-page '*Guide to attending and participating for the public'.*[6]

The section of the website about LGOIMA requests is an opportunity for the Council to signal its overarching commitment to the principle and purposes of the LGOIMA, similar to the transparency notice in the *'Meetings'* section of the website. The LGOIMA section lacks such a notice and the Council may benefit from adding one. This aside, the section contains good information for LGOIMA requesters, including requesters' right to ask that their request be treated with urgency; and their right complain to me.

The Council also provided examples of numerous methods used to communicate to the public. These include:

- radio advertisements about access to meeting agendas, reports, minutes and dates/times on the Council's website;

- notifications in printed media about Meetings and workshops;

- email distribution lists for notifications about meetings and meeting materials;

- articles in community newsletters about opportunities for participation in consultations; and

- promotion on social media of Meetings and access to information.

The Council proactively releases a large amount of material on its website, including selected responses to LGOIMA requests, which are linked from the LGOIMA page. This is a good demonstration of openness and we will further discuss the council's policy around proactively releasing information under *Proactive release policy*.

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[6] Link to QLDC website - Council meetings and workshops

The council also demonstrates, both to the public and to staff, commitment to openness through its actions, including through its willingness to adopt an 'open by default' policy to elected member workshops. We will discuss this further under *Workshops*.

Action point
Consider adding to the section of the Council's website dedicated to LGOIMA requests, an overarching statement of commitment to LGOIMA principle and purposes.

Public perceptions of the Council's openness

This investigation included a survey of the public which asked participants about:

- their experiences requesting information from the Council;

- their participation in, and their awareness of public Meetings and elected member workshops; and

- their general view of the openness of the Council.

It is worth noting that there were only 158 respondents to the public survey, a small, and self-selected, percentage of the population of the Queenstown Lakes District.[7] However, although the pool of respondents was small, their views should not be overlooked.

The way the public perceives a Council's level of openness is fundamental to its level of trust in the Council and its decisions. A perception that decisions are being made behind closed doors, or that the views of the public are not taken into account in council decision making, can be corrosive to public trust, whether or not the perception reflects true practice. There were some respondents to my public survey who expressed concerns about the Council's use of elected member workshops and public excluded Meetings. They considered closed forums were used to make decisions and/or that information of high public interest was being kept from them. Others were concerned that the views of the public were overlooked in decision making. A sample of their comments is below:

I have no faith in QLDC, it is a waste of time and energy attending public meetings to voice concerns over financing, overspending and lack of public consultation are ignored.

Queenstown is only just beginning to acknowledge the need to keep the public fully informed as to its actions, plans, development ideas, bylaws (current, past and pending), in a transparent, accessible manner.

There appears to be a lot of decisions and actions made in private meetings, when I believe they should have been public.

There is very little communication directed at me from our Council. Not even a mailbox drop. Very little transparency. People seem to think that trying to influence

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[7] We note that, by proportion of population, the Council had the highest proportion of respondents of the three Councils within this investigation.

QLDC is a waste of time as the staff control everyone and they do what they want, not what the community wants. E.g. the proposed new council offices in town...the community is massively against this but the staff want it...so they get it.

Meetings seem to have a set outcome preordained by non-elected QLDC staff. So most meetings are meaningless and just a box ticking exercise.

The Chief Executive addressed some of these perceptions in the former Chief Ombudsman's meeting with him.[8] His expectation is that these were likely to change with time as a result of the Council's improved practices around Meetings and workshops. We note that, since March 2024, the Council has amended its practice around elected member workshops. These are now open to the public by default. We agree that opening workshops to the public is a positive step toward conducting business with greater openness and transparency, and being perceived by the public as more open. This is true whether the public attends workshops or not. It is difficult to argue that decisions are being made 'behind closed doors' when the doors are demonstrably open.

However, more can be done to allay public concerns about the Council's openness. It is almost inevitable that some Meetings and workshops will be closed to the public when there is good reason to do so. If information heard in closed Meetings or workshops is withheld indefinitely, without good reason, it is likely to breed suspicion. It would assist the Council to ensure it employs solid record keeping practices around closed Meetings and workshops, and to ensure sound policy and practice exists around proactively revisiting and reviewing information which has been previously withheld, and releasing it where a harm no longer exists, or the harm has become outweighed by the public interest in release. I will discuss this further in *Proactive release policy.*

LGOIMA strategic framework

The Council stated that transparency was a '*cultural commitment embedded in (its) strategic framework which is foundational in our LTP* [Long Term Plan] *and our organisational culture. This is summarised clearly on p10 of the LTP.*'[9] This is a laudable statement and we acknowledge the Council's cultural commitment to transparency. We consider, though, that the summary of the Council's strategic framework does not speak directly to transparency nor access to information.

The Council should consider building a more explicit statement about transparency and access to information into its strategic framework. In particular, a clear line should be drawn between its commitment to releasing information to the public (through the LGOIMA and the proactive release of information), and how this enables the public to engage meaningfully in council decision making.

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8   This meeting took place on 14 February 2025.

9   Link to QLDC website Long Term Plan 2024 - 2034.

Action point

Consider building a more explicit statement about transparency and access to information into its strategic framework which clearly links the Council's commitment to releasing information, to the public's ability to engage meaningfully in Council decision making.

Organisation structure, staffing and capability

It is expected councils will organise their structure and resources to ensure they are able to meet their legal obligations under LGOIMA in a way that is relevant to their particular size, responsibilities, and the amount of interest in the information they hold.

To assess the Council's organisational structure, staffing, and capability, we considered whether:

- the Council had the capacity to discharge its LGOIMA obligations with clear and fully functioning roles, accountabilities, reporting lines, delegations and resilience arrangements; and

- the Council had the capability to discharge its LGOIMA obligations.

LGOIMA handling model and resilience arrangements

The Council operates a centralised model for handling LGOIMA requests. Requests for information held by the Council are directed to the Democracy Services Team to be processed by LGOIMA Advisors.[10] The advisor assigned to the LGOIMA request will determine which business unit or units hold the information requested and send a commissioning email to the manager of the relevant team, seeking the information. Once the information has been received, the LGOIMA Advisor drafts a response letter which goes through a review process and is signed-out by a LGOIMA decision maker, and the final response is dispatched by the LGOIMA Advisor.

This model appears to work well for the Council given its size and the volume of requests received, which is significant at approximately 200 to 300 per year. It is appropriate to have a core group of staff who act as the LGOIMA 'centre of excellence', calling on expertise from (SMEs) as required to add context to LGOIMA responses; simplify complex topics so they are accessible to requesters; and source information relating to the request. For this model to work effectively there must be sufficient resilience arrangements to allow the model to operate smoothly in the event of staff attrition or a spike in the LGOIMA workload.

The Council has built resilience arrangements into its Democracy Services team. This team comprises Governance Advisors, who are responsible for the administration of Meetings held under Part 7 of the LGOIMA, and LGOIMA Advisors, who handle information requests. The team have monthly 'knowledge sharing' meetings which serve not only to upskill staff in their roles, but also to develop reciprocal knowledge which enables Governance and LGOIMA Advisors to step into the complementary role where this may be necessary, for example in the event of staff attrition, or a spike in workload.

While we would not prescribe that all councils must arrange their LGOIMA and governance functions in the same way, it certainly makes sense for the two roles to work closely together. Both LGOIMA and Governance Advisors need sound knowledge of sections 6 and 7 withholding

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[10] With some exceptions, which are discussed under *Information requests handled by the Communications team*.

grounds under the LGOIMA, and the application of the public interest weighting test, in order to perform their respective roles. As the centre of LGOIMA expertise at the council, they are well-positioned to share information, building a broad base of knowledge and experience which should result in increasingly robust decisions.

The Council has an additional layer of LGOIMA resilience in its Knowledge Management Team. This team is often called on to assist in searching for information within the scope of a LGOIMA request. Staff advised my investigators that some members of that team had been upskilled on LGOIMA processes so they could assist LGOIMA Advisors if needed. This arrangement was tested recently when LGOIMA Advisors were short-staffed. It is a logical fit for LGOIMA resilience arrangements to sit within the Knowledge Management Team due to their involvement in the LGOIMA handling process.

LGOIMA training for staff

As discussed above, the Democracy Services team holds a regular programme of knowledge sharing meetings in which the Governance and LGOIMA advisors can discuss and share knowledge and experience. We commend the Council and the team for adopting this practice. The Chief Executive told the former Chief Ombudsman that *'We generally want to have a learning culture around LGOIMA.'* This practice is a strong indicator of the Council's commitment to ongoing learning and improvement.

While there is great benefit to this type of informal learning, it should be complemented by a formal programme of LGOIMA training. Training should be available to all staff, with differing levels and emphases to the training, depending on staff's role in the LGOIMA process.

Nearly 60 percent of respondents to the staff survey said that they had received LGOIMA training within the previous one to two years; and a further ten percent received training three to four years ago. Approximately thirty percent said they had not received any LGOIMA training since working for the Council. In response to a survey question about the type of training received, one staff member said:

> *No real training, previous manager once mentioned a few months into the job to be aware of LGOIMA requests when writing emails to other staff and be aware that anything we write can potentially be scrutinized by the public. Very informal, which may be appropriate for the level I work at, but I felt it should have been a bit more formal/official.*

Although the Council advised that it has induction training for all staff which includes LGOIMA content, and refresher training available on request, it appears it is still possible for some staff to miss out on LGOIMA training. We encourage the Council to consider how it can ensure all staff members reliably receive training. This may be achieved, for example, by requiring staff to complete mandatory, annual LGOIMA refresher training.

The former Chief Ombudsman has outlined in previous investigations expectations for LGOIMA training, which include:

- training at induction offering introductory basic awareness of key official information principles;

- regular, on-going refresher courses;

- advanced material for relevant staff covering, for example:

  - proper application of the public interest and harm tests;

  - dealing with broad, complex requests covering a large volume of information; and

  - training for LGOIMA decision makers.

The Council includes some of these aspects in its programme of formal training, which we are pleased to see. In response to the agency questionnaire, the Council provided its suite of LGOIMA training materials for staff, which includes:

- induction training, which includes a LGOIMA component;

- a LGOIMA training module *'mandatory for all staff when commencing employment with QLDC'*;

- official information refresher training, *'available on request and offered annually'*; and

- a specialist course titled *'Withholding information on privacy grounds'*.

The agency also advised that staff in the Democracy Services team are required to complete the online training module *The LGOIMA for Local Government*, produced by my Office.[11]

We have reviewed the above training materials and overall, they are accurate and fairly comprehensive. The LGOIMA training module highlights that even those staff who are not directly involved in LGOIMA handling are still involved in the LGOIMA process through creating and storing information which may be requested under the LGOIMA. This is a good message that links the importance of record keeping with the ability of an agency to comply with LGOIMA obligations.

We have only minor suggestions for improvement. We note that the training materials highlight the maximum 20-working day timeframe for responding to LGOIMA requests, over the primary timeliness requirement which is that a decision is made and communicated *'as soon as reasonably practicable'.*[12] We suggest that information about LGOIMA timeliness obligations is updated to highlight the obligation to make and communicate a decision as soon as reasonably practicable, and to provide information 'without undue delay'.

LGOIMA training for staff is interactive, involving some question-and-answer components to encourage staff to think about LGOIMA request scenarios. One of these asks which withholding ground might be relevant when considering releasing information including prices for work quoted by contractors. The Council may wish to review the way this question is framed – it encourages a broad-strokes view of commercial reasons to withhold information, citing

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[11]   Office of the Ombudsman website, link to Te Puna Matauranga.

[12]   Section 13(1) of the LGOIMA.

'commercial sensitivity' as a reason for withholding, which is not a provision of the LGOIMA. We note, also, that the questions related to section 7(2) withholding grounds do not prompt staff that these reasons must be weighed against reasons in the public interest to release information.

We also note that the training has not been updated to include additions to section 6 of the LGOIMA in 2023, which lists conclusive reasons to withhold information. We suggest the Council update this.

There is a gap in the provision of specialist training for decision makers. As signatories on LGOIMA responses, decision makers must have a sound understanding of technical aspects of the LGOIMA, including how to weigh the public interest in releasing information. Agencies often assume that senior staff members have gained sufficient LGOIMA knowledge through their careers, and consequently further training is not needed. Relying on individuals' existing knowledge and past experience to make the appropriate decisions leaves the Council vulnerable to unintended poor practice and decisions that are passed on to other staff, and then embedded into on-going practice.

During interviews, staff advised that the Council is developing a Learning Management System which will enhance staff training. This is due for completion in 2025. We look forward to seeing the advances this brings in LGOIMA training, and we remind the Council that my Office can be contacted to arrange training delivery, or to assist with training development.

Action points
Review and update LGOIMA training for staff, incorporating our suggestions.
Ensure all staff receive LGOIMA training appropriate to their role.
Ensure advanced training is available for decision makers on technical aspects of the LGOIMA.

LGOIMA training for elected members

It is important that training is available for elected members on their responsibilities under the LGOIMA. Some elected members are elected to the role with no governance and/or central or local government experience. Even those who are experienced can benefit from refresher training.

The Council provided me with the PowerPoint LGOIMA training presentation given to elected members. This appears to have exactly the same content as the LGOIMA training given to staff. While we are pleased that elected members receive LGOIMA training, and it may be instructive for them to be aware of the Council's LGOIMA handling processes, we consider this training should be more tailored for elected members' role in the LGOIMA process. In addition, the comments we made above, suggesting amendments to the LGOIMA training presentation for staff, apply equally to the training presentation for elected members. Further, we suggest that it should include, for elected members:

- information about record keeping requirements, particularly in relation to the storage of Council information on personal devices and accounts;

- the distinction between requesting information under the LGOIMA and seeking information under the common law 'need to know' principle for elected members; and

- the circumstances under which the Council might consult with elected members on a LGOIMA request.

The Council also produces a guidance document for elected members on governance, titled Governance 101, which clearly outlines:

- elected members, role and responsibilities;

- the support services available to them through the Democracy Services team;

- principles of good governance; and

- areas of accountability for elected members versus council management.

Elected members were asked via an online survey, their views on the adequacy of LGOIMA and governance training they received. Of nine elected members who responded, four respondents said they felt they could benefit from more in-depth training; and two said they felt they could benefit from more frequent training.[13] It may be of benefit for the Council to survey elected members on their training needs to ensure adequate training and guidance is available to them.

Action points
Review and update LGOIMA training for elected members, incorporating our suggestions.
Consider surveying elected members on their LGOIMA training needs and deliver training as indicated.

IM training

Effective information management and record keeping is an essential enabler for proper access to information. The Council described its training programme for Information Management (IM) and record keeping in its response to the agency questionnaire:

All staff are offered training on the enterprise content management system and complementary systems such as OneDrive when joining QLDC and refreshers are available on request. Team specific training is developed based on operational needs and processes unique to each organisational area.

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[13] The remaining three respondents answered that they felt they had received adequate training.

In response to the survey of staff, 80 percent of respondents said they had received training on IM and/or record keeping systems within the past one to two years. Five percent said they had never received IM or record keeping training since working at the Council.[14]

The survey also asked if there were any resources that would assist staff to understand record keeping obligations and information management systems. Some staff noted that additional training would be useful:

> *Some regular training would probably [be] useful, however much of our team's work is often publicly-available anyway on the district plan pages of the Council website.*

> *Training, clear resources (e.g., policy, guidance, etc.) in one central, accessible location, consistent use of records systems across all of Council.*

> *Just a general overview of this for new staff at the induction process - maybe a refresher scheduled yearly that encourages staff use of these systems specific to different roles.*

> *Training as part of your induction.*

> *Some in depth training would be helpful.*

It may benefit the Council to survey staff on their IM and record keeping training needs to ensure adequate training is available.

Action points
Assess the IM training needs of staff, which might include surveying staff on their IM and record keeping training needs, and deliver training as indicated.

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[14] Nine percent of staff survey respondents said they received IM and/or record keeping training between two and four years ago; and six percent more than four years ago.

Internal policies, procedures and resources

While it is not a legislative requirement, nor an assurance that compliance with LGOIMA will occur, we expect as a matter of good practice that councils develop or adopt policies and procedures that will assist staff and elected members to apply the requirements of the Act consistently. In addition, staff should be supported by good systems, tools and resources in their work that will enable agencies to effectively process requests and make good decisions consistent with the provisions in the Act.

We considered whether the Council had accurate, comprehensive, user-friendly and accessible policies, procedures, and resources that enabled staff to give effect to the Act's principle, purposes and statutory requirements. This includes policies, procedures and resources in relation to:

- dealing with official information requests, the administration of Council meetings and workshops, and producing LIM reports;

- records and information management; and

- proactive release of information.

LGOIMA policy and guidance for staff

Written LGOIMA policy and guidance anchors a local authority's LGOIMA handling process and practices. It promotes good and consistent practice, and helps to safeguard the LGOIMA process in the event that key staff leave the organisation, taking valuable institutional knowledge with them.

Ideally, LGOIMA policy and guidance are living documents that are regularly reviewed and amended as appropriate to embed lessons from the process of handling LGOIMA requests, including the outcome of my investigations.

Good policies and resources should be available to staff which clearly describe the agency's approach to matters, including:

- consulting with and assisting requesters, e.g. who is responsible for this and under what circumstances this is a duty under the LGOIMA;

- criteria for considering requests for urgency;

- managing potential delays;

- managing requests for high volumes of information, including the Council's approach to charging for the supply of official information and factors to consider around the remission of charges;

- considering whether a request is trivial or vexatious;

- making a decision whether to release the information requested and how to consider the refusal grounds in the LGOIMA;

- engaging with elected members on LGOIMA requests, including detailing the distinction between a request under the LGOIMA and the common law right of elected members to access information;

- making a decision on the format in which information is released; and

- how and where to record details about the agency's decision making process, including its application of the public interest test.

The Council has a written LGOIMA policy which covers some of the above aspects but there remain gaps in some key areas which we suggest the Council address. One of these is the distinction between the common law right of access of elected members to information to enable them to perform their role, and their right to request information under the LGOIMA.

This topic has been raised with my Office a number of times recently, and we consider it would benefit councils to provide clarity to staff and to elected members, on elected members' rights and obligations when requesting information, particularly the onus on elected members to show why it is necessary to access information under the 'need to know' principle. It may prove a point of frustration or tension between the Council and elected members, if this distinction is not drawn.

Elected members do not have unfettered access to all information they desire under either the common law or the LGOIMA. In either case, there are appropriate limits. Any request for information will need to be considered on a case-by-case basis, on the facts at hand at that time, with reference to the appropriate considerations. In commenting on the common law right, Kenneth Palmer observed:[15]

> *Concerning the disclosure of documents to a councillor by a local authority, the legal principle has been established that a member is entitled by virtue of the office to have access to all documents for which there is good reason for such access. The principle is stated in the 'need to know' test, with the onus upon the councillor or member to show that access to the information is necessary to enable proper discharge of duties...*

We suggest the Council document this, either in its LGOIMA policy or in a protocol with elected members. There is mention of the 'need to know' principle in its guidance for elected members which was discussed under *LGOIMA guidance for elected members*.

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[15]   Kenneth Palmer, *Local Authorities Law in New Zealand*, Brookers, 2012. He cites *R v Birmingham City Council, ex parte O* [1983] 1 AC 578 (HL); *R v Hackney London Borough Council, ex parte Camper* [1985] 1 WLR 1229, [1985] 3 All ER 275 (QB).

There is significant evidence indicating that council staff across New Zealand are experiencing increased incivility and even verbal and physical abuse from the public.[16,17,18,19,20,21] Respondents to the survey of staff said:

> *One comment that I would like to make is that I feel that it is one sided and there is limited consideration for councils and employees receiving the LGOIMA requests. For example, members of the public and media can be negative and combative in their styles of requests. I think further training and guidance should be provided to members of the public and media how to constructively request information. This does affect employee's wellbeing and resilience. There does not appear to be effective measures and controls, regarding these risk factors.*

> *I feel like there's a rule for council to operate in an open and transparent manner and treat all requesters with respect, but not all requesters treat council with respect. That's exasperating and exhausting and not very pleasant for our team.*

Accordingly, we consider it would be beneficial for the Council's LGOIMA policy to include its approach to dealing with challenging requesters. This should include a strategy for ensuring staff safety without compromising requesters' fundamental right to request information.[22] It is also important that the policy does not conflate challenging **requesters** with 'vexatious **requests**'. The Office of the Ombudsman guides to managing unreasonable complainant conduct, and dealing with frivolous, vexatious, or trivial requests may assist in developing a policy for managing challenging LGOIMA requesters.[23,24]

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[16] Burns, A. '*Christchurch City Council staff tired of 'unacceptable behaviour' from abusive public*'. *RNZ*, 5 May 2023. Retrieved on 25 April 2025 from https://www.rnz.co.nz/news/national/489328/christchurch-city-council-staff-tired-of-unacceptable-behaviour-from-abusive-public

[17] Reid, N. '*'Protect staff': Police provide safety training for Gisborne council workers following abuse*'. *NZ Herald*, 11 December 2024 Retrieved on 25 April 2025 from https://www.nzherald.co.nz/nz/protect-staff-police-provide-safety-training-for-gisborne-council-workers-following-abuse/MBZLDFGVZZGH5F7C4KXOCF625Y/#:~:text=Levels%20of%20abuse%20directed%20at,regular%20abuse%20from%20the%20public

[18] Rosenberg, M. '*Council workers face increasing abuse, threatening behaviour*'. *Local Democracy Reporting*. Retrieved on 25 April 2025 from https://www.1news.co.nz/2025/02/27/council-workers-face-increasing-abuse-threatening-behaviour/

[19] Frethey, M. '*Abuse towards council staff continues to grow*'. *Local Democracy Reporting.* Retrieved on 25 April 2025 from https://www.1news.co.nz/2024/07/09/abuse-towards-council-staff-continues-to-grow/

[20] Hanne, I. '*Stratford District Council staff face increase in abusive behaviour from members of public*'. *Stratford Press*. Retrieved on 25 April 2025 from https://www.nzherald.co.nz/stratford-press/news/stratford-district-council-staff-face-increase-in-abusive-behaviour-from-members-of-public/Z7F3E2YWXNGQBDVF6DVXTSE3FI/

[21] Jones, C. '*Violent threats and abuse rated as biggest risks to council staff*'. *Local Democracy Reporting*. Retrieved on 25 April 2025 from https://www.rnz.co.nz/news/ldr/431159/violent-threats-and-abuse-rated-as-biggest-risks-to-council-staff

[22] Link to section 14, Bill of Rights Act 1990

[23] Link to Ombudsman website Managing unreasonable complainant conduct guide

[24] Link to Ombudsman website Frivolous, vexatious and trivial: A guide to section 18(h) of the OIA and section 17(h) of the LGOIMA

We suggest the Council publish its LGOIMA policy once it is finalised. In addition to being a sound demonstration of openness, there are other benefits to be gained from publishing official information policy. For example, where agencies have clear and reasonable policies articulating their approach to considering requests for urgency, charging for the supply of information, and dealing with vexatious requests or challenging requesters, they will be less vulnerable to criticism when they apply these policies.

The Council does not have a guidance document on technical aspects on the application of the LGOIMA. Council staff said that that they refer to Ombudsman guidance when questions arise and we, of course, support using these resources. However, it is also of benefit for agencies to have their own, bespoke guidance. This allows for agencies to tailor guidance to their specific context. For example, Councils often have internal policies and procedures that need to be considered in conjunction with LGOIMA obligations—bespoke guidance can bridge the gap between the two. Councils may also have specific public interest considerations that must be weighed when determining whether to release information. Bespoke LGOIMA guidance can help staff weigh these considerations appropriately.

LGOIMA guidance can also be integrated into staff training programmes.

Action points
Review and update LGOIMA policy incorporating our suggestions, and publish LGOIMA policy once it is updated.
Develop LGOIMA guidance for staff.

LGOIMA and record keeping guidance for elected members

In addition to training, it is important that councils have guidance resources available to elected members to assist in understanding their obligations in relation to official information, Meeting and workshops. This supplements and reinforces training and is an ongoing reference so elected members do not have to rely solely on their recall of training throughout their tenure. Guidance should include clear detail around how elected members are expected to interact with the Council to request information necessary to perform their role.

The Council has a number of guidance documents and material for elected members which it provided in support of this investigation. This includes:

- Information Requests – Guidance for elected Members.

- Elected members' handbook.

- Code of conduct.

- Record keeping advice for elected members.

The *'Elected members' handbook'* is intended to be an exhaustive guide on how elected members navigate their roles and responsibilities. It covers a broad range of topics, from purely operational matters (such as where pigeon-holes for incoming mail are located), to

principles of good governance; details of the elected member Code of Conduct; and conflicts of interest. The version provided is from 2022 and we note that this includes outdated information about workshops. As we will discuss under *Workshops*, the Council's workshops are now open by default and notes are taken in workshops. The elected members' handbook should be updated to reflect current practice. We are pleased that the handbook highlights the fact that decisions cannot be made in workshops.

The *'Information Request Guidance'* focuses on how elected members can request information from the Council, beginning with the channels through which elected members are able to submit information requests. It is important that this is clear so information can be provided as soon as possible, and so that requests are directed to the appropriate staff. Elected members can submit requests for information to the Chief Executive, and to two separate email addresses.

If an elected member wishes to speak to a subject matter expert (SME), this request can be directed via the Executive Assistant to the relevant business unit. We consider this is appropriate. Some elected members may prefer to have unlimited access to staff, however, whether it is their intention or not this may place staff in a position where they may feel unduly pressured to supply information to elected members to which they may not be entitled. It is important that elected members adhere to guidelines set out by the Council in this respect and we expect the Chief Executive to ensure they do, and to intervene if they do not.

The Council highlights the principle of availability in its '*Information Request Guidance'* for elected members, which is positive.

The '*Information Request Guidance'* also states that elected members have a common law right to access information that is reasonably necessary to enable them to perform their duties as Council members. As we discussed earlier under *LGOIMA policy and guidance*, it may aid clarity if the guidance is updated to note that the onus is on elected members to show that information requested under the 'need to know' principle, is necessary to allow them to perform their role. In the section titled *'Grounds for withholding or refusal'* it may be of benefit to include information about how LGOIMA section 7(1) public interest considerations, factor into decision making.

The *'Record keeping advice'* provided to elected members is a one-page fact sheet produced by the Association of Local Government Information Management.[25] This provides a succinct overview of record keeping obligations for elected members, highlighting the requirements in the Public Records Act 2005 about storing and maintaining official information, and linking this to the ability to retrieve information when requested under the LGOIMA.

It may be useful for the Council to augment its record keeping guidance for elected members to ensure its approach to records of Council information kept on personal devices and in personal email and/or social media accounts, is clear. One elected member survey respondent

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[25]   See Record keeping advice for elected members on Queenstown Lakes District Council website

noted *'…the line between what we hold in our official capacity vs a personal capacity can be a bit blurry and the guidance we've had on that has been extremely limited.'*

Action points
Review and update Elected Member handbook to reflect current workshop practice.
Review and update Information Request Guidance incorporating our suggestions.
Ensure there is guidance for elected members about council information kept on personal devices and in personal email and/or social media accounts.

Proactive release policy

Local authorities have a statutory requirement under the LGA to release a range of information about their work, including Long-Term Plans, Annual Plans and Annual Reports.[26] Under the LGOIMA there are requirements to release information about Meetings held under Part 7 of the Act, including agendas and minutes. Releasing information about the work being done is crucial for councils to build public trust, and helps residents to meaningfully participate in decisions about the future of their district.

In addition to releasing information as required under the LGA and Part 7 of the LGOIMA, we are pleased that the Council also proactively releases responses to some LGOIMA requests. This practice is underpinned by a proactive release policy. While we commend the Council for developing a policy, we note that it may benefit from some clarity around its scope, and some additions.

The scope of the proactive release policy is unclear. Although it is defined as applying only to *'…any LGOIMA response deemed appropriate for release',* it later goes on to discuss the proactive release of information not subject to a LGOIMA request. We expect that agencies have a broad proactive release policy and for that reason, as well as for the sake of clarity, we suggest the Council reconsider and re-define the scope of the policy.

In relation to the publication of LGOIMA requests, the policy states that *'(a)ll LGOIMA responses deemed appropriate for release'* will be published on the council's website. There is no guidance on how LGOIMA requests are *'deemed appropriate'* (or inappropriate) for release, and who is ultimately responsible for making this decision. The policy should include this information (or refer to whatever guidance exists in relation to decision making on the publication of LGOIMA responses).

In a broader sense, and assuming the Council intends for its policy to apply to more information than just LGOIMA responses, we consider the policy could also benefit from greater specificity about the type of information intended for release. This could include:

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[26] See Local Government Act 2002

- background papers, research reports, options, and consultation documents related to current or planned work programmes;

- internal rules and policies, including rules on decision-making and rules on the proactive release of information; and

- after an appropriate passage of time, minutes from closed workshops, and closed Meetings and parts of Meetings.[27]

In relation to the latter point, the Chief Executive noted in his meeting with the former Chief Ombudsman, that the Council's practice around re-visiting information heard in closed Meetings and workshops and releasing information when it becomes appropriate to do so, is a recognised area for development. The Council advised, during the course of this investigation that it is developing processes around releasing information heard in closed workshops and Meetings, including the timeframes within which information will be revisited, and who is responsible for reviewing and releasing the information. We consider these should be incorporated into the proactive release policy, and the policy should be published once it is finalised.

Responses to the survey of the public indicate that there is an appetite for the Council to proactively release a greater range of information about the work it is doing, particularly in relation to how and why decisions are made and how public monies are spent. Below is a sample of responses to the question '*Are there any actions or practices you would like the agency to implement in relation to openness and transparency?*'

> *Actually tell us what is going on in the region, what the plans are etc.*

> *Provide logical reason to the decisions being made.*

> *Regular quarterly or half yearly reviews of QLDCs performance against the strategic plan, including financials.*

> *Improved transparency of analysis of options presented.*

> *Open the books. Publish all meeting minutes, non-redacted. Explain giving the CEO a huge increase in salary especially as his KPIs are kept secret. No more workshops without public.*

> *Summaries of complex documents such as the long term plan so people can easily see major spending issues. There is no information on operational costs that go significantly beyond budget and why, or explanations of why Council don't put the brakes on projects that are ballooning out of control. It is unclear how Council is intending to reduce our huge debt. And no explanation when spending decisions are made as to how these impact rates increases.*

> *Show and explain how services are charged for.*

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[27] When and if the harm in releasing the information no longer applies, or it has become outweighed by the public interest in release.

Listen to the rate payers, be transparent in contracts and remuneration.

Summarising proposed changes that have a financial impact and communicating them to ratepayers in advance, not hiding them in the long term plans.

Develop and publish a Proactive Disclosures protocol…This would include categories such as disclosures about meetings, capital works, regulatory matters (such as the public health crisis due to water contamination last year in Queenstown), Council's own commercial and development activities and the like.

KPIs for key people in the organisation and the decision making process behind big decisions they are making in the community.

We encourage the Council to consider what it can do to ensure the information it releases fits the needs of residents and incorporate this into its proactive release policy. This should be linked to its Significance and Engagement Policy and LGOIMA policies, in order to develop an overarching strategic framework which promotes public engagement and access to information.

Action points
Review and update proactive release of information policy incorporating our suggestions, and ensuring alignment with the needs of residents. Publish this proactive release policy when finalised.

Resources for Meetings and workshops

The Council has a comprehensive suite of guidance and resources to assist staff who prepare reports for Meetings and/or material to be presented at workshops. Materials provided to my office for review within this investigation include the Council's:

- agenda report template;
- report writing checklist;
- guide to preparing and presenting council reports;
- guide to excluding the public from Meetings and workshops;
- guide for reports for council decision making;
- a workshop cover sheet;
- a workshops presentation, which introduced the new approach to open by default workshops; and
- workshop framework.

When writing a report to be heard in a council Meeting, the Council requires authors to include an assessment of any harm that may occur if the information is heard in a public Meeting, and weigh any countervailing public interests in making the information public. Elected members

ultimately decide whether an item is heard in a public excluded Meeting, incorporating the report author's view as subject matter expert, into their decision.

The Council's report template prompts authors to list the section and grounds of the LGOIMA they consider provides good reason to exclude the public. In the field titled *'Reason for this recommendation'*, the template gives the brief prompt '*[free text to include public interest consideration]*'. We understand these prompts are intended to be brief and are complemented by fuller guidance which we will discuss below. However, the Council may wish to consider whether it would be beneficial to expand on these prompts, perhaps including a reminder that section 7(2)(f)(i) of the LGOIMA is not an applicable reason to exclude the public from Meetings, and that s 7(2) withholding grounds must be weighed against public interest considerations in releasing information.

It may also be useful for the author's recommendation to include an indicative date or circumstance in which information may be released, for example where section 7(2)(h) of the LGOIMA applies, information may be able to be released at the conclusion of negotiations.

The same suggestions above, also apply to the Council's report writing checklist.

The Council has three thorough guides to report writing, including one dedicated to the conditions under which the public might be excluded from Meetings. We commend the Council for making these comprehensive resources available for staff, and have only minor suggestions for improvement. In the guide titled *'Preparing and presenting Council reports'*, in the section titled *'Public excluded'* the Council may wish to add that section 7(2)(f)(i) of the LGOIMA is not an applicable reason to exclude the public from Meetings. It may also wish to add that reasons in section 7(2) of the LGOIMA for withholding information may be outweighed by countervailing public interest considerations in making information available. If the public interest in the information being heard in an open session outweighs the reason(s) to hear the information in a public excluded session, it should be heard in a public Meeting.

The guidance titled *'Guide to excluding the public from Meetings and workshops'* is commendably thorough and, unlike the document discussed above, it does set apart section 7(2)(f)(i) of LGOIMA, stating that this section *'may not be used to exclude the public given the core principle of open and transparent debate and accountable decision making.'* It also provides a good explanation of the relevance of public interest considerations:

> *Also consider the public interest in the matter. Public interest does not mean 'interesting to the public'. It means the issue is one of legitimate public concern. There are many factors that influence public interest such as the information itself, the context in which it is being considered, what stage of a process is it at, does it relate to the expenditure of public money, etc. Take time to familiarise yourself with the guide to the public interest test from the Office of the Ombudsman (see link in Useful Resources). If the public interest is outweighed by the reason for excluding the public, include that information in your recommendation for completeness.*

We would like to see this guidance specify the consequence if the public interest in hearing the information in a public session outweighs the harm in releasing it. In such a case, the information should be heard in a public Meeting.

Both the *'Guide to excluding the public from Meetings and workshops'* and the *'Workshop cover sheet'* suggest that workshops operate under the LGOIMA in the same manner as Meetings, in terms of the conditions for excluding the public. The Council may have made a conscious decision to operate closed workshops on the same lines as Meetings. This may be a good starting point, as it provides a consistent framework for staff to make recommendations on public exclusion. However, for accuracy, it should be made clear that the Meetings provisions in the LGOIMA do not specifically apply to workshops.[28]

Even so, the requirement under the LGA to *'conduct…business in an open, transparent, and democratically accountable manner…'*[29] applies to all aspects of council business. Decisions on closing workshops must therefore be made reasonably, and reasons for closure may be tested by my Office, in response to a complaint.

Action points
Review and update resources for Meetings and workshops incorporating our suggestions.

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[28] The Council should be aware that the protection of privileged oral statements at local authority Meetings provided by s 53 of the LGOIMA, also does not apply to workshops.

[29] Section 14(1)(a)(i) of the LGA.

Current practices

The effectiveness of LGOIMA is largely dependent on those who implement it on a day-to-day basis and how they apply the resources available to them to manage the realities of giving effect to the Act.

To assess the current practices of the Council we considered whether:

- the Council's practices demonstrate understanding and commitment to the principle, purposes and requirements of LGOIMA;

- Council staff have a good technical knowledge of LGOIMA; and

- the Council is coping with the volume and complexity of its LGOIMA work and is compliant with the Act.

Proactive release of information

In order to participate meaningfully in democratic processes—including elections and consultations—residents must have access to relevant, timely information about work the Council is doing. Councils provides access to information through open workshops and Meetings; responding to LGOIMA requests, and proactively releasing information.

As discussed earlier, under _Public perceptions of the Council's openness_, some members of the public who responded to my online survey expressed concerns about the Council's openness and transparency, particularly in relation to the sufficiency of information released about how and why decisions are made and financial implications of decisions.

Through the course of this investigation, the Council advised me of its advancing practice in the proactive release of information. At the time of writing this report in April 2025, the Council provided me with a new document it has developed outlining procedures for reviewing and releasing material previously held in public excluded Meetings and workshops. This appears to provide a good framework for reviewing publicly excluded material and making a decision on its release, when applicable. I commend the Council for taking this step.

It is important that practices are underpinned by sound policy, as discussed earlier under _Proactive release policy_.

Information requests handled by the LGOIMA team

Overall, there is much to commend the LGOIMA team and the broader organisation for, in terms of LGOIMA handling practice. The practices we saw in LGOIMA sample files show a good understanding of the Act, and a commitment to meeting timeliness obligations.

It was clear from interviews with staff that the LGOIMA team is held in high regard within the Council. This is likely due, in part, to the professionalism of the LGOIMA team, and in part the result of positive messaging from senior leaders about the importance of the LGOIMA. The high standing of the LGOIMA team is relevant because it can impact LGOIMA compliance.

In a centralised model, there must be cooperation between business units and the LGOIMA team. LGOIMA compliance can be compromised if business units do not provide the LGOIMA team with all information they hold in the scope of LGOIMA requests. LGOIMA Advisors are responsible for collecting information from relevant business units and sometimes 'chasing up' when that information is not provided quickly. That path is smoother when SMEs respect the LGOIMA role, and understand that LGOIMA compliance is also a core part of their job, as opposed to a burdensome activity they are doing to 'assist' the LGOIMA team.

At the Council, LGOIMA Advisors conduct an initial search for relevant information within the scope of the request, and also contact relevant business units to seek any information they hold. This method of 'double-checking' is a good way to ensure all information relevant to a request has been identified.

The LGOIMA sample files we saw also provided an example of a LGOIMA Advisor asserting the need for a business unit to provide all information it held so it could be reviewed by the LGOIMA team. It is important to note that the business unit in this case was not attempting to obfuscate, it was simply offering its advice on withholding grounds, and it is appropriate for business units to do so. However, it is good to see that the LGOIMA team is not afraid to stand assertively in its expertise. This also speaks highly of the support they receive from Democracy Services team management and senior leaders which gives them the confidence to do so.

Withholding information

Section 18(a)(i) of the LGOIMA requires that local authorities give the requester the reason for withholding information. Often, agencies fulfil this requirement by giving the section number of the reason relied on, and the wording given in the legislation. Better practice is to provide, in addition to this, a plain English reason with direct reference to the specific issue.[30] We saw several examples of good practice when communicating to requesters where information was withheld from LGOIMA responses. In the sample files we saw, the Council demonstrated good practice in this area, routinely offering as much information as they could about the precise nature of the harm without, of course, revealing the information.

These were not the only examples we saw of the Council going further than legislation immediately requires. Another noteworthy example was the Council advising a requester that although it had a conclusive reason to withhold information at the time the request was made, it was open to reconsidering the release of information at a time in the future when there is no longer a harm. I commend the Council for this practice which demonstrates a good understanding, and a commitment to the purposes of the LGOIMA. To advance its practice further, the Council may consider keeping a record of LGOIMA requests such as this, which involve withholding information for a time-based harm/reason, and proactively releasing the information when the harm no longer applies. A proactive release policy could help guide this practice, which was discussed earlier in *Proactive release policy*.

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[30] Noting that while in all cases the reason for refusal must be given, under section 18 of LGOIMA when the requester asks, the grounds in support of that reason must also be provided.

Record keeping of the LGOIMA handling process

It is important, for a number of reasons, for agencies to keep comprehensive records around decision making on LGOIMA requests. Doing so:

- will enable the agency to provide grounds in support of its reasons for refusing a LGOIMA request, if they are sought by the requester;[31]

- will enable the agency to more easily and accurately respond to an Ombudsman in the event of an investigation of a complaint; and

- provides an opportunity to create a repository of knowledge about how the agency makes decisions on LGOIMA requests, thereby developing a consistent approach. (I discuss this further below, under *Performance monitoring and learning*).

Based on the sample files we saw, it appears that record keeping of written correspondence, mostly in the form of emails, is good. Record keeping of spoken interactions, however, appears less consistent. We saw several instances where emails kept in the LGOIMA file referenced having discussions with colleagues about a response to a LGOIMA request, yet there was no file note detailing the discussion and outcome. We remind the Council that, in accordance with section 17 of the PRA,[32] agencies '*must create and maintain full and accurate records of (their) affairs, in accordance with normal, prudent business practice…*'. In the LGOIMA handling context, this means agencies should ensure they create notes of substantive meetings and discussions where those relate to the agency's decision making on a LGOIMA response.

It is also good practice to file note summaries of the decision making processes, particularly on complex requests. This should include a record of how the public interest in releasing information was weighed against reasons to withhold it. This information can then be incorporated into future LGOIMA training and guidance for staff; and, it is easier to provide reasons for the Council's decisions if requested under s 18(a)(ii) of the LGOIMA, or by my Office in the context of a complaint investigation.

Action points
Ensure records are kept of substantive discussions on LGOIMA requests.
Where necessary, keep a summary of the decision making process on LGOIMA requests which should include consideration of s 7(1) public interest considerations.

Timeliness compliance

According to the Council's LGOIMA performance reporting, which we will discuss further under *Performance monitoring and learning,* the Council makes and communicates its decision to

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31 See s 18(a)(ii) LGOIMA.

32 See s 17 Public Records Act 2005

LGOIMA requesters within 20 working days—being the maximum allowable timeframe under the LGOIMA—with a 97 percent success rate.

In all LGOIMA samples files we reviewed, Advisors began working on the request shortly after receipt. It is self-evident that beginning work on a LGOIMA request as early as possible makes it more likely a local authority will be compliant with LGOIMA timeliness obligations. It also indicates sufficient capacity, showing that Advisors are not so overrun with other requests that they cannot address new requests immediately or soon after they are received.

The Council's LGOIMA timeliness rate is assisted by its request management tool. This provides a live dashboard, visible to the Democracy Services team, which shows the progress of LGOIMA requests and the length of time until they are overdue, based on the maximum 20 working day timeframe. We are advised the LGOIMA Advisors and Democracy Services management have twice-weekly 'catch-ups' to discuss any issues with LGOIMA requests. In these meetings they can review and escalate LGOIMA requests which are close to becoming overdue.

We noticed a practice of LGOIMA Advisors sometimes putting the 'due date', (being the maximum allowable date under the LGOIMA to make and communicate a decision) in the subject line of internal emails to SMEs when requesting information and discussing the response. This was not done in every case, but it appears an easy and efficient way to keep involved parties focussed on timeliness. We note though, that *'as soon as reasonably practicable'[33]* is the primary timeliness obligation in the LGOIMA, while acknowledging this is a difficult target to ascribe a date to.

Extensions

Based on the sample files we saw, the Council appears to have generally good practice around its use of extensions under the LGOIMA. This likely reflects good training on the appropriate use of extensions, which was discussed earlier, under *LGOIMA training for staff*.

Poor practice in relation to the use of extensions may include extending the timeframe of requests for an arbitrary (and lengthy) period rather than based on consideration of the time reasonably needed to make a decision; and extending the timeframe to communicate a decision on requests for reasons that are not valid under the LGOIMA. Not only is this a breach of the LGOIMA, it also skews agencies' reported timeliness statistics. As a result, the public does not get a true sense of agencies' LGOIMA compliance, and, issues with agencies' LGOIMA practice are concealed from the agency's senior leaders, who cannot fix a problem they cannot see.

The sample files we reviewed showed no such issues. We saw variable timeframes given for extensions which appear based on genuine consideration of how much time was needed to make a decision, as opposed to a 'blanket' 20-day extension. We also saw an example of a LGOIMA Advisor challenging a SME who requested the timeframe of a LGOIMA request be extended due to the pressures of their workload, advising that a valid reason under the LGOIMA must be provided.

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[33] See s 13(1) of the LGOIMA.

Sign out processes

Agencies typically have a process for reviewing and signing out LGOIMA responses in order that basic reviews for spelling grammar and 'sense-checking' occur, along with a review of information for release by the designated decision maker on the request, who should also be the signatory. Some agencies may also consider it necessary for their Communications team to review responses where, for example, they may attract media interest. Agencies must ensure review and sign out processes are balanced against the requirement under the LGOIMA to make and communicate decisions on requests as soon as reasonably practicable.

The Council's LGOIMA review process requires every LGOIMA response to be reviewed and approved by the Democracy Services manager. Typically they are signed by either the Democracy Services manager or the Group Manager of the relevant business unit. In all cases we saw, responses were approved swiftly by a delegated decision maker. The Council's delegations register shows who is authorised to sign LGOIMA responses on behalf of the Chief Executive and this register is published on its website.[34]

Overall, it appears there is an appropriate (and not excessive) level of review of LGOIMA responses. It was also good to see the Council employing a pragmatic approach to sending straightforward LGOIMA responses swiftly, sometimes just by email without an accompanying letter. While most LGOIMA responses were sent with a letter, this is not always necessary, especially when there is no need to accompany the response with additional, contextual information. This layer of formality can be time-consuming and it is not required by the LGOIMA.

Complaints data

We also reviewed complaints data from my Office during the period of this investigation for indicators as to the Council's LGOIMA practice. While the LGOIMA sample request files provided by the Council showed a good understanding of the Act, some LGOIMA complaints considered by my Office over the same time period demonstrated some issues.

The former Chief Ombudsman notified the Chief Executive of this self-initiated investigation into LGOIMA practice in September 2024. Within the reporting period beginning 1 July 2024 until the time of writing this report in May 2025, my Office has closed ten grounds of complaint made against the Council by LGOIMA requesters. Of these, five resulted in a final opinion being issued, and four of these (80 percent of the final opinions), resulted in an administrative deficiency by the Council being identified and a recommendation made. These were instances where the withholding ground relied on by the Council was not upheld on review, and it was recommended the Council release information to the requester/complainant, and/or review its original decision.

Although the number of complaints closed in the current reporting period is low, the percentage of findings made against the Council is disproportionately high. In the two other councils under investigation, in the same reporting period, the proportion of LGOIMA final

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[34] Link to QLDC website Register of delegations

opinions where an administrative deficiency was identified is 38 percent. Across all other councils in New Zealand in the same reporting period, it is 50 percent.

Considering the evident knowledge and skill of the Council's LGOIMA team and what appears to be an organisation-wide commitment to the importance of the LGOIMA, it was disappointing to see this contrast.

The former Chief Ombudsman discussed the outcomes of some of these complaint investigations with the Chief Executive. He acknowledged the Council *'in the past may have been overly sensitive'* in responding to some LGOIMA requests, particularly where it was considered that information, if released, might be used against the Council, or misrepresented. While we understand the Council's concern about reputational risk, this on its own is not a valid reason under the LGOIMA to withhold information. The Council acknowledged and agreed with this in its response to my provisional opinion.

We encourage the Council to learn from the outcome of Ombudsman investigations to help ensure mistakes are not repeated. The Chief Executive said the Council wants to ensure it embeds lessons from complaint investigation outcomes into its practice. This should include discussing the outcomes of LGOIMA complaints in the monthly Democracy Services team training sessions, and including examples of outcomes of LGOIMA complaints both for and against the Council as exemplars in LGOIMA guidance.

Action points
Ensure results from reviews such as Ombudsman investigations are incorporated into LGOIMA team training and into LGOIMA guidance.

Information requests handled by the Communications team

A request to a local authority for information the agency holds[35] is, by definition, an official information request.[36] This means the request for information must be handled in accordance with the LGOIMA, irrespective of who is making the request or whether it is submitted to the Communications Team, the Democracy Services Team, or any other part of the agency.

The Council's Communications team is responsible for handling the majority of requests for information received from members of the media. However, some requests, such as those which are appear complex or are likely to require consideration of withholding grounds, are transferred to the LGOIMA team.

The Council provided a sample of media information requests handled by the Communications team, for our review. In the sample files we saw, media information requests were answered

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[35] Media Teams also field requests for the agency to generate fresh comment on an issue, and requests to interview officials. Requests of this type are *not* covered by the OIA as they are not requests for information *already held* by the agency.

[36] With some exceptions detailed in section 2 of the LGOIMA; and information requests for personal information made by that person or their authorised representative, which are considered under the Privacy Act 2020.

very quickly—typically within only a day or two. Where the Communications Advisor needed information from SMEs in order to answer requests, this was provided quickly. This demonstrates a positive culture around responding to media requests.

However, we saw some practices which appear to show that media information requests are not always considered with LGOIMA compliance in mind. LGOIMA compliance refers not only to timeliness obligations but also providing reasons where information is withheld, and providing recourse to the Ombudsman where necessary.

We saw several examples of the Council refusing media information requests without providing the reason under the LGOIMA and without informing the requester of their right to make a complaint to me, as required by sections 18(a)(i) and 18(b) of the LGOIMA.[37] In several instances the Council did not state its refusal outright, but rather gave a vague response instead of a specific answer. For example, in a request for the timeframes attached to a project, the Council answered that it looked forward to providing more details 'in due course'. This is not an acceptable answer and it is unlikely a request handled by the LGOIMA team would be answered in the same way. This is a concern because it indicates that the Council does not necessarily view media information requests as LGOIMA requests. They are.

We understand that responses to media information requests may be dealt with in short timeframes in accordance with journalists' deadlines. However, media information requests are LGOIMA requests and there is no justification for failing to adhere to LGOIMA requirements when refusing information, which are not onerous. It is my opinion that the Council has acted contrary to legislation by not always meeting its legal obligation under section 18 of the LGOIMA to provide the reason when a request is refused and to advise the requester that they can make a complaint to me.

In its response to my provisional opinion, the Council advised that it was *'willing to amend its practices'* and that it has already begun discussing this with its Communications team. Further, the Council said that its Communication team:

> *(a)longside the LGOIMA team will be developing appropriate guidance and templates to ensure that any refusal is worded in accordance with the Act and clearly references the relevant section(s). Alongside this QLDC is happy to include a reference the Ombudsman's website in such responses should the requester wish to raise a complaint about the decision.*

In light of the Council's response, I consider it unnecessary to make a recommendation. We are pleased that the Council is beginning to take these steps to enhance its practice when responding to media information requests, and we look forward to following its progress over the coming months.

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[37] See s18 of the LGOIMA.

Meetings

Accessibility

The Queenstown Lakes District has a population of approximately 52,000,[38] with townships in:

- Arrowtown,

- Frankton,

- Gibbston

- Glenorchy

- Kingston

- Hāwea

- Luggate

- Makarora

- Queenstown; and

- Wānaka

Some public survey respondents expressed that it was difficult for them to attend Council Meetings and workshops.

> *Often held in Queenstown which can be difficult for Upper Clutha Residents. To speak to submissions, Upper Clutha residents have been required to travel around 1.5 hours to Queenstown for a 3 minute slot, with video links being refused.*

> *They seldom hold meetings in Lake Hawea, the times are never convenient time for the majority of the residents (Eg held during business hours when the majority of Hawea residents work in Wanaka)*

> *The livestream is great when it is operating but it appears to be inconsistent - some meetings have it, others don't - also meetings held at the Wānaka premises can't be heard on the livestream. I've stopped attending.*

> *Council covers large area so access to meetings is not that easy and when you do attend no welcome etc you feel as though you shouldn't be there.*

> *Meetings are almost always held in Queenstown and necessitate people in Wanaka and Hawea having to take time off work to travel 3 hours to Queenstown and then are only given three minutes to talk. Zoom options are made very difficult and not easily facilitated.*

> *They should be available by live link over the internet. We are disabled but engaged.*

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[38] Link to Infometrics website https://rep.infometrics.co.nz/queenstown-lakes-district/population/growth

Meetings are not held anywhere near our location and therefore we cannot attend.

We were prevented from making a public submission via Zoom at a full QLDC meeting in 2023 about intensification of our area. We were representing the Hāwea Community Association and told I could attend in person to speak for 3 mins. The journey would involve a three hour round trip to Queenstown, time and costs for parking (parking is difficult to find and expensive near the Council offices), and over 3 hours of lost time as a self-employed person. Despite previous submissions for the annual plan earlier in the year being via Zoom, the CEO and Mayor of QLDC decided I couldn't do the submission via Zoom on this occasion.

The Council has advised me that it is aware of this issue and it is taking steps to ensure access to Meetings for its constituents. Staff spoke about the Council's developing practice in this area, noting that they have begun conducting more Meetings outside Queenstown—in Wanaka, Arrowtown and Cardrona—in order to increase their accessibility to the public. The Council also livestreams all Meetings of full council on its YouTube channel.

Public forums

A public forum is an opportunity for members of the public to speak directly to elected members. They can voice concerns about proposed projects, or bring a new matter to elected members' attention. According to the Council's Standing Orders,[39] 30 minutes are set aside at the start of all ordinary Meetings to allow speakers to address elected members for up to three minutes. As discussed earlier, under *Messaging to the public*, members of the public who wish to speak in a public forum must register to do so, by completing a registration form on the Council's website.

There is no legislative obligation under either the LGOIMA or the LGA to hold public forums in conjunction with Council meetings. However, there is the general principle in section 14(1)(b) of the LGA that '*a local authority should make itself aware of, and should have regard to, the views of all of its communities*'.[40] Holding public forums appears a good way of adhering to this principle, in addition to conducting public consultations as required by the LGA and any other enactments.

Some respondents to the public survey from communities distant from Queenstown, were concerned about the accessibility of public forums. Accessibility may also be a concern to those with limited mobility. It is important that no person who wishes to address elected members is precluded or discouraged from doing so due to inaccessibility. The LGA requires '*that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons*'.

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[39]   Link to QLDC website - Standing Orders

[40]   Link to LGA

The Council advised us that historically, it allowed only in-person attendance to speak at a forum. However, more recently, it has made remote attendance for public forums available. This extends to securing rooms in Council offices where video linking equipment is available, to enable participation for those who cannot join from their homes.

The decision to grant a request to attend a public forum remotely, sits with the Mayor as a matter of discretion. As an alternative to hearing the speaker, The Mayor has, on occasion, allowed a written statement to be read out on the requestor's behalf. Reasons why the Mayor may decline to hear a speaker are outlined in Standing Orders.

The Council's approach to holding public forums before extraordinary Meetings is not explicitly set out in its Standing Orders. In a recent instance of an extraordinary Meeting, the Council declined to offer a public forum, referring to an approach set out in the LGNZ Guide to Standing Orders which states that *'Public forums should not be held prior to an extraordinary hui.'[41]*

While we are expressly not investigating the reasonableness of that particular decision here, the Council may wish to consider updating its Standing Orders around public forums at extraordinary Meetings, giving consideration to the principles in the LGA set out above, which would appear to support (but do not mandate) holding public forums before extraordinary meetings. The likely intention of the LGNZ Guide is to limit general discussion prior to extraordinary Meetings which are held to deal with extraordinary and specific issues. However, it may be reasonable to hold a public forum prior to an extraordinary Meeting which allows elected members to hear the views of the community on the issue at hand.

In its response to my provisional opinion the Council advised that it:

> *…is in the process of reviewing its standing orders. A public workshop has been scheduled on 17 June (2025) to facilitate elected member discussion and feedback, and the matter will be considered formally for adoption at a Council meeting on 17 July. We are happy to include the matter for consideration by the elected members through that process.*

Action point
Consider updating Standing Orders around public forums at extraordinary Meetings, giving consideration to the principles in s 14 of the LGA.

Public excluded Meetings

Respondents to the staff survey indicated there is an evolving and improving approach to holding items in public excluded Meetings:

> *I think we have got 'used' to certain items being PX* [public excluded] *without actually thinking about the reasons why this is the case. This is gradually changing*

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[41] Link to LGNZ website, Guide to the LGNZ 2025 standing order templates at page 34

and people are starting to be more challenging about the reasons for an item being PX.

I think our systems works well. We always have to have very clear grounds for PX, and the governance team assess our reasons and test them when necessary.

We have recently reviewed our approach based on recommendations and re-evaluated the report content. If draft reasons are not considered appropriate by our Governance team, they will seek more clarification or refuse a request for a PX item.

The Chief Executive spoke to the former Chief Ombudsman about the Council's approach to public excluded meetings. He spoke of instituting new processes *'so we're much more deliberate about when we publicly exclude, and …we're much clearer about the reasons we use to publicly exclude.'* He gave an example that the Council would, where possible, put forward a 'dual report' to a Meeting. This might allow, for example, members of the public to hear details in a Meeting about a proposed project, with privileged information—such as the amounts of tendered bids—split off from the public discussion to be heard in a public excluded session. We commend the Council for this practice.

Earlier, under *Resources for Meetings and workshops*, we discussed some of the material used to put forward reports to be heard in public excluded Meetings. There is a robust process of review that takes place when a report author suggests an item is heard in a public excluded session. Democracy Services Advisors review the proposal, drawing in the Democracy Services manager if necessary, to ensure the reasons for excluding the public align with the LGOIMA. The team will challenge the recommendation to exclude the public if it is not satisfied the reason is valid.

The final decision on hearing an item in a public excluded session is made by a vote of elected members. This is one of the reasons it is important that elected members receive sufficient training on the LGOIMA, which we discussed earlier, under *LGOIMA training for elected members*.

We reviewed a sample of recent resolutions to exclude the public from Meetings, and minutes from those Meetings. We were pleased to note that all resolutions we saw to exclude the public contained not only the relevant section number and the wording from the LGOIMA, but also the Council's plain-English explanation of the apprehended harm. This aligns with the same good practice we saw in explaining withholding grounds in responses to LGOIMA requests, as discussed under *Information requests handled by the LGOIMA team*.

There may be information heard in public excluded Meetings which requires indefinite protection. However, much if not most information may eventually be able to be released and/or circumstances may evolve such that the public interest in releasing information increases, outweighing the apprehended harm in releasing it. As discussed earlier, under *Proactive release policy*, it is important that the Council develop a clear policy around revisiting and, where appropriate, releasing information heard in public excluded sessions.

Workshops

Local Government New Zealand (LGNZ) describes workshops in its *Guide to the 2025 LGNZ standing orders templates*,[42] in the following way:

> *Workshops are best described as sessions where elected members get the chance to discuss issues outside the formalities of a council meeting. Informal hui can provide for freer discussions than formal meetings, where standards of discussion and debate apply, such as speaking time limits. There are no legislative rules for the conduct of workshops, and no legal requirement to allow the public or media access, although it is unlawful to make decisions at workshops or briefings where the LGA and LGOIMA requirements have not been satisfied.*

As discussed earlier, in *Public perceptions of the Council's openness*, the Council amended its practices around workshops in response to the former Chief Ombudsman's 2023 report, *Open for Business*.[43] Prior to this, the Council's workshops were closed to the public by default. From March 2024, the Council's workshops have been open to the public by default. In his discussion with the former Chief Ombudsman, the Chief Executive estimated that *'Ninety-five to 98 percent of our workshops are now open.'* We commend the Council for making this change. Holding workshops that are open by default is consistent with one of the key purposes of the LGOIMA, being to increase progressively the availability of official information in order to promote accountability and enable more effective participation by the public in the actions and decisions of local authorities.[44]

Adopting a default approach to open workshops does not mean that *all* workshops are open; there are times when it may be reasonable to close a workshop. As discussed earlier in *Public perceptions of the Council's openness*, some members of the public have concerns about the Council's use of closed workshops. While the Council's new approach of opening workshops by default will likely improve that perception over time, it is almost inevitable that there will be a need to close workshops on occasion. Where closed workshops are held, it is important that their occurrence is publicised. This is so the public is aware the workshop occurred, allowing them to request information under the LGOIMA about the workshop.

In response to the online surveys, some staff and elected members said that record keeping at workshops has not always been an area of strength for the Council. An elected member said:

> *Workshops are not minute-d and the councillor discussion is not captured. Detailed minutes are required because there is no recording of workshops.*

Based on discussions with staff and on material published on the Council's website, it appears that better practice is developing in this area. Council staff advised my investigators that there is now a Governance Advisor present at all workshops, whether open or closed, to take notes.

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[42] Link to LGNZ website, Guide to the LGNZ 2025 standing order templates

[43] Link to the Office of the Ombudsman website, Open for business report

[44] Link to s 4 of the LGOIMA

If information heard in closed workshops (or Meetings) is consistently withheld indefinitely, it is likely to breed suspicion. Accordingly, we expect Councils to have robust practice and policy around not only record keeping in workshops; but also revisiting and reviewing information which has been previously withheld, and releasing it where a harm no longer exists, or the harm is now outweighed by the public interest in release. We suggest the Council incorporate this into its *Proactive release policy*, as discussed earlier in the section of the same name.

The Council may also wish to consider recording closed workshops, especially where it seems likely information heard in the workshop will have no need for indefinite protection.

The date, time and location of upcoming public workshops are available on the Council's website, though we note the topic of the workshop is not advertised. In the spirit of openness, I suggest the Council advertise the topic. In the case of open workshops, notes are typically published soon after the meeting has taken place. In the case of closed workshops, the Council typically publishes the reasons the workshop is closed in a format similar to the Schedule 2A form used to list the reasons to exclude the public from a Council Meeting.

As noted above, in *Resources for Meetings and workshops*, the Council tends to rely on the reasons in sections 6 and 7 in the LGOIMA to close workshops, even though workshops are not subject to Part 7 of the LGOIMA. The essential consideration for closing a workshop is whether that is reasonable in the circumstances. The provisions of LGOIMA can of course help inform that decision, but they are not determinative.

The Council should include on this form (or in another publicly available place) information on when notes or other records from a closed workshop may be able to be released. For example, if information is heard in a closed workshop to prevent harm to the Council's position in commercial negotiations, the information may be able to be released when that harm no longer exists.

A few elected members, of the nine who responded to the online survey, discussed the use of workshops to hold deliberative discussions, and for staff to seek general guidance on the options elected members wished them to pursue. Workshops cannot be used to make actual and effective decisions; Meetings are the forums for decision making. This is made very clear in the Council's resources for elected members (discussed earlier, under *LGOIMA guidance for elected members*), and, in responses to the survey, it seemed clear elected members were aware of the respective roles of Meetings and workshops in the overall decision making process.

However, elected members said that workshops were sometimes used to *'give staff direction'* about the likely policy direction elected members wished to take, or to *'trim … the number of options that we would like to see in the council (reports)'*. In his report *Open for business,* the former Chief Ombudsman cautioned: [45]

> [*Councils must*] *take care when discussion and deliberation in a workshop could carry elected members too far down a path toward a decision. For example, where*

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[45]   Link to Ombudsman website, Open for business: A report on the Chief Ombudsman's investigation into local council meetings and workshops, at page 21.

council staff present a range of options to elected members in a workshop, and those options are narrowed down significantly, it could give the appearance of a 'decision' being made in the workshop in all but name. There may then be a perception that the corresponding decision made in the public council meeting is a 'rubber stamp' of earlier workshop discussions. In particular, using a closed workshop to do 'everything but' make a decision could be seen as undermining the principles of the LGOIMA and the LGA, which I may view as unreasonable.

As already discussed, the Council should keep robust records of closed and open workshops, and adhere to a well-laid out policy and process of reviewing and releasing material previously held in a closed session. This should go some way toward keeping everyone present at workshops accountable, and alleviate any potential public concerns about decisions made behind closed doors.

Action points
Ensure robust record keeping of closed workshops, and consider recording closed workshops where there is a likelihood the recording can be released in future.
Publish the topic of workshops in advance of their occurrence.

Performance monitoring and learning

The LGOIMA does not impose specific requirements on Councils in relation to record keeping and management of requests they receive for access to information. However, Ombudsmen have consistently advocated maintaining a full audit trail in respect of any decision made by an agency. Formulating a decision on a request for access to official information is no different. Once this information is recorded, agencies have a wealth of data and information they can use to inform business planning and future decisions regarding access to information – but only if it is captured in a way that is meaningful, facilitates subsequent analysis, and is used for regular monitoring and reporting purposes.

To assess performance monitoring and learning of the Council in respect of its LGOIMA obligations, we considered whether:

- the Council had an established system for capturing meaningful information about its LGOIMA activities and appropriate and relevant performance measures;

- there was regular reporting and monitoring about the Council's management performance in respect of LGOIMA compliance; and

- the Council learned from data analysis and practice.

LGOIMA performance reporting

The Council regularly collects and reports some data on LGOIMA requests, relating mostly to adherence with LGOIMA timeliness obligations. We are very pleased to see that the Council regularly publishes LGOIMA performance data on its website, in monthly, quarterly and annual reports. Publishing LGOIMA performance targets and the Council's actual results drives accountability for reaching those targets. It also demonstrates to the public how much work the Council is doing to release information. The Council's reported LGOIMA timeliness performance, based on the LGOIMA's 20 working day maximum allowable timeframe to respond, was 97 percent for the past two, complete reporting years.[46] While legislation should be adhered to 100 percent of the time, this is nonetheless a solid rate to attain and maintain, for which we commend the Council.

In the monthly reports we reviewed, the Council reliably reported on its percentage of 'on time' responses, based on the LGOIMA's 20 working day maximum allowable timeframe to respond. However, some monthly reports did not include the actual number of requests received in the month. This is an important figure that gives context to the percentage of on-time responses. From the perspective of reporting to senior leaders, the number of requests received is also valuable for assessing capacity issues.

The quarterly reports we saw, typically included the number of requests received year-to-date, and the percentage of 'on-time' responses. Quarterly reports would sometimes offer slightly

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[46]   Link to QLDC website 2023 – 2024 Annual Report at page 101

more analysis of the Council's performance, such as the number of extensions made or, whether there was a specific reason for a request being delayed.

We are advised by the Council that the LGOIMA performance reporting in published reports, represents the extent of information that the Chief Executive and senior leaders receive on a monthly basis. While timeliness and throughput are important, other measures (like the outcome of a request) are equally important. There is an opportunity to collect other meaningful information about the Council's LGOIMA performance and report this to senior leaders. We encourage the Council to consider where it may benefit from reporting other information, which could include:

- the type of request (Part 2, 3 or 4 of the LGOIMA);

- the type of requester;

- the number and reason for transfers;

- the reason for extensions and which business units require extensions;

- the outcome of the request (granted in full, granted in part, refused in full);

- the number and amount of charges made and collected;

- the time from receipt of the request to communication of the decision;

- the time from receipt of the request to release of the information; and

- the reasons for delays.

The point is not to collect data for its own sake, but to identify areas where additional data collection and analysis may help the Council recognise:

- emerging themes or trends in LGOIMA requests;

- opportunities for the proactive release of information;

- resourcing or capacity issues; and

- areas where LGOIMA training or updated guidance may be required.

In relation to central government agencies, Te Kawa Mataaho introduced a proactive release measure alongside its OIA timeliness reporting in the 2016/17 reporting period, requiring agencies to report how many OIA responses they published alongside the number of requests they received. Although there is no such public reporting measure for councils or CCOs, we encourage the Council to consider adding as a reporting measure, the number and/or percentage of LGOIMA responses it proactively publishes.

As discussed earlier, under *Information requests handled by the Communications team*, media information requests are also LGOIMA requests. Accordingly, the Council may wish to consider incorporating its LGOIMA compliance statistics for media information requests into its LGOIMA performance reporting. This would:

- provide a more comprehensive overview of the Council's LGOIMA performance to senior leaders;

- highlight any areas for improvement in handling media information requests; and

- enhance transparency to the public about the Council's LGOIMA performance.

Action point
Consider collecting more comprehensive data on LGOIMA request handling so that opportunities for performance improvement and for the proactive release of information can be identified, and include this in reporting to senior leaders.
Consider adding as a reporting measure, the number and/or percentage of LGOIMA responses the Council proactively publishes.
Consider including LGOIMA compliance statistics for media information requests into LGOIMA performance reporting.

Quality assurance processes

As discussed in *Sign out processes*, the Council has a robust, yet not overly layered, sign out process for LGOIMA responses which includes a process of peer review. A peer review process, while important, is not a substitute for a quality assurance process, which the Council currently lacks.

Quality assurance (QA) is conducted once the process of responding to a LGOIMA request is complete and has a broader focus, looking not just at the final response letter, but the totality of the LGOIMA process. A QA process may be random, or it may be focused on a particular area where the Council wishes to evaluate its performance, such as its use of extensions or withholding grounds. It may also encompass factors such as:

- whether the decision making process was adequately documented;

- where any delays occurred in the process;

- whether all information in the scope of the request was identified; and

- the quality of contextual information provided to assist requesters.

We encourage the Council to develop a QA process for completed requests, to gain valuable, qualitative data. When analysed effectively, this can be used to inform improvements in the LGOIMA process, including:

- ensuring consistency in the agency's approach across similar requests;

- determining the reason for any delays; and

- identifying areas for training or updated guidance.

Establishing a system of quality assurance could help the Council identify opportunities for staff development, highlighting common errors and encouraging continuous improvement in LGOIMA handling. It may also help the Council to recognise excellent performance where it exists.

Action point
Consider developing a quality assurance process for completed LGOIMA requests.