

Hawkes Bay Regional Council

Protocol for Chief Executive Response to LGOIMA Requests For Elected Representatives' Communications

Adopted by Council Resolution on 26 July 2017

Purpose

1. The purpose of this protocol is to set out, in accordance with the Local Government Official Information and Meetings Act (LGOIMA), an objective and transparent process for:
 - 1.1. The assessment and determination of requests for the official information communications to, from and/or between any elected representative of the Hawke's Bay Regional Council
 - 1.2. Collection of official information from elected representatives when that official information is held on private/personal and/or another organisation's systems or equipment
 - 1.3. Communication of the Chief Executive's Decisions on such requests

Principles

2. The following principles underlie this protocol:
 - 2.1. The key Purposes of the Act (s.4) are to:
 - 2.1.1. progressively increase the availability of official information held by agencies, and promote the open and public transaction of business at meetings, in order to enable more effective public participation in decision making; and promote the accountability of members and officials; and so enhance respect for the law and promote good local government; and
 - 2.1.2. protect official information and the deliberations of local authorities to the extent consistent with the public interest and the preservation of personal privacy.
 - 2.2. The **Principle of availability** underpins the whole of the LGOIMA. The Act explicitly states that: (s.5) *The question whether any official information is to be made available ... shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that **the information shall be made available unless there is good reason for withholding it** (emphasis added).*

Definitions

3. The term "**official information**" is defined in section 2 of the Act as "any information held by a local authority"
4. The Act defines "**document**" s.2(1) as: (a) any writing on any material; (b) any information recorded or stored by means of any tape recorder, computer, or other device; and any material subsequently derived from information so recorded or stored; (c) any label, marking, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means; (d) any book, map, plan, graph, or drawing; (e) any photograph, film, negative, tape, or other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced
5. "**Member**" in relation to a local authority, means any person elected or appointed to that local authority or to any committee or subcommittee of that local authority, and includes the presiding member of that local authority or of any committee or subcommittee of that local authority

Process

6. Upon receiving a request, the Chief Executive will:
 - 6.1. Notify relevant councillor(s) that the Council has received a request that pertains to them and:
 - 6.1.1. initiate retrieval of relevant official information from HBRC systems
 - 6.1.2. request that the relevant councillor(s) provide any official information they have in their official capacity in confidence to the Chief Executive
 - NOTE:** If a councillor advises that they have no official information or that they do have official information but declines to provide it to the Chief Executive, the responsibility for responding to any subsequent requests or complaints in relation to the original request, including in relation to any investigation by the Ombudsman, will rest with the councillor(s) concerned.
 - 6.2. Undertake an assessment of the official information retrieved to determine whether there are any grounds under sections 6 and 7 of the LGOIMA to withhold any of that material
 - 6.3. Make his/her preliminary decision on Council's response to the request
 - 6.4. Prepare any official information for release in accordance with preliminary decision
 - 6.5. Consult with the relevant councillor(s) on the initial determination to obtain their view
 - 6.6. Make a final determination, taking into account the views of the consulted councillor(s) and communicate this determination to the relevant councillor(s)
 - 6.7. Refer the matter to the Ombudsman for a ruling if the relevant councillor(s) do not accept the Chief Executive's final determination
 - 6.8. Communicate the CE's Decision, or that the matter has been referred to the Ombudsman, to the requestor and the relevant councillor(s)
 - 6.9. Provide any relevant official information in accordance with Decision on Request