

Audit & Risk Committee

Open Agenda



Notice is hereby given that an ordinary meeting of Audit & Risk Committee will be held on:

Date: Tuesday 4 December 2018
Time: 1.00pm
Venue: Council Chambers
35 Kenrick Street
TE AROHA

Membership

Chairperson

John Luxton

Mayor Jan Barnes

Cr Neil Goodger

Cr Brian Hunter

Cr James Sainsbury

Cr Ash Tanner

Cr James Thomas, JP

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1 Meeting Opening

2 Present

3 Apologies

At the close of the agenda no apologies had been received.

4 Notification of Urgent Business

Pursuant to clause 3.7.5 and 3.7.6 of the Standing Orders NZS 9202:2003 and Section 6A (7) of the Local Government Official Information and Meetings Act 1987, the Chairman to enquire from members whether there are any additional items for consideration which qualify as extraordinary or urgent additional business.

5 Confirmation of minutes

Minutes, as circulated, of the Ordinary Meeting of Audit & Risk Committee, held on 9 October 2018.

Adoption of Standing Orders and Review of Code of Conduct

Trim No.: 2084323

Executive Summary

Under the Local Government Act 2002 (LGA), Council is required to adopt standing orders.

Council is required to operate in accordance with standing orders for the conduct of its meetings and the meetings of its committees and subcommittees. Standing orders must not contravene any Act.

The adoption of standing orders and any amendment to standing orders must be made by Council and by a vote of not less than 75% of the members present. Standing orders apply to all meetings of the local authority, its committees, subcommittees and subordinate decision-making bodies.

Once adopted standing orders remain in force (even after triennial election) until any amendment is proposed, any change requires 75% of Council Members present. A local authority or committee may temporarily suspend standing orders during a meeting by a vote of not less than 75% of the members present and voting, and the reason for the suspension must be stated in the resolution of suspension.

Council reviewed and changed its standing orders from NZ Standards Model Standing Orders 9202:2003 (Incorporating Amendment No. 1) to a new template developed by Local Government New Zealand (LGNZ), Matamata-Piako District Council Standing Orders, adopted 14 November 2018.

It is proposed that the Audit and Risk Committee adopt Matamata-Piako District Council Standing Orders.

The new standing orders are circulated separately from the agenda so committee members have a copy for future reference, they are also available on Matamata-Piako District Council website.

Recommendation

That:

1. The information be received.
2. The Audit and Risk Committee adopt Matamata-Piako District Council's Standing Orders (as adopted by Council 14 November 2018).

Content

Background

Council's Code of Conduct (adopted 7 December 2016), in conjunction with standing orders were workshopped with Council on 26 September 2018, no changes were identified for the Code of Conduct, this is available on Council's website or on the hub. At this workshop a summary of the differences between LGNZ and NZ Standards Model Standing Orders were presented.

Once adopted standing orders remain in force (even after triennial election) until any amendment is proposed, any change requires 75% of Council Members present.

A local authority or committee may temporarily suspend standing orders during a meeting by a vote of not less than 75% of the members present and voting, and the reason for the suspension must be stated in the resolution of suspension.

Committees of Council

Council's standing orders apply to all committees.

- Corporate and Operations Committee
- Te Manawhenua Forum Mo Matamata-Piako - Heads of Agreement notes that following each Council election, the Forum shall adopt standing orders for the duration of the triennium.
- Waharoa (Matamata) Aerodrome Committee - Ngati Haua Claims Settlement Act 2004 under procedure of committee s91(3)(b) The committee must at its first meeting adopt a set of standing orders for the operations of the committee.
- Audit and Risk Committee
- District Licensing Committee
- Chief Executive Officer Performance Committee
- Joint Committees

LGNZ Template Standing Orders (SOs)

- Has less copyright restrictions.
- Is set out in three sections to cover General Matters, Pre-Meeting Procedures and Meeting Procedures.
- Has a logical arrangement for the meeting process to follow, and streamlines and clarifies elements of standing orders that in the past have been difficult to interpret.
- Contain statutory and non-statutory meeting provisions which are by-and-large the same as Council's previous standing orders.
- Provided for legislative changes around electronic devices, audio visual links and webcasting of meetings.
- Has several appendices covering various matters such as workshops, webcasting protocols and a sample order of business. Note: the appendices are not formally part of the standing orders and can be amended at any stage by Council.

Staff review of other councils noted that 50 out of 66 councils are now operating using LGNZ template. Of our surrounding councils Hauraki, Thames-Coromandel, Waikato and Waipa District Councils operate using LGNZ template for their standing orders.

Attachments

There are no attachments for this report.

Signatories

Author(s)	Vicky Oosthoek Committee Secretary	
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Approved by	Sandra Harris	
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	Acting Strategic Policy Manager	
	Don McLeod Chief Executive Officer	

Item 6.1

Self-Evaluation Survey 2018 - Audit & Risk Committee

Trim No.: 2083188

Executive Summary

Each year as part of its work programme the Audit and Risk Committee completes a self-evaluation of its performance during the calendar year. This report provides information on the self-evaluation framework. The results of the evaluation will be discussed at the Committee meeting.

A copy of the last self-evaluation (completed in 2017) has been attached to this report for reference and comparison to this year's results.

Recommendation

That:

1. **The report and summary from the Committee Chair regarding the outcome of the self-evaluation be received.**
2. **Feedback on the self-evaluation and any recommended actions for improvement be provided to Council.**

Content

Background

Each year as part of its work programme the Committee completes a self-evaluation of its performance during the calendar year.

The self-evaluation for 2018 involved a questionnaire, completed by the Committee members. These were then reviewed by the Committee Chair, who has provided commentary on the results.

Issues

The Committee members were asked to complete the self-evaluation framework, the outcomes of this exercise are set out below and will be discussed at the Committee meeting.

Audit & Risk Committee Self Evaluation 2018 Chairman's Summary –

Many thanks for the cooperation of all Committee members for completing the Evaluation Questionnaire again this year.

The scores are generally very good although down slightly from the last evaluation which was in 2017. I do not believe that we can read much into that other than a new Chair learning about the systems of Local Government. The 2017 Evaluation is attached for your information.

There is one low score this year which is marked in red:

10. "Sufficient special tutorial sessions are held to educate Committee members about complex audit and financial reporting (including regulatory) issues". 2.63

Since it was established the Committee has had little appetite for tutorial sessions, ironically during the period under review a tutorial was held on "risk" and there have been briefing sessions on several other important issues. **This needs to be continued.**

14. 'The Committee understands the Councils Tax matters'. 4.3

This score has improved from previous years, it has been low previously due to Councils Tax affairs being neither complex or extensive, relating mainly to PAYE, Fringe Benefit Tax, Withholding Tax and GST. The payroll taxes (PAYE & FBT) were part of the Internal Audit of Payroll undertaken during the year.

It may be useful for the Committee to have a briefing session on Tax in the near future with an outline of actual tax paid in each category.

I am satisfied with the work of the Committee and the contributions from members. I consider it to be a useful component of Councils Governance framework. Council could consider whether the Committee should be further expanded either by another external appointment or additional elected members.

As the new Chair it has been a privilege to be involved and I thank the Committee for their support whilst I begin to better understand the processes of Local government. Special thanks to Council staff, the Mayor and Ben Halford and his Audit team for their support of the committee.

If there are particular new areas that members would like to see added to the agenda then please feel free to suggest them to the Chair or to the committee.

Audit & Risk Committee Self Evaluation Summary - October 2018

Number	Question	Score out of 5
1.	Responsibilities under the Committee's Charter are clearly articulated and understood.	4.6
2.	The Audit Committee meets the duties/expectations set out in its Charter.	4.75
3.	The role of the Audit Committee Chairman is clearly understood.	4.75
4.	Members have an understanding of their role on the Committee.	4.4
5.	Agenda topics are appropriate and the Audit Committee does not address issues that should be dealt with directly by the Board or another Committee.	4.5
6.	The Committee has provided clarity on the escalation process for issues to be followed by management, the external auditor and Group Audit.	4.3
7.	The Committee Chairman:	
	(a) Is a good communicator	4.6
	(b) Builds trust	4.6
	(c) Encourages debate	4.3
	(d) Builds consensus	4.5
	(e) Fosters effective and efficient decision making.	4.5
8.	The balance and mix of skills of the Committee is appropriate.	4.12
9.	The Committee is sufficiently informed regarding audit and financial reporting (including regulatory) trends in the external environment which can affect the Council.	4
10.	Sufficient special tutorial sessions are held to educate Committee members about complex audit and financial reporting (including regulatory) issues.	2.63
11.	The Committee has sufficient resources available, both inside and outside the organisation, to allow it to carry out its function effectively.	4.45
12.	The Committee understands the organisation's significant financial risks.	4.5
13.	The Committee understands the control systems in place to mitigate the organisation's significant financial risks.	4.3
14.	The Committee understands the Council's tax matters.	4.3
15.	The Committee ensures adequate co-ordination of activities between internal and external audit.	4.6
16.	The Audit Committee's annual plan is well understood.	4.6

17.	The frequency of Audit Committee meetings is appropriate.	4.5
18.	The duration of Audit Committee meetings is appropriate.	4.58
19.	There is an appropriate balance between strategic, operational and governance agenda items.	4.25
20.	Committee agendas cover the right issues in a timely way.	4.37
21.	Committee papers are distributed to members with enough time for members to prepare for meetings.	4.25
22.	Committee papers are clear and provide meaningful insight.	4.37
23.	Conduct of meetings ensures open communication, meaningful participation and constructive dissent.	4.5
24.	The Committees use of time is effective - the time available is mostly allocated to the most important issues and there is sufficient time allocated for a full discussion.	4.5
25.	Enough time is allowed for discussion of more complex issues.	4.5
26.	Committee members have adequate opportunities to share views with each other without management present.	4.6
27.	The Committee makes efficient and effective decisions.	4.45

Member's comments:

- We could do more to educate Committee members about complex Audit and Financial risks.
- Mostly there is an appropriate balance between strategic, operational and governance agenda items.
- We must continue to strive to always upskill and always improve our systems and knowledge.
- The new chair has a different perspective to the previous, which is good see differing views.

Attachments

[A↓](#). Audit and risk Self evaluation results 2017

Signatories

Author(s)	Meghan Lancaster Committee Secretary	
Approved by	Sandra Harris Acting Strategic Policy Manager	
	Don McLeod Chief Executive Officer	

Audit & Risk Committee Self Evaluation Summary - October 2017

Number	Question	Score out of 5
1.	Responsibilities under the Committee's Charter are clearly articulated and understood.	4.75
2.	The Audit Committee meets the duties/expectations set out in its Charter.	4.75
3.	The role of the Audit Committee Chairman is clearly understood.	4.88
4.	Members have an understanding of their role on the Committee.	4.5
5.	Agenda topics are appropriate and the Audit Committee does not address issues that should be dealt with directly by the Board or another Committee.	4.63
6.	The Committee has provided clarity on the escalation process for issues to be followed by management, the external auditor and Group Audit.	4.63
7.	The Committee Chairman:	
	(a) Is a good communicator	4.88
	(b) Builds trust	4.75
	(c) Encourages debate	4.75
	(d) Builds consensus	4.75
	(e) Fosters effective and efficient decision making.	4.75
8.	The balance and mix of skills of the Committee is appropriate.	4.38
9.	The Committee is sufficiently informed regarding audit and financial reporting (including regulatory) trends in the external environment which can affect the Council.	4.36
10.	Sufficient special tutorial sessions are held to educate Committee members about complex audit and financial reporting (including regulatory) issues.	3.43
11.	The Committee has sufficient resources available, both inside and outside the organisation, to allow it to carry out its function effectively.	4.57
12.	The Committee understands the organisation's significant financial risks.	4.75
13.	The Committee understands the control systems in place to mitigate the organisation's significant financial risks.	4.44
14.	The Committee understands the Council's tax matters.	3.75
15.	The Committee ensures adequate co-ordination of activities between internal and external audit.	4.71
16.	The Audit Committee's annual plan is well understood.	4.5
17.	The frequency of Audit Committee meetings is appropriate.	4.38
18.	The duration of Audit Committee meetings is appropriate.	4.75
19.	There is an appropriate balance between strategic, operational and governance agenda items.	4.63
20.	Committee agendas cover the right issues in a timely way.	4.75
21.	Committee papers are distributed to members with enough time for members to prepare for meetings.	4.43
22.	Committee papers are clear and provide meaningful insight.	4.57
23.	Conduct of meetings ensures open communication, meaningful participation and constructive dissent.	4.75
24.	The Committee's use of time is effective - the time available is mostly allocated to the most important issues and there is sufficient time allocated for a full discussion.	4.63
25.	Enough time is allowed for discussion of more complex issues.	4.5
26.	Committee members have adequate opportunities to share views with each other without management present.	4.75
27.	The Committee makes efficient and effective decisions.	4.75

Member's comments:

- Pleased with Audit & Risk Process and Committee.
- We can always strive to upskill and improve our processes.
- Do we need another external member? (two members raised this)
- Council appreciates this committee's eyes and ears.
- There has not been much call for tutorial sessions since the committee has been established. The training that has been held has been useful and beneficial to the members of the committee
- There has not been much call for discussion of tax.
- Time is always available not restricted.
- Sometimes repeat of governance issues.
- Frequency of meetings – if a meeting is missed it is a long time to the next meeting.
- Staff consider the work of the Audit & Risk Committee provides a valuable and sharper focus for staff on financial issues, reporting and organisational risk management. There is a strong sense of satisfaction among staff when reports/issues have been scrutinised by the Committee and have been accepted/endorsed.
- Staff value the different perspective that the Audit & Risk Chair brings, the thinking/rethinking he promotes through the questions he asks and the clarity of purpose he drives the organisation to achieve.
- I consider the Audit & Risk Committee to be a very effective component of Governance at MPDC and personally rewarding.
- The Committee works well and has added considerable value to how the Council does its business.

Schedule of Meetings for 2019

Trim No.: 2084321

Executive Summary

The Audit and Risk Committee are asked to confirm dates for their 2019 meeting schedule.

Circulated separately to the agenda is a planner for 2019 showing the confirmed meeting dates for Council and the Corporate and Operations Committee. The planner includes the proposed dates for the Audit and Risk Committee along with proposed dates for Waharoa (Matamata) Aerodrome Committee and Te Manawhenua Forum with each committee to confirm their meeting dates. Also included are known Local Government NZ commitments to ensure no clash.

The overall pattern of meetings is set as:

- Council meet monthly every 2nd Wednesday, with extra meetings for hearings and adoption of documents as required.
- Corporate and Operations Committee (COC) meet monthly every 4th Wednesday.
- Audit and Risk Committee meet quarterly on Tuesday, based on respective Council meeting.
- Te Manawhenua Forum meet quarterly on 1st Tuesday.
- Waharoa (Matamata) Aerodrome Committee meet three times a year on the third or fourth Thursday of a month.

Proposed meeting schedule – Audit and Risk Committee 2019

MONTH	MEETING DATE
March	Tuesday 12 th
June	Tuesday 11 th
October	Tuesday 2 nd
December	Tuesday 3 rd

Recommendation

That:

1. The information be received.
2. The Audit and Risk Committee confirm and adopt its meeting schedule for 2019 as:

MONTH	MEETING DATE
March	Tuesday 12 th
June	Tuesday 11 th
October	Tuesday 2 nd
December	Tuesday 3 rd

Issues

Any meeting scheduled after swearing in of new Council on 6 November 2019 could be subject to change by that Council.

Attachments

There are no attachments for this report.

Signatories

Author(s)	Vicky Oosthoek Committee Secretary	
Approved by	Sandra Harris Acting Strategic Policy Manager	
	Don McLeod Chief Executive Officer	

Draft Work Programme 2019

Trim No.: 2084659

Executive Summary

This report provides for discussion by the Audit & Risk committee of its work programme for 2019.

Recommendation

That:

1. **The Audit and Risk Committee approve the Work Programme for the 2019 calendar year.**

Content

Background

Prior to the commencement of each calendar year the Committee sets itself a work programme. While priorities can shift during the year as unexpected issues arise, the work programme is a useful tool to enable Committee members to set their direction and to allow staff to understand the work priorities that need to be achieved.

The Committee will also need to consider whether its draft work programme is consistent with its Charter (see separate agenda item).

Issues

The following draft work programme is proposed for discussion by the Committee. The work programme identified issues which have been developed and reviewed on an annual basis as a suggested base work programme. There may be other matters that the Committee may wish to consider for inclusion or replacement in the work programme.

Work Programme 2019 – Audit and Risk Committee

March 2019

- Annual Report – review of the Audit Arrangements Letter
- Annual Report – review of the six month report
- Treasury Policy Review
- Annual Plan – project update
- BDO Internal Audit plan
- IT Security Audit
- Standing item – Specific Project Risk Management Review (Water, Rail trail)
- Standing item – Review of any audit reports that have been completed
- Standing item – In committee auditor/committee member discussion
- Standing item – Quarterly procurement report
- Standing item – Policy review

June 2019

- Annual Report – review of the report on the interim audit
- Annual insurance programme review
- Weathertight Buildings Update
- Annual Plan – project update
- Annual risk management framework/analysis review & Risk Management Policy
- Investment & Liability Policy (2 yearly review cycle)
- Review of Fraud and Protected Disclosures Policies (2 yearly review cycle – due 2020)
- Accounting Policies
- Standing item – Specific Project Risk Management Review
- Standing item – Review of any audit reports that have been completed
- Standing item – In committee auditor/committee member discussion
- Standing item – Quarterly procurement report
- Standing item – Policy review

October 2019

- Annual Report – review of the final Annual Report, Summary, Audit Opinion and letter of representation
- Annual financial warrant of fitness assessment
- Annual legislative warrant of fitness assessment
- Annual review of delegations
- Annual review of legislative compliance
- Self-evaluation of committee circulated
- Policies raised in interim management report
- Web Security Audit
- Standing item – Specific Project Risk Management Review
- Standing item – Review of any audit reports that have been completed
- Standing item – In committee auditor/committee member discussion
- Standing item – Quarterly procurement report
- Standing item – Policy review

December 2019

- Review of the Audit and Risk Committee Charter
- Proposed meeting dates for 2020
- Draft work programme for 2020
- Annual update of Quality External Audit (Telarc) and additional external audits being undertaken by Council
- Annual update on organisational culture - vision and values
- Annual Risk Policy review
- Self-evaluation of committee completed
- LGOIMA requests
- Standing item – Specific Project Risk Management Review
- Standing item – Review of any audit reports that have been completed
- Standing item – In committee auditor/committee member discussion
- Standing item – Quarterly procurement report
- Standing item – Policy review

Attachments

There are no attachments for this report.

Signatories

Author(s)	Vicky Oosthoek Committee Secretary	
Approved by	Sandra Harris Acting Strategic Policy Manager	
	Don McLeod Chief Executive Officer	

Item 6.4

Review of Audit and Risk Committee Charter

Trim No.: 2084752

Executive Summary

This report provides the Committee with a copy of its Charter (attached) as approved by Audit and Risk Committee in December 2016 and approved by Council. The Charter was reviewed 12 December 2017 with no amendments proposed. This annual review provides an opportunity for amendments to be recommended to Council for approval if required.

Recommendation

That:

1. **The Audit and Risk Committee recommend any amendments to its Charter to go to Council for approval.**

Content

Background

The Office of the Auditor General ("OAG") has resources available on their website regarding making the most of audit committees, guiding principles etc. These resources can be viewed at <http://www.oag.govt.nz/our-work/audit-committees>. These resources have replaced the previous good practice guide 'Audit committees in the public sector' which recommends that public sector entities should consider putting in place an Audit Committee.

Issues

At Council's meeting on 13 November 2013 the Audit and Risk Committee was established and delegated the role of "ensuring Council has appropriate risk management and internal and financial control systems". Further to this Council resolved that the Audit and Risk Committee propose a work programme for consideration by Council for the fulfilment of this delegation. While not specifically requested by Council, the OAG recommends that a charter is developed to guide the work of the Committee and advises "*It is useful to set out the purpose, roles, and responsibilities of the audit committee and its scope in the context of the entity's governance framework.*"

The Charter was last reviewed at the Committee's 12 December 2017 meeting, where no changes were recommended. The Charter is therefore the same as in Audit and Risk committee update to Council in December 2016.

OAG guidance is that a charter should formally document the accountability, authority, duties, membership, role, and responsibilities of the audit committee. The charter should be approved by the governing body and reviewed and confirmed each year.

The charter should include the audit committee's:

- objective (its role or purpose, the governance framework/context within which it operates, and how it relates to other governance mechanisms/committees);

- authority (the power or authority it has to fulfil its objectives);
- composition and tenure of members (the size of the audit committee, the sort of members it has, how new members are appointed and reappointed, how long members remain on the audit committee, and how members (including the chairperson) are removed in the event of non-performance);
- responsibilities;
- administrative arrangements (meetings, attendance and quorums, decision-making and voting, secretariat, conflict of interest provisions, induction);
- performance assessment arrangements; and
- systems and schedules for reviewing the charter.

Analysis

Options considered

The Committee should review the charter and consider whether in its view, the charter still meets the intent of the delegation from Council and is consistent with the good practice guidance issued by the OAG.

Legal and statutory requirements

A charter for the Audit and Risk Committee is not a statutory requirement, it is recommended as good practice by the OAG.

Impact on policy and bylaws

There are no policy or bylaw issues.

Consistency with the Long Term Plan / Annual Plan

The Audit and Risk Committee will assist Council in ensuring it has appropriate risk management and internal and financial control systems across a wide range of functions provided for under the Long Term Plan/Annual Plan, for example the Council's Annual Report.

Impact on Significance and Engagement Policy

This matter is not considered significant.

Communication, consultation and decision making processes

Any amendments to the charter will be provided to Council for approval.

Consent issues

There are no consent issues.

Timeframes

The Audit and Risk Committee should seek approval of any amendments to its Charter as soon as reasonably possible. Council has a meeting scheduled for 5 December 2018 where a committee representative is scheduled to update Council on the Committee meeting.

Financial Impact

i. Cost

The Audit and Risk Committee is funded from existing budgets.

ii. Funding Source

There are no budgets specifically identified for the Audit and Risk Committee, budgets are provided for secretarial support of all council committees and individually for projects such as the Annual Report.

Attachments

A¹. Audit and Risk Committee
Charter and Terms of Reference - Reviewed by the Audit and Risk Committee 16 February 2016 - Approved by the Corporate and Operations Committee 24 February 2016

Signatories

Author(s)	Vicky Oosthoek Committee Secretary	
Approved by	Sandra Harris Acting Strategic Policy Manager	
	Don McLeod Chief Executive Officer	

Matamata-Piako District Council

Audit and Risk Committee

Charter and Terms of Reference

Reviewed by the Audit and Risk Committee 16 February 2016

Approved by the Corporate and Operations Committee 24 February 2016

1. Objectives

The primary objective of the Audit and Risk Committee (Committee) is to assist the Matamata-Piako District Council (Council) in fulfilling its overall responsibilities relating to accounting and reporting, internal and external audit, treasury, compliance and risk management. The Committee will review the financial reporting process, the system of internal control and management of financial risks, the audit process, and the Council's process for monitoring compliance with laws and regulations.

In addition, the Committee will:

- 1.1 Oversee and appraise the quality of the audits conducted by the Council's internal and external auditors.
- 1.2 Ensure the integrity of Council's financial management and reporting processes and monitor Council's internal audit practices.
- 1.3 Ensure the integrity of Council's internal control environment.
- 1.4 Maintain open lines of communications among the Council, any internal auditors and the external auditors, to exchange views and information.
- 1.5 Serve as an independent and objective party to review the basis and quality of financial information presented by senior management to Council, regulators and the general public and also advise in the development of the future format and content of external reporting.
- 1.5 Determine the adequacy of the organisation's administrative, operating and accounting controls.
- 1.6 Review Council's risk management programme and the effectiveness of risk management activities.

2. Authority

The Council authorises the Committee, within the scope of its responsibilities to:

- 2.1 Seek any information it requires from:
 - any employee of Council, for the avoidance of doubt this includes the Chief Executive Officer (CEO) and all staff employed by the CEO on behalf of

- Council (and all employees are directed to co-operate with any request made by the Committee); and
- external parties.

2.2 Obtain outside legal or other professional advice from within Council allocated resources or with the approval of Council should additional unfunded resource be needed.

2.3 Ensure the attendance of Senior Management at meetings as appropriate.

Provided that the Council may define and approve other delegations as appropriate as the Committee's work is progressed.

3. Composition

The Committee size will be determined by Council and must include members who are financially literate, and have appropriate skills and interest. The Chairperson must be suitably qualified and may be an external appointment with skills and experience to provide value for the Council.

4. Term of Membership

The Committee membership may be reviewed by Council but otherwise will be appointed for the term of Council.

5. Meetings

5.1 The Committee will hold at least four regular meetings per year, and such additional meetings as the Chairperson shall decide in order to fulfill its duties. In addition, the Chairperson is required to call a meeting of the Committee if requested to do so by a majority of Committee Members, the Council or the external auditors.

5.2 The external auditors, Chief Executive and Financial Manager will normally attend Committee meetings, but the Committee may meet as it determines with the Auditors without management being present.

5.3 The Committee will be supported by Council's Committee Secretary who shall be responsible, in conjunction with the Chairperson, for compiling the agenda and circulating it, supported by explanatory documentation to Committee Members prior to each meeting.

The Committee Secretary will also be responsible for keeping the minutes of meetings of the Committee, and circulating them to Committee Members and to the other members of the Council.

5.4 A quorum shall consist of a majority of the Members.

5.5 The Committee will adopt Standing Orders to support its functions.

6. Access

- 6.1 The Committee shall have unrestricted access to:
- the external auditors;
 - the internal auditors;
 - senior management of the organisation; and
 - Council employees' responsible for internal audit functions.

The Committee shall also have the ability to consult independent experts where they consider it necessary to carry out their duties as approved by Council or as may be authorised under delegation (refer clause 2 also).

- 6.2 The external Auditors, and the Head of Internal Audit, will have access to the Chairperson of the Committee at any time.

7. Duties and Responsibilities

The duties and responsibilities of the Committee are as follows:

Internal Controls

- 7.1 Evaluate whether management is setting the appropriate control culture by communicating the importance of internal control and the management of risk and ensuring that all employees have an understanding of their roles and responsibilities.
- 7.2 Consider the adequacy of security of computer systems and applications, and the contingency plans for processing financial information in the event of a systems breakdown.
- 7.3 Monitor the implementation by management of internal control recommendations made by internal and external auditors.
- 7.4 Gain an understanding of the internal control systems implemented by management for the approval of transactions and the recording and processing of financial data.
- 7.5 Ensure that management has established an effective risk management framework which includes policies and procedures to effectively identify, treat, monitor and report key business risks.
- 7.6 Monitor the work programme of internal auditors, and review the outcomes, and implementation of recommendations as the result of internal audits.

Financial Reporting

(a) General

- 7.6 Gain an understanding of the current areas of greatest financial risk and how management is managing these effectively.
- 7.7 Consider with the internal and external auditors any fraud, illegal acts, deficiencies in internal control or other similar issues.
- 7.8 Review significant accounting and reporting issues, including recent professional and regulatory pronouncements, and understand their impact on the format, preparation, reporting responsibilities and financial position of Council.
- 7.9 Ask management and the internal and external auditors about significant risks and exposures and the plans to minimise such risks.
- 7.10 Review any legal matters which could significantly impact the financial statements.
- 7.11 Review and approve all significant changes in accounting policy.
- 7.12 Review insurable risk management and the adequacy of the Council's insurance programmes.

(b) Annual Financial Statements

- 7.13 Review the annual financial statements and determine whether they are complete and consistent with the information known to Committee Members; assess whether the financial statements reflect appropriate accounting principles.
- 7.14 Pay particular attention to complex and/or unusual transactions such as restructuring charges.
- 7.15 Focus on judgmental areas, for example those involving valuation of assets and liabilities; warranty, product or environmental liability; litigation reserves; and other commitments and contingencies.
- 7.16 Meet with management and the external auditors to review the financial statements and the results of the audit.
- 7.17 Review the other sections of the annual report before its release and consider whether the information is understandable and consistent with member's knowledge about the Council and its operations.

(c) Interim Financial Statements

- 7.18 Be briefed on how management has prepared interim financial information together with the assumptions and processes used.

- 7.19 Assess the fairness of the preliminary and interim statements and disclosures, and obtain explanations from management and internal auditors on whether:
- actual financial results for the interim period varied significantly from budgeted or projected results;
 - financial policies have been complied with;
 - generally accepted accounting principles have been consistently applied;
 - there are any actual or proposed changes in accounting or financial reporting practices;
 - there are any significant or unusual events or transactions;
 - the Council's financial and operating controls are functioning effectively; and
 - the preliminary announcements and interim financial statements contain adequate and appropriate disclosures.

Internal Audit

- 7.20 Consider the Council's overall audit requirements and recommend to the Council to consider the internal audit requirements.
- 7.21 Approve the Annual Internal Audit Plan.

External Audit

- 7.22 Review the external auditors proposed audit scope and approach and ensure an appropriate scope is being undertaken.
- 7.23 Approve the Annual External Audit Plan.
- 7.24 Review the performance of the external auditors.
- 7.25 Consider the independence of the external auditor, including approving and reviewing the level of non-audit services provided and an assessment of any impact this may have on their independence.
- 7.26 Make recommendations to the Council regarding the reappointment of the external auditors.
- 7.27 Meet separately with the external auditors to discuss any matters that the Committee or auditors believe should be discussed privately.
- 7.28 Ensure that significant findings and recommendations made by the external auditors are received, considered and actioned on a timely basis.
- 7.29 Make enquiries of external audit regarding the differences identified during the audit. If any differences remain unadjusted obtain explanations from management as to why.

- 7.30 Ensure that management responds to recommendations by the external auditors.
- 7.31 Discuss with Council's external auditors, judgments about the appropriateness of the accounting principles as applied in the financial reporting.
- 7.32 Review and approve the statements included in the annual report in relation to internal control and the management of risk.
- 7.33 Ensure receipt from external auditors of a formal written statement delineating all relationships between auditor and Council.
- 7.34 Review audit fees and management consulting services and related fees provided by the external auditors, and recommend an appropriate budget.
- 7.35 Receive and consider all external functional audits.

Compliance with Laws and Regulations

- 7.36 Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of management investigations and follow-up (including disciplinary action) of any fraudulent acts or non-compliance.
- 7.37 Obtain regular updates from management regarding compliance matters.
- 7.38 Be satisfied that all regulatory compliance matters have been considered in the preparation of the financial statements.
- 7.39 Review the findings of any examinations by regulatory agencies.

Reporting Responsibilities

- 7.40 Regularly update the Council on Committee activities and make appropriate recommendations.
- 7.41 Ensure the Council is aware of matters which may significantly impact the financial condition or affairs of the business.

Other Responsibilities

- 7.42 Review annually all Financial, Accounting, Compliance and Risk Management Policies.
- 7.43 Review the effectiveness of ethics and values programmes.
- 7.44 Perform other oversight functions as requested by Council.
- 7.45 Recommend to Council Delegations of Authority levels and limits.

-
- 7.46 If necessary, institute special investigations and, if appropriate, hire special counsel or experts to assist.
 - 7.47 Review and update the Charter; receive approval of changes from the Council annually.
 - 7.48 Evaluate the Committee's own performance on an annual basis.

LGOIMA Requests

Trim No.: 2080521

Executive Summary

At its October 2016 meeting the Audit and Risk Committee chairperson requested that we assess the frequency and time spent on requests for information under the Local Government Official Information and Meetings Act. In June 2017 it was reported that the charging regime should be changed in light of the Ombudsman's recommendation.

The collation of LGOIMA request information shown in this report is a list of requests for information, the number of days to respond and the hours of staff time it took to respond, for the year since the last Audit and Risk Committee meeting on LGOIMAs on 27 June 2017.

For the year there was a total of 97 LGOIMA requests made of which 95 were answered, due to two being withdrawn and unresponsive. The average time to respond was 11.62 days (up to 20 working days are provided for in law, the average last year was 10.8 days) and the average time it took to process each request was 1.18 hours (last year was 1.8 hours).

The \$38 per half hour charge is set in line with guidelines produced by the Ombudsman. This is not likely to be reviewed for some time.

The expectation of the Ombudsman is very much that Council's should provide information at little or no cost where possible, with the view that freely available information supports a transparent government.

Recommendation

That:

1. This information be received by the Audit and Risk Committee.

Content

Background

The Audit and Risk Committee in 2016 requested staff to review the way in which LGOIMA requests are handled by Council including the potential for recovering costs associated with the time spent in responding. The Executive Team responded by asking the Communications Team, who are responsible for coordinating the gathering of such information, and to track time spent on these requests.

Issues

The main issue is providing information to requestors that meet their expectations, within a reasonable timeframe, and without unduly interrupting officers' workloads.

There is also the matter of when and how much Council should charge to recover its costs in responding to these requests.

These matters need to be considered in light of the purpose of the legislation in relation to releasing information which is:

- “(a) to increase progressively the availability to the public of official information held by local authorities, and to promote the open and public transaction of business at meetings of local authorities, in order—*

- (i) to enable more effective participation by the public in the actions and decisions of local authorities; and
- (ii) to promote the accountability of local authority members and officials,—
- and thereby to enhance respect for the law and to promote good local government in New Zealand:
- (b) to provide for proper access by each person to official information relating to that person.”

Charging

Council has set the following charges for 2016/17 and 17/18 with the following guidance for charging for requests.

Official information charges	
Time - first hour or part thereof	Free
Time - after first hour (per half hour)	\$38.00
Pages copied - first 20 A4 (or smaller) pages free	See photocopying costs
Cost of CDs, video, tapes, printing larger than A4 and other materials or viewing arrangements requested	Actual cost

The Local Government Official Information and Meetings Act 1987 (Act) requires us to make available certain information which we hold. The Act also makes provision for us to make a charge for the information supplied but this charge must be reasonable and is for the cost of labour and materials involved in making the information available. If the request expresses urgency then the Council may have to use additional resources to gather the information promptly and the Act permits the Council to charge for these extra resources. If there is a charge for information we will advise you of the likely charges before we commence processing the request and will give you the opportunity to decide whether or not to proceed with the request. In such cases we may also require that the whole or part of any charge be paid in advance before commencing to process the request. If the time taken to process the information and/or the number of copies supplied is only a small margin over the ‘free’ allowance, we may use our discretion as to whether any charge should be made.

Where repeated requests are made by the same person or group in respect of a common subject over intervals of up to eight weeks we will aggregate these requests for charging purposes. This means that the second and subsequent requests will not be subject to one hour of free time and 20 free standard A4 (or smaller) photocopies.

The charge represents a reasonable fee for the cost of providing information. It may include (but is not limited to) time spent:

- in searching an index to establish the location of the information
- in locating and extracting the information from the place where it is held
- in reading or reviewing the information
- in supervising the access to the information.

Under the Act we are not permitted to charge for:

- locating and retrieving information which is not where it ought to be
- time spent deciding whether or not access should be allowed, and in what form.

The liability to pay any charge may be modified or waived at the discretion of the delegated officer receiving the request. Such decisions should have regard to the circumstances of each request. However, it would be appropriate to consider:

- *whether payment might cause the applicant hardship*
- *whether remission or reduction of the charge would facilitate good relations with the public or assist the department in its work*
- *whether remission or reduction of the charge would be in the public interest because it is likely to contribute significantly to public understanding of, or effective participation in, the operations or activities of the government, and the disclosure of the information is not primarily in the commercial interest of the requester.*

Charges are set in accordance with Ministry of Justice, Charging Guidelines for Official Information Act 1982 Requests (2002). If an identifiable natural person seeks access to personal information about that person then the request is governed by the Privacy Act 1993 and these charges do not apply. Information that is already publicly available (for example at our libraries and offices or on our website) is not subject to the Act, and normal charges apply to the supply of this information. A person who makes a request for information under the Act may make a complaint to the Office of the Ombudsmen regarding our decision regarding supply of that information.

Requests

The following table sets out the 'complex' LGOIMA requests received by Council. The analysis shows the list of requests for information, the number of days to respond and the hours of staff time it took to respond, for the first eight months of this year. The average days to respond was 11.62 days (last year was 10.8 days) and the average time it took to respond was 1.18 hours (last year was 1.8 hours). Three requestors were advised of charging, one paid the \$152 charge, another responded and withdrew their request and the last one never responded, the remainder of the requests that had been completed were indicated as not being charged.

Date Received	Days taken to respond	Request topic	Time (hours)
11/07/2017	2	Request for compensation for water main outage	1
17/07/2017	17	Cemetery and crematoria info	2.6
03/08/2017	5	Request for Total Residential Building Consent Values for June & July	0.33
05/08/2017	7	Ratepayers and Residents' groups in the district	1
08/08/2017	19	Natural disaster preparedness	1
09/08/2017	2	Sewage overflow from neighbour	0.5
17/08/2017	6	Resource consents for SH27 property in Waharoa	1
30/08/2017	1	Noise complaints	1
11/09/2017	3	Potable water testing	0.5
11/09/2017	20	Silver Fern Farms Events Centre operational costs	10
13/09/2017	6	Ministry of Education resource consents	3
13/09/2017	10	Dairy resource consents	1.5
14/09/2017	6	Contamination of bores	1
14/09/2017	20	Fonterra sites located within the MPDC District	1
19/09/2017	5	Deceased animals on Council property	1
25/09/2017	25	Policy on Deceased Animals *There was a similar request made 6 days earlier and in error this was treated as the same request, as soon as the error was realised staff responded as soon as possible.	0.25
03/10/2017	19	Number of staff who have left in last 5 years	0.5

Item 6.6

11/10/2017	9	Noise control infringements	1.5
11/10/2017	9	Council Fines	0.5
11/10/2017	10	Council legal costs	1.5
11/10/2017	19	Supplementary questions on SFEC	8
13/10/2017	20	Warrant Accessing 21 Anzac Avenue	1
13/10/2017	19	Alcohol Licensing training budgets	0.5
18/10/2017	21	Further research on consents for Fonterra sites *In error this request was overlooked, once the mistake was realised staff responded as soon as possible.	3
24/10/2017	3	Number of building consents 2013-17	0.3
01/11/2017	24	Tauhei School building consent correspondence *In error this request was overlooked, once the mistake was realised staff responded as soon as possible.	1
08/11/2017	6	Rebates for farm dogs	0.5
09/11/2017	10	Internet connections	1
13/11/2017	21	Number of office facilities *Told Requestor (5 days after request made) that it would take approximately 8 hours work, staff gave a response that was able to be collated within an hour and further correspondence took the time over 20 days.	1
15/11/2017	2	Records and archives	0.75
20/11/2017	10	Parking in George St Matamata	0.5
21/11/2017	16	Cost of Council Xmas decorations	0.5
27/11/2017	9	Breakdown of Mayoral expenses	1
30/11/2017	20	Morrinsville Drinking Water Quality	2
04/12/2017	14	Annual report calendar	2
11/12/2017	12	Freedom camping policy	0.5
13/12/2017	10	Correspondence with Nanaia Mahuta	1
15/12/2017	20	Water supply to Morrinsville	1
18/12/2017	9	Magnum board in building consents	1
18/12/2017	1	Average rates	0.25
13/10/2017	12	Further complaint re 21 Anzac Avenue.	1
09/01/2018	37	Pest controls since 1987. *Clarification was sort 10 days after receiving the request. Further delays caused the response to be hindered.	2
09/01/2018	22	Average residential rates *In error this request was overlooked, once the mistake was realised staff responded as soon as possible	1
09/01/2018	17	Staffing and remuneration	1
09/01/2018	2	Council spending and controls	1
11/01/2018	17	Mileage claims	1
15/01/2018	15	Supplementary questions on SFEC	3
15/01/2018	1	Funding for the Te Aroha Community Patrol	0.2
15/01/2018	25	Asbestos in water supply *Delays in internally gathering the information caused disruptions but as soon as the information was received and approved it was immediately sent out.	1.3
18/01/2018	34	Entertainment and gifts *In error this request was overlooked, once the mistake was realised staff responded as soon as possible.	4
19/01/2018	11	Dog registrations	3

25/01/2018	14	Residential costs/absenteeism/memberships	0.5
25/01/2018	17	Resource consent targets	0.5
26/01/2018	16	Local road maintenance spend	4
30/01/2018	14	Fluoridation in water supplies	2
08/02/2018	7	Swimming pool consents	0.25
20/02/2018	14	Further questions on SFEC	4
22/02/2018	14	2016 local body election count	1
12/02/2018	10	Further questions on SFEC	4
26/02/2018	12	List of staff	0.5
05/03/2018	-	Food licence data *Due to system error no information is available.	0.25
09/03/2018	1	Owner Details Request - 10 Henton Street, Te Aroha	0.1
19/03/2018	9	Tree register	1
19/03/2018	15	Subdivision consents Meadowview Dr, MV	1
20/03/2018	Withdrawn	Building consent fees	0
25/03/2018	16	Library borrowing figures	1
28/03/2018	13	Matamata tourism	0.25
29/03/2018	12	Parking enforcement	0.2
29/03/2018	18	Building consent fees	0.25
03/04/2018	21	Speeding tickets *When it was found that the Council system made gathering the requested information difficult the customer was notified. Subsequent information was sent out as soon as it was found.	1.5
10/04/2018	4	Irrigation scheme funding	0.2
12/04/2018	5	Registers of interest	0.5
05/04/2018	17	Councillor attendances	2
07/05/2018	1	Clarification around rubbish bags and LTP (titled burning of rubbish in Te Aroha)	0.5
07/05/2018	1	Regional Fuel tax	0.25
10/05/2018	2	Sexual Harassment in the public sector	0.5
14/05/2018	16	Complaints and DCs for 282 and 308 Kiwitahi Rd	0.75
06/06/2018	Advised of charging no response	Inefficiencies in local government	0.25
21/06/2018	2	Title owners request	0.25
20/06/2018	5	publically owned buildings sold within five years	0.25
08/06/2018	20	Most requested library book	0.25
21/06/2018	1	Population in Matamata-Piako	0.25
22/06/2018	1	Testing and decontamination of methamphetamine-contaminated properties	0.25
26/06/2018	1	Diesel tank permits for heating	0.25
04/07/2018	19	Rates comparison	0.25
04/07/2018	15	Library staff wages/hours	0.25
10/07/2018	20	Greywater recycling	0.25

17/08/2018	18	International flights	0.25
16/08/2018	20	Council purchases	1.5
20/08/2018	1	MOU between council/iwi on strategy and policy	0.25
21/08/2018	20	GPF enquiries	2hrs
20/08/2018	2	Auditing	0.25
09/08/2018	1	Tourism statistics data	0.25
27/08/2018	3	Mayors vehicle costs	0.25
30/08/2018	1	Property ownership enquiry	0.25
30/08/2018	6	Hutchinson Road waste by-product discharge	1
10/09/2018	19	Drinking water research	0.25

As of 1 November 2018 back up processes have been put in place to try and prevent requests going over the 20 working day limit in the future

Analysis

Options considered

Changing the charging regime

The current charges were set in accordance with the Ministry of Justice (MoJ) Charging Guidelines for Official Information Act Requests (OIA) 2002, which Government specifies should be followed in all cases unless good reason exists for not doing so. At the time there was no similar guidance specific to LGOIMA, however, the Ombudsman pointed to the MoJ guidelines as an acceptable standard. A new 'Guide to charging for official information under the OIA and LGOIMA' has since been released in June 2016. A copy of this guide is attached to this report. The Ombudsman has made it reasonably clear that deviation from the guidelines that it has set puts Councils at risk of review.

Printing/Photocopying Costs

Large requests for printed information (over 20 pages) also incur printing costs. These are currently charged at \$0.50 per page (for black and white) or \$3.50 per page (for colour) in line with Council's standard photocopying costs. These photocopying costs are set at a rate that ensures Council does not undercharge/compete with local business for printing. It is noted that there is a small risk of review by the Ombudsman on this charge – however in practice almost all of the requests for information are now provided electronically to recipients.

The policy set out in the fees and charges for charging is also based on the MOJ guidelines for charging.

Analysis of preferred option

In light of the Ombudsman's guidance and the analysis of the requests that have been received to date staff recommend that no changes be made to the manner in which LGOIMA requests are charged.

Legal and statutory requirements

The relevant legislation is Local Government Official Information and Meetings Act 1987 (LGOIMA). Under this act, we are required to respond to LGOIMA requests as soon as reasonably practicable and (except in some specific instances) within 20 working days.

Impact on policy and bylaws

There is no relevant Council policy or bylaw. Council has documented internal processes for handling official information requests and these have been communicated to the Audit and Risk Committee.

Consistency with the Long Term Plan / Annual Plan

These issues are not relevant in terms of the Long Term Plan / Annual Plan

Impact on Significance and Engagement Policy

This issue is not significant in terms of Council's policy.

Communication, consultation and decision making processes

These issues do not require community consultation. Council may consult with the information requestor, and other agencies with regards to the transfer of requests. There is a statutory decision-making process which Council must follow set by LGOIMA.

Financial Impact

i. Cost

Based on an average time to respond of .95 hours, and on the rates set in the legislation (\$38 per half hour, after the first hour, which is free) for the average charge per request if we did try to recover costs there would not be anything to recover as it's falls within the initial hour that is free. The actual cost to council is variable, depending on the seniority of the responder, and could range from \$45 per hour to \$125 or more.

There were 10 requests we could have charged for with the benefit of hindsight but did not. They came to a total of 27 hours and with the reduction of the first hour which is free it meant there were 17 hours uncharged for, at a total of \$1,292.

However the committee should note that this doesn't take into account the administrative costs it would take to charge each person and the backwards and forwards it would take to estimate and identify if the requestor was willing to pay the cost. This needs to be weighed up against providing the information at no charge as has often been done previously. Some requestors would be charged as little as \$38 for a request taking 1.5 hours, or \$228 for a request taking 4 hours (first hour free).

ii. Funding Source

The cost of responding is currently absorbed in to salary budgets within each team tasked with responding.

Attachments

[A](#). Office of the Ombudsman - A guide to charging for official information under the OIA and LGOIMA June 2016

Signatories

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Approved by	Sandra Harris Acting Strategic Policy Manager	
	Don McLeod Chief Executive Officer	

Charging

A guide to charging for official information under the OIA and LGOIMA

Agencies can make reasonable charges for supplying information under the Official Information Act (OIA) and the Local Government Official Information and Meetings Act (LGOIMA).

This guide uses real life case studies to explain:

- ☐ when it is reasonable to charge;
- ☐ what an agency can charge for;
- ☐ what is a reasonable charge; and
- ☐ how to charge.

It also has practical resources including a step-by-step worksheet for charging, a template charging letter and a sample estimate of costs.

This guide is published under the authority of the Ombudsmen Rules 1989. The case studies set out an Ombudsman's view on the facts of a particular case. They should not be taken as establishing any legal precedent that would bind an Ombudsman in future.

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What the Acts say

There is no specific charging provision in the Acts. What the Acts say about charging is found in the section dealing with decisions on requests (section 15 of the OIA and section 13 of the LGOIMA). In essence:

- ☐ An agency 'may charge for the supply of official information'.¹
- ☐ An agency that receives a request for official information must, within the statutory or extended timeframe,² make and communicate its decision 'whether the request is to be granted and [if so] in what manner and for what charge (if any)'.³
- ☐ Any charge fixed must be 'reasonable', and regard may be had to the cost of labour and materials involved in making the information available, and any costs incurred in meeting an urgent request.⁴
- ☐ An agency can require the whole or part of any charge to be paid in advance.⁵
- ☐ Complaints about charges can be investigated by the Ombudsman.⁶

This means that agencies can impose a reasonable charge—subject to external review by the Ombudsman—to recover the costs of actually making the information available.

1 See s 15(1A) OIA and s 13(1A) LGOIMA.

2 For more information about timeframes, see our guides The OIA for Ministers and agencies and The LGOIMA for local government agencies.

3 See s 15(1)(a) OIA and s 13(1)(a) LGOIMA.

4 See s 15(2) OIA and s 13(3) LGOIMA. Note also s 13(2) LGOIMA, which provides that any charge 'shall not exceed the prescribed amount'. However, no prescribed amount has ever been set.

5 See s 15(3) OIA and s 13(4) LGOIMA.

6 See s 28(1)(b) OIA and s 27(1)(b) LGOIMA.

Charge means release

In order to charge, an agency must have already decided to release at least some of the information at issue. This is because the legislation only authorises a charge to be made:

- ☐ at the same time as a decision to grant the request;⁷
- ☐ for the supply of official information.⁸

No charge can be made in respect of information that is withheld.

When is it reasonable to charge?

It is not generally reasonable to charge for complying with simple requests. However, it may be reasonable to recover some of the costs associated with requests for information that would require considerable labour and materials. As the Committee that recommended the enactment of the OIA (the Danks Committee) noted:⁹

Doubtless many enquiries, as at present, will be capable of ready and convenient response. To levy fees or charges other than for copying at the 'easy' end of answering would be seen as obstructive, and would frustrate the openness we seek. But some enquiries will doubtless engage considerable time and attention when less obviously available answers are sought. Search, abstraction, collation and copying could combine into formidable workloads. Even if research or quasi-research activities are firmly ruled out [by section 18(f) of the OIA / section 17(f) of the LGOIMA] and the simpler enquiries are allowed to be free, there is left a middle ground where charging will be warrantable. (Emphasis added).

What is 'considerable', in terms of the labour and materials required, will depend on the circumstances of the case, including the extent of resources available to the agency to deal with the request. What is 'considerable' for a small agency with few resources will not be the same as what is 'considerable' for a large agency with lots of resources. It may be reasonable to charge if a request will have a significant impact on the agency's ability to carry out its other operations.

When a request is so considerable that it would require 'substantial collation or research' to make the information available, agencies are expressly required to consider whether charging would enable the request to be met.¹⁰

It may also be relevant to consider the requester's recent conduct. If the requester has previously made a large volume of time-consuming requests to an agency, it may be reasonable to start charging in order to recover some of the costs associated with meeting further requests.

Note, however, that some requesters (for example, MPs and members of the news media), may have good reasons for making frequent requests for official information, and they should not be penalised for doing so (see *Is it reasonable to charge MPs and parliamentary research units and Is it reasonable to charge the news media?*).

7 An agency must decide 'whether the request is to be granted and [if so] in what manner and for what charge'—see s 15(1)(a) OIA and s 13(1)(a) LGOIMA.

8 An agency 'may charge for the supply of official information'—see s 15(1A) OIA and s 13(1A) LGOIMA.

9 Committee on Official Information. *Towards Open Government: Supplementary Report* (July 1981) at 35.

10 See ss 18(f) and 18A(1)(a) OIA and ss 17(f) and 17A(1)(a) LGOIMA.

What can an agency charge for?

Charging under the OIA and LGOIMA is not generally about full cost-recovery.¹¹ Full cost-recovery would be inconsistent with the purpose of the legislation, which is to progressively increase the availability of official information to the people of New Zealand. As the Law Commission has noted:¹²

The role of charging in the official information process has never been a full cost-recovery exercise. Where charges are applied they represent a partial recovery of some aspects of agency time and other costs incurred in responding to requests (emphasis added).

Hence there are:

- ☐ activities that can be charged for; and
- ☐ activities that can't be charged for.

The key restriction is that agencies cannot charge for time spent deciding whether or not to release information. This is because charges are only authorised for the supply of official information, in the context of a decision having already been made to grant the request (see Charge means release above).

There is a cost associated with agency compliance with the official information legislation. However, as the Danks Committee observed, that cost is part of the government's responsibility to keep people informed of its activities (the term 'government' being read in the widest possible sense).¹³

The official information legislation is an important part of New Zealand's constitution,¹⁴ and processing official information requests is a core agency function. Costs that cannot be passed on to the requester must be carried by the agency, both in infrastructural terms, and in its administrative and budgeting arrangements.

Activities that can be charged for

Remember, these can only be calculated once the decision on release has already been made (see Charge means release above).

¹¹ It may be reasonable to recover the full costs of supply in some limited circumstances, such as Charging for commercially valuable information.

¹² Law Commission. The Public's Right to Know: Review of the Official Information Legislation. (NZLC R125, 2012) at 202.

¹³ Committee on Official Information. Towards Open Government: General Report (December 1980) at 37.

¹⁴ The OIA has been described as 'a constitutional measure' (Commissioner of Police v Ombudsman [1988] 1 NZLR 385 (CA) at 391), and 'an important component of New Zealand's constitutional matrix' (Kelsey v the Minister of Trade [2015] NZHC 2497 at paragraph 19).

Labour	<input type="checkbox"/> Search and retrieval <input type="checkbox"/> Collation (bringing together the information at issue) <input type="checkbox"/> Research (reading and reviewing to identify the information at issue) <input type="checkbox"/> Editing (the physical task of excising or redacting withheld information) <input type="checkbox"/> Scanning or copying <input type="checkbox"/> Reasonably required peer review in order to ensure that the above tasks have been carried out correctly <input type="checkbox"/> Formatting information in a way sought by the requester <input type="checkbox"/> Supervising access (where the information at issue is made available for inspection) <input type="checkbox"/> Reproducing film, video or audio recordings
Materials	<input type="checkbox"/> Paper (for photocopying) <input type="checkbox"/> Discs or other electronic storage devices that information is provided on
Other actual and direct costs	<input type="checkbox"/> Retrieval of information from off-site

Activities that can't be charged for

<p>Decision making See case study 178413 below</p>	<input type="checkbox"/> Work required to decide whether to grant the request in whole or part, including: <ul style="list-style-type: none"> - reading and reviewing to decide on withholding or release; - seeking legal advice to decide on withholding or release; - consultation to decide on withholding or release; and - peer review of the decision to withhold or release. <input type="checkbox"/> Work required to decide whether to charge and if so, how much, including estimating the charge.
<p>Administrative inefficiencies or poor record-keeping See case studies 172047 and 176071 below</p>	<input type="checkbox"/> Searching for / retrieving information that is not where it should be because of administrative inefficiencies or poor record-keeping
<p>Administrative costs associated with the way an agency chooses to process a request See case study 177195 below</p>	<input type="checkbox"/> Drafting a cover letter <input type="checkbox"/> Drafting a briefing for the Minister <input type="checkbox"/> Formatting information in a way preferred by the agency but not sought by the requester

Costs not directly related to supplying the information

See case study 307851 below

- ☐ General overheads, including costs of establishing and maintaining systems and storage facilities

Case studies—What can an agency charge for?

Case 178413 (2009)—Decision making

The then Ministry of Agriculture and Forestry (MAF) advised a charge of 'at least \$3,000' for supplying animal usage statistics, and the requester complained to the Ombudsman. During the Ombudsman's investigation it was revealed that the bulk of the charge was for time required to consult with third parties affected by the request. The Ombudsman formed the provisional opinion that this time—which related to the decision whether or not to release or withhold the information—could not be charged for. After considering the Ombudsman's provisional opinion, MAF reduced the charge to \$583. The Ombudsman concluded that this represented a reasonable charge for supplying the requested statistics.

Case 172047 (2005)—Administrative inefficiencies or poor record-keeping

An MP made 42 OIA requests for information related to 42 separate grants made by the former Community Employment Group (CEG) of the then Department of Labour. The requested information included copies of contracts, evaluations, communications with the grantees, internal reports, and reports to the Minister. These repeated requests were aggregated for charging purposes, and the Department advised a charge of \$15,197.50. The requester complained to the Ombudsman.

The Ombudsman noted that some of the time required was to cope with a loss of institutional knowledge as a result of the disestablishment of the CEG. Even when the CEG was functioning, it was apparent that its administrative processes were less than robust, with an extremely old and unstable electronic database, which lacked a search function, and was incomplete and inconsistent with the corresponding paper files.

In the Ombudsman's view, it would not be reasonable to make the requester bear the cost related to these administrative inefficiencies:

The requester should only have to meet costs that are comparable to those that would be reasonably charged by a properly-functioning administrative organisation where the processing of official information requests is a core output and funded accordingly.

The Ombudsman formed the opinion that the charge should be reduced to \$10,798, and further remitted by 10 per cent in recognition of the public interest in MPs having access to official information to assist in the reasonable exercise of their democratic responsibilities (see *Is it reasonable to charge MPs and parliamentary research units?* below).

Case 176071 (2008)—Administrative inefficiencies or poor record-keeping

A university charged \$1,444 for providing statistics on plagiarism, and the requester complained to the Ombudsman. The university explained that the academic misconduct records would need to be cross-checked against the student administration database in order to supply the full information requested. Some of the academic misconduct records did not contain the student's ID number, and it would take a significant amount of time to ascertain the correct identity of each student in order to obtain the relevant information from the student administration database.

The Ombudsman considered that proper academic misconduct records should include student identities, particularly given this information was required in order to deal properly with repeat offences. In her view, time spent ascertaining student identities could not reasonably be charged for:

I do not think it is reasonable for [the requester] to bear any costs associated with keeping incomplete records. In my view the University's proposed charge includes time for tasks that are the result of administrative inefficiencies.

While it was reasonable to charge for some of the work required, it was not reasonable to charge for work required due to administrative inefficiency or poor record-keeping. The Ombudsman formed the opinion that the charge should be reduced to \$741, and further remitted by 50 per cent in the public interest (see Case studies—Remission).

Case 177195 (2009)—Administrative costs associated with the way an agency chooses to process a request

ACC charged \$3,438 to supply 87 sets of board minutes dating from 2000–2007, and the requester complained to the Ombudsman. ACC explained that the charge comprised labour costs of \$3,268 and photocopying costs of \$170. This was based on an estimated processing time of 30 minutes per board minute for 'deleting the protected information, collating the material into a reasonable form, drafting a schedule explaining the grounds for withholding the protected information, and photocopying the altered documents'. The Ombudsman found that some of these tasks were not activities that can be charged for, and that a revised estimate of 20 minutes processing time per board minute would be more reasonable. He noted that the primary cost of processing would come from decision making, and that the Charging Guidelines are clear this cost cannot be passed on to the requester. He did not accept that it was necessary to 'collate the material into a reasonable form'. Other than the making of minor deletions, no further work was required to release the board minutes in a 'reasonable form'. He also did not accept it was necessary to create a schedule explaining the withholding grounds: 'This may be a particular agency's preference, but the cost of creating this should not be passed on to the requester'. The Ombudsman formed the provisional opinion, which was accepted by ACC, that the labour component of the charge should be reduced to \$2,128. He did not accept the complainant's submission that this charge should be remitted in the public interest, or due to personal hardship (see Case studies—Remission).

Case 307851 (2012)—Costs not directly related to supplying the information

A council charged \$0.45 per page for photocopying building information, and the requester complained to the Ombudsman. The council explained that the \$0.45 per page charge reflected the additional cost to council of complying with the statutory requirement to keep building information for the life of the building (estimated to be 50 years minimum), as well as the ongoing maintenance costs associated with electronic storage of the files. The Ombudsman noted that section 13(3) of the LGOIMA talks about charges being set with regard to the cost of labour and materials involved in making the information available. While these are not the only matters to which regard may be had, establishment and maintenance costs for systems and storage facilities are not the kinds of costs contemplated by section 13(3). If that were the case, a cost for a service that is for the benefit of the entire community would be being passed on to an official information requester. The Ombudsman considered that a requester can be charged (within reason) for the extra costs generated by meeting a request, but that it is not reasonable to go beyond this. The per page charge was reduced to \$0.20 in light of the Ombudsman's view, and the revised charge was found by the Ombudsman to be reasonable.

What is a reasonable charge?

In most cases, a charge will be reasonable if it has been set:

1. in accordance with the current Government Charging Guidelines (or equivalent charging policy); and
2. with due regard to any circumstances warranting remission.

Charging Guidelines

The Government has issued Charging Guidelines to be followed by agencies subject to the OIA. These can be accessed from the Ministry of Justice website (search under 'publications' at www.justice.govt.nz).

Successive Ombudsmen have accepted that charges set in accordance with the Charging Guidelines are reasonable, provided due regard has been paid to any circumstances warranting remission (see Remission of charges below).

The Charging Guidelines specify standard charges of:

- ☐ \$38 per half hour of staff time in excess of one hour; and
- ☐ \$0.20 per page for photocopying in excess of 20 pages.

An agency may be justified in charging higher rates for staff time where staff with specialist expertise that are not on salary (ie, contractors) are required to process the request, in which case a rate not exceeding their actual rate of pay per hour may be charged.

Although the Charging Guidelines do not apply to local government agencies, it is reasonable for such agencies to make their charging decisions in accordance with the guidelines (see case studies below).

Agencies may develop their own charging policies (see Developing a charging policy below). However, the application of an internal charging policy that is inconsistent with the Charging Guidelines, for example, by charging higher rates for staff time or photocopying, risks an Ombudsman's finding on review that the charge in question was unreasonable (see case studies below).

Case studies—Charging guidelines

Cases 176345 (2007) and 368207 (2014)—Unreasonable staff rates

Cases 176345 and 368207 involved councils charging higher hourly rates than those specified in the Charging Guidelines. The hourly rates were derived from their LGOIMA charging policies, adopted in the councils' annual plans. The rates varied depending on the seniority of the staff involved (in one case, the charge ranged between \$45/hour and \$125/hour, and in the other, the charge ranged between \$75/hour and \$121.83/hour).

In both cases, the Ombudsmen compared the proposed staff rates with those in the Charging Guidelines, noting that the latter rates applied irrespective of the seniority of the staff members involved. The Ombudsmen also noted there was no suggestion in either case that staff with specialist expertise were required to process the request. The higher staff rates were found to be unreasonable, as was the decision to charge different rates depending on the seniority of the staff members involved.

In case 176345, the Ombudsman suggested that the Council consider amending its current scale of charges for the supply of official information to bring them in to line with the Charging Guidelines. In case 368207, the Ombudsman noted that the official information legislation does not contemplate full cost recovery for providing information, and that adequate funding

should be provided in agency budgets in order to perform their statutory functions.

Case 307851 (2012)—Unreasonable photocopying rates

A council charged \$0.45 per page for photocopying building information, and the requester complained to the Ombudsman. The Ombudsman was not persuaded there was any justification for exceeding the standard photocopying charge prescribed in the Charging Guidelines (\$0.20 per page for photocopying in excess of 20 pages). The charge was revised in light of the Ombudsman's view, and the revised charge was found to be reasonable.

Remission of charges

The setting of a 'reasonable' charge for supplying official information requires due regard to be given to any circumstances warranting remission. Remission means reducing or cancelling the charge that would otherwise be set. Remission may be warranted because:

- ☐ there is a compelling public interest in making the information available; and/or
- ☐ meeting the charge would be likely to cause hardship to the requester.

Remission in the public interest

Agencies must consider whether there any circumstances warranting remission of the charge in the public interest.

Read our guide to the Public interest, which sets out some example public interest considerations favouring release of official information, and some factors that can affect the weight of the public interest in release.¹⁵

The Charging Guidelines also set out some public interest considerations and questions that should be considered by agencies before imposing a charge. As noted above, these guidelines can be accessed from the Ministry of Justice website (search under 'publications' at www.justice.govt.nz).

In addition, the following questions are relevant:

1. Is there is a public interest in making the information generally available—that is, not just to the requester? If so, it may be unreasonable to make the requester alone bear the cost of release (see case study 274689 below).
2. Does the information have special relevance to the requester? If the personal interests of the requester give rise to a broader public interest in release to that person (for example, to promote procedural fairness), it may be unreasonable to charge, or to charge the full amount.

Remission due to hardship

Agencies must also consider whether meeting the charge would be likely to cause hardship to the requester. Hardship means the charge will be excessively costly for the requester to bear, such that the requester will be unable to meet the charge and still afford the essentials for life or business.

Whether hardship is likely to occur will depend on the level of the proposed charge and the financial means of the requester. An agency should consider what it already knows about the financial means of the requester (if anything), as well as any information advanced by the

¹⁵ While this is a guide to conducting the public interest test in section 9(1) of the OIA (section 7(1) of the LGOIMA), the same considerations are relevant in deciding whether remission of charges is warranted in the public interest.

requester in support of an assertion of limited means. It does not have to actively enquire into a requester's financial means before deciding to impose a charge.

In a number of cases, the Ombudsmen have concluded that hardship on its own is insufficient reason to remit an otherwise reasonable charge in full. There should also be some other public interest factors favouring disclosure of the information (see case studies 177195 and 178486 below).

Case studies—Remission

Case 274689 (2010)—Full remission of labour costs in the public interest

The Customs Service (Customs) charged \$2,037.80 to supply a copy of its policies on checking passengers and their baggage, and the requester complained to the Ombudsman. The Ombudsman noted that this type of information is covered by section 22 of the OIA, which provides a right of access to the internal rules that agencies use to make decisions affecting people. He considered that release of policies and procedures about how searches are carried out, and the rights afforded to those whose person and baggage is searched, would be likely to enhance public awareness of Customs' role at the border and help ensure that that role is carried out properly and that Customs is accountable for its actions. The Ombudsman found that the public interest in general availability of the information made Customs' decision to charge one requester a substantial amount unreasonable. In the Ombudsman's view, Customs was only justified in charging reasonable photocopying costs, which were calculated in accordance with the Charging Guidelines to be \$18.20. The Ombudsman also encouraged Customs to make the information available to the public online.

Case W50332 (2004)—Full remission in the public interest

The Minister for Trade Negotiations charged an academic requester \$620 to supply information about the General Agreement on Trade in Services (GATS). The requester complained to the Ombudsman. The Ombudsman recommended full remission of the charge in the public interest. He noted that the GATS was a matter of substantial public interest in terms of New Zealand's economic concerns. He considered that public understanding of this major public issue was best served by maximising the availability of information so that source material may be analysed for public discussion by a variety of parties. Members of the public are entitled to take a contrary view to the government and the OIA envisages that individuals may access information in order to participate in debate in their own way. In this case, the complainant sought the information in order to undertake research which ultimately would be made publicly available for discussion and debate, and the Ombudsman was of the view that any charge would hinder such access. You can read the full case note on our website.¹⁶

Case 176071 (2008)—Partial remission in the public interest

A university charged \$1,444 for providing statistics on plagiarism, including:

1. the number of cases;
2. the subjects they occurred in;
3. the action taken as a result;
4. the ethnicity or nationality of the students; and

16 Search for 'W50332' using our online library Liberty.

5. the year of study the students were in.

The requester complained to the Ombudsman about the charge. The Ombudsman found that some of the activities required in order to process the request were not chargeable ones (see Case studies—What can an agency charge for?). The Ombudsman also found the charge should be partially remitted in the public interest. In her opinion, there was a public interest in releasing items 1–3. The need to uphold academic integrity and ensure a transparent response to plagiarism militated in favour of releasing that information. There was no compelling public interest identified in releasing items 4 and 5. To reflect her view of the public interest, the Ombudsman considered the charge should be remitted by 50 per cent.

Case 302392 (2010)—No remission in the public interest

The Ministry of Transport charged \$9,220 to supply all correspondence received by the Minister from July 2009–November 2010 regarding proposals to lower the drink-drive limit and the Land Transport Amendment Bill. The requester complained to the Ombudsman. The charge was revised down to \$3,262.20 during the Ombudsman’s investigation (see Case studies—Calculating the charge). The Ombudsman also considered whether that charge should be remitted in the public interest. He had regard to the controversial nature of the decision not to lower the drink-drive limit, and the high public interest in the information that led to that decision, as well as the views of the general public. However, much of this information was already available through the select committee process for the Land Transport Amendment Bill. Public submissions on that Bill had also been published on the parliamentary website. The Ombudsman concluded there was not a public interest in release of the requested information sufficient to warrant remission of the revised charge.

Case 319893 (2012)—No remission in the public interest

A requester asked the Police for a range of documentation relating to cycling fatalities since 2007, as well as answers to specific questions. Police said the request would take a considerable amount of time, which would be charged for in accordance with the Charging Guidelines. The requester complained to the Ombudsman.

During the Ombudsman’s investigation some readily retrievable information was able to be supplied in partial satisfaction of the request (see Case studies—Options for reducing or removing the need to charge). The Ombudsman found that a reasonable estimate of the time required to compile the remaining information was 94 hours, resulting in a charge calculated in accordance with the Charging Guidelines of \$7,068.

The Ombudsman then considered whether that charge should be remitted in the public interest. The requester contended that the information was needed to assist in the preparation of submissions for a Coroner’s inquiry into cycling fatalities, and that his overall aim was increased public health and safety. These aims clearly aligned with the public interest factors suggested in the Charging Guidelines as warranting remission.

However, the Ombudsman considered that the public interest in release needed to be sufficiently compelling to justify spending this much staff time on one request without charging for it:

The staff time involved (over 90 hours) is funded by the public purse, and to my mind it is reasonable to expect a tangible public benefit from the use of that level of resource.

The Ombudsman did not consider this case met that threshold.

☐ The readily retrievable information already released by the Police would have adequately assisted in the preparation of submissions to the Coroner’s inquiry.

- ☐ The Coroner had the power to request information direct from the Police if it was necessary for the purpose of the inquiry.
- ☐ The primary source of much of the requested information was traffic accident reports, which were available pursuant to a charging regime set by statute (see Case study—Charges set by other enactments). Making the requested information available at no charge under the OIA would circumvent that charging regime.

The Ombudsman was not persuaded the charge should be remitted in the public interest.

Case 177195 (2009)—No remission in the public interest / hardship

ACC charged \$3,438 to supply 87 sets of board minutes dating from 2000–2007, and the requester complained to the Ombudsman. The Ombudsman found that some of the activities required in order to process the request were not chargeable ones (see Case studies—What can an agency charge for?), and the charge was reduced accordingly. However, the requester argued the charge should be remitted entirely in light of the public interest, and due to personal hardship.

In terms of the public interest, the Ombudsman accepted that disclosure of the minutes would promote transparency and contribute to public understanding of the organisation's activities. However, the request covered a long time period, and much of the information was by then historic. The Ombudsman was not persuaded that disclosure of the information would represent such a significant contribution to the public interest that ACC should absorb the entire, quite considerable, cost of providing it.

In terms of hardship, the Ombudsman accepted the complainant's evidence that meeting the charge would consume his annual disposable income. However, the Ombudsman did not regard lack of financial resources by itself as a sufficient reason to merit the waiving of an otherwise reasonable charge. The Ombudsman said he would also expect to be able to identify a general public interest consideration in favour of release and/or an aspect of special relevance to the requester.

Case 178468 (2009)— No remission in the public interest / hardship

The Office of Treaty Settlements (OTS) charged \$708 to meet a request for all correspondence, memoranda, faxes, emails, file notes, and notes of telephone calls relating to the Te Roroa claim over a three year period. The requester complained to the Ombudsman. The Ombudsman noted that the information at issue was found in 50 files, and concluded the charge imposed reflected a significant under-estimation of the time that would be required to meet the request.

The Ombudsman accepted that the Te Roroa claim and its subsequent settlement raised matters of public interest. Disclosure of information relating to the settlement process would serve to increase the transparency of the process and promote accountability for the settlement that was reached. However, this did not mean that there was a public interest in making available, without charge, all correspondence, memoranda, faxes, emails, file notes and notes of telephone calls relating to the settlement over a three year period.

The request was so broadly framed it would likely capture many minor and trivial documents. Disclosure of this type of information would be unlikely to contribute significantly to public understanding of the settlement process.

The Ombudsman acknowledged the requester's contention that meeting the charge would cause him hardship. A requester's personal financial hardship is a matter that may be taken into account in assessing whether to impose a charge. However, lack of financial resources, by itself, does not provide sufficient reason to remit an otherwise reasonable charge. Some

public interest considerations favouring the disclosure of the information should also be apparent. Although there were public interest considerations favouring the disclosure of information relating to the settlement process in this case, the width of the information potentially covered by the request went beyond the information needed to meet the public interest considerations involved.

Is it reasonable to charge MPs and parliamentary research units?

There is nothing in the legislation which says that MPs and parliamentary research units cannot be charged for the supply of official information. However, the usual approach has been to remit any charge that would otherwise have been fixed, in recognition of the public interest in MPs having access to official information to assist in the reasonable exercise of their democratic responsibilities.

The Charging Guidelines state:¹⁷

Members of Parliament may be exempted from charges for official information provided for their own use. This discretion may be extended to cover political party parliamentary research units when the request for official information has the endorsement of a Member of Parliament. In exercising this discretion it would be appropriate to consider whether remission of charges would be consistent with the need to provide more open access to official information for Members of Parliament in terms of the reasonable exercise of their democratic responsibilities.

There are important reasons for not charging MPs and parliamentary research units:¹⁸

[These include] the Opposition's limited resources, and the constitutional importance of the [OIA] (and the parliamentary question procedure) as means of keeping the executive accountable to the legislature. Scrutiny and control over the activities of the government have long been recognised as amongst Parliament's most important functions. Indeed, s 4 of the Act expressly refers to 'the principle of the Executive Government's responsibility to Parliament'. Because of the whip system and other forms of party discipline, the scrutiny and control functions in practice fall largely on the Opposition; to exercise them effectively it must have access to information. Replies to Opposition requests for official information and parliamentary questions, published or broadcast in the media, in turn form an important source of information to the public about the activities of government.

These important reasons mean it will often be unreasonable to charge MPs and parliamentary research units for the supply of official information.

However, charging MPs and parliamentary research units is permissible under the legislation, and may be reasonable in some circumstances. As the Law Commission noted in 2012:

There is no reason why unreasonable political requests should be completely exempt. Voluminous and unrefined requests from parliamentary research units can cause a great deal of expenditure of resources. The charging mechanism should be available to agencies as a defence mechanism in appropriate cases, regardless of the source of the request (emphasis added).

The Ombudsman has, on occasion, upheld charges against MPs who have made excessively burdensome requests (see case study below).

Case study 172047 (2005)—Is it reasonable to charge MPs and parliamentary research units?

An MP made 42 OIA requests for information related to 42 separate grants made by the

17 See paragraph 7.4 of the Charging Guidelines.

18 Law Commission. Review of the Official Information Act 1982 (NZLC R40, 1997) at 57.

former Community Employment Group (CEG) of the then Department of Labour. The requested information included copies of contracts, evaluations, communications with the grantees, internal reports, and reports to the Minister. These repeated requests were aggregated for charging purposes, and the Department advised a charge of \$15,197.50. The requester complained to the Ombudsman.

The Ombudsman found that some of the activities required to process the request were not chargeable ones (see Case studies—What can an agency charge for?). He still accepted, however, that it would take approximately 3.25 hours to retrieve and collate the relevant information in respect of each of the 42 separate grants, requiring a total processing time of 136.5 hours.

The Ombudsman considered whether the charge should be remitted in recognition of the public interest in MPs having access to official information to assist in the reasonable exercise of their democratic responsibilities. However, he was not persuaded that the public interest justified remission of the entire charge. He concluded the charge should be remitted by 10 per cent, resulting in a reasonable charge of \$9,718.20.

Is it reasonable to charge the news media?

Members of the news media¹⁹ are in the same position as any other requester when it comes to charging. A reasonable charge may be imposed, in accordance with the Charging Guidelines, and with due regard to any circumstances warranting remission.

However, when assessing whether remission is warranted in the public interest, agencies should consider the important democratic and constitutional role of the news media in informing members of the public. As the courts have recognised (in articulating the rationale for openness in judicial proceedings), the news media act as the 'surrogates of the public'.²⁰ The public interest role performed by the news media may make it unreasonable, in the circumstances of the particular case, to charge, or to charge the full amount.

Case study 179387 (2010)—Is it reasonable to charge the news media?

The Teachers' Council charged \$3,277.12 to supply a member of the news media with the following details of instances where teachers had self-reported convictions:

- ☐ the gender of the teacher;
- ☐ the date on which the Council received the report of conviction;
- ☐ the registration status of the teacher at the time the report was received;
- ☐ the current registration status of the teacher;
- ☐ the details of the conviction(s) and sentence;
- ☐ a copy of the information provided by the teacher; and
- ☐ a copy of the summary of facts and sentencing notes.

The requester complained to the Ombudsman. The Ombudsman accepted the request would

19 Following the definition in s 68(5) of the Evidence Act 2006, 'news media' is media for the dissemination to the public or a section of the public of news and observations on news. Following the judgment of the High Court in *Slater v Blomfield* [2014] NZHC 2221, this can include a blogger who regularly disseminates news (ie, new information about recent events or events of interest to the public), or observations on news, to a significant body of the public.

20 *R v Liddell* [1995] 1 NZLR 538, 546–547.

take approximately 11 hours processing time. With the first hour free, this amounted to a charge of \$760. This was based on an estimated 20 minutes per file to locate, extract and collate the requested information from 29 relevant files. The Ombudsman then considered whether the \$760 charge ought to be remitted in the public interest.

The Ombudsman acknowledged the public interest in transparency and accountability of Teachers' Council processes. He also acknowledged that 'the media serves the function of informing the public on matters of public interest'. However, 'this does not mean that all its sources must be available at no charge'.

The Ombudsman accepted that the staff time required to process this request would have a significant impact on the conduct of the Teachers' Council's business, and that it would have to engage additional staff in order to complete the work involved. He was not persuaded that the public interest in release was such that remission of the charge was warranted.

Charging for commercially valuable information

As noted earlier, charging under the OIA and LGOIMA is not generally about full cost-recovery (see What can an agency charge for?). However, it may be reasonable to recover the full costs of supplying information of commercial value to the requester. This is on the basis that the cost will generally be able to be recovered as some form of business expense.

The Charging Guidelines say:²¹

It is reasonable to recover actual costs involved in producing and supplying information of commercial value. However, the full cost of producing it in the first instance should not be charged to subsequent requesters.

Agencies should first be satisfied that the requester:

- ☐ has a commercial (ie, profit seeking) motive; and
- ☐ is likely to use the information to generate a profit.

As in any case, it will still be necessary to consider the public interest in remission of the proposed charge. One relevant consideration in this context is the public interest in promoting commercial innovation and economic growth, which is recognised by the Government's open data initiatives, including the Declaration on Open and Transparent Government (see www.ict.govt.nz).

Case study 172531 (2007)—Charging for commercially valuable information

The Royal Forest and Bird Protection Society asked Solid Energy for all substantive information between 1998 and 2005 regarding a Department of Conservation Recommended Area for Protection. Solid Energy advised a charge of \$9,930.31, and the Society complained to the Ombudsman.

Solid Energy sought to recover the actual cost of supplying the information, including costs charged by its consultants, on the basis that it was commercially valuable. The Ombudsman commented:

Information can be seen to be commercially valuable if it can be traded in some way, or if its release at less than production cost would confer a commercial advantage on a commercial competitor who would be saved the cost of producing, or otherwise acquiring, the information for itself. There has been no suggestion that either of those situations applies to the information in issue. Mere release of the information does not diminish its value to [Solid Energy] since it still has the information and can continue to derive whatever benefit it

²¹ See paragraph 6.1 of the Charging Guidelines.

provided.

The Ombudsman reviewed the modest amount of material at issue (15 documents of substance and approximately 125 pages of other material). It included experts' reports, submissions regarding the boundaries of the proposed Recommended Area for Protection, and deeds of agreement between Solid Energy and the Department of Conservation relating to access to the relevant areas. He stated:

The legal documents may evidence rights that may, perhaps, be tradable, but release of that information does not affect such tradability, if any. There is a submission, dated 1998, which may have value as a precedent, but that value is not diminished by its release. The remaining information (other than the correspondence) contains the opinions of various experts on [Solid Energy's] proposed mining operations, and the land, and its fauna and flora, likely to be affected by them. As [Solid Energy] is the only entity permitted to carry on such operations at that location it is hard to see any realisable commercial value in that information.

The Ombudsman was not satisfied that any information of commercial value was to be released. Consequently there was no justification for charging on such a basis. He formed the opinion that \$2000 reflected a reasonable charge in respect of the staff time involved.

How to charge

This section provides advice on how to charge, including calculating the charge, and communicating the decision to charge. There can be a bit of work involved in charging, and not all requesters are prepared to pay a charge—particularly a large one. This makes it very important to engage with the requester as early as possible, and to consider options for reducing or removing the need to charge.

Some basics

The basic order of charging looks like this.

1. Decide to release the information.
2. Calculate the charge. (See Calculating the charge for details of how to do this.)
3. Communicate the decision to release the information subject to a charge, as soon as reasonably practicable and no later than 20 working days after the day the request was received (unless that timeframe is extended).²² (See Communicating the decision to charge for the details that should be included.)
4. Await payment of the deposit (if applicable) and/or confirmation that the requester accepts the charge.
5. Prepare the information for release.
6. Release the information without 'undue delay'.²³

The decision to charge has to be communicated at the same time as the decision to release some or all of the requested information (see Charge means release above). This means it must be done within the statutory (maximum 20 working days), or extended timeframe.

It is just the decision on the request (including the decision to charge) that has to be communicated within this timeframe. The obligation in terms of releasing the information is to do

²² See ss 15(1)(a) and 15A OIA and ss 13(1)(a) and 14 LGOIMA.

²³ See s 28(5) OIA and s 27(5) LGOIMA.

so without 'undue delay'.²⁴ A delay occasioned solely by awaiting confirmation that the requester has accepted the charge or paid the deposit (if applicable) will not be 'undue'.

It is necessary to spend some time scoping the request and reviewing the information in order to decide that the request can be granted and calculate the charge. However, an agency should not start preparing the information for release until after the requester has accepted the charge or paid the deposit (if applicable). Otherwise the agency will have wasted its time preparing the information for release if the requester does not agree to pay the charge.

Can an agency charge if it has breached the statutory or extended timeframe for making a decision?

Yes. However, agencies should consider whether their breach of timeframes would make it unreasonable to charge, or to charge the full amount. Where there have been significant delays, or delays resulting from the agency's own administrative failings, a reduction in the charge may be warranted.

In case 175470, the Ombudsman considered the requester's argument that a breach of timeframes warranted a reduction in the charge. The Ombudsman noted that a significant delay in responding has sometimes prompted other agencies not to charge.

However, the Ombudsman accepted that the delay in that case did not justify a reduction. It was occasioned in part by the requester's changes to the focus and complexity of the requests, and by the need to comply with the requester's specific formatting preferences. In addition, the actual time taken to process the request was significantly more than the requester was charged for.

Can an agency charge after it has already released the information?

No. Decisions on charges must be made at the same time as the decision to release the information. This gives the requester the opportunity to refine or withdraw their request in order to avoid the charge.

In case W45424, the Airways Corporation sought to impose a substantial charge six weeks after having already made the information available. At no stage had the requester been advised that a charge was contemplated. The Ombudsman found that Airways was not entitled to levy a charge, because it had not done so in accordance with the legislation (section 15(1) of the OIA). You can read the full case note on our website.²⁵

In case 299328, a council charged \$38.50 to supply a one page document. The charge was based on aggregating the time taken to respond to this and previous requests for information. The Ombudsman noted that while it is possible to aggregate requests for the purpose of calculating a charge,²⁶ any charge must be quoted to the requester before the information is provided. A requester cannot be charged by retrospectively aggregating responses to previous requests with a new request.

Calculating the charge

A charge is calculated by estimating:

☐ the volume of information at issue, or that needs to be searched through to find the information at issue;

24 See s 28(5) OIA and s 27(5) LGOIMA.

25 Search for 'W45424' using our online library Liberty.

26 See paragraph 2.2 of the Charging Guidelines.

- ☐ the time required to complete the activities that can be charged for;
 - search and retrieval;
 - collation (bringing together the information at issue);
 - research (reading and reviewing to identify the information at issue);
 - editing (the physical task of excising or redacting withheld information);
 - scanning or copying;
 - reasonably required peer review in order to ensure that the above tasks have been carried out correctly; and
- ☐ the cost of any materials, for example, paper for photocopying.

Estimating the volume of information at issue is made easier with modern email and document management systems. These can be interrogated using appropriate search terms to estimate the total number of potentially relevant documents.

The time required can be estimated by adopting some reasonable assumptions about how long it will take to complete the activities that can be charged for. The best way of establishing these assumptions is to carry out a sample exercise; that is, by timing how long it takes to do the chargeable activities for a representative sample of the information, and using that to extrapolate an estimated total.

Formula for charging

$$(([\text{Estimated hours staff time}] - 1) \times \$76) + (([\text{Estimated pages to be photocopied}] - 20) \times \$0.20) = [\text{Amount agency may wish to consider charging}]$$

Case study 302392 provides an example of how an agency and the Ombudsman went about estimating the work involved in processing a request and calculating a reasonable charge. There is also a sample estimate of costs in the appendix to this guide that agencies can use as a basis for calculating charges.

Can a charge be increased?

The Acts talk about charges being 'fixed'. This suggests that the amount of the charge should be ascertainable and reasonably certain by the time a decision is made on the request.

This makes it important for agencies to take the time up front to adequately scope the request. Scoping the request means interpreting the request (what is the requester asking for?), and identifying the information (what do we hold and where?). Adequate scoping is essential for the calculation of accurate charges.

In preference to having to increase a charge, agencies should aim to calculate the maximum charge to the requester, and explain that any unused component of that charge will be refunded.

It may be unreasonable to subsequently increase a charge that has already been fixed and agreed to by the requester, particularly if the increase is substantial and/or the requester has not been adequately forewarned of that possibility (see case study 176924). It may also be unreasonable for an agency to change its mind, and subsequently seek to refuse a request that was previously granted subject to a charge (see case study 304081).

Case studies—Calculating the charge

Case 302392 (2012)—Example of how to calculate a reasonable charge

The Ministry of Transport charged \$9,220 to supply all correspondence received by the Minister from July 2009–November 2010 regarding proposals to lower the drink-drive limit and the Land Transport Amendment Bill. The requester complained to the Ombudsman. The charge was revised down to \$3,262.20 during the Ombudsman’s investigation.

The Ministry and the Ombudsman’s investigator together searched the Ministry’s database for correspondence received between July 2009 and November 2010 with the following search terms:

- ☐ ‘blood alcohol concentration limit’; or
- ☐ ‘lowering of the BAC’; or
- ☐ ‘drink driving’; or
- ☐ ‘BAC limit’; or
- ☐ ‘Land Transport (Road Safety and Other Matters) Amendment Bill’.

The search returned 1180 potentially relevant documents.

The Ministry and the Ombudsman’s investigator then reviewed a sample of the documents, and agreed upon the following assumptions regarding the chargeable activities required to process the request:

- ☐ Search database: 15 minutes;
- ☐ Review document to confirm within scope: 5 hours (15 seconds per document);
- ☐ Open and print each letter/email: 10 hours (30 seconds per document);
- ☐ Prepare documents for photocopying: 20 hours (1 minute per document); and
- ☐ Time spent photocopying: 5 hours (15 seconds per document).

This came to an estimated maximum of 40.25 hours processing time, plus photocopying for 1416 pages. Applying the charging formula ($40.25 - 1 \times \$76 + 1416 - 20 \times \0.20) resulted in a charge of \$3,262.20.

Case 176924 (2009)—Unreasonable to increase charge

The then Ministry of Agriculture and Forestry charged a requester \$9,044 to supply information about the Southern Saltmarsh Mosquito Eradication Programme. The charge was upheld on complaint to the Ombudsman, and the requester paid the charge. After processing a third of the request, the Ministry advised the requester that the charge had been exhausted, and sought a further \$8,000 to complete the request. When the requester declined to pay the additional amount, the Ministry refused the request on the basis that it would require substantial collation or research to make the information available (section 18(f) of the OIA). The requester complained to the Ombudsman again.

The Ombudsman formed the opinion that it was not open to the Ministry to refuse the request or increase the charge. The request could not be refused under section 18(f) of the OIA because the information had already been collated. In relation to the increased charge, the Ombudsman stated:

In my view, if an organisation sets a definite figure for fulfilling a request at the time of making its decision, then I do not consider it is open to the agency to charge more than the set figure. However if an organisation ‘fixes’ a charge by reference to an estimate, and the agency clearly signals that this figure may increase, then an Ombudsman on review is likely to

consider that an increase that is in line with the signalled estimate is reasonable.

In this case, the Ombudsman was not persuaded that simply referring to the charge as an 'estimate' was sufficient to forewarn the requester that the charge could increase, particularly by such a large amount. While the Ministry had made a genuine attempt to assess the likely charge, its scoping exercise prior to making a decision on the request was inadequate.

Even in situations where a requester has been forewarned of the possibility that the charge may increase, a significant factor for an Ombudsman reviewing the reasonableness of a charge will be whether the increased charge is substantially different from the estimate given. In this case, the Ministry sought to increase the charge by \$8,000, an increase of 82 per cent.

The original estimate given in this case was not an open one – it was intended to convey to the requester the maximum that he would be expected to pay. The Ombudsman did not consider it reasonable in this case for the charge to exceed the original estimate.

Case 304081 (2012)—Unreasonable to refuse request after earlier deciding to supply information subject to a charge

A District Health Board (DHB) decided to charge for supplying information about a hospice. The requester accepted the charge and paid the deposit. The requester made a second request for information. The DHB then withdrew the charge, refunded the deposit, and refused the first request on the grounds that it was vexatious (section 18(h) of the OIA), and it would require substantial collation or research to make the information available (section 18(f) of the OIA). The requester complained to the Ombudsman about the refusal of his first request.

The Ombudsman formed the provisional opinion that the DHB had made a decision to release the information to the requester, provided that he was prepared to pay the charge. Consequently, when the requester agreed to the charge, and paid the required deposit, he entered into an agreement with the DHB for provision of the information. In these circumstances, the Ombudsman could not see how it was reasonable for the DHB to subsequently withdraw its offer to release the information, and instead inform the requester that his request was refused. The requester was entitled to rely on the DHB's decision to release the information on payment of a charge. After considering the Ombudsman's provisional opinion, the DHB agreed to release the information for the original charge, and the Ombudsman discontinued his investigation on the basis that the complaint was resolved.

Communicating the decision to charge

As noted earlier (see Some basics), the decision to supply information subject to a charge must be communicated as soon as reasonably practicable and no later than 20 working days after the day the request was received (unless that timeframe is extended).

The decision to charge should explain the following:

- ☐ that the agency has decided to grant the request (or part of the request) for payment of a charge;
- ☐ the maximum amount of the charge;
- ☐ how the charge has been calculated (agencies can use the sample estimate of costs in the appendix to this guide);
- ☐ whether all or part payment of the charge is required in advance of release of the information and, if so, how payment can be made;
- ☐ the timeframe within which the information will be released once the charge is accepted and (if applicable) the deposit paid;

☐ that the requester has the right to complain to the Ombudsman about the decision to charge.

Where only part of the request is being granted, the information to be released should be described in sufficient detail to enable the requester to decide whether it is worth paying the charge.

Agencies should also provide the contact details of a subject matter expert who can provide reasonable assistance to the requester if they wish to change or refine their request in a way that reduces or removes the need to charge.

There is a template charging letter in the appendix to this guide.

Engaging with the requester

Engaging with the requester is in everyone's best interests. It means the requester is more likely to get what they want in the most efficient way possible.

The purpose of engaging with the requester is to clarify the request and to help them change or refine it in a way that reduces or removes the need to charge. Some requesters simply do not understand how much information is held, and how much effort will be needed to provide it. Some will be content with a narrowed-down request, or to receive only a few key documents among the many available, or to see a list of titles from which they can choose (see Options for reducing or removing the need to charge).

The earlier engagement takes place the better. Calculating a charge requires adequate scoping and careful estimation. This is wasted time if the requester is not prepared to pay a charge, or a charge of the magnitude being contemplated. Often the best way of engaging with a requester is a face-to-face discussion or a discussion over the telephone. The following text box has some talking points that agencies could use in a discussion with the requester or adapt for written communications.

Talking points—Engaging with requesters

Here are some talking points for engaging with requesters.

- ☐ 'It's a really big request': Explain that it will take considerable labour and materials to meet the request as it is currently framed.
- ☐ 'We think it will take this much work': Give any early order estimates of the volume of information at issue, the amount of time required to process the request, and the impact on the agency's other operations.
- ☐ 'We're thinking of charging': Explain that unless the request is changed or refined the agency is likely to impose a charge.
- ☐ 'We want to help you refine it': Explain that the agency wants to work with the requester to change or refine the request in a way that reduces or removes the need to charge.
- ☐ 'Here are some of our ideas for how the request could be refined or met without having to charge': Canvass any Options for reducing or removing the need to charge.
- ☐ 'Here's who can help': Provide contact details for a subject matter expert who can provide reasonable assistance to the requester to change or refine their request.

Note that in certain circumstances, an agency may be justified in treating any amended or clarified request as a new request for the purpose of calculating the maximum timeframe for response.²⁷

Options for reducing or removing the need to charge

It is important to consider whether there are other ways to meet the request that would reduce or remove the need to charge. For example:

- ☐ Identifying relevant information that is readily retrievable and able to be supplied free of charge (see case studies 319893 and 376161 below).
- ☐ Refining the time period covered by the request.
- ☐ Refining the types of document covered by the request. For example, document types can include: emails, draft papers/reports, final papers/reports, reports or briefings to Ministers, aides-memoire, and Cabinet papers. Requesters may be happy to receive key documents (such as final papers/reports, or reports/briefings to Ministers or Cabinet), if they understand that their request for all information on a subject is problematic and may be met with a charge.
- ☐ Providing a list of the documents that are potentially in scope of the request, if one can be generated through the agency's document management system.
- ☐ Limiting search terms by agreement with the requester, thereby yielding a smaller number of more relevant results.
- ☐ Providing the information in electronic form, in order to avoid the need for photocopying charges.²⁸
- ☐ Providing the information at issue in an alternative form (for example, an opportunity to inspect the information or receive an oral briefing on the information),²⁹ and/or subject to conditions on publication or dissemination (see case study 173607 below).³⁰ This is permissible where supplying the information in the way preferred by the requester would 'impair efficient administration' (among other reasons).³¹ The requester may prefer to receive the information in an alternative form than to pay a charge.

Case studies—Options for reducing or removing the need to charge

Case 319893 (2012)—Provision of readily retrievable information

A requester asked the Police for a range of documentation relating to cycling fatalities since 2007, as well as answers to specific questions. Police said the request would take a considerable amount of time, which would be charged for in accordance with the Charging

²⁷ See ss 15(1AA) and (1AB) of the OIA and ss 13(7) and (8) of the LGOIMA. See also 'Amended or clarified requests' in The OIA for Ministers and agencies or The LGOIMA for local government agencies.

²⁸ See s 16(1A) OIA and s 15(1A) LGOIMA.

²⁹ See s 16(1) OIA and s 15(1) LGOIMA. For more information about the form of release see 'Deciding how to release information' in The OIA for Ministers and agencies or The LGOIMA for local government agencies.

³⁰ See s 28(1)(c) OIA and s 27(1)(c) LGOIMA. For more information about imposing conditions on the use, communication or publication of information see 'Conditional release' in The OIA for Ministers and agencies or The LGOIMA for local government agencies. Note, in particular, that conditions are not enforceable under the official information legislation.

³¹ See s 16(2) OIA and s 15(2) LGOIMA.

Guidelines. The requester complained to the Ombudsman.

The Ombudsman asked the Police whether there was any information relevant to the request that could be provided with less effort than the work needed to answer the request in full. In particular, the first part of the request, which was for 'a list of all fatalities involving a bicycle since 2007, including police file numbers, dates and locations', seemed a possible option.

Police were able to compile and supply a report addressing some aspects of the request using the Crash Analysis System (CAS) database free of charge. The Ombudsman formed the opinion that a charge of \$7,068 for supplying the remaining information was reasonable, and not required to be remitted in the public interest (see Case studies—Remission in the public interest). This was partly because provision of the readily retrievable information in partial satisfaction of the request was sufficient to meet the identified public interest considerations.

Case 173607 (2007)—Inspection subject to conditions

The lawyers for an iwi sought documents relating to Maori interests under section 4 of the Crown Minerals Act 1991 in the Crown's management of petroleum. The Ministry of Economic Development advised that it would require considerable labour and materials to review the 18 files at issue and imposed a charge of \$380. The lawyers complained to the Ombudsman.

During the Ombudsman's investigation the Ministry agreed to make the files available to the lawyers by way of inspection, so they could identify the specific information they wished to obtain copies of. The opportunity for inspection was made subject to the following conditions:

- ☐ That no material was removed from any file.
- ☐ That – to the greatest extent possible – the lawyers focused on documents that were relevant to the request.
- ☐ That information obtained as a result of the inspection was not used for any purpose.
- ☐ That information obtained as a result of the inspection was not communicated to any other person, or published in any way.

Once the lawyers had identified the specific information they wished to obtain copies of, the Ministry would then make a separate decision as to whether that information was able to be disclosed without conditions. This removed the Ministry's need to charge for staff time spent researching the files. The Ministry retained the right to charge for photocopying, including staff time spent photocopying, depending on the volume of material the lawyers subsequently requested. The Ombudsman discontinued his investigation on the basis that this resolved the complaint.

Developing a charging policy

Agencies may wish to develop their own charging policies. In addition to being consistent with the law, internal charging policies should meet the following criteria:

- ☐ They should be consistent with the Charging Guidelines.

Agencies subject to the OIA are generally required to follow the Charging Guidelines (the Guidelines say they should be followed 'in all cases unless good reason exists for not doing so'). Agencies subject to the LGOIMA are not required to follow the Charging Guidelines. However the application of an internal charging policy that is inconsistent with the Charging Guidelines, for example, by charging higher rates for staff time or photocopying, risks an Ombudsman's finding on review that the charge in question was unreasonable (see Case studies—Charging Guidelines). Inconsistency with the Charging Guidelines may be justifiable if it works in the

requester's favour, for instance, by charging lower rates for staff time or photocopying, or by allowing a longer free period before the ability to charge kicks in.

- ☐ They should be applied on a case by case basis.

The blanket application of a charging policy (for example, by applying a 'standard charge') without regard to the circumstances of a particular case is unreasonable. Any internal charging policy must retain the flexibility to remit a charge in whole or part where that is warranted in the circumstances of the case. Specific regard must be had to the public interest in making the information available (see Remission in the public interest), and whether meeting the charge would be likely to cause hardship to the requester (see Remission due to hardship).

- ☐ They should be publicly available.

Agencies that have adopted an internal charging policy should make it available to the public on their website. This is the type of internal decision making rule that people have a right to access under section 22 of the OIA (section 21 of the LGOIMA).

Our staff are able to provide advice and guidance to agencies developing internal charging policies, including reviewing and commenting on draft policies (see Further guidance below).

Other types of charge

Charges set by other enactments

Where a charge for access to official information is set by another Act, or by regulations in force immediately before the OIA (or LGOIMA),³² that Act or those regulations will prevail. This is because there is a savings provision in the OIA and LGOIMA, which provides that nothing in the legislation derogates from any provision in any other Act, or in any regulation in force immediately before the OIA (or LGOIMA), which regulates the manner in which official information may be obtained or made available.³³

Case study 319893 (2012)—Charges set by other enactments

A requester asked the Police for traffic accident reports generated in relation to cycling fatalities since 2007, in addition to a range of other documentation. The Police advised that provision of the 44 traffic accident reports at issue would attract a charge of \$4,240, or \$55 per report. The requester sought the Ombudsman's investigation and review of this, and other aspects of the Police decision.

The Ombudsman declined to investigate this aspect of the requester's complaint. The charge for the traffic accident reports was set by section 211 of the Land Transport Act 1998 (the Act), and the Land Transport (Assessment Centre and Accident Report Fees) Regulations 1998 (the Regulations). The Act provides that traffic accident reports are available on payment of the prescribed fee, and the Regulations provide that the prescribed fee is \$55. The OIA could not override this.

Information for sale

Some agencies are in the business of selling information. This includes:

- ☐ official information (that is, information that is already held by an agency); and

³² 1 July 1983 for the OIA; 1 March 1988 for the LGOIMA.

³³ See s 52(3)(b)(ii) OIA and s 44(2)(b)(ii) LGOIMA.

- ☐ information that an agency has the ability to create.

Official information available for purchase

Where official information is available to purchase to any person for a set fee, it may be open to an agency to refuse a request for that information under the OIA or LGOIMA on the basis that it is already publicly available.³⁴ This is provided the purchase price is not patently excessive. See case study 177600 below.

Information that can be created for a fee

Where information can be created for a fee the OIA and LGOIMA will not apply; nor will the Charging Guidelines. This is because the OIA and LGOIMA only apply to information that is already held by an agency.³⁵ However, an agency will need to be able to demonstrate affirmatively that it would need to create the information, as opposed to collating information that is already held.

Any complaint about the fee for creation of information cannot be considered by the Ombudsman under the OIA or LGOIMA. However, the Ombudsman may be able to consider a complaint about the reasonableness of the fee under the Ombudsmen Act 1975.³⁶ See case study 376161 below.

Case studies—Information for sale

Case study 177600 (2008)—Official information available for purchase

The New Zealand Transport Agency charged a requester for providing information about vehicle registrations. The information was available for purchase on the internet for a monthly fee of \$56.25. The requester complained to the Ombudsman.

The Ombudsman declined to investigate a complaint about the charge because the request could have been refused under section 18(d) of the OIA. That section enables a request to be refused if the information is publicly available. The Ombudsman said:

If [an agency] properly refuses a request under [section 18(d)], the charging provisions in the [OIA] do not apply. A situation where [an agency] can clearly rely on section 18(d) is where it publishes the information and advertises this as available for purchase at a set price by any person.

The Ombudsman noted the following excerpt from the Law Commission's 1997 review of the OIA:³⁷

In some cases the ability to recover costs will arise through the commercial production and sale of the information (or the prospect of it) completely outside the ambit of the Act. In that event the request may be refused: s 18(d).

He also noted this excerpt from Freedom of Information in New Zealand:³⁸

To what extent is material 'publicly available' if a Department or organisation charges for it? Clearly, books, maps, and other documents do not lose their availability simply because they

34 See s 18(d) OIA and s 17(d) LGOIMA.

35 See s 2 OIA and LGOIMA.

36 Provided the agency is subject to that Act.

37 Note 18 above, at 56.

38 Eagles, I, Taggart, M, and Liddell, G. Freedom of Information in New Zealand. Oxford; Oxford University Press, 1992 at 244.

are sold. Clearly too, the price at which they are sold may exceed the charges normally payable for retrieval and copying under Part II of the Act but by how much? An excessive price could make the material 'unavailable' for the purpose of section 18(d). Departments should not be able to resist claims for access to a single document by pointing to its publication in a tome costing hundreds of dollars...

The Ombudsman agreed with this approach. He commented that it might be unreasonable to rely on section 18(d) where a price is patently excessive, but in this case the price reflected the actual cost of producing the information.

Case study 376161 (2015)—Information that can be created for a fee

A requester asked Statistics NZ for the numbers of people living on an hourly rate of \$13.75, \$15 and \$16, and the total number of people earning less than \$18 per hour. Statistics NZ treated this as a customised data request and calculated a fee of \$172.50 for supply of the information, in accordance with its Sales and Pricing Policy. The requester complained to the Ombudsman under the OIA.

The first issue for the Chief Ombudsman was whether this was an OIA charging complaint, or one that had to be considered under the Ombudsmen Act. The Chief Ombudsman asked Statistics NZ whether it held the data at issue or would need to create it.

Statistics NZ explained that the data were sourced from the New Zealand Income Survey (NZIS). However, NZIS earning statistics are produced by average and median only, not by numbers of people earning at set levels. That information would need to be individually produced by an analyst with a high degree of skill and knowledge of the NZIS 'unit record', or raw data.

By describing in detail the steps that would be required to produce the information (including data programming and analysis), Statistics NZ was able to satisfy the Chief Ombudsman that this was a case of creation rather than collation of the information, and so the information was not 'held' and not available for request under the OIA.

As the OIA did not apply, the Ombudsman considered whether the charge was reasonable in terms of the Ombudsmen Act. The Chief Ombudsman determined that the charge was calculated in accordance with Statistics NZ's Sales and Pricing Policy, and that it was not unreasonable in the circumstances of this case to recover the full cost of producing the data.

The Chief Ombudsman also asked Statistics NZ whether there was any readily retrievable information that could be supplied to the requester free of charge. Statistics NZ was able to point the requester to published statistics about personal income distribution broken down by weekly personal income. It was also willing to provide information compiled in response to an earlier customised data request for the number of people who were earning the minimum adult wage.

Further guidance

For more information about processing official information requests, see our guides The OIA for Ministers and agencies and The LGOIMA for local government agencies.

Our website contains searchable case notes, opinions and other material, relating to past cases considered by the Ombudsmen: www.ombudsman.parliament.nz.

You can also contact our staff with any queries about charging, or for advice and guidance on developing an internal charging policy, by email info@ombudsman.parliament.nz or freephone 0800 802 602. Do so as early as possible to ensure we can answer your queries without delaying the response to a request for official information.

Appendix 1. Step-by-step worksheet for charging

<p>1. Scope the request</p> <p>2. Decide on release</p>	<p><input type="checkbox"/> What is the requester asking for?</p> <p><input type="checkbox"/> What information is held and where?</p> <p><input type="checkbox"/> Engage with the requester as early as possible about any ambiguities or scope for refinement of the request.</p> <p><input type="checkbox"/> Are you going to release some or all of the information?</p> <p><input type="checkbox"/> Charging is only permissible if information is being released in response to the request, so you may need to read and review the information first in order to decide to what extent it can be made available (see Charge means release).</p>
<p>3. Consider whether it is reasonable to charge</p> <p>Relevant part of guide:</p> <p>When is it reasonable to charge?</p>	<p><input type="checkbox"/> Is it reasonable to recover some of the costs involved in releasing the information?</p> <p><input type="checkbox"/> Relevant questions include:</p> <ul style="list-style-type: none"> - Will it require considerable labour and materials to release the information? - Will it have a significant impact on the agency's ability to carry out its other operations? - Has the requester previously made a large volume of time consuming requests? Note that some requesters (for example, MPs and members of the news media) may have good reasons for making frequent requests for official information, and they should not be penalised for this.
<p>4. Engage with the requester</p> <p>Relevant part of guide:</p> <p>Engaging with the requester</p>	<p><input type="checkbox"/> Engage with the requester to try and help them clarify the request, and change or refine it in a way that reduces or removes the need to charge.</p> <p><input type="checkbox"/> Our Talking points can assist with this.</p>
<p>5. Consider other options for reducing or removing the need to charge</p> <p>Relevant part of guide:</p> <p>Options for reducing or removing the need to charge</p>	<p><input type="checkbox"/> Are there other ways to meet the request that would reduce or remove the need to charge? For example:</p> <ul style="list-style-type: none"> - providing readily retrievable information; - refining the time period covered by the request; - refining the types of document covered by the request; - providing a list of documents potentially in scope, so that the requester can refine the request; - limiting search terms by agreement with the requester; - providing the information in electronic form; - providing the information in an alternative form (eg, inspection or oral briefing); or - providing the information subject to conditions.

- | | |
|--|---|
| 6. Calculate the charge | <input type="checkbox"/> How much information is at issue? |
| Relevant part of guide: | <input type="checkbox"/> How long will it take to complete the activities that can be charged for? |
| Calculating the charge | <input type="checkbox"/> Calculate the charge in accordance with the rates specified in the Charging Guidelines (see Formula for charging). |
| | <input type="checkbox"/> Our sample estimate of costs can help with this process. |
| 7. Consider whether the charge should be remitted in full or in part | <input type="checkbox"/> Should the charge be remitted in full or part because of the public interest in release? |
| Relevant part of guide: | <input type="checkbox"/> Should the charge should be remitted in full or part because it would cause hardship to the requester? |
| Remission of charges | |
| 8. Communicate the decision to release subject to a charge | <input type="checkbox"/> This must be done as soon as reasonably practicable and within 20 working days of receipt of the request (unless that timeframe is extended). |
| Relevant part of guide: | <input type="checkbox"/> Our template charging letter can assist with this. |
| Communicating the decision to charge | <input type="checkbox"/> Ensure that someone is available to the requester to assist them to change or refine their request in order to reduce or remove the need to charge. |
| 9. Prepare the information | <input type="checkbox"/> Once the requester has accepted the charge and met any part of it required to be paid in advance, prepare the information for release. |
| 10. Release the information | <input type="checkbox"/> Release the information without undue delay, and within the time period indicated in your letter of decision. Keep the requester up-to-date if unforeseen circumstances delay the release. |

Appendix 2. Template charging letter

[Name and address of requester]

Dear [name]

Official information request for [brief detail of the subject matter of the request]

I refer to your official information request dated [date] for [quote or set out detail of request].

[Use if granting the request in full and charging]

We have decided to grant your request. However, given the amount of resource required to process your request, we have decided to charge for making the requested information available.

We estimate that the maximum charge will be [amount]. [A discount of [1–100] percent has been applied in recognition of the public interest and/or potential hardship]. Any unused component of the maximum charge will be refunded to you. For details of how this charge has been calculated refer to the enclosed estimate of costs [see sample estimate of costs].

Before we proceed further with your request, please confirm your agreement to the charge [and pay the full amount / [amount] as a deposit, with the balance to be paid on release of the

information]. [Specify how payment should be made]. We will send you the information within [time period] of your payment.

[Use if granting the request in part and charging]

We have decided to grant your request in part, namely information which relates to [describe information to be released in sufficient detail to enable requester to decide whether to pay the charge]. We have also decided to refuse your request for information which relates to [describe information withheld] under section [detail relevant section(s)] of the [OIA/LGOIMA], as release would [describe relevant harm].

Given the amount of resource required to process your request, we have decided to charge for making part of the requested information available. We estimate that the maximum charge will be [amount]. [A discount of [1–100] percent has been applied in recognition of the public interest and/or potential hardship]. Any unused component of this charge will be refunded to you. For details of how this charge has been calculated refer to the enclosed estimate of costs [see sample estimate of costs].

Before we proceed further with your request, please confirm your agreement to the charge [and pay the full amount / [amount] as a deposit, with the balance to be paid on release of the information]. [Specify how payment should be made]. We will send you the information within [time period] of your payment.

[Use in all cases]

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact [details of contact person]. [Contact person] will be able to assist you should you wish to change or refine your request in order to reduce or remove the need to charge.

Yours sincerely

[Name]

Appendix 3. Sample estimate of costs

Locations searched ☐

Search terms used ☐

Date range DD/MM/YY–DD/MM/YY

Estimated no. of documents at issue/to be searched through

- Chargeable activities required
- ☐ Search and retrieval
 - ☐ Collation
 - ☐ Research (reading and reviewing to identify the information)
 - ☐ Editing (excising or redacting information to be withheld)
 - ☐ Scanning / copying
 - ☐ Reasonably required peer review to ensure that these tasks have been carried out correctly

Estimated minutes per document to complete chargeable activities

Estimated total time to complete chargeable activities

Estimated no. of pages to be photocopied

	Quantity	Price	Totals
Labour	[A] hours	\$38/half hour, with the first hour free	\$(A - 1 x \$76)
Photocopying (if applicable)	[B] pages	\$0.20/page, with the first 20 pages free	\$(B - 20 x \$0.20)
Other (specify)		\$	\$
Discount applied due to public interest / hardship (if applicable)	[1–100] %		- [amount of discount]
Total cost			

Quarterly Procurement Report - April to June 2018

Trim No.: 2064681

Executive Summary

This report summarises internal auditing and analysis of procurement performance over the first quarter, July to September 2018/2019. It is the second report summarising procurement performance, since the recommendation from BDO to report to the Audit and Risk Committee on a six monthly basis. The Procurement Manual was implemented 1st of August 2017, and understandings of requirements is improving. Awareness of Councils procurement profile is also growing with increased data analysis allowing Council to identify areas for improvement and opportunities for consideration. This report covers auditing and analysis of procurement through the use of Purchase Orders (PO's).

Audits of PO's are undertaken to review compliance with procurement requirements and the embedding of the recently implemented manual and procedures. Findings are collated to identify trends and track staff performance. Any instances of non-compliance are reported back to managers to discuss with their staff.

Analysis of PO data also enables greater awareness of spend via person, department or supplier. Identifying persons with large spend profiles and spends with the same supplier across different departments. This identifies opportunities for bundling of contracts as well as staff who may need more procurement support, to ensure procurement is undertaken effectively to gain the best value over whole of life.

Recommendations and findings from previous audits have been implemented into Councils Procurement Manual and procedures to ensure all areas for improvement are addressed and recommendations are applied.

Audits and analysis of PO data will continue to be undertaken to ensure the embedding of processes into practises. Whilst working towards taking advantage of opportunities as they are identified.

Recommendation

That:

The report be received.

Content

Background

BDO undertook a review of the Procurement Policy, processes and control environment in December 2017. The report on these findings was received by Council in February 2018. One of

the findings suggested that there was an opportunity for analysis and auditing findings to be reported to the Audit and Risk Committee on a six monthly basis.

This recommendation was accepted by the Audit and Risk Committee, based on advice from of BDO to further monitor the embedding of the policy auditing and analysis of Councils procurement.

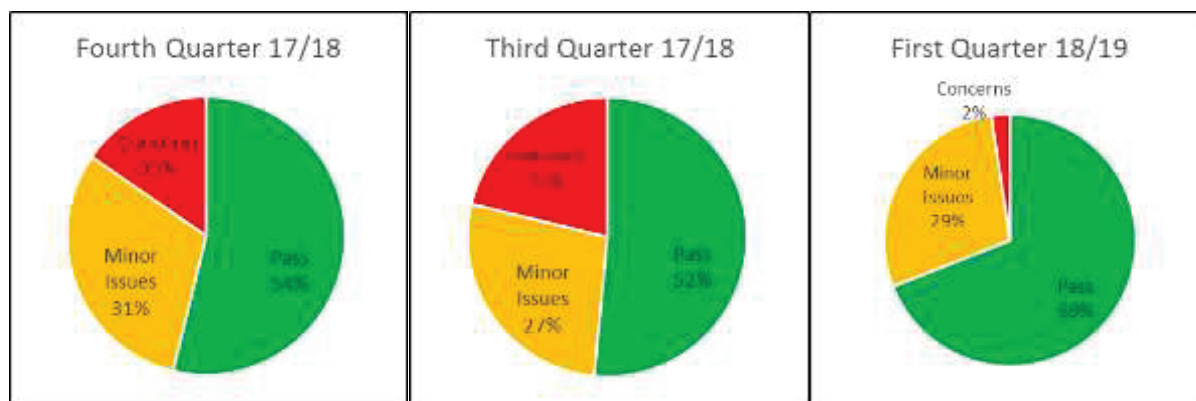
Issues

Internal Auditing Findings

Random audits have shown that there has been vast improvement in compliance. As shown in graph one below, concerns have decreased considerably and pass has increased by 17%.

Audit findings are continuing to be reported to managers to discuss with their staff. This ensures staff are made aware of any non-compliance whilst also reminding those approving what to look for when reviewing a requisition for approval.

Graph 1: Auditing results categorised



PASS

Meets all audit requirements, with no areas of concern.

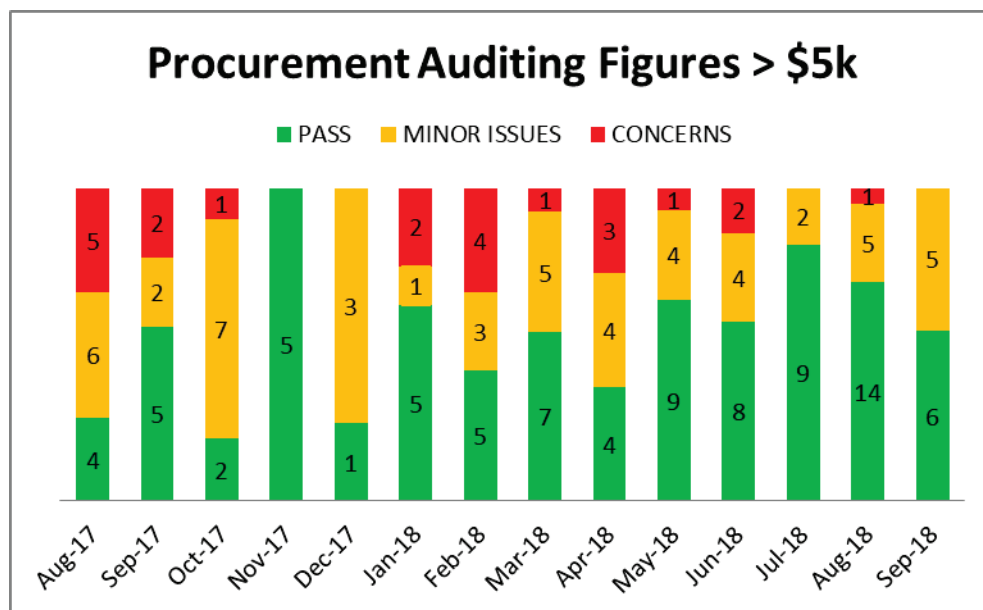
MINOR ISSUES

Small errors in the procurement & opportunities for improvement, but they only have minor impact on the procurement and

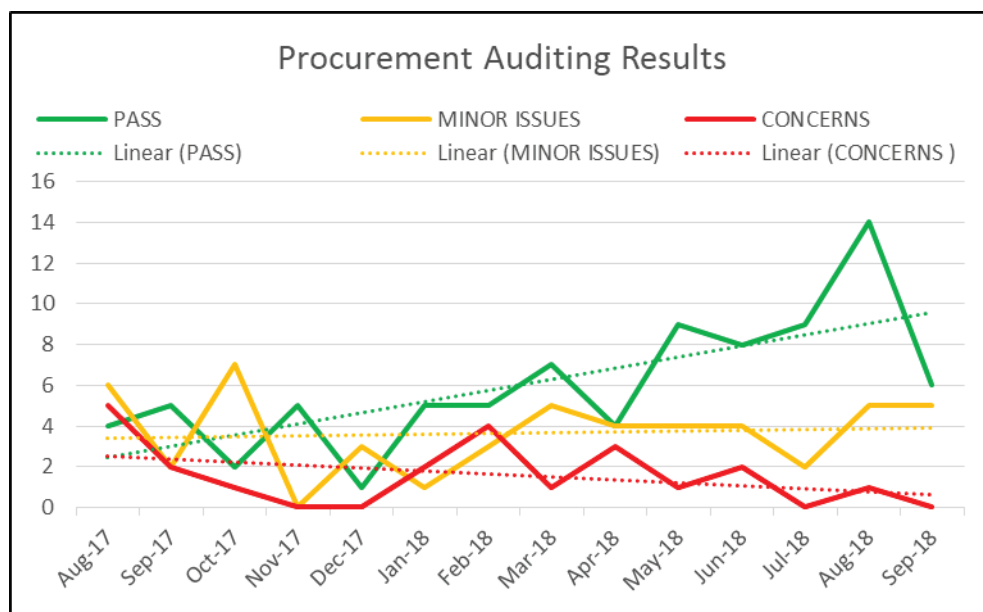
CONCERNS

Many errors within a procurement or a significant error that raises concerns for compliance and increases risk to Council.

Graph 2: Auditing results by month



Graph 3: Auditing results trends



Volume of PO's

See the table below for the comparison of total PO's raised for this quarter and the previous two quarters.

Quarter	Volume of PO's
3 rd Quarter 17/18	1,974
4 th Quarter 17/18	2,287

1 st Quarter 18/19	2,614
-------------------------------	-------

26% of these PO's were raised with 20 suppliers/contractors listed below. ArcBlue estimated that the costs associated with processing one PO was \$73. The cost of processing PO's this quarter is estimated to be \$190,822. Therefore, there is an advantage to trying to reduce the total volume of PO's being raised.

The following table outlines the top 20 suppliers who had the most PO's raised this quarter. It also outlines the total spent with suppliers this quarter and the average value of PO's raised per supplier. Also included is the last two quarter's data for those that were in the top 20 previously.

Those highlighted green have not been in the top 20 the previous two quarters, this demonstrates that 16 out of the 20 have been consistently had the highest volume of PO's.

#	Name	1st Quarter 18/19			4th Quarter 17/18			3rd Quarter 17/18		
		Vol	Total Value	Average Value of PO	Vol	Total Value	Average Value of PO	Vol	Total Value	Average Value of PO
1	Office Max	131	\$193,358	\$ 1,476	99	\$78,045	\$ 788	99	\$179,155	\$1,810
2	Bunnings Limited	59	\$ 8,455	\$ 143	55	\$ 5,419	\$ 99	52	\$6,929	\$133
3	Pump R & M Limited	58	\$ 70,648	\$ 1,218	41	\$56,781	\$ 1,385	23	\$79,637	\$3,462
4	Allied Investments Limited	57	\$ 23,165	\$ 406	52	\$ 3,488	\$ 67	30	\$3,500	\$117
5	Wesfarmers Industrial & Safety NZ	48	\$ 13,612	\$ 284	47	\$11,402	\$ 243	49	\$12,579	\$257
6	Hannah Electrical Limited	46	\$ 11,567	\$ 251	36	\$ 7,273	\$ 202	23	\$5,827	\$253
7	J A Russell Limited Auckland	40	\$ 14,774	\$ 369	68	\$29,100	\$ 428	40	\$27,040	\$676
8	Te Aroha Plumbing & Drainage Ltd	40	\$ 21,626	\$ 541	30	\$ 9,443	\$ 315	29	\$11,201	\$386
9	Electrico Limited Matamata	38	\$ 14,167	\$ 373	21	\$ 5,720	\$ 272			
10	Kaiser Ag Limited	36	\$ 14,212	\$ 395	34	\$19,224	\$ 565	39	\$26,982	\$692
11	Corporate Traveller Hamilton	35	\$ 15,081	\$ 431	37	\$19,959	\$ 539	34	\$12,896	\$379
12	PB Technologies Limited	35	\$155,429	\$ 4,441						
13	TC Property & Garden Care	33	\$ 14,995	\$ 454	53	\$24,984	\$ 471	24	\$22,495	\$937
14	Brookfields Lawyers	29	\$154,093	\$ 5,314	23	\$87,247	\$ 3,793			
15	Select Alarms Limited	27	\$ 29,490	\$ 1,092						
16	Waikato Wide Locksmith Services	26	\$ 4,712	\$ 181	25	\$ 5,753	\$ 230	19	\$5,296	\$279
17	MEA Mobile Limited	23	\$ 13,596	\$ 591	27	\$13,512	\$ 500	34	\$17,247	\$507
18	Te Aroha Overall Laundry Limited	22	\$ 9,136	\$ 415						
19	Bosson House (Trading As)	19	\$ 3,846	\$ 202						
20	Bridgestone New Zealand Ltd	19	\$ 10,340	\$ 544	21	\$ 7,058	\$ 336	19	\$5,472	\$288

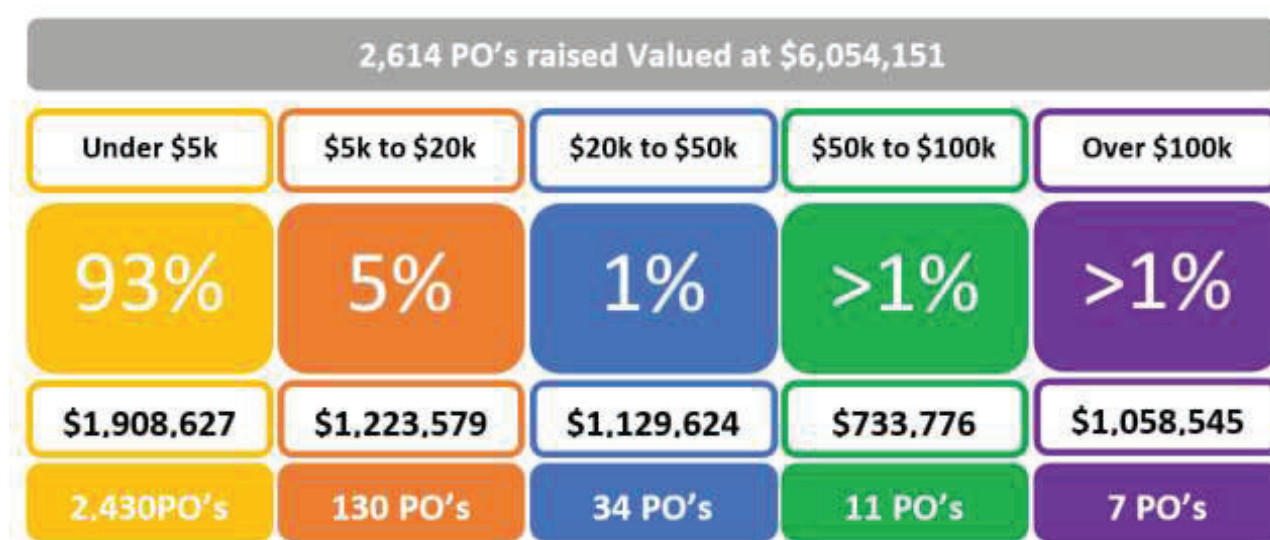
*The total spend with Office Max this quarter includes the setting up of the Water and Waste Water office. Therefore both the total value and the average value if PO is increased.

Number of PO's – Threshold breakdown

In the first quarter 2,614 purchase orders were raised. See below for a breakdown of the thresholds.

As you can see 93% of PO's raised fall under the \$5,000 threshold. Therefore, many of these would not have been through a competitive procurement process. Processes are generally followed well for high value procurements; however, more focus needs to be placed on the importance of following correct procedures to ensure value for money for the low/medium value transactions as the accumulative value is large.

The percentage breakdown has remained the same as last quarter.



Top 10 Suppliers for Top 10 Spenders per Group

The table 3 below outlines the top 10 spenders for each group.

This highlights who the biggest spenders are, so that Council can ensure high spenders have the procurement capabilities needed to effectively procure and meet policy and procedural requirements.

	Total Spent 1Q	Value of Top 10 1Q	Total PO 1Q	Total PO w/ Top 10	% Spend w/ Top 10	Total Spent in 4Q	Total PO 4Q
Community Development							
1	\$ 93,897	\$ 93,897	12	12	100%	\$ 37,369	15
2	\$ 58,916	\$ 58,916	7	17	100%	\$ 6,052	7
3	\$ 25,179	\$ 19,885	37	20	79%	\$ 4,460	17
4	\$ 17,374	\$ 17,374	14	14	100%	\$ 17,038	16
5	\$ 9,129	\$ 10,499	2	2	115%		
6	\$ 7,488	\$ 7,488	13	13	100%	\$ 7,325	6

Item 6.7

7	\$ 6,415	\$ 6,415	13	13	100%		
8	\$ 6,323	\$ 6,323	12	12	100%	\$ 2,262	9
9	\$ 1,321	\$ 1,321	6	6	100%	\$ 1,478	4
10	\$ 612	\$ 612	3	3	100%	\$ 2,475	2
Service Delivery							
1	\$ 259,602	\$ 199,452	192	97	51%		
2	\$ 258,371	\$ 257,434	22	18	82%		
3	\$ 243,545	\$ 146,345	368	202	55%	\$ 134,358	314
4	\$ 238,565	\$ 207,440	43	25	58%	\$ 366,685	164
5	\$ 216,721	\$ 160,040	94	37	39%	\$ 389,500	120
6	\$ 166,905	\$ 166,905	13	13	100%	\$ 286,297	28
7	\$ 159,797	\$ 132,318	90	38	42%	\$ 564,897	183
8	\$ 104,706	\$ 104,211	33	26	79%	\$ 418,481	62
9	\$ 96,940	\$ 96,653	22	18	82%	\$ 72,881	25
10	\$ 79,245	\$ 46,901	101	25	25%		
Business Support							
1	\$ 368,724	\$ 368,724	14	14	100%	\$ 12,790	18
2	\$ 313,989	\$ 313,989	7	7	100%		
3	\$ 284,752	\$ 280,715	42	34	99%	\$ 95,271	43
4	\$ 206,107	\$ 206,064	27	27	100%	\$ 93,711	13
5	\$ 198,812	\$ 198,812	4	4	100%	\$ 79,847	13
6	\$ 172,356	\$ 172,356	11	11	100%		
7	\$ 140,196	\$ 140,196	13	13	100%	\$ 11,605	8
8	\$ 171,340	\$ 99,069	147	40	58%	\$ 84,992	83
9	\$ 85,915	\$ 84,314	19	14	98%	\$ 62,498	14
10	\$ 10,760	\$ 9,250	32	15	86%		
Corporate							
1	\$ 98,401	\$ 98,379	17	16	100%	\$ 141,223	23
2	\$ 49,558	\$ 12,379	75	25	25%	\$ 25,485	45
3	\$ 37,891	\$ 37,891	7	7	100%	\$ 133,656	7
4	\$ 36,088	\$ 33,842	39	21	94%	\$ 89,503	55
5	\$ 15,347	\$ 14,148	28	20	92%	\$ 5,935	18
6	\$ 13,185	\$ 13,185	14	14	100%	\$ 13,367	14
7	\$ 9,079	\$ 29,974	6	23	330%	\$ 30,339	14

8	\$	6,763	\$	6,763	12	12	100%	\$	2,186	6
9	\$	5,461	\$	5,461	5	5	100%			
10	\$	1,876	\$	1,876	6	5	100%	\$	25,860	16

Recent Initiatives - Contract for Services

Council did not have an approved contract for low-medium value services, generally PO's were used. Contract for Services is a Government Model Contract (GMC) to be used for low-medium value and risk procurements of services.

Feedback on the implementation of the contract has been positive with staff already beginning to use the new form of contract. It is being used, the same way as a SFA; created from the NAR and managed within the contracts register.

Opportunities

There are 73 contracts available through AoG, Council is currently signed up to 7. Although not all contracts are applicable to Council, all relevant AoG contracts should be reviewed to determine if more can be utilised. This will ensure all opportunities have been considered and savings gained.

The following contracts have been identified for further review:

- Uniforms and apparel
- Commercial household goods and appliances
- Lubricants

The following are currently being assessed:

- Cleaning
- Air Travel
- Travel Management

Analysis

Options considered

There are no options to be considered in this report.

Analysis of preferred option

None

Legal and statutory requirements

The Office of the Auditor General provide the framework for good procurement practise by public entities.

Good practice principles, government policies, and rules.

Basic principles that govern all public spending.

- Accountability
- Openness
- Value for money

- Lawfulness
- Fairness
- Integrity

Impact on policy and bylaws

The Procurement Policy outlines Councils vision and commitment to procurement. Whilst also influencing risk and value management. All procurements are undertaken with the overarching guidance provided in the policy.

Impact on Significance and Engagement Policy

This has no impact on the Significance and Engagement Policy.

Consent issues

There are no consent issues.

Timeframes

Quarterly procurement reports are presented to E Team each quarter, alongside six monthly reports to the Audit and Risk Committee.

Financial Impact

i. Cost

The financial cost involved with procurement is the staff time required. In some instances consultants are engaged for specialist procurement assistance.

ii. Funding Source

Procurement activities are funded within existing budgets.

Attachments

There are no attachments for this report.

Signatories

Author(s)	Amy Pollock Procurement Officer	
Approved by	Fiona Vessey Group Manager Service Delivery	
	Don McLeod Chief Executive Officer	

External ISO Quality Audit - October 2018

Trim No.: 2081948

Executive Summary

As part of being ISO 9001 certified Council is required to be externally audited every twelve months by Telarc Limited. This will either be a surveillance audit to ensure we are on track or a triennial audit to determine if Council's ISO certification should continue.

Telarc Limited carried out their three day surveillance audit on 15, 16 and 17 November 2018.

The audit resulted in 3 major non-conformances and 4 opportunities for improvements and a recommendation that Council is on track and that the ISO 9001 certification continues.

The draft audit report is attached for the Committee's information.

Recommendation

That:

1. The information be received.

Content

Background

The three day audit involved a new Telarc auditor along with the Quality Coordinator visiting several departments within the organisation in both Te Aroha and Morrinsville.

Over those three days the following departments were visited:

- Entry meeting including changes and confirm assessment plan with Quality Coordinator and Health & Safety/Quality Manager
- Quality Management System Review
- Corporate Strategy
- Records Management
- Human Resources
- Customer Services - Morrinsville
- Morrinsville Library
- Swim Zone Morrinsville
- KVS Depot – Operations and overview
- KVS – Reticulation
- Assets – Strategy and Policy
- Kaimai Consultants – Overview
- Kaimai Consultants – Property
- Water and Wastewater

- Information Technology
- Review of the audit with Chief Executive Officer, Quality Coordinator and Health & Safety/Quality Manager

The audit resulted in 3 major non-conformances and 4 opportunities for improvements and a recommendation that Council ISO 9001 certification continues.

Telarc no longer issue areas of concern, they now have major non-conformance and minor non-conformance which are explained on page 3 of the audit report.

The major non-conformances have been listed separately in the draft report by the auditor to ensure that they align with the clauses of AS/NZS ISO 9001:2016.

The major non-conformances and opportunities for improvement have been recorded in Council's 'corrective actions' database and will be actioned over the next few months with all issues completed by the next audit.

Our next surveillance audit will be due late 2019.

Attachments

[A↓](#). Telarc Audit Report 15-17 October 2018 - Version 3 (20/11/2018)

Signatories

Author(s)	Raewyn Ellison Quality Coordinator	
Approved by	Sandy Barnes Health & Safety/Quality Manager	
	Dennis Bellamy Group Manager Community Development	



Management System Assessment Report

Matamata-Piako District Council

15 & 17 October 2018 Te Aroha

16 October 2018 Morrinsville



MANAGEMENT SYSTEM ASSESSMENT REPORT

Company: Matamata-Piako District Council

Address: 35 Kenrick Street, Te Aroha, Waikato 3320, NZ
56 - 62 Canada Street, Morrinsville, Waikato 2251, NZ

Type of Assessment: Review Visit

Management Representative: Raewyn Ellison

Management System Standard: ISO 9001:2015

Assessment Due Date & Frequency: 11 October 2018 12 – monthly

Actual Date(s) of Assessment: 15-17 October 2018

Assessment Team: Anna Darcy

Client No: Q13054 WPF No: 95747

Registration No: QEC6952 Expiry: 26/11/2020

Report prepared by: Anna Darcy

Report Technical Review by: Not required for this type of assessment.

Non-conformances to be cleared by: 23/11/2018 Cleared on:

Report issued/version: V3 20/11/2018

Scope:

The provision of local government services as detailed in the long term plan for the Matamata Piako District.

Exclusion: Building Inspection Services (subject to separate IANZ Accreditation).

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Telarc Management System Certification Programme – Assessment Report

Matamata-Piako District Council
Te Aroha - Head Office

Page: 2 of 22
Template issue 3 April 2018

INTRODUCTION

This report relates to the assessment undertaken by Telarc to determine the status and level of compliance of the management system against its internal requirements and those of the nominated Standard/s and scope indicated on the preceding page. Unless stated otherwise this assessment covers a sample only of the management system.

The assessment was carried out in accordance with internationally recognised management system auditing practices defined in ISO 17021 and is subject to Telarc Limited (Telarc) Standard Terms and Conditions available from www.telarc.co.nz. In particular compliance with all legal requirements, including those relating to the Health and Safety at Work Act, is the responsibility of your organisation. Any comment relating to legal requirements, such as Health and Safety, does not represent an exhaustive report on your compliance with such legal requirements.

Please note that this report is subject to independent review and approval. Should changes to the outcomes of this report be necessary as a result of the review, a revised report will be issued and will supersede this report. The report is in two sections:

Executive Overview

This section gives a brief summary of the assessment including comments regarding system compliance (strengths), weaknesses, opportunities for improvement and instances of non-conformance that require correction.

Summary of Findings (including the detail of, and action required with respect to findings)

This section identifies the key aspects of your system; and the operational processes, sites and activities which have been assessed; comments positively on aspects; and summarises any instances of major and minor non-conformance, and any opportunities for improvement that have been identified.

Please read this following section as it includes instructions for responding to this report:

Please note: Follow-up activities may incur additional charges.

Definitions and action required with respect to assessment findings

Major Non Conformance:

Based on objective evidence, the absence of, or a significant failure to implement and/or maintain conformance to requirements of the applicable standard. Such issues may raise significant doubt as to the capability of the management system to achieve its intended outputs.

NOTE: The "applicable Standard" is the Standard which Telarc are issuing certification against, and may be a Product Standard, a management system Standard, a food safety Standard or another set of documented criteria.

Action required: This category of findings requires Telarc to issue a formal NC; to receive and approve client's proposed correction and corrective action plans; and formally verify the effective implementation of planned activities. Correction and corrective action plan should be submitted to Telarc as required. Follow-up action by Telarc must 'close out' the NC or reduce it to a lesser category within 30 days or as otherwise agreed with the Assessment Coordinator.

If significant risk issues (e.g. safety, environmental, food safety, product legality/quality, etc.) are detected during an assessment these shall be reported immediately to the Client and more immediate or instant correction shall be requested. If this is not agreed and cannot be resolved to the satisfaction of Telarc, immediate suspension shall be recommended.

In the case of an already certified client, failure to close out NC within the time limits means that suspension proceedings may be instituted by Telarc. Follow-up activities may incur additional charges.

Minor Non Conformance:

This is a non-conformity that does not affect the capability of the management system to achieve the intended results.

Action required: Telarc requires the client to formulate a corrective action plan for approval at the time of the assessment and will follow up the client's corrective action at the next planned assessment. Lack of client attention to such issues implies that a corrective action system is not working effectively, and could result in a Major NC being raised at a later date.

Opportunity for Improvement (OI):

A documented statement, which may identify areas for improvement however shall not make specific recommendation(s).

Action required: Client may develop and implement solutions in order to add value to operations and management systems. Telarc is not required to follow-up on this category of assessment finding.

ASSESSMENT OBJECTIVES

The purpose of this assessment was to determine continuing compliance of your organisation's management system with the assessment criteria; and its effectiveness in achieving continual improvement and system objectives. Where applicable the assessment identified areas for potential improvement of the management system.

EXECUTIVE OVERVIEW

Management System effectiveness, strengths and weaknesses

This report covered the first review visit following last year's revalidation and upgrade assessment.

The organisation still needed to understand the new requirements of ISO9001:2015 and their implications.

On the ground, service at the customer service centre and libraries seemed to be effective. Reactive jobs appeared to be carried out as requested.

Monitoring of KPIs and overdue issues appeared to be a weakness and in some cases it was not clear either by the auditor or the staff themselves where results were being reported to.

Leadership did not seem to be aware that there was no policy or that many items were overdue, or the new requirements for management review.

QMS objectives and plans were in draft and seemed to be dealt with as a separate system, whereas in fact the council had good objectives already as part of their long term plan.

In the cases of KVS, KC and the three waters, there was such a state of change around the functions it was not possible to fully carry out an assessment. These functions have been re-added to the next assessment plan in order to give them time to settle down.

Most of the non-conformances raised were due to overdue issues not being resolved, reviewed or even flagged up as overdue.

The council has over 1900 processes and 17 internal auditors.

Essentially with so many processes, things were falling through the gaps and high risk areas such as pools and water were not part of the QMS internal audit. The council may benefit from a risk based approach to its system.

At the closing meeting the CEO outlined that the QMS had been set up in 1996 to address the issue of conformity when a number of bodies came together into what was now MPDC. It was felt that the QMS had achieved that objective, hence discussions then took place around a risk based scope and system for the future.

Although the following NCs will still need to be resolved within 30 days for continuing certification, a discussion around scopes or separate certifications for some of the higher risk functions such as the three waters, KC and KVS may benefit the organisation.

It must be noted that all staff were helpful and open throughout the three day assessment.

The auditor would like to thank Raewyn and the rest of the MPDC staff for their time and assistance.

Summary of instances of Non Conformance and Opportunities for Improvement

NC2 was originally raised under NC2, 4, 5, 6 and 7. Post draft report and receiving the action plans and evidence, these were combined under 9.3 into NC2 and all the other NCs were subsequently renumbered.

NC 1- Overdue NC raised at the last assessment – Major – RESOLVED 20/11/2018 AD

NC2 – Management Review - Major – Reduced to a Minor for follow up at the next assessment AD 20/11/2018

- Overdue Promapp reviews
- Risks on Promapp were due for review in 2016
- Corrective actions overdue
- Internal audits overdue
- Management review did not cover all the required inputs and outputs of the standard

NC 3- No established QMS policy in place – Major – RESOLVED AD 20/11/2018

NC 4- No established QMS objectives and plans in place – Major - RESOLVED AD 20/11/2018

NC 5 – Use of old Telarc certification marks – also raised at last assessment - Major

NC 6 – Training records for swimming pool staff not in Vault - Major

Four risk based OIs were raised, these can be found throughout the body of the report, with their responses at the end of the report.

RECOMMENDATION

The recommendation from this assessment is that your certification continues when corrective action is taken and verified.

Assessment recommendations are always subject to ratification by the Telarc certification authority.

ASSESSMENT OPENING & CLOSING MEETING

The assessment commenced with an opening meeting and concluded with a closing meeting. The objectives of the assessment and the subsequent findings were discussed and questions answered.

Attendee Name	Role	Opening	Closing
Raewyn Ellison	Quality Coordinator	✓	✓
Sandy Barnes	H&S & Quality Manager	✓	✓
Don McLeod	CEO		✓
Anna D'Arcy	Assessment Coordinator	✓	✓

SUMMARY OF FINDINGS – REVIEW VISIT – ISO9001

Organisation overview and changes

The District Council continued to operate from the Head Office in Te Aroha and satellite Offices in Morrinsville and Matamata. Operationally there were multiple sites such as swimming pools, libraries, i-Site information centres, an airfield, water and waste water treatment plants, parks and reserves, event centres and halls. The Council was also responsible for around 1000km of local roads with several State Highways traversing the District.

There had been a small reorganisation within the Service Delivery area to ensure ongoing compliance with water and waste water treatment standards. This had involved the appointment of a new Water & Waste Water Manager bringing together elements of the Kaimai Consultants (KC) and Kaimai Valley Services (KVS) into a third team that separately operated and managed the various water and waste water assets. The reticulation work for both water, waste water and storm water remained within KVS.

Total staff numbers remained stable although there had been some movement with staff leaving and new staff being appointed.

The diverse nature of the council meant that the organisational structure continued to reflect the legislative obligations imposed via the Local Government Act, Resource Management Act, and other legislation.

The rebuild of the Matamata Community Centre and Library complex was complete and was included into next year's assessment plan.

The District had recently received funding for scope research in to further tourism opportunities, a \$1.7million funding injection from the Provincial Growth Fund.

The two approved projects included \$900,000 towards a feasibility study and business investment case for a Te Aroha tourism precinct and \$800,000 towards a feasibility study for a Waharoa industry hub.

The CEO was also chairing a regional Water Accord project, with the aim of sharing expertise and costs involved in improving and ensuring safe water quality.

Nine Waikato councils had agreed to progress a strategic business case to identify best practice in all water activities.

The aim was to develop a business case to establish a 'centre of excellence' to support the councils in improving the management of water assets. The new Water Asset Technical Accord (WATA) would aim to establish best practice in water and waste water, and provide the councils with guidance on asset and environmental management, compliance frameworks and investment decision making, with the aim of establishing activities.

Variations from agreed plan

The plan for this assessment was altered on the day of the assessment and then completed.

The CDEM manager was not available so this function was moved to the following assessment.

Some functions were in such a state of change or not open and were not able to be fully audited – these areas were:

- KVS
- KC
- Water and waste water teams
- Morrinsville Pool (not open till 5th November)

Actions taken to address issues from previous assessment

One minor non-conformance was raised and this remained unresolved and so was escalated to a major non-conformance. It was subsequently resolved through action and evidence AD 20/11/2018.

No.	Detail of Non-Conformity	Status of NC
NC 1	<p>Type: Minor – Escalated to a MAJOR at 2018 audit Resolved 20/11/2018 AD</p> <p>Observation: Whilst checking review processes within the Strategy & Policy Group in regard to roading assets a number of records of meetings were found to exist but only as partially completed or blank templates. Anecdotal evidence was that the records were likely on a lap top C Drive and simply had not been uploaded into RM. As it was likely an oversight rather than a deliberate breach a Minor NC was deemed appropriate.</p> <p>Non-conformance: Records were not being maintained as per company procedures.</p> <p><i>Clause of the standard ISO 9001: 2015 section 7.5.3</i></p> <p>Approved action plan: To locate the missing records and ensure the Records Management (RM) system is updated. To investigate the reasons why this had occurred and to take steps to ensure it does not happen again. To also carry out an Internal Audit sampling other areas of the Council where this could occur to ensure the problem is not widespread. To also alert all staff members in regard to the danger of misfiling and the hazards of storing definitive records on their local or network drives. Actions to be concluded asap. Follow up to be at next external annual audit.</p> <p>Actions taken:</p> <p>To locate the missing records and ensure the Records Management (RM) system is updated. To investigate the reasons why this had occurred and to take steps to ensure it does not happen again. To also carry out an Internal Audit sampling other areas of the Council where this could occur to ensure the problem is not widespread. To also alert all staff members in regard to the danger of misfiling and the hazards of storing definitive records on their local or network drives. Actions to be concluded asap. Follow up to be at next external annual audit.</p> <p>Raewyn & Susanne meeting on 08/11/18 to sign off. Susanne closed this NC on 08/11/18. Evidence: Appendix A AND Copy of closed CA</p> <p>Evidence accepted and uploaded to the client file by AD 20/11/2018 - Resolved</p>	Resolved

Historical table of performance

This table summarises the performance of your system using the terminology of the Annex SL system:

Major NC	Minor NC	Compliant				
Aspect\Audit Date			11/2015 RV	11/2016 RV	10/2017 RA	10/2018 RV
Context of the organisation (interested parties & scope)			Compliant	Compliant	Compliant	Compliant
Leadership (commitment, policy, roles & responsibilities);			Compliant	Compliant	Compliant	Major NC
Planning (risks & opportunities, objectives and plans);			Compliant	Compliant	Compliant	Major NC
Support (resources, HR – competency, awareness, comms, docs)			Minor NC	Compliant	Minor NC	Major NC
Operations – Product & Services (planning, control & records)			Compliant	Major NC	Compliant	Major NC
Performance Evaluation (monitor/measure, audit, review)			Compliant	Compliant	Compliant	Major NC
Improvement (including non-conformance & corrective actions)			Compliant	Compliant	Compliant	Compliant
Compliance with certification conditions (cert mark, ST&C, etc.)			Compliant	Compliant	Compliant	Major NC

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Description of management system, interrelationships, functions, processes and changes

The management system was located on Promapp.

There were a large number of processes, over 1900. Many of the “processes” were more procedural than process oriented.

252 were overdue their review date. **See NC 2**

OI 1 The company may wish to use a risk based approach, going forward, for the review dates on their processes.

The QMS policy was in draft and had been since August the previous year. **See NC 3**

Risk approach

Risk was managed through the Audit and Risk committee. The top 20 significant risks were listed onto Promapp. Although it was advised that risks were reviewed through the audit and risk committee, Promapp indicated that the reviews for those risks ran overdue in 31/08/2016. **See NC 2**

Compliance evaluation: statutory and regulatory requirements related to products and services

The council’s local governance statement dated May 2018 was publically displayed on their website and listed all known legislation, Acts of Parliament, local legislation and bylaws that they were required to work by.

Non conformity and corrective action systems

The Authority CRM software system was used to capture ratepayer and other interested party complaints. The issues were then assigned to individuals with actions and completion dates. This process allowed the large volume of enquiries to be managed in a coherent and orderly manner with accountability via built-in timelines.

The following CRM requests were followed through at the Morrinsville premises, with no issues noted: 81513, 14607, 85424, 235006 and 70261.

Management system and internally related issues, including those from internal audits were raised within Promapp. It was noted in the previous assessment that a number of issues were still yet to be resolved. The situation remained the same at this assessment, with 40 overdue outstanding actions. **See NC 2**

Internal audit

17 in-house auditors assisted the Quality Coordinator. The audit plan for 2018 was observed and audits for the following were observed with no issues:

- Lost book payments 25/07/2018
- Notice of meeting 15/03/2018
- Collecting performance measures 10/08/2018

In June there were 11 internal audits reported as outstanding and in September it was reported that 8 were still overdue. During the audit, it appeared that at least three had been completed since the September reporting. **See NC 2**

Continual improvement

Community improvement projects such as the Water Accord, assistance with rates rebates and the new civic centre in Matamata were all evidence of improvements.

Discussions were had with the CEO during the closing meeting with regards to applying a future risk based approach to their QMS and scope, so that management system improvement was focussed and targeted.

The QMS had been set up in 1996 to address the issue of conformity when a number of bodies came together in what was now MPDC. It was felt that the QMS had achieved that objective, hence discussions around a risk based scope for the future.

Management commitment, achievement against objectives and targets, and review

The Management group met on the first Thursday of every month and there were further meetings of the Risk and Audit Committee.

Not all the inputs and output requirements of management review could be verified.

The policy and objectives were still in draft and had been so since last August 2017, therefore one of the management review requirements could not even be met in any case, as it had not been established.

At present there were no plans to support the draft objectives.

See NCs 2 and 4

Use of marks and/or any other reference to certification

The use of the Telarc certification mark is optional. During this assessment a number of documents using the old five tick logo were noted. A full sample was not conducted but of the three areas chosen, Democracy and Project Management were still using the old logos. These issues had also been raised in the previous assessment, therefore this was escalated to a major non-conformance. **See NC5**

See <http://www.telarc.co.nz/logo-downloads/> for further information and to register and download print-ready copies of the Telarc certification mark.

FUNCTIONS, AREAS & PROCESSES ASSESSED

District planning and consenting process

The team were working on two planned changes, Plan 47 and Plan 49.

In addition three private plan changes were in process for significant industry in the district.

The process through to operative notification was followed through which started April 2018.

No issues were noted.

The consents process was discussed, however the current consent list was not available so this was not followed through in detail. A list was provided two days later, however a number of the consents appeared to be overdue, even taking into account, consents that were notified.

A request for an explanation was put forward and received by email dated 26/10/2018 explaining that those consents were on hold and that they system did not allow for those dates to be altered once in. Explanation was accepted and no further action was required.

Corporate strategy

The team were responsible for managing the three-yearly update cycle for the ten-year Long Term Plan (LTP). This was now a well-established process with a set of milestones necessary to be met to ensure compliance with the LGA.

The stakeholder engagement process, including the handling of 197 submissions, which fed into the LTP 2018 was observed and noted to be robust.

The project management tools, including risk assessments were observed.

No issues were noted with the process, which had delivered the 2018-28 LTP.

Archives and Records - Digitisation Project

This had started on 17/01/2017 and looked to continue for a number of years.

The project to automate LIMS had been approved in principle by the Council, and would help provide additional resources.

Records were being uploaded, with information being provided for search purposes. The process was managed through the File Prep Form, prompting checks and tasks required for each file upload.

A different person completed the audit section to verify the upload and that Meta Data fields had been completed correctly.

The process was observed for 77 Allen Street, Morrinsville and appeared to be working effectively.

Human Resources – Engagement and Induction

The HR team and council used an online recruitment system.

A project in 2016 had provided a full list and description of most roles.

The role of District Library Manager advertised in March 2018, was followed through from Job role, to advertisement, recruitment process, engagement and the three part induction.

The process appeared to be robust and induction records for Helen McCarroll dated 25/05/2018 were observed.

Morrinsville customer services

The customer service centre was clean and tidy. A self-service kiosk was provided as well as key documents such as District plans.

The following CRM requests were logged onto a central system and followed through:

- #85424 17/07/2018 Dog license application
- #81531 13/10/2018 Ashes internment
- #230788 – 14/09/2018 Complaint re sinking manhole cover

The latter two were later followed up at Kaimai Valley Services, as the requests had resulted in jobs being forwarded to KVS.

The manager of the customer service team was in the process of appraisals and during that process had noted the quality of information being provided in the CRMs were not consistent, therefore she planned to do a bimonthly audit of the CRM and discuss development with staff where required.

Morrinsville Library

The library was observed to be clean and tidy. It was part of the APN system.

Books contained infrared labels which enabled self-checkout/in.

Holds were viewed on the hold shelf and were in order including 3010001757923.

It was noted that no electronic equipment in the library had evidence of portable appliance testing.

OI 2 The council may wish to review the risk around PAT for library electrical appliances

The gate reports showing traffic per hour up to 15/10/2018 were observed and appeared to be in order.

Morrinsville Swimming Pool

The swimming pool was not due to open until 5th November 2018, therefore it was not possible to view or assess operations fully.

Blank duty check sheets lists, booking forms, pool tests etc were observed.

It was noted that the swimming pool was not on the internal audit plan.

OI 3 The council may wish to add the pool to their internal audit plan given the risk posed.

It was verbally advised that training qualifications were held on Vault. A search back at the council offices determined that none of the life guarding qualifications were held on vault, although Vault indicated that training had taken place, there were no records to support that. **See NC 6**

Kaimai Valley Services (KVS)

This works and facilities function had been brought back in-house 4-5 years ago.

Responsibilities included:

- Cleaning
- Parks and Reserves
- Small civil construction
- Reticulation
- Street cleaning
- Traffic management
- Rubbish collection
- Burials
- Playground inspections
- Tree maintenance

An old SLA from 2007 existed and this was being used to guide the work provided.

A 'milk run' of services was being planned.

This service was not on the internal audit plan, although KVS had recently conducted a vehicle and plant list audit.

OI 4 The council may wish to add KVS functions to their internal audit plan given the risk posed.

The next year's planning was a WIP and will be observed at the next assessment.

The CRM link to requests was observed and all requests observed at the Morrinsville offices were able to be tracked at the KVS offices. Trello was being used to manage task progresses.

Staff had trello on their iPads and phones, making job tracking easy.

KVS were in the middle of having to provide plans, monitoring and audits to council. This will be reviewed at the next assessment when it should be embedded, as it was not in a position to be reviewed at this assessment.

Assets management

The Council owned a wide range of assets that were managed in the Strategy and Policy Group.

The plans for parks and open spaces and community facilities and buildings were reviewed and the stakeholder process discussed.

Both 2018 plans included KPIS/SLA for delivery, some of these related to provision KVS would need to provide.

No issues were noted with the plans or the stakeholder process, however monitoring and reporting of the KPIS/SLAs would require assessing at the next audit, hence Corporate Planning was added to the next assessment.

Kaimai Consultants

Kaimai Consultants (KC) was an operating unit of the Council and including the professional engineering team responsible for the day-to-day activities concerning asset management, condition monitoring, and control of engineering project works. The team operated as part of the Service Delivery Group alongside KVS and Customer Services.

The roading contracts monthly reports from Fulton Hogan were observed and up to date, providing KPI and SLA compliance detail to council.

Elderly housing was also assessed.

Key steps included

- Application
- New Tenant Action list
- Inspections
- Vacating Tenant Sheet

Records were observed including for a group of flats in Mokena – all were observed to be present, complete and up to date.

The role and structure of KC was under review and this will be assessed at the next audit.

Water and waste water teams – overview of new development

A new team was in place, in direct response to the Havelock reports.

An overview of the new team and their processes were reviewed including the WATA project with other councils in the region.

A new software called Infrastructure Data (ID) had been implemented and the team were in the process of uploading records into the system, such as consents and conditions (The council held 78 consents), lab results, calibrations, scada data.

Some calibration records had been uploaded e.g. turbid meters due JAN 2019.

The annual review of Matamata waste water dated 22/05/2017 was observed.

The learning management system for staff was being implemented and examples of training videos were observed.

The lab had recently decided to not renew its IANZ accreditation. This was, in part, due to the proposed WATA and possible collaborations with other labs within the region.

As the whole system was in transition it was not possible to fully verify its effectiveness and this will be assessed next year.

IT and disaster recovery

The Disaster Recovery Plan dated 08/05/2018 was in place and reviewed. The annual audit security check by KAON had taken place December 2017 and the results were observed as being reported to the risk and audit committee dated June 2018.

No issues were noted.

Non Conformances

NC 1 is an escalation from the previous assessment and is at the beginning of the report.

NC2 was originally NC2, 4, 5 6 & 7, however all related to Management Review and so were cascaded into one NC once the action plans and evidence were received. The NCs were then re-numbered.

NC 2.	TELARC Non Conformance
<p>Type: Major Reduced to minor</p> <p>Observation: NC2 Was originally NC2, 4, 5 6 & 7, however all related to Management Review and so were cascaded into one NC once the action plans and evidence were received.</p> <p>252 Promapp Reviews were reported in the September 2018 QMS report as overdue</p> <p>The top 20 significant business risks on Promapp were due for review in August 2016</p> <p>40 corrective actions were overdue resolution as reported through the September 2018 QMS report</p> <p>Internal audits were overdue resolution as reported through the September 2018 QMS report.</p> <p>It could not be verified that all inputs and outputs of the management review had been addressed, or where they were addressed. The policy had not been adopted, many items were overdue, objectives for the QMS were in draft and no plans were available – all of which should have been picked up through management review. Some elements were dealt with through audit and risk.</p> <p>Non-conformance: It could not be verified that all inputs and outputs of the management review had been addressed, or where they were addressed.</p> <p>Non-conformance:</p> <p>Management had not reviewed the process performance results</p> <p>Management could not demonstrate the risk effectiveness had been reviewed</p> <p>It could not be verified that Management had taken action on the overdue corrective actions nor internal audits</p> <p>It could not be verified that all inputs and outputs of the management review had been addressed, or where they were addressed.</p> <p><i>Clause of the standard 9.3</i></p>	
<p>Process Reviews Approved action plan:</p> <p>Executive Team to review progress of completion of these process reviews over the next month and the matter reviewed again at the December meeting.</p> <p>In future the Quality Coordinator will attach all reports to the Management Group agenda. Where the meeting is on (or close) to the first of the month they will be added to the minutes instead as the report is run on the 1st of the month.</p> <p>The same reports will be added to the E-Team agenda for the 3rd Tuesday of the month so the E-Team can review the reports prior to the next Management Group meeting.</p> <p>Actions taken:</p> <p>This was discussed at the Management Group meeting on 1 November 2018 with the E-Team in attendance. The CE asked Managers to ensure these processes are reviewed and where necessary timeframes for completion changed, processes deleted, processes blended with other processes or a straight review conducted.</p> <p>Item to be added to December Management Group meeting.</p> <p>As at 1 November 2018 this figure had been reduced to 178.</p> <p>As at 9 November 2018 this figure was 177</p>	

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As at 19 November 2018 this figure was 164

The quality coordinator to send the managers for each team a list of all the processes their team owns with the review date. Managers to discuss with their teams and decide if the process is still needed, can be combined with another one on the same subject and review the timeframes. The teams are to focus on the ones that are due before Christmas.

Due to time restraints and staff numbers it is not possible to have all overdue processes reviewed so that there is zero.

Evidence:

Appendix B.

Copy of Mgmt Group minutes for this item – see under appendix g

Risk Reviews Approved Action Plan

Risks are reported to the Audit and Risk Committee on 9 October 2018

Actions taken:

Managers have been advised to get these updated.

Evidence:

Appendix D.

- Copy of report sent to Audit and Risk Committee
- Copy of email from Manaia.

Corrective Actions Approved action plan:

Executive Team to review progress of completion of these CA's over the next month and the matter reviewed again at the December meeting.

In future the Quality Coordinator will attach all reports to the Management Group agenda. Where the meeting is on (or close) to the first of the month they will be added to the minutes instead as the report is run on the 1st of the month.

The same reports will be added to the E-Team agenda for the 3rd Tuesday of the month so the E-Team can review the reports prior to the next Management Group meeting.

Actions taken:

This was discussed at the Management Group meeting on 1 November 2018 with the E-Team in attendance. The CE asked Managers to ensure these processes are reviewed and where necessary timeframes for completion changed, processes deleted, processes blended with other processes or a straight review conducted.

Item to be added to E-Team agenda (20 November) and Management Group agenda (4 December).

As at 1 November 2018 this figure had been reduced to 37.

As at 9 November 2018 this figure was 35

As at 19 November 2018 this figure was 20

Evidence:

Appendix E.

- Copy of E-Team minutes 13 November for this item. – see under appendix c
- Copy of E-Team minutes 20 November for this item. – still to come
- Mgmt Group minutes 1 November for this item – see appendix g
- Mgmt Group minutes 6 December for this item – still to come
- Report on status of 40 corrective actions.

Internal Audits Approved action plan:

The list of audits will be discussed by the E-Team at their meeting on 13 November 2019. A risk based

approach will be applied and only those audits deemed to be critical will remain on the schedule.
As discussed with the Auditor, Anna, the Executive, H&S/Quality Manager and Quality Coordinator will discuss the audit schedule for 2019 and consider the number of audits required.
The Group Manager and H&S/Quality Manager also have a meeting with KPMG on Friday, 9 November to discuss options for conducting targeted audits of high risk areas.

Actions taken:

Item on the E-Team agenda for 13 November 2018.
As at 1 November 2018 this figure had been reduced to 5.
As at 9 November 2018 this figure was 3
As at 19 November this figure was 0

Evidence:

Appendix F.

- Copy of E-Team minutes for this item. – See under appendix C

Copy of internal audit schedule

Management Review Approved action plan:

The Executive have previously reviewed the draft policy and amendments have been made. The policy will be re-discussed at the E-Team meeting on 13 November 2018 and approved for signing.
The policy will then be reviewed in early 2019 and transferred to the new policy template to ensure consistency with our other policies.

Actions taken:

Item on the E-Team agenda for 13 November 2018.

Evidence:

Appendix G.

- Copy of Mgmt Group minutes from 1 November meeting which shows input/output discussions.

Actions taken: The auditor accepted the evidence to show that these issues had either been resolved as in the case of Internal Audits and Management Review inputs and outputs, or that in the case of the other observations, enough progress had been made to reduce the non-conformance to a minor, with accepted action plans to follow up at the next assessment AD 20/11/2018

Response Status: Major NC reduced to Minor - The Correction has been made but further time is required to ensure the Corrective Actions are effective. Issue reduced to Minor. Final actions taken will be noted in the next report.

NC 3.	TELARC Non Conformance
<p>Type: Major-Resolved</p> <p>Observation: The policy was in draft dated August 2017</p> <p>Non-conformance: Leadership had not established, maintained or communicated a Quality Policy</p> <p><i>Clause of the standard 5.2</i></p>	
<p>Approved action plan:</p> <p>The Executive have previously reviewed the draft policy and amendments have been made. The policy will be re-discussed at the E-Team meeting on 13 November 2018 and approved for signing.</p> <p>The policy will then be reviewed in early 2019 and transferred to the new policy template to ensure consistency with our other policies.</p> <p>Actions taken:</p> <p>Item put on E-Team agenda for 13 November.</p> <p>Evidence:</p> <p>Appendix C.</p> <ul style="list-style-type: none"> • Copy of E-Team minutes for this item. • Copy of signed policy. <p>Actions taken: Signed policy and meeting minutes accepted by Auditor AD 20/11/18 RESOLVED</p>	
<p>Response Status: NC Resolved - The Correction and Corrective Actions have been completed and the issue is now resolved. Effectiveness of actions taken will be checked and recorded in the following audit report.</p>	

NC 4.	TELARC Non Conformance
<p>Type: Major Resolved</p> <p>Observation: Objectives for the QMS had been in draft since August 2017 and no plans were available or being tracked to accompany these. The QMS objectives appeared to sit outside the organisational and corporate objectives.</p> <p>Non-conformance: The organisation had not established objectives and plans to achieve those <i>Clause of the standard 6.2</i></p>	
<p>Approved action plan:</p> <p>The Executive have previously reviewed the objectives and it is proposed that these be reviewed again after a discussion with KPMG on internal audits. This will be discussed at the E-Team meeting on 13 November 2018.</p> <p>Actions taken:</p> <p>Item on the E-Team agenda for 13 November 2018.</p> <p>Evidence:</p> <p>Appendix H.</p> <ul style="list-style-type: none"> Copy of E-Team minutes for this item – see under appendix c <p>Copy of signed Quality Policy and Objectives – see under appendix c</p> <p>The auditor reviewed and accepted the evidence – AD 20/11/2018 RESOLVED</p>	
<p>Response Status: NC Resolved - The Correction and Corrective Actions have been completed and the issue is now resolved. Effectiveness of actions taken will be checked and recorded in the following audit report.</p>	

NC 5.	TELARC Non Conformance
<p>Type: Major</p> <p>Observation: Old Telarc logos were noted throughout the audit, including on public facing forms. Most of these were disposed of during the visit, however a quick look showed that democracy and Project management were still using old logos. This had been raised in the previous year and was now escalated to a major</p> <p>Non-conformance: Telarc terms and conditions <i>Clause of the standard Telarc terms and conditions</i></p>	
<p>Approved action plan: Waiting for Internal Audit as per Raewyn's email 19/11/2018</p> <p>Actions taken:</p>	
<p>Response Status: Major NC Open - The issue raised must be addressed prior to the agreed date or another date agreed. Failure to complete the action plan will result in suspension of certification.</p>	

NC 6.	TELARC Non Conformance
<p>Type: Major</p> <p>Observation: Critical Training records for life guarding staff at the Morrinsville pool could not be located.</p> <p>Non-conformance: Records for training not available <i>Clause of the standard 7.2 d</i></p>	
<p>Approved action plan: Waiting for training records – emailed Raewyn 20/11/2018 with names from the sample:</p> <ul style="list-style-type: none"> • Jessica Johnson • Rebecca Marneth-Rust • Paris Hughes <p>Actions taken:</p>	
<p>Response Status: Major NC Open - The issue raised must be addressed prior to the agreed date or another date agreed. Failure to complete the action plan will result in suspension of certification.</p>	

Opportunities for Improvement

Four risk based opportunities for improvement were raised and are to be found within the body of the report. Please note these could result in future non-conformances if not reviewed and considered.

Although not required, post the audit and draft report (19/11/2018), the Council sent through action plans for the Opportunities for Improvement as per below.

OI 1
The company may wish to use a risk based approach, going forward, for the review dates on their processes.
<p>Approved action plan: The Quality Coordinator has an appointment on 20 November 2018 to view how Western BOP District Council have looked at risk against their procedures as an idea moving forward with MPDC's approach and how it related to how often procedures are reviewed.</p> <p>Actions taken:</p>
OI 2
The council may wish to review the risk around PAT for library electrical appliances.
<p>Approved action plan: CA has been logged to Helen O'Carroll and Suzanne Tunnidcliff. Suzanne has replied with "We can ensure that IT have these PC's on their schedule for testing, all others are done and up to date."</p> <p>Actions taken: Suzanne Tunnidcliff closed this CA on 08/11/18.</p>
OI 3
The council may wish to add the pool to their internal audit plan given the risk posed.
<p>Approved action plan: This will need to be added to the 2019 schedule. An audit will need to be done early 2019 as Morrinsville Pools are only open for a fixed season during summer.</p> <p>Actions taken:</p>
OI 4
The council may wish to add KVS functions to their internal audit plan given the risk posed.
<p>Approved action plan: This will need to be added to the 2019 schedule. The audit will need to be done once KVS have got their "milk run" process up and running.</p> <p>Actions taken:</p>

NEXT ASSESSMENT

Our scheduling team will contact you to confirm the date of the next assessment.

During that assessment we will cover the standard items included in the Telarc Review Visit (RV) schedule, including the generic requirements of: management review, internal audit processes, improvements made to the system, non-conformities, complaints, and the corrective action process.

The following assessment plan is draft and can be modified to suit availability of the relevant people.

Location: Te Aroha – Head Office + Matamata Area			
Date	Assessment meetings + functions/process/areas/shifts	Persons	Times
Day 1	Entry meeting, changes and confirm assessment plan		0900
	Executive Leadership, planning, performance, monitoring, and review processes		
	Process controls – risk approach to processes & knowledge management		
	System controls – internal audit, NC & Corrective Action + issues generally		
	Planning – Health Monitoring		1045
	Lunch		1200
	Legal Services		1300
	Communications		1400
	CDEM		1400
	Summary of day – confirm arrangements for Day 2 at MATAMATA		1600
	KVS – Operations + overview		0900
	Works Team, planning, records, equipment maintenance		0930
	Lunch		1200
	MATAMATA - Entry meeting, changes and confirm assessment plan		1300
	Customer services – scope + capability across sites		1500
	Library operations including blue cloud analytics use		
	Matamata pool		
	Summary of day confirm arrangements for Day 3 Te Aroha		1600
Day 3	Corporate Planners – CRM and other KPI data from strategies		0900
	Kaimai Consultants (KC) – overview		1000
	KC operations – Transfer stations		1030
	KC Operations – Contractor management		1130
	Lunch		1200
	Water and Waste water team – plus trip to plant		1300
	Exit Meeting (~30 minutes) report to be written off site		1530

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CLIENT CHANGES & CERTIFICATION RECOMMENDATION FORM

COMPANY NAME DIVISION (if Applicable)	Matamata-Piako District Council Te Aroha - Head Office
ACTION AREA:	CHANGES REQUIRED:
SCOPE OF CERTIFICATION Goods or services supplied under the control of the quality management system constituting the applicant's scope of certification.	No change
CLIENT DETAILS Contacts, client addresses, site details, etc. updated NB: Accounts need to be advised of changes in client details, contact and address details for updating accounts records.	No change
ANZSIC CODES ANZSIC classification code assigned to client. 8113M Local Government Administration 7823C Civil Consulting Engineering Services	No change
NUMBER OF PERSONNEL Please record the number of personnel at each site visited. Update number of personnel in ELK if required:	No change
AUDIT FREQUENCY NB: Changes in audit frequency need to be approved by the appropriate Programme Specialist or Management Team.	No change
COMPLIANCE STANDARD Please advise changes to the standard or opportunities for extending scope or programs.	No change
OTHER CERTIFICATIONS HELD OR PLANNED	Nil
RECOMMENDATION & DECLARATION To be completed by Assessment Coordinator I confirm that the organisation has been assessed in accordance with Telarc policies and procedures for compliance with the nominated standard(s); that all instances of Major Non Conformance reported have been resolved; and that appropriate action has been taken with regards to all other registration conditions. I therefore recommend that registration be continued or granted. I declare that I, and so far as I am aware, the audit team, have no conflict of interest nor have I or they acted as a consultant for this client in the last two years. I also confirm that I, and so far as I am aware all members of the audit team, have not been subject to an approach to accept a bribe or other attempt to influence the results of this audit or the contents of this audit report, nor has anyone asked for or solicited any bribe, gift or other material benefit in order to alter the findings of this audit report.	
Assessment Coordinator:	Date:
Complete the declaration above and save the document against the Work Planning Form in ELK. For IA, RA and Scope Extensions and Scope Reductions only Email Certification Administrator to request an Independent Review for the certification or recertification decision.	

Specific Project Risk Management Review

Trim No.: 2084307

Executive Summary

This report is to inform the Audit and Risk Committee the status of the top Council project as identified by the Executive team which is the:

- Te Aroha - Matamata cycle trail (construction) - \$4.8 million

The Te Aroha – Matamata Cycletrail has completed its concept phase is now under construction. More detailed risk registers have been compiled and these can be made available to the committee if required.

Recommendation

That:

1. The information be received.

Content

Background

Te Aroha to Matamata Cycleway

The feasibility part of the project has been completed and the Ministry of Business, Innovation and Employment has announced funding of 50% of the project. The detailed project plan is now underway and the risks have changed as they are related to the physical works of the contract.

Table 1: Top Project Risks and Mitigation

Risk	Mitigation
<p>Funding of the project</p> <p>Some of the contracts have already gone out for tender and the costings received have been in line or less than the engineers estimate. The main contract for the track is still to be procured. Funding of MBIE is currently based on the engineers estimate put together and the final costs will depend on the contract prices that we will receive back. Then the total project cost will need to be reviewed.</p> <p>There is a risk that the contract prices will come in higher than our estimate.</p>	<p>The rates for the estimates used were from the previous rail trail construction so similar scope and scale of works was used.</p> <p>We have included 20% contingency in our engineers estimate because of this uncertainty. Once the contract prices are known the project contingency can be reduced to 10%.</p> <p>Once the final costs are in the total project cost will need to be reviewed and if there is a discrepancy then funding sources will need to be reviewed.</p>
<p>Land owner issues</p> <p>Although all the land for the cycleway has been secured and is in Council ownership, there is still the potential for land owner disputes throughout the construction of the project.</p>	<p>All the land owners have been visited individually and have been kept up to date with the project.</p> <p>This has to be done more than once as it has been found that some land owners are changing</p>

	<p>their minds about what decisions have already been made and are wanting changes to the specifications of the fences.</p> <p>A Governance Group has been set up and the first meeting will be in October which can assist with the political interface and assist with land owner issues.</p>
<p>Timeframe of the project</p> <p>There is the potential risk that there isn't the availability of contractors and that they are not able to deliver on the given timeframe.</p> <p>The other risk is that internal resources are not available to manage the project efficiently.</p>	<p>The contracts have been split into 5 different contracts to try and capture as many interests as possible and as to not eliminate anybody. The contracts have also been advertised in the local papers to get as much interest as possible.</p> <p>Hauraki District Council have been engaged as project managers as they have the expertise in this field.</p> <p>The governance and technical groups have been set up for the project to ensure the key milestones of the project are monitored and feedback is provided to our Council and MBIE.</p>

Attachments

There are no attachments for this report.

Signatories

Author(s)	<p>Chelsea Cannell</p> <p>Assets Project Management Officer</p>	
	<p>Susanne Kampshof</p> <p>Asset Manager Strategy and Policy</p>	
Approved by	<p>Manaia Te Wiata</p> <p>Group Manager Business Support</p>	

Staff survey and vision and values

Trim No.: 2084447

Executive Summary

As part of the LGNZ Excellence programme, the auditors suggested we undertake an independent staff survey and review our vision and values as they were last reviewed in 2011.

We have recently undertaken an external staff survey called AskYourTeam. This is a continuous improvement tool that also allows us to benchmark with other Councils. The results were very positive overall and have also identified some areas for improvement.

A summary of the results is attached including plans to address the issues raised.

We also recently reviewed our vision and values.

We sought feedback from staff and found that our vision and values needed to be refreshed, and staff felt we needed a more inspiring vision and simpler expected behaviours to support our values.

The Management Group (Third Tier Managers) decided to proceed with a staff lead/bottom up approach. A working party made up of eight staff was set up to review the vision, values and expected behaviours. Note all staff were given the opportunity to join the working party.

The working party did a lot of background research, and came up with new draft vision and values, which were consulted on with staff. The feedback received was considered and further changes were made. Our new vision, mission and values were then launched at our full staff meeting on 12 October, and are as follows:

- Our new vision (a vision is an aspirational statement about what an organisation would like to achieve)
 - Our new vision is 'Making a difference'
- Our mission (a mission is a more practical statement about who we are and why we exist)
 - Following feedback from staff, we decided to adjust our old vision of Working for the Community to become our mission statement of 'Working with the Community'
- Our new values (values are how we're going to go about delivering on our vision and mission, our principles or standards of behaviour)
 - Our new values are we do it right, we do it better, we do it together
 - These might mean different things to different people, or different teams – but here are a few examples of what staff told us they mean to them, and how we can relate that to behaviours in performance reviews. There will be more examples which will be in our behaviours section in the performance appraisal process.

We do it right

- We are accountable for our actions and take ownership of our work
- We provide great customer service
- We are aware of how our actions reflect on Council
- We are responsible for our own wellbeing and the wellbeing of our workmates

We do it better

- We are open to learning and change
- We are self-motivated and we use our initiative
- We learn from our mistakes
- We challenge the status quo

We do it together

- We work together as one team
- We respect and accept the views of others
- We are informed and we keep others informed
- We share our knowledge with other teams

Managers will also have specific accountabilities around these values such as

- We actively encourage working and respecting together with other teams
- We are approachable, direct, open and honest when communicating with others
- We enable and trust our team to make decisions, display initiative and take risks

Work is now underway on plans to implement the new vision and values which will take effect from February 2019.

Recommendation

That:

1. The information be received.

Attachments

[A↓](#). AskYourTeam Survey results info. for A&R

Signatories

Author(s)	Kelly Reith Human Resources Manager	
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Approved by	Don McLeod Chief Executive Officer	
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AskYourTeam Survey

143 staff completed the staff climate survey. This is one of the highest levels of participation we have had for surveys of any type.

“Ask Your Team” recently appeared on the market and 16 Councils are participating so far, making benchmarking possible.

The results

Using the method we have used historically and that is taking the total number of people who indicated some form of agreement or disagreement and seeing what they were as a percentage of the total responses.

The Good

A selection of our top rating responses based on varying levels of agreement (not including ‘don’t know’ responses)

- 98% said they understand clearly how the things they do affect the ability of others in their team to do their job
- 94% said this is a great place to work
- 97% enjoy working here
- 80% think the actions of our Executive and Management Group are in accordance with our values
- 80% feel that staff with new ideas are supported
- 80% feel that honesty and directness is valued
- 84% are motivated by the way their Manager communicates
- 92% are proud of the impact they have on the community
- 88% believe they offer good value to our community
- 78% feel the Executive are leading the organisation in the right direction and 88% agree that the Executive are supporting them to achieve the outcomes of the LTP

The not so good

All assertions where more than 25% disagreed with a statement.

- I am regularly asked for feedback on how to improve MPDC
- MPDC allocates resources effectively to achieve agreed outcomes
- We have technology to effectively support our processes
- What I receive from other teams is accurate, complete and timely enough or of sufficient quality to do my job efficiently and effectively
- The contribution of individuals is recognised at MPDC
- We can quickly obtain customised reports from our information systems
- We are provided with meaningful updates on how MPDC is performing
- MPDC has a culture of empowerment that maximises the performance of staff
- Effective internal consultation occurs before changes are made that affect others
- Projects are reviewed thoroughly to see how well the actual outcome reflected the planned outcome.

- All teams understand how their goals and objectives affect each other
- We work effectively and efficiently between teams at MPDC

What are we going to do

We have a number of plans in place to work towards addressing the areas where staff have indicated we are not doing so good. These plans include the following:

- Regular surveys (such as this survey) to ask for feedback on how we are doing
- Another survey will be going out soon to allow staff to provide any other comments and to ask for their ideas on improving how we work between teams and understanding each other
- We will also be seeking feedback on internal consultation
- We will continue work on reviewing our project management system over the next 12 months (this includes procurement and contract administration)
- Council have adopted (in principal) the idea of being completely digital by 2025. Work in this area is beginning in preparation. If staff have specific areas of concern about technology, information systems or resources they have been asked to talk to their manager in the first instance.
- An HR strategy will be developed early next year which will cover a number of things – including looking at attraction and retention of staff. And what benefits staff value i.e. flexible working arrangements, accumulated sick leave, an extra five days sick leave a year etc. We will seek staff feedback during this important piece of work.
- Managers will be sent a copy of the average results for each question for their own teams (they can't see individual responses, just the average (aggregated) result for each question). Managers will then follow up any specific issues with their own teams.

Local Government Benchmark

Our overall survey score is 66% compared to 63% - it's great to see we are scoring above the benchmark.

There are a number of areas where we score well above the benchmark and this was really encouraging to see, especially in regards to internal communication from managers and our role in helping deliver what our community/ratepayers want.

There are also areas where we are below the benchmark and a number of these will be addressed as part of the plans mentioned above (i.e. more surveys to seek feedback, the HR strategy (which will include looking at benefits such as career development) and working on improving how we work between teams).

HR Policy Update

Trim No.: 2084450

Executive Summary

Council's Gift Policy was recently reviewed and feedback on the minor changes was sought from staff. A copy of the final policy is attached.

At the June Audit and Risk Committee meeting changes to the Protected Disclosures – Whistleblower Policy and Fraud Policy were adopted. It was agreed that HR would then seek feedback from staff. No feedback was received.

Recommendation

That:

1. The information be received.

Attachments

[A↓](#). Gift Policy signed version 28.8.18

Signatories

Author(s)	Kelly Reith Human Resources Manager	
Approved by	Don McLeod Chief Executive Officer	

Gift Policy

Department: Human Resources

Date, RM number and version number: 28 August 2018, RM No 2055181, version three

Introduction

At Matamata-Piako District Council (MPDC) we are committed to ensuring there is a high level of public confidence in the integrity of the organisation and preventing bribery and corruption.

'Integrity in all that we do' is one of our key expected behaviours (part of our organisation's values). You are expected to undertake your duties with integrity which means 'doing the right thing at all times and in all circumstances, whether or not anyone is watching'.

You may occasionally be offered gifts or prizes from individuals or organisations that undertake business with MPDC e.g. suppliers, consent applicants, tenderers. Gifts provided to recognise excellent service or effort is not uncommon in business relationships, however, it is important that receiving a gift or prize does not alter your decision making – this is considered corrupt and dishonest behaviour.

The community must have confidence that we act and are seen to act with integrity and impartially.

This policy reinforces the expectations of you if you are offered a gift or win a prize due to your position at MPDC.

Audience

This policy applies to all MPDC employees.

Policy

You must work, and be seen to work, in accordance with our vision, values and expected behaviours (including demonstrating accountability, open and honest communication, and integrity in all we do). These behaviours are reviewed with you annually as part of the performance review process.

Gifts and prizes usually take the form of some tangible object, but may also be in another form e.g. free use of a corporate box at a sporting event, privileged access to goods or services, being hosted for dinner or travel.

You must consider the following if offered a gift or prize:



- the value or nature of a gift or prize is not inappropriate or excessive to the occasion or the reason for it being given;
- there is no explicit or implicit expectation of favour in return; and
- the gift or prize does not substitute a legitimate payment or remuneration.

You should reflect on how the gifting transaction may be viewed by an independent party (e.g. Office of the Controller and Auditor General), or how it could be perceived by the public (the 'front page of the newspaper' test). If there is any doubt or concern, the matter must be referred to the Executive Team.

It is expected that gifts and prizes to you from an external party due to your position will be given infrequently (i.e. no more than once per financial year).

Gifts and prizes over \$250 must be recorded in the gifts register. See the procedure section of this policy for more details.

You may keep infrequent and inexpensive gifts and prizes (i.e. less than \$250 in value) and it is not compulsory to record them in the gifts register, however you may choose to do this on a voluntary basis.

Effects and Risks

This policy provides assurance that MPDC has measures in place to prevent bribery and corruption from occurring at MPDC.

Failure to follow this policy could result in financial loss, damage to MPDC's reputation, legal action and employees may face disciplinary action.

Monitoring, Measurement and Review

The review period will be three years unless there is a need to change the policy. The Human Resources Manager will be responsible for the review.

The E-Team will review the gift register on a quarterly basis.

Relevant Information

- Local Government Act 2002
- Employment Relations Act 2000
- Human Rights Act 1993
- Privacy Act 1993
- Public Disclosures Act 2000
- Protected Disclosures Policy
- Sensitive Expenditure Policy
- Fraud Policy
- Fraud and Corruption, Conflicts of Interest and Protected Disclosures brochure
- Managing Conflicts of Interest Policy
- Substandard Performance, Misconduct and Disciplinary Policy

Authorisation

Authorised by: Don McLeod
Chief Executive Officer
Matamata-Piako District Council

Signed: _____

Don McLeod

Kelly Reith – HR Manager

Procedures or Processes

Gifts over \$250

If you receive a gift over the value of \$250 you must notify your Group Manager or the Chief Executive Officer.

If it is agreed that the gift will be accepted, it needs to be recorded in the gifts register by a third tier manager or member of the E-Team.

The gift will remain the property of MPDC. The Chief Executive Officer or relevant Group Manager will determine if the gift can be allocated to the intended recipient(s).

Prizes over \$250

If you win a prize over the value of \$250 due to your position at MPDC i.e. while at a conference or due to a purchase made on behalf of MPDC you must notify your Group Manager or the Chief Executive Officer.

The prize is the property of MPDC and it is at the Chief Executive Officer or relevant Group Manager's discretion to determine if the prize can be allocated to you.

The prize also needs to be recorded in the gifts register by a third tier manager or member of the E-Team.

Gifts register

The gift register is held in RM 1895160 – only third tier managers and the E-Team have access to view and edit the gift register.