

LGOIMA compliance and practice

Greater Wellington Regional Council

LGOIMA compliance and practice at Greater Wellington Regional Council

Office of the Ombudsman

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Cover image courtesy GWRC

LGOIMA compliance and practice in Greater Wellington Regional Council

Opinion of the Chief Ombudsman

July 2019

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Foreword

As Chief Ombudsman, I have been tasked by Parliament with monitoring agencies' official information practices, resources and systems. I do this by undertaking targeted investigations and publishing reports on my findings. This programme of work gives effect to one of the recommendations resulting from our 2015 report *Not a Game of Hide and Seek*.¹

Since then, my Office has investigated and reported on the Official Information Act 1982 (OIA) compliance in a number of central government agencies. This year my programme of investigations has expanded to include local authorities. My investigation into the Local Government Official Information and Meetings Act 1987 (LGOIMA) practices of Greater Wellington Regional Council (the Council) is among the first of these.

New Zealand has 78 local authorities. In selecting which of these to include in the first investigations into local government official information practices, I wanted to ensure a mix of different council structures, levels of resource, and regions of the country. I also considered the nature of complaints received by my Office, and whether a council had been dealing with any high-profile issues that had increased the number of information requests received.

The LGOIMA is an important tool for fostering transparency and accountability in local government. It allows people to request information held by local authorities, it provides a right to complain to the Ombudsman in certain circumstances, and it has provisions governing the administration of local authority meetings. Without access to information held by local authorities, and to public meetings, the ability of New Zealanders to participate in the democratic process is curtailed. An effective official information regime sits at the very heart of local government practice and should be closely connected with governance, community engagement and communications functions.

I was impressed by the commitment shown by staff at all levels of Greater Wellington Regional Council to serving constituents of the region, whom they consider the 'owners' of information produced by the Council. I was also impressed by staff's technical knowledge of the LGOIMA.

In terms of official information requests and the administration of public meetings, the Council maintains compliance with the LGOIMA with impressive consistency. Staff are aided in this by good tools for tracking the LGOIMA request workflow, comprehensive LGOIMA guidance documents, and assistance from the Democratic Services team.

The Council maintained a high rate of timeliness compliance for LGOIMA requests, even in the face of an increase of the volume of requests received. It appears that the adherence to timeliness obligations has not come at the expense of quality. Of the LGOIMA responses that I reviewed within the course of this investigation, the quality was consistently high.

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http://www.ombudsman.parliament.nz/system/paperclip/document_files/document_files/1573/original/not_a_game_of_hide_and_seek_-_review_of_government_oia_practices.pdf?1466555782

There is opportunity for improvement in relation to information management systems, which some staff indicated were not used consistently across the Council, with the result being that information is stored in multiple, disparate systems. In relation to the Council's LGOIMA obligations, this poses the obvious risk that it will be more difficult and time-consuming to find all information included within the scope of a request.

I encourage the Chief Executive and senior leaders to actively promote the value of the LGOIMA as a mechanism for the public to access information in order to meaningfully participate in the working of local government.

The Council provided comments on my provisional opinion, which I have carefully considered before forming my final opinion. The Council has advised me that its Executive Leadership Team will develop a plan to implement my suggested action points in a manner that aligns with their guiding behaviours, known collectively as *the GW Way*. It has provided specific comments on some of my findings. The Council's comments, and my response to them are included within this report.

I wish to acknowledge the Council for the positive and open way it engaged with this investigation during what continues to be a busy time for them. In particular, my thanks go to those staff who took the time to meet with my investigators to discuss their experiences and views on the Council's LGOIMA practices; staff who participated in the investigation through completing employee surveys; and staff in the Democratic Services team who liaised with my office throughout the investigation and who responded to our detailed agency survey.

I also acknowledge the participation of stakeholders of the Council who shared their views in our survey of the public.

I look forward to continuing, productive engagement with the Council in the months to come as it works through my suggested action points.

Peter Boshier
Chief Ombudsman
18 July 2019

Introduction

This report sets out my opinion on how well Greater Wellington Regional Council (the Council)² is meeting its obligations under the Local Government Official Information and Meetings Act 1987 (LGOIMA).

My investigation has included consideration of the Council's supporting administrative structures, leadership and culture, processes and practices, including information management, public participation, and proactive release of information to the extent that these relate to achieving the purposes of the LGOIMA.

One of the purposes of the LGOIMA is to increase the availability of information held by local authorities and to promote the open and public transaction of business at meetings. This ensures people can:

- effectively participate in the actions and decisions of local authorities;
- hold local authority members and their officials to account for any decisions; and
- understand why decisions were made which will enhance respect for the law and promote good local government in New Zealand.

The LGOIMA also protects official information and the deliberations of local authorities from disclosure, but only to the extent consistent with the public interest and the need to protect personal privacy.

As Chief Ombudsman, I am committed to improving the operation of the LGOIMA to ensure the purposes of the Act are realised. Key to achieving this is Parliament's expectation that I regularly review the LGOIMA practices and capabilities of councils.

I have initiated this practice investigation using my power under the Ombudsmen Act 1975 (OA). This provides me with the tools needed to investigate matters I consider important to improve administrative decision making across the public sector.³

I have considered the information gathered through my investigation against an assessment framework consisting of the following five areas:

- Leadership and culture
- Organisation structure, staffing and capability
- Internal policies, procedures and resources
- Current practices
- Performance monitoring and learning.

² Note that throughout this report, 'the Council' refers to the Council organisation only, not elected members unless specifically stated.

³ See sections 13(1) and 13(3) Ombudsmen Act 1975

My Office has developed a set of good practice indicators which were provided to the Council at the beginning of my investigation. These indicators are not exhaustive and do not preclude an agency demonstrating that good practice in a particular area is being met in other ways.

Reporting the outcome of these investigations promotes a council's accountability, and gives the public an insight into their council's ability to promote openness and transparency.

My opinion

I have not identified any conduct by the Council that was wrong, unreasonable or contrary to law and, as such, I have not made any formal recommendations.⁴ Through the investigation process, areas of good practice have been identified, and opportunities for improvement are suggested where areas of vulnerability have been identified. I have suggested a number of action points that I consider may improve the Council's practices. The Council has advised me that Council officials will offer the Executive Leadership Team (ELT) advice on these action points, and ELT will then determine the appropriate action plan for their implementation in a manner that aligns with the Council's guiding principles, known as *the GW Way*.

I address each of the five dimensions listed above, setting out:

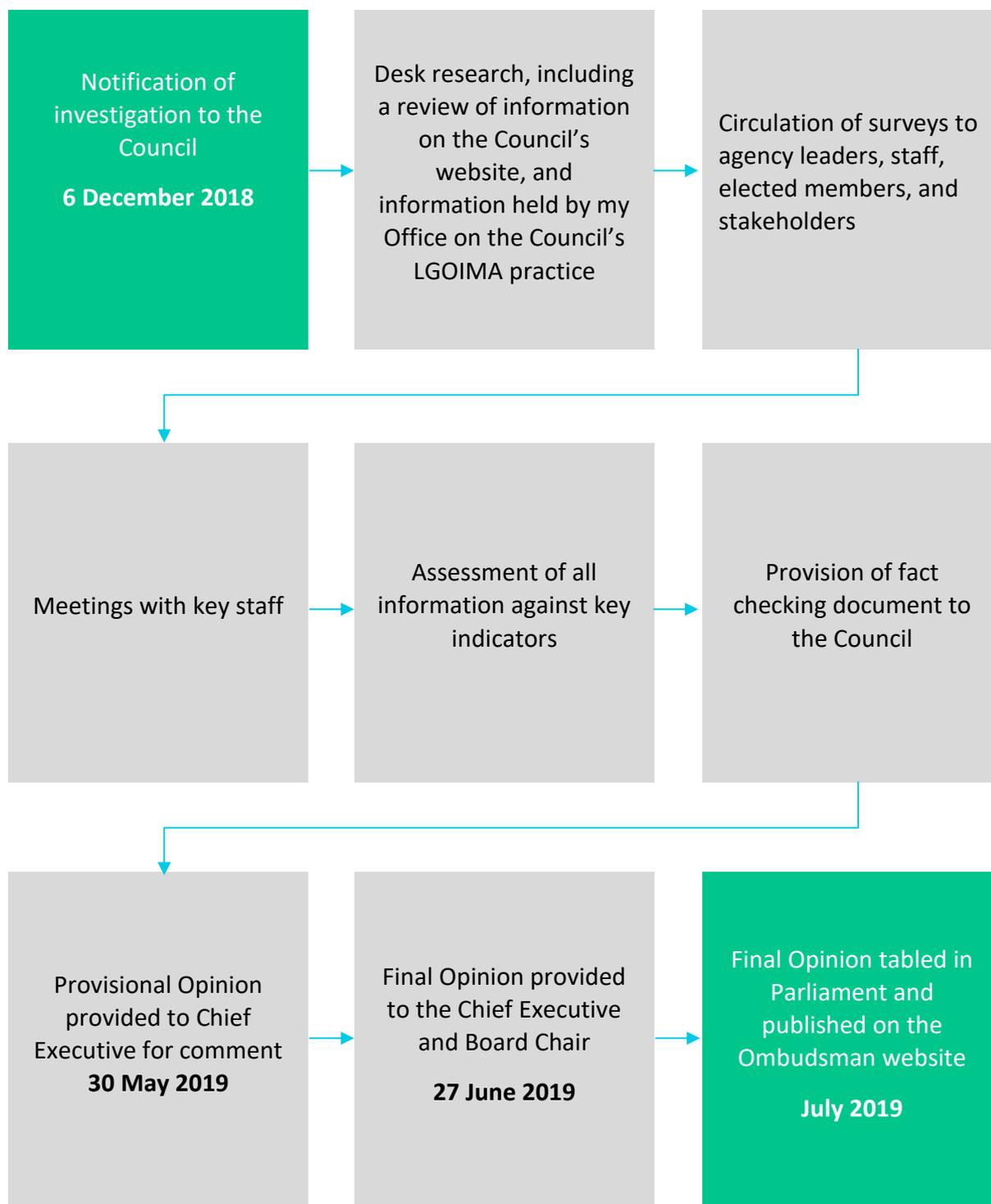
- an overview of my findings;
- aspects that are going well; and
- opportunities to improve the Council's LGOIMA compliance and practice.

My opinion relates only to the Council's practice during the period in which my investigation took place.⁵

⁴ Formal recommendations under the OA are only made if I form an opinion that a decision, recommendation, act, or omission by the agency was wrong, unreasonable or contrary to law, etc. under s 22 of the OA.

⁵ On occasion we may look at material from outside the investigation period where particular issues warrant further investigation.

Timeline and methodology



Greater Wellington Regional Council: a snapshot

The Wellington Region (also known as Greater Wellington) occupies the southernmost tip of New Zealand's North Island, with a land area of 8049 kilometres. The council region covers the capital city, Wellington, and the cities of Lower Hutt, Porirua, and Upper Hutt. It also covers the west coast settlements of the Kapiti Coast and contains most of Wairarapa, covering the towns of Masterton, Carterton, Greytown, Featherston and Martinborough.

The local authority, Greater Wellington Regional Council, has 13 elected Councillors. Elections are held every three years.

The Council's responsibilities include public transport, environmental management, provision of regional parks, and the metropolitan water supply. The Local Government Official Information and Meetings Act (LGOIMA) both requires and encourages Council to be open and transparent in its decision making and activities.

The Council was established in 1989.



Image courtesy Department of Internal Affairs

In 2017/18, Greater Wellington Regional Council:

- served 521 500 residents
- received \$122 788 million in rates
- employed approximately 516 staff
- received 187 requests under LGOIMA
- handled 98.5 per cent of these requests within the legislative timeframe



CHAIR Chris Laidlaw

ELECTED COUNCILLORS 13

CONSTITUENCIES Kapiti Coast, Lower Hutt, Porirua-Tawa, Upper Hutt, Wairarapa, Wellington

TERRITORIAL COUNCILS Carterton District Council, Hutt City Council, Kapiti Coast District Council, Masterton District Council, Porirua City Council, South Wairarapa District Council, Upper Hutt City Council, Wellington City Council

CHIEF EXECUTIVE Greg Campbell

Executive summary

This summary draws together the key findings and suggested actions from my investigation. The diagram on page 13 further summarises the action points into a ‘snapshot view’ of those aspects I consider will further lift LGOIMA performance at the Council.

Leadership and culture

Overall, the Council appears to have a strong culture of openness, driven by dedicated leaders and other staff who are committed to serving the constituents of the Greater Wellington region. This culture is supported by a set of behaviours called *the GW Way*. However, there is little explicit messaging from senior leaders to staff about the importance of the LGOIMA in particular, as distinct from openness and transparency more generally.

Comprehensive information for requesters of official information is available on the Council’s website. This gives a positive message to the public about the agency’s commitment to its obligations under the LGOIMA. The LGOIMA section of the Council’s website could be in a more prominent or intuitive location, however, which I understand the Council recognises and intends to amend.

I encourage the Council to include in its corporate documents a strategic framework promoting good LGOIMA compliance and practice, and its intentions for the proactive release of information. This will ensure it is accountable and that a strong culture and commitment toward these activities is maintained. These should be clearly linked to the Council’s strategy around public participation.

The Council may also benefit from developing a mechanism for staff to volunteer their suggestions for improvements to request handling and proactive release practices, and this should be championed by senior leaders.

Action points: Leadership and culture

1	Senior leaders should make clear, visible and regular statements to staff about the importance of the LGOIMA, openness and transparency
2	Incorporate strategy to promote good LGOIMA compliance and practice, and intentions around the proactive release of information into corporate documents, and ensure there are clear links between these and the strategy for public participation
3	Leaders champion a process for staff to identify and communicate opportunities for improvements to LGOIMA and proactive release policies and practice

Organisation structure, staffing and capability

The Council uses a ‘mixed’ model of LGOIMA handling. The coordination of LGOIMA requests is performed, for the most part, by staff in the Democratic Services team, but most of the processing is performed by staff in other business units.

It appears the ‘mixed’ model for LGOIMA handling is appropriate for the Council, given the subject matter expertise required to respond to complex requests for information. The resilience of the system has also been amply demonstrated by the Council’s handling of a recent surge in the number and complexity of LGOIMA requests, during which time it maintained close to 100 percent compliance with reported LGOIMA timeliness obligations.

The Chief Executive’s (CE) delegated authority for making decisions on LGOIMA requests is clearly set out, and the fact this authority is delegated to tier two managers demonstrates the importance the Council places on LGOIMA obligations.

The Council’s annual LGOIMA training appears comprehensive, and well regarded by staff. The Council may do more, however, to ensure all staff receive some manner of induction training, and to include targeted training to fit the needs of different roles. In particular, this should include training for decision makers, and for staff who handle requests for information outside the ‘formal’ LGOIMA process, such as those in the media and contact centre teams.

An expanded programme of Information Management (IM) training may also be beneficial, and should encompass staff obligations in relation to record keeping, as well as the efficient and effective use of the IM system.

Action points: Organisation structure, staffing and capability

1	Consider expanding training programme to include induction training for all staff, as well as refresher courses and targeted training for particular roles
2	Survey training needs in relation to IM systems and processes and provide appropriate training

Internal policies, procedures and resources

The Council has some excellent resources in place to guide the LGOIMA request handling process, including a comprehensive LGOIMA guidance document. I suggest only minor adjustments to further enhance the guidance.

Similarly, the Council’s Standing Orders provide sound guidance for the administration of Council meetings. There are opportunities to move toward even better practice in the administration of meetings, in relation to the potential review and release of minutes from public excluded meetings, which I encourage the Council to consider.

Workflow, the Council’s automated workflow system, is also a valuable tool that, I am sure, has played a part in the Council’s impressive statistics for LGOIMA timeliness compliance. *Workflow* helps to guide the LGOIMA process through each of its steps, producing automated reminders for relevant staff, which helps to minimise inevitable human error.

Feedback from staff gave a strong indication that the IM system, *OurSpace*, could be more effectively utilised if sound policies, support and training were in place. Some staff were concerned that *OurSpace* was not used consistently, with some staff falling back on the older system of shared drives, due to a lack of familiarity with the newer IM system. This presents a

risk in relation to the retrieval of information, not only in the context of LGOIMA requests, but good administration generally.

While the Council's practice of proactively releasing information is generally good, the lack of a written policy to underpin the practice may represent a risk to the Council. Without a policy, the practice may be inconsistent between business units and may diminish during busy periods, or in the event that key staff leave the organisation. I note that publishing the policy would add an extra level of accountability and transparency.

With the recent increase in LGOIMA requests, the Council may benefit from reviewing its use of redaction software to ensure this is accessible to enough staff members, and in the relevant business units.

Action points: Internal policies, procedures and resources

1	Prioritise the development of a proactive release policy with accountability for its delivery assigned to a senior leader
2	Ensure LGOIMA resources, including the guidance document, are regularly reviewed and updated
3	Amend LGOIMA guidance to make it clear that all requests for official information must be handled in accordance with the provisions of the LGOIMA, irrespective whether they are entered into the 'formal' LGOIMA process
4	Ensure that clear policies are in place detailing staff's obligations in relation to data management, including the creation, retention, disposal and retrieval of records
5	Review existing IM guidance and resources to ensure they are comprehensive, fit for purpose and user friendly
6	Review use of redaction tools to ensure sufficient staff across appropriate business units have access to redaction software

Current practices

I consider that Council staff demonstrate a good level of knowledge of the LGOIMA, and that the Council consistently complies with its obligations under the LGOIMA. This relates both to requests made under the LGOIMA as well as the obligations defined in Part 7 of that Act around the administration of local authority meetings.

There also appears to be a healthy working relationship between elected members and the Council as it relates to the exchange of official information, and the handling of LGOIMA requests.

The Council has an established practice of releasing information proactively - that goes beyond just the information that councils are required to release - and of recording some of the administrative processes associated with their handling of LGOIMA requests.

The suggestions I make in this area are mainly to enhance the good practices that already exist, including creating a discrete record of the LGOIMA decision making processes, encouraging

robust consideration of the public interest where that provision applies, and an opportunity to improve access to the minutes of public excluded meetings where the reasons for exclusion no longer apply.

I also encourage the Council:

- to review its process for logging LGOIMA requests in order to ensure this is optimally efficient; and
- to ensure staff have a sophisticated understanding of the Council’s policy around charging for the supply of official information

Action points: Current practices	
1	Record reasons for LGOIMA decisions, for example in a covering memo or file note that is accessible to staff. If the final decision is to refuse, this reasoning should include the basis for the decision, and the details and outcome of any consultations involved
2	Consider amending template letters to include specific consideration of the public interest, where applicable
3	Consider adding a step to the meeting administration process wherein minutes from public excluded meetings are reviewed, and released where the reasons for exclusion no longer apply
4	Ensure the Council has a clear policy around charging for the supply of official information, and that sufficient training and guidance is provided so the policy is known to, and understood by staff
5	Ensure that all requests for official information are handled in accordance with the provisions of the LGOIMA
6	Review the system for logging LGOIMA requests and affect any potential improvements identified
7	Develop guidance for keeping records of workshops

Performance monitoring and learning

The Council collects some data in relation to LGOIMA requests, which is reported to ELT on a regular basis, and helps to inform decisions about resourcing and the proactive release of information, as well driving accountability for timeliness performance. There is room for improvement, however, and the Council may wish to consider how it could benefit from collecting a greater range of LGOIMA performance data, and from improving its recording of decision-making processes in order that staff can use this as a reference for future requests.

The Council bases its LGOIMA performance statistics on timeliness, and it is important this focus is maintained. However, the Council may benefit from also implementing qualitative measures.

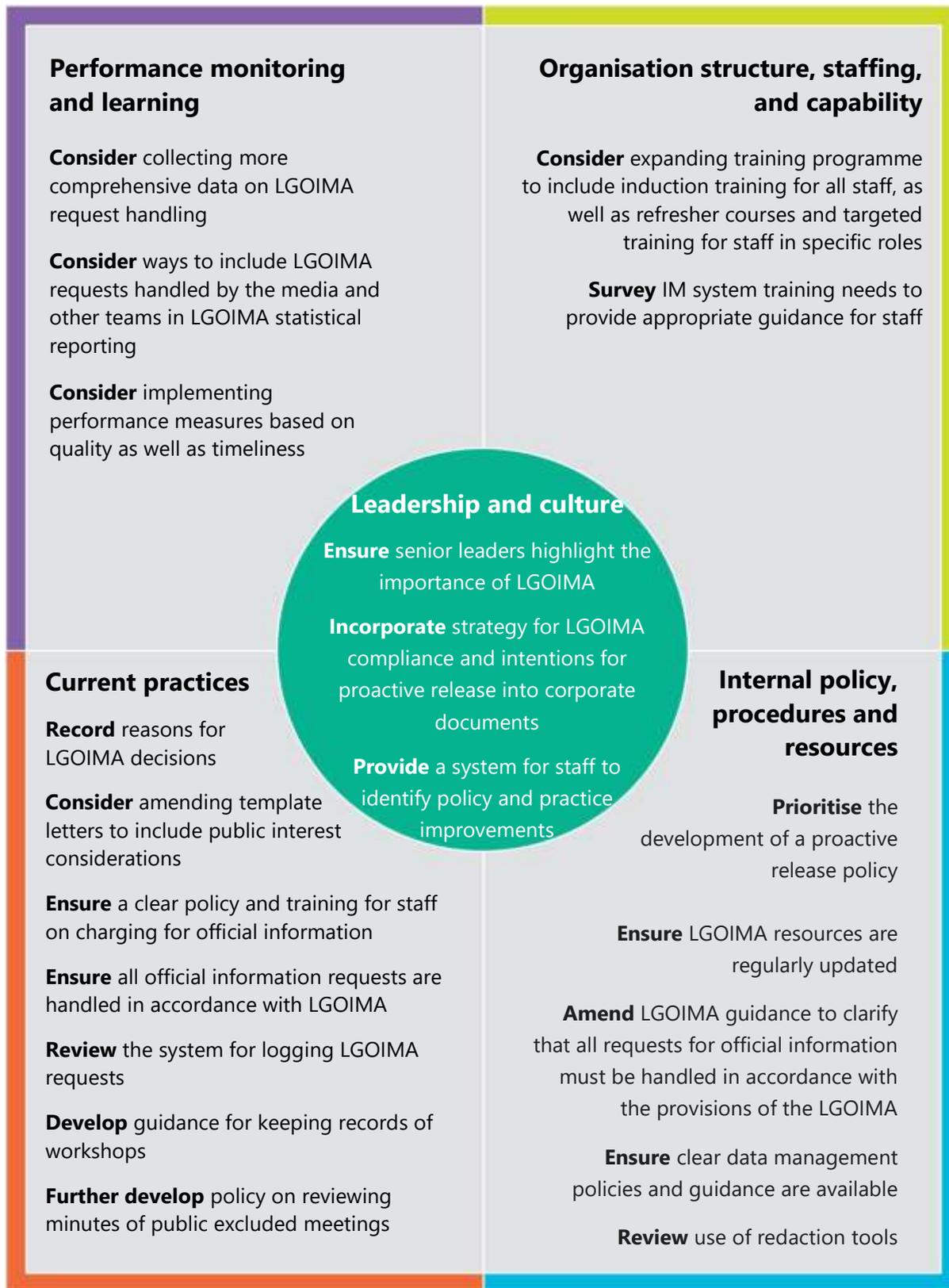
Reported LGOIMA timeliness statistics are based on those requests for information which are entered into the Council’s ‘formal’ LGOIMA process. Requests handled by the media or other teams are not recorded, therefore the Council may not receive due credit for responding to

many more requests on time than it reports in its Annual Report. I would encourage the Council, and all agencies, to consider how it can include official information requests handled outside the formal process to be included in LGOIMA statistical reporting.

Action points: Performance monitoring and learning

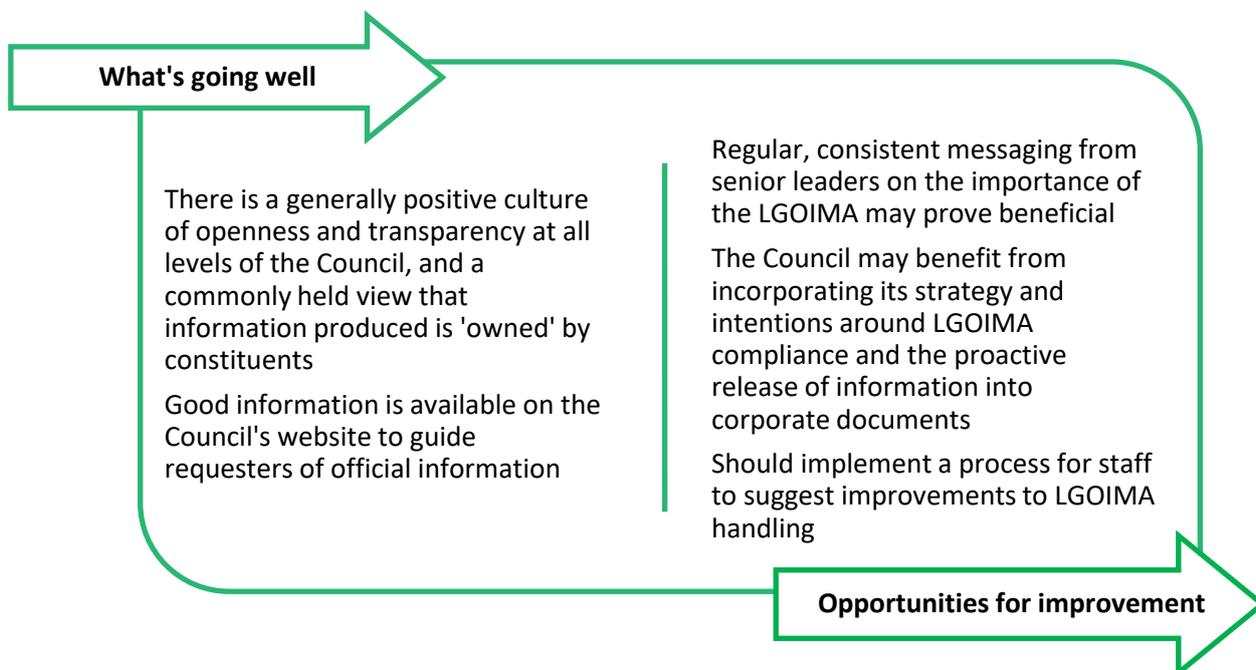
1	Consider collecting more comprehensive data on LGOIMA request handling so that opportunities for improvement and for the proactive release of information can be identified
2	Consider ways to include LGOIMA requests handled by the media and other teams in LGOIMA statistical reporting
3	Consider implementing performance measures based on quality as well as timeliness

Further lifting LGOIMA performance at GWRC: summary of actions



Leadership and culture

At a glance



Achieving the purposes of the LGOIMA depends significantly on the culture of the Council and the attitudes and actions of its leaders. Chief executives and senior managers should take the lead in developing an environment which promotes openness and transparency, champions positive engagement with those who want to know and understand what work they are doing; and enables compliance with the principles, purposes and provisions of the legislation.

When it is clear to staff that their leaders respond to requests for official information positively and view it as an opportunity to operate in a more transparent, engaging and accountable manner, they will follow.

In assessing the Council's leadership and culture, I considered whether:

- Elected Members, the Chief Executive, senior leaders and managers demonstrate a commitment to the Council meeting its obligations under the LGOIMA, and actively foster a culture of openness.
- Senior leadership has established an effective official information strategic framework which promotes a culture open to the release of information.
- Senior leadership demonstrates a commitment to proactive disclosure and public participation, with clear links to the Council's strategic plans creating a perception of openness by the public.

After discussing aspects that are going well for the Council, I identify some opportunities for improvement.

Aspects that are going well

Generally positive culture

I have the strong impression that a positive culture around openness and transparency exists at the Council. Staff we spoke to appeared to have a genuine desire and commitment to conduct the Council's business as openly as possible, and several mentioned there was a broadly held view that the information produced by the Council was 'owned' by its constituents. This culture is likely driven, at least in part, by a set of behaviours promoted in the Council, known collectively as *the GW Way*. These were outlined as follows in the agency survey:

On the same side – one team working for one common goal

No sacred cows – always looking for a better way

For the people by the people – everyone here is for everyone out there

Own it – take responsibility and focus on the outcome

The Council advises that these tenets overlay all the Council's work, including its approach to LGOIMA and the proactive release of information. This was reflected in responses to our survey of Council staff. To the question '*What is your impression of the Council's overall commitment to a strong culture of openness and public participation*', 90 per cent of respondents said the Council was strongly or moderately pro-openness and public participation.

LGOIMA webpage

In addition to explicit statements made by leadership, which I will discuss further below, under [Internal messaging](#), the information published on agencies' websites are another signal of leaders' commitment to the implementation of the LGOIMA. It is therefore pleasing to note that the Council's website contains helpful guidance for requesters of official information, including:

- requests for information are considered under the LGOIMA or Privacy Act whether or not those Acts are referred to;
- the requirement of requesters to make requests with 'due particularity';
- the requirement of the Council to assist people making requests;
- details of the Council's approach to charging for the supply of official information;
- an outline of conclusive and good reasons for withholding information, and of the public interest test;

- the fact that information may be made available in multiple ways, including giving the requester opportunity to inspect relevant documents, or providing a summary of the contents; and
- the right to refer to the Ombudsman if the requester has concerns about the Council's response.

It is encouraging that the Council highlights not only the statutory 20 working day timeframe as the maximum time allowable for responding to requesters, but also the requirement to respond as soon as reasonably practicable. The Council may wish to clarify this further by including the distinction between 'making and communicating a decision on a request' (to which the two requirements listed above, apply),⁶ and 'supplying the information' (which should be done 'without undue delay').⁷ While it is most common for agencies to make and communicate a decision on a request and supply the information at the same time, the two are distinct and it may cause confusion, amongst requesters and staff, to conflate them.

To someone who is not well versed in the processes of local government, the section on the Council's website titled '*Local Governance Statement*' may not be an intuitive place to find information about how to submit a LGOIMA request. However, I understand this issue has been identified by the Council and is intended to be addressed in an upcoming refresh of the website.

Opportunities for improvement

There are opportunities for improvement in relation to:

- strengthening the internal messaging around the LGOIMA and openness more generally;
- incorporating policy, strategy and intentions around the LGOIMA and proactive release of information, into strategic documents; and
- implementing a process for staff to suggest improvements to the LGOIMA handling systems and the proactive release of information.

Internal messaging

The GW Way, discussed earlier under [Aspects that are going well](#), is clearly a well-embedded part of the Council's culture, and it makes some general allusions to openness. However, there is limited visible, consistent messaging from senior leaders to all staff about the importance of the LGOIM, specifically. This is reflected in staff survey results,⁸ which show that nearly a third of staff did not know whether their CE was pro or anti-LGOIMA. Around a fifth of staff said the same of the Senior Leadership team, and their immediate manager.

⁶ See s 13(1) of the LGOIMA

⁷ See s 27(5) of the LGOIMA

⁸ Numbers have been rounded to the nearest percent.

Leadership level	Strongly or moderately pro-LGOIMA	Strongly or moderately anti-LGOIMA	'They are silent on the issue' or 'don't know'
Chief Executive	69%	1%	30%
Senior Leadership team	77%	1%	22%
Immediate Manager	76%	1%	23%

It is clear that there is an opportunity for senior leaders to promote the importance of the LGOIMA, and to link this to the broader themes of openness and transparency. Emphasising that the purpose of the LGOIMA is to enable constituents to more effectively participate in local government goes some way to ensure that staff are not just 'complying' with the Act, but understand more fully the role each of them has in contributing to our democratic system as a whole.

The role of General Managers (GM) as delegated decision makers on LGOIMA requests (discussed further under [Organisation structure, staffing and capability](#)) puts them in a strong position to champion the LGOIMA by making examples of good practice visible within their business units.

Action point

Senior leaders should make clear, visible and regular statements to staff about the importance of the LGOIMA, openness and transparency

The Council's response:

The Council has reiterated to me that senior leaders consistently emphasise a culture of openness through their promotion of *the GW Way*.

I acknowledge that this set of behaviours, which is well promoted by senior leaders, alludes to the importance of openness. However, I consider that more can be done by senior leaders to promote, specifically, the importance of the LGOIMA, as the figures in the table above suggest.

I look forward to seeing the Council's progress on this action point, and I will be in contact with the Council on a quarterly basis over the next year.

Strategic framework

Councils are required to have a Significance and Engagement policy setting out, among other things, how it will determine what matters are significant, and what form of community consultation will be undertaken relative to this. In the latest CouncilMARK™ assessment of the Council, it was rated as a 'stand out' among councils for communicating and engaging with the

public and business, noting that its Significance and Engagement policy *goes beyond the statutory requirements and serves as an excellent model for other councils*.⁹

The Council lacks a parallel policy outlining how it intends to comply with the LGOIMA, as well as to ensure that information is published proactively and made accessible to the public. Even with the most robust strategy for public engagement, citizens' ability to engage meaningfully in local government can be either limited, or enabled, by the amount of information available to them about the Council's work, proposals and decisions.

The Council's corporate documents should include its strategy for LGOIMA compliance and for the proactive release of information, and there should be clear links between these and the Council's strategy for public engagement, creating an overarching strategic framework. This will help to ensure an ongoing culture of openness and transparency and enhance public participation.

Action point

Incorporate strategy to promote good LGOIMA compliance and practice, and intentions around the proactive release of information into corporate documents, and ensure there are clear links between these and the strategy for public participation

System for staff to suggest improvements

The Council states that staff are able to suggest improvements to its LGOIMA processes and practices by forwarding their suggestions to the Democratic Services team. However, it is not evident that there is a mechanism in place for staff to do so, nor does there appear to be consistent encouragement from leaders to identify such opportunities. Provision of such a system has the potential to obtain innovative ideas from staff, which may enhance the Council's LGOIMA processes, and those for the proactive release of information.

This would align with the second tenet of *the GW Way* 'No sacred cows – always looking for a better way'.

Action point

Leaders to champion a process for staff to identify and communicate opportunities for improvements to LGOIMA and proactive release policies and practice

External messaging

As I will discuss in greater detail under [Current practices](#), the Council has a strong culture of proactively releasing information even when it may not be positive or flattering to the Council. The strong culture of openness amongst staff, and the evident pride they take in conducting

⁹ See <https://www.lgnz.co.nz/assets/CouncilReports/dcdf569b48/CouncilMARK-Assessment-Report-Greater-Wellington-Regional-Council-2018-FINAL-web.pdf> p.14

their work with transparency for the benefit of the constituents they serve, doubtlessly drives the Council's practice of proactively releasing information.

I note that there was no public announcement following the recent decision to reappoint the Council's CE for a further two-year term. The decision to reappoint the CE was made in a public excluded meeting held in February 2019, and confirmed, following discussions with the CE, in May 2019. Note that I am not suggesting it was inappropriate to hold discussions in a public excluded meeting, my concern is around making the outcome known to the public once it was confirmed.

The Council is not obliged to publicise the decision to reappoint the CE. However, by not doing so it is out of step with a number of other Councils that have recently reappointed CEs and have released media statements to that effect.

I do not consider this action aligns with the Council's general approach to openness, evidenced by the culture and practice that exists of proactively releasing information.

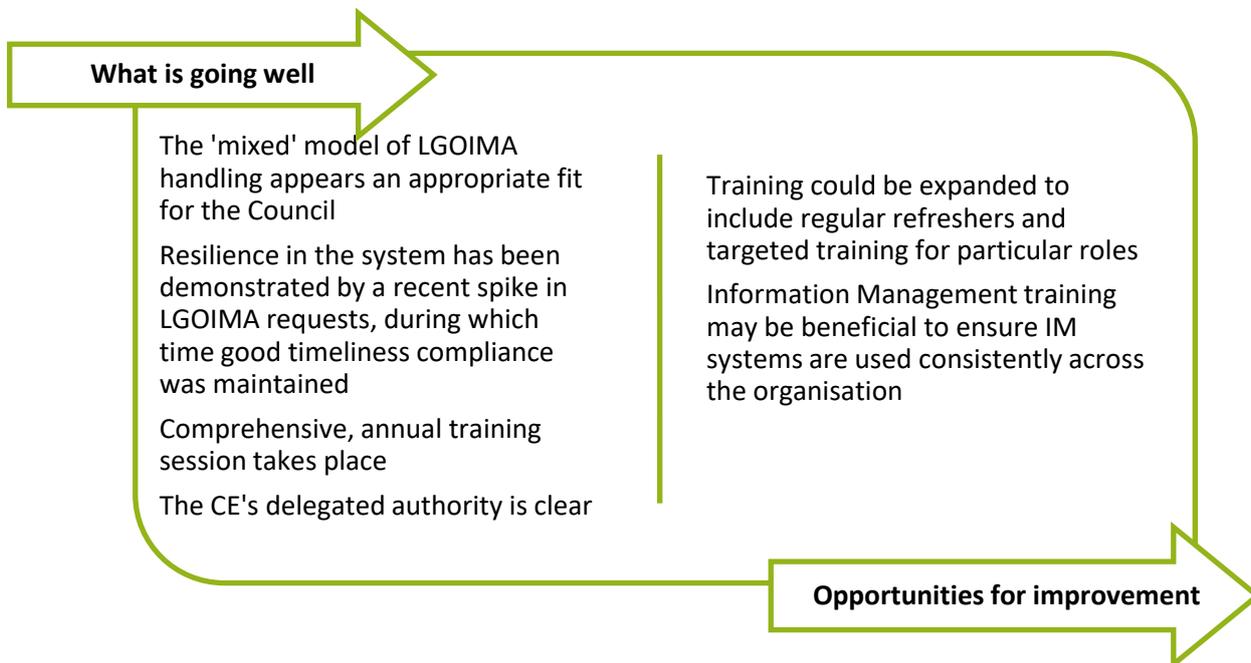
The Council's response:

The Council has advised me that, although the decision to reappoint the CE was made by elected members in February 2019, the offer and acceptance process was not complete until mid-May 2019. I accept that it would therefore have been inappropriate for an announcement to be made in February, before the reappointment was finalised.

I also accept that public interest in the concluded reappointment process may have been lessened because the decision to reappoint the CE was revealed by the media in April 2019. However, I do not accept the Council's assertion that a public communication on the conclusion of the process would be of no public interest. I remain of the view that the Council's decision not to publicise the CE's reappointment does not align with its general approach to openness.

Organisation structure, staffing, and capability

At a glance



Responding to official information requests is not only a legal requirement but a core function of the public sector. Therefore, it is expected Councils will organise their structures and resources to ensure they are able to meet their legal obligations under the LGOIMA in a way that is relevant to their particular size, responsibilities, and the amount of public interest in the information they hold.

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

- the Council had the capacity to discharge its LGOIMA obligations, with clear and fully functioning roles, accountabilities, reporting lines, delegations and resilience arrangements; and
- the Council has the knowledge, information management systems, and capability to discharge its LGOIMA obligations.

After discussing aspects that are going well at the Council, I identify some opportunities for improvement.

Aspects that are going well

Mixed model of LGOIMA handling

The Council employs a 'mixed' model of handling LGOIMA requests. In this model, the Democratic Services team performs the administrative functions associated with LGOIMA requests, such as tracking the progress of requests, and providing technical guidance on the

LGOIMA and the Council's LGOIMA process. Staff in the relevant business unit have responsibility for collating relevant information, often with the assistance of the Records Team, and drafting the response. The General Manager (GM) of the relevant business unit holds delegated authority from the CE for making a decision on, and signing out, LGOIMA responses.

Given the depth of subject matter expertise required to respond to complex requests for information, this model appears to be an appropriate fit, and this sentiment was echoed by staff members we spoke to in the course of the investigation. Staff also noted the high level of support and assistance provided by the Democratic Services team:

Democratic Services are the most useful resource we have with LGOIMAs; they are very knowledgeable.

Resilience

The resilience of the Council's processes and systems for handling LGOIMA requests has been tested over the past year with a spike in the number of requests resulting from on-going issues around changes to the bus network. The Council has advised me that in the first half of this financial year, it received and handled 286 LGOIMA requests, maintaining adherence with LGOIMA timeliness obligations at very close to 100 percent. For contrast, it received an average of 151 requests in each of the five preceding full financial years. The results to date suggest that the Council is responding with agility to the increase in request volume, and I look forward to seeing the Council's reported LGOIMA timeliness adherence at the end of this financial year.

Most staff appear confident in the resilience of the LGOIMA process. Sixty-nine percent of respondents answered 'yes' to the staff survey question 'If the Council experienced a sudden increase in the number of LGOIMA requests it received, do you think it would be able to cope with the increased workload and still maintain quality standards in its LGOIMA responses?'

The CE told me that this aspect of the LGOIMA handling process was one he felt was working well, saying:

It is a scalable model, so if there are more resources required we can allocate as a priority. As a system it is working.

The Council's Public Transport team has borne the brunt of the increase in LGOIMA requests. Prior to the increase, an experienced LGOIMA practitioner had been seconded into the Public Transport team. While this secondment was not for the purpose of adding LGOIMA capacity to this team, the Council has leveraged its resources effectively to help manage the increased LGOIMA requests in this area.

Training

The Council holds an annual LGOIMA training session open to all staff, delivered by a representative of Simpson Grierson. Based on the notes from these training sessions that I have reviewed, this training appears to be a solid introduction to the LGOIMA, encompassing discussion of relevant case studies, and key facets of the LGOIMA including:

- the constitutional significance of the LGOIMA;
- the principle of availability;
- requests made under parts 2, 3, and 4 of the LGOIMA;
- the public interest test; and
- releasing information in alternative formats.

The training appears to be well attended and well regarded by staff, based on comments made in our meetings with them. A number of staff told us that they attended the training every year; it was not seen as something to be done once, and never again.

The Council advised me that, in the most recent training session held in late 2018, there was the addition of a session facilitated by Democratic Services which focussed on use of the *Workflow* tool, and the IM system *OurSpace* (both of which I discuss further under [Internal policies, procedures and resources](#)). This indicates that some level of training needs analysis takes place, and that the Council is responsive to staff training needs.

I will discuss my suggestions for expanding the programme of LGOIMA training further below, under [Expanding LGOIMA training](#).

Delegations

The CE of a local authority is the accountable decision maker on requests for official information.¹⁰ However, for practical reasons this authority is often delegated to other personnel, who should be sufficiently senior to take responsibility for the decisions made.

The CE of the Council has delegated his authority to GMs at tier two, and this is clearly set out in writing in the Council's delegations manual. This relatively high level of sign out shows the commitment of senior management to the importance of the LGOIMA, and provides them with an overview of issues of concern and importance to the public. The potential risk is that it can be difficult for GMs to be swiftly responsive to requests to review and sign out documents due to their full schedules. However, staff advised us that GMs at the Council make themselves available to sign out LGOIMA responses, and can do so remotely if required.

Opportunities for improvement

There are opportunities for improvement in relation to:

- expanding the existing programme of LGOIMA training; and
- regularising the delivery of IM training.

¹⁰ See s 13(5) LGOIMA.

Expanding LGOIMA training

The *Not a Game of Hide and Seek* investigation undertaken by former Chief Ombudsman, Dame Beverley Wakem, found that an effective training framework should encompass:¹¹

- training at induction;
- introductory basic awareness of key OIA principles;
- advanced courses for specialists covering, for example:
 - proper application of the public interest and harm tests;
 - dealing with broad, complex requests covering a large volume of information; and
- refresher courses.

The Council holds an annual training session on the LGOIMA facilitated by Simpson Grierson, which I discussed above, in [Aspects that are going well](#). However, I consider the Council may benefit by expanding its training programme to include some of the initiatives listed above.

The Council has advised me that some one-on-one induction training is delivered to staff, depending on their role and their level of contact with the LGOIMA. I consider that it is important that all staff receive induction training, in some form, on the LGOIMA. Even for staff who may not ever have direct involvement in responding to a LGOIMA request, the LGOIMA is a key document in the operation of local government. LGOIMA induction training will help to highlight the importance of their role in creating and storing documents in a manner that facilitates retrieval.

Decision makers at the GM (tier two) level should also receive comprehensive training on the LGOIMA in order that they can effectively discharge the LGOIMA responsibilities delegated to them by the CE.

As I will discuss further below, under [Current practices](#), it is important that staff in the media and contact centre teams receive targeted training on how to identify a LGOIMA request, and their obligations when handling LGOIMA requests outside a 'formal' LGOIMA process.

Action point

Consider expanding training programme to include induction training for all staff, as well as refresher courses and targeted training for particular roles

Information Management training

The Council does not have a set schedule for training on how to use its IM system, *OurSpace*, nor on staff's record-keeping responsibilities under the Public Records Act 2005 (PRA), or any Council policies and procedures, such as naming conventions.

¹¹ See [Not a Game of Hide and Seek](#) (December 2015): 65

The Council advised me that staff have the option to seek one-on-one guidance from the Information Services team; to book group training with that team through the Council's intranet; and to seek mentorship from other staff.

I consider that Council leadership could do more to demonstrate a strong commitment to enabling sound IM practice. That the onus is on staff to seek IM training represents a risk to the Council that not all staff have received adequate training, with the result that IM best practices are not being consistently applied. In the context of adherence to LGOIMA obligations, it may mean that information is not being stored in a manner that facilitates retrieval when it is within the scope of a LGOIMA request.

As I will discuss further below, under [Internal policies, procedures and resources](#), a number of staff told us that they did not consider that the implementation of *OurSpace* was attended by sufficient training. This may compound any issues with the user-friendliness of the IM system, and drive staff to fall back on the previous system of shared drives.

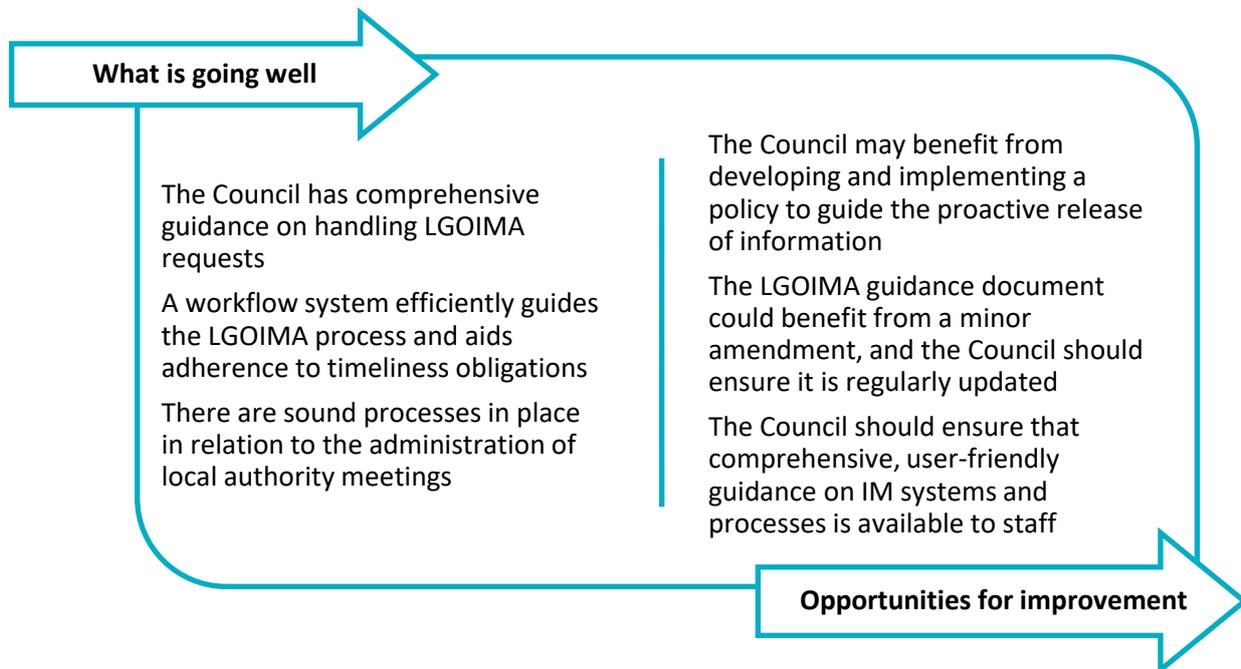
I encourage the Council to adopt IM training solutions that are within its capacity which may include, for example, web-based training modules. However, as a first step, the Council may benefit from a survey of its staff to determine the training they require.

Action point

Survey training needs in relation to IM systems and processes and provide appropriate training

Internal policies, procedures and resources

At a glance



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

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

- dealing with official information, and the administration of Council meetings;
- records and information management; and
- pro-active release of information.

After discussing aspects that are going well for the Council, I identify some opportunities for improvement.

Aspects that are going well

LGOIMA request guidance

The Council has a comprehensive guidance document on responding to LGOIMA requests, available to staff on its intranet. It is pleasing to note that the Council's guidance not only lists withholding grounds but, crucially, provides guidance on what factors staff should consider to determine whether or not they may apply. In addition, the document also covers key facets of LGOIMA handling such as:

- assessing the public interest;
- the principle of availability;
- how to scope the request;
- guidance on clarifying or refining a request;
- providing information in an alternative form; and
- preparing a file note documenting the analysis of the information at issue.

Although the guidance is sound, the Council may benefit from regular review and, if necessary, update of the document. Some clarity on defining LGOIMA requests may also be required. I will discuss both these aspects further below, under [Opportunities for improvement](#).

Guidance and processes for public meetings

The Democratic Services team is responsible for the administration of Council meetings. The Council's policies regarding meeting administration are laid out in its Standing Orders. Requirements in relation to public notices, distribution of agendas, public excluded meetings, and the content of minutes are all set out in these documents, which are available on the Council's website.¹²

The Council's process around deciding whether information should be heard in a public excluded meeting begins with discussion between the staff member drafting the report, and their manager. The proposal is always reviewed by the Democratic Services team to ensure that appropriate grounds apply. Democratic Services also prepares the Exclusion of the Public report for each Order Paper when there are reports proposed for consideration in public excluded business.

'Workflow'

The Council has some excellent tools and processes in place to facilitate LGOIMA timeliness, and to guide staff through the LGOIMA process. A workflow management tool called *Workflow* is used to log and track LGOIMA requests. Once entered into this system, the due date for the

¹² See <http://www.gw.govt.nz/new-linkcollection-304/>

response is calculated automatically, and an email is generated and sent to the relevant GM and their Executive Assistant, who will assign the request to a Drafting Officer.

The progress of the response is tracked in *Workflow*, which produces automated reminders to the responsible staff member(s) throughout the process. The Council uses data taken from *Workflow* to produce a list of LGOIMA responses due within the next week. The list is sent to all GMs, prompting action on requests where required.

Having an automated system to manage workflow, especially one that auto-generates reminders to not just one, but several staff, helps to minimise inevitable human error and oversights that can occur when, for example, one key staff member is unexpectedly absent. I have no doubt that this system has facilitated the Council achieving consistently high levels of adherence with reported LGOIMA timeliness obligations.

Opportunities for improvement

There are opportunities for improvement in relation to:

- the development of a proactive release policy to underpin and ensure consistency in Council practice;
- minor revision to Council's LGOIMA guidance document and the regularity with which it is reviewed and updated;
- the level of support and guidance available in relation to the IM system; and
- the availability of redaction software.

Proactive release policy

The Council has an active programme of proactively releasing information. It also has what appears to be a strong culture around openness and transparency, as I discussed earlier under [Leadership and culture](#). Staff we spoke to were of the shared view that the information produced by the Council 'belonged' to its constituents, an attitude which is likely to facilitate a healthy culture of releasing information.

As a result of the Council's policy that GMs are responsible for signing out LGOIMA responses, senior leaders are heavily involved in the LGOIMA process. The oversight that GMs have of the nature and number of LGOIMA requests received informs their decisions about proactively releasing information in order to manage LGOIMA demand. The Council advises me that the LGOIMA and opportunities for proactively releasing information are standing items on the Executive Leadership Team's (ELT) fortnightly meeting agenda. Although this shows clear senior leadership commitment to the proactive release of information, the Council lacks a clear policy to support the practice, and to drive accountability for it.

It is important that practice is underpinned by policy, for a number of reasons. Key amongst them is the accountability promoted by a written policy, particularly when this forms a part of the agency's published, corporate strategy (discussed earlier under [Leadership and culture](#)). An

agency may have the best intentions to proactively release information, but without a policy detailing when and how it will occur, and senior leaders taking responsibility for ensuring the policy is implemented, the practice may fall by the wayside if key staff depart, or during busy periods.

A guiding policy for the proactive release of information can also facilitate a consistent approach between business units, and help to manage the risks around releasing private or confidential information, commercially sensitive information, and information subject to third party copyright.

A proactive release policy could usefully include:

- a high-level commitment to proactively releasing information;
- a process for identifying opportunities for proactive release, for example, where a high number of LGOIMA requests is received about a subject, or there is otherwise high interest in the topic;
- where summary information may be released instead of, or in addition to, a source document in order to facilitate ease of use and understanding;
- a process for preparing for proactive release, including managing risks around personal or confidential information, commercial information and information subject to third party copyright;
- a process for considering frequency and timing of publication;
- the types of information that will be proactively released. For example:
 - information that has been released in response to LGOIMA requests ;
 - information described in section 21 of the LGOIMA about the agency's internal decision making rules, including its LGOIMA policies and procedures;
 - performance information;
 - financial information relating to income and expenses, tendering, procurement and contracts;
- a commitment to releasing information in the most useable form (in accordance with the New Zealand Government Open Access and Licensing framework); and
- provision for the policy to be regularly reviewed and updated.

Action point

Prioritise the development of a proactive release policy with accountability for its delivery assigned to a senior leader

LGOIMA request guidance - frequency of updates and identifying LGOIMA requests

While the Council's LGOIMA guidance is accurate and comprehensive, it has not been updated since 2015 (barring an update made in March 2019 to take into account the amendment to the definition of 'working day').

Reviewing LGOIMA resources on a rolling schedule would offer the Council the opportunity to update the guidance with:

- links to recent, relevant files and case studies;
- relevant current Ombudsman guidance, opinions and case notes, and
- additional information on topics such as frequently used withholding grounds, or aspects of the LGOIMA which appear not to be well understood by staff (those areas where more guidance is needed may be identified in quality reviews (see [Performance monitoring and learning](#))).

While the LGOIMA guidance is very good overall, the Council may wish to amend, for clarity, the section relating to logging requests. Specifically, the Council could add or amend some wording to make it clear that whether the request is logged or not has no bearing on whether or not it is a LGOIMA request based on the definition of official information in that Act. In other words, any request for official information must be treated in line with the LGOIMA, whether it is handled within the 'formal' LGOIMA process, or by the media or any other team (as I will discuss in greater detail below, under [Current practices](#)). While there is reference to this fact in the 'Flowchart for responding to requests for official information', within the guidance document, a clear statement within the relevant section of the body of the document may be helpful.

Action points

Ensure LGOIMA resources, including the guidance document, are regularly reviewed and updated

Amend LGOIMA guidance to make it clear that all requests for official information must be handled in accordance with the provisions of the LGOIMA, irrespective whether they are entered into the 'formal' LGOIMA process

Information management system, policy and guidance

The Council adopted a web-based IM system called *OurSpace*, in 2016, while maintaining the existing system of personal and shared drives. Staff we spoke to pointed to a number of issues with the IM system, its initial implementation, and the level of on-going support provided, which affect the utility of the system in relation to the storage and retrieval of information for LGOIMA requests.

A number of staff said that the implementation of *OurSpace* was not accompanied by adequate training, leading to a lack of confidence and familiarity with the new system. As a

result, a number of staff responding to our survey, and in meetings, said the use of *OurSpace* was ‘patchy’. Staff said either they, or those they knew, still used the older, shared drive system because they felt more familiar with it.

Staff also noted that *OurSpace* lacked agility, in that it was difficult to add new file pathways to the system. This impelled staff to revert to the shared drive system to create folders for new projects or work-streams, when needed. Having multiple IM systems in use causes an extra level of complexity when staff need to search for information in support of a LGOIMA request. Indeed, if staff are unaware the older system is in use, there is a risk that not all information within the scope of a LGOIMA request will be found and provided to the requester.

As a result of the difficulty searching for information, staff often call on the Records Team to assist with searches. In general, I consider it is positive for staff with expertise in IM systems to be involved in complex searches, but there can be risks and drawbacks to this approach. First, the Records Team must have sufficient resources to be able to attend, in a timely way, to searches on behalf of LGOIMA Drafting Officers. In addition, some staff advised us that a request to the Records Team to search for information could sometimes result in an overwhelming volume of information, because Records staff lacked the subject matter expertise to refine the search. In this situation, it may not be beneficial for all the expertise in searching the IM system to reside with the Records Team. It would be preferable for staff in business units to have sufficient skill to conduct a complex search, with the Records Team available for support if needed.

Concerns about IM policy and guidance are summed up in the below response from our survey of staff:

I am concerned that there is no clear guidance/rules within the organisation about how records on matters are kept. The organisation has a document management system, but no guidance that I am aware of is given or rules provided about what and how information should be filed. Some teams file information well, others not so well. Contractors do not always use the document management system. There are differing levels of competency regarding use of the system, which in itself creates a barrier to universal use

Although basic guidance on the use of *OurSpace* exists, there appears to be a lack of guidance on staff responsibilities under the PRA, and any specific policies the Council may have to facilitate compliance with that Act (as well as ensuring operational efficiency) such as naming conventions.

Action points

Ensure that clear policies are in place detailing staff’s obligations in relation to data management, including the creation, retention, disposal and retrieval of records

Review existing IM guidance and resources to ensure they are comprehensive, fit for purpose and user-friendly

Redaction software

The Council uses specialised redaction software, for which it holds a limited number of licenses. Staff who do not hold a license to use the software employ other methods to redact information, such as using correction tape, then sending the requester a scanned copy of the manually redacted document.

I note that documents may not be searchable when sent in an 'image only' format. This may decrease their utility to requesters, particularly if they have requested a large volume of information. Nor would such formats be accessible to people with visual or learning impairment who use screen readers or other assistive technology.

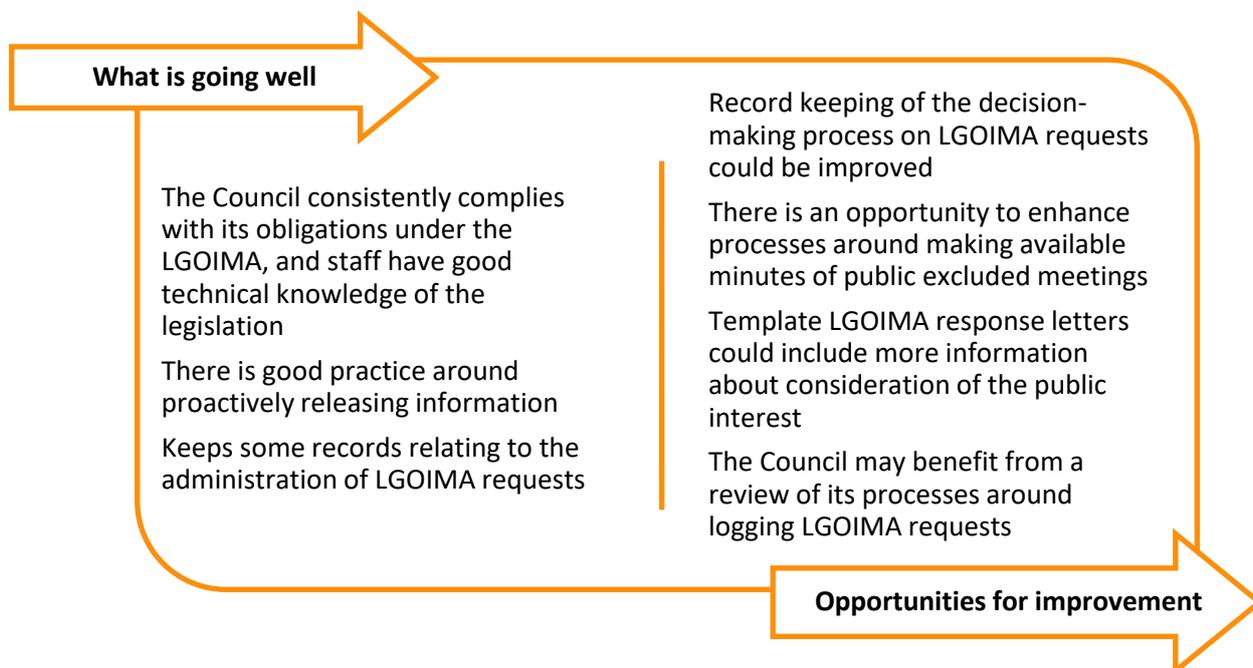
I would encourage the Council to conduct a review of the need for redaction software in relation to the number of licenses it holds, particularly in light of the recent increase in LGOIMA requests, which may continue at elevated levels. This will ensure documents can be redacted with efficiency, and improve accessibility and ease-of-use for those who request documents.

Action point

Review use of redaction tools to ensure sufficient staff across appropriate business units have access to redaction software

Current practices

At a glance



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

To assess the current practices of the Council, I consider whether:

- the Council’s official information practices demonstrate understanding and commitment to the principles and requirements of the LGOIMA;
- Council staff have a good technical knowledge of the LGOIMA; and
- the Council is coping with the volume and complexity of requests and decisions are compliant with the Act.

After discussing aspects that are going well for the Council, I identify some opportunities for improvement.

Aspects that are going well

Compliance with LGOIMA request obligations

As I discussed earlier, under [Organisation structure, staffing and capability](#), the Council has maintained a consistently high adherence with reported LGOIMA timeliness obligations, even during a period of significantly increased demand. Compliance with the LGOIMA, however,

goes beyond simply responding within the statutory 20 working day timeframe ('not being late'). Compliance includes other factors such as:

- robust decision making, including the application of the public interest test;
- consulting with requesters where required to refine or clarify requests, or to offer assistance;
- providing information without '*undue delay*' once a decision is made; and
- providing information in the format requested unless this would impair efficient administration.

Based on sample LGOIMA files I have reviewed, examples of LGOIMA responses publicly available on the 'fyi.org.nz' website, and discussions with staff, I have been impressed with the Council's practices in relation to handling LGOIMA requests.

I consider that the Council consistently complies with its LGOIMA obligations in respect of requests for official information, and staff generally have good knowledge of the LGOIMA.

The Council has faced some recent challenges stemming from changes to the bus network, on which topic it has received not only an increased volume of requests, but requests of increased complexity and for a broad range of information. The Council has held meetings with some of their more frequent requesters, in order to try to understand their concerns and answer their questions while also limiting the administrative impact of multiple, on-going LGOIMA requests. I applaud this approach.

Compliance with LGOIMA obligations for local authority meetings

Compliance with the LGOIMA encompasses not only those obligations around requests for official information, but also the Council's obligations under Part 7 of the LGOIMA which pertains to local authority meetings. The Council has demonstrated that it consistently complies with the statutory requirements for public notification of meetings, publication of agenda, and issuing minutes.

Meetings must be publicly notified not more than 14 days and not fewer than five days before the end of every month. The Council has adhered with this timeframe in all cases reviewed within this investigation.

The Council reports on the percentage of time it makes meeting agenda available to the public at least two working days prior to each meeting. In the 2017/18 financial year the Council achieved this target 100 percent of the time and, in fact, I note that agenda are very often published several days in advance of the two day timeframe. Meeting agenda are available on the Council's website, and in the reception areas of its Wellington and Masterton offices. They can be also be provided by Democratic Services, on request.

The Council's process in relation to making available meeting minutes is to publish the unconfirmed minutes of a meeting in the Order Paper for the next meeting of the same committee.

While the Council's practice in relation to local authority meetings is sound, there is an opportunity for the Council to enhance its practice around public excluded meetings, which I will discuss below, under [Opportunities for improvement](#).

Proactive release practice

The Council publishes a large amount of information proactively. Much of this information must be released as a statutory requirement, such as meeting agenda, minutes, consultation documents, annual reports and the Long Term Plan. However, the Council goes farther than the legal requirements, publishing a range of reports and performance data such as quarterly performance reports, and reliability and punctuality performance for public transport, some of which may not always paint the Council's performance in a flattering light.

This demonstrates a commitment to openness and transparency, which was also reflected in our discussions with Council staff, and the responses to our survey of staff. Numerous staff said that the Council's perspective was that the information it produced was 'owned' by its constituents, and therefore releasing information is considered the default position.

While the Council's practice of proactively releasing information is reasonably sound, there are a number of reasons why even a healthy practice needs to be underpinned by a clear policy. I discussed my suggestion for the Council to develop a policy for the proactive release of information earlier, under [Internal policies, procedures and resources](#).

Recording administrative processes

Agencies should document administrative steps in relation to processing official information requests. Documenting the steps taken to search for information (for example, keywords used, systems and drives searched), and the number and type of any documents located, can assist staff handling similar requests in future, particularly if the request is for a broad range of information. In addition, recording the time taken to collate a sample of documents within the scope of a request for a large amount of information can assist in responding to an Ombudsman's investigation where a complaint is made about a refusal under section 17(f) of the LGOIMA, or about a decision to charge for the supply of information.

The Council shows reasonably sound practice in relation to recording the steps taken to search for information. The Records Team is well embedded in the LGOIMA process at the Council, and frequently provides assistance in searching for documents within the scope of LGOIMA requests. Where the Drafting Officer sends their request to the Records Team via email it appears, based on the sample of LGOIMA files I have seen, that the record of the search undertaken is stored within the unique *OurSpace* folder for that LGOIMA request. This record can be used to help guide the process of similar requests in the future, or to respond to complaints made to the Ombudsman.

Of course, the utility of this information to aid in future requests is dependent on it being available to staff, and for a practice to exist wherein this type of information is used as a reference. As I discuss further, under [Performance monitoring and learning](#), the Council may

benefit from adding a step in its LGOIMA handling process where requests of a similar type are reviewed to see where lessons can be learned and duplication of work can be avoided.

Elected members' involvement in LGOIMA requests

Elected members operate at a remove from the Council in relation to LGOIMA requests. The relationship is somewhat analogous to the one between Ministers and government departments in relation to OIA requests. Though it may be appropriate for some consultation to occur between the Council and an elected member when a LGOIMA request relates to that member, it would otherwise be inappropriate at most times for elected members to offer input into a Council's proposed response.

Based on feedback from staff and elected members in meetings and surveys I am satisfied that there is no inappropriate contact between the Council and elected members on LGOIMA requests. The Council keeps a record of instances in which elected members are notified or consulted on LGOIMA requests. This practice should allow for any issues to be identified, should they develop.

Opportunities for improvement

There are opportunities for improvement in relation to:

- recording the decision making process and, where applicable, administrative steps relating to LGOIMA responses;
- amending LGOIMA template response letters to include more detail on the consideration of the public interest, where this is applicable;
- reviewing the minutes of public excluded meetings for potential release;
- ensuring staff are aware of the Council's approach to charging for the supply of information;
- ensuring LGOIMA requests processed by the media team and contact centre handled in accordance with the legislation;
- reviewing the process of entering LGOIMA requests into the *Workflow* system; and
- recording the content of workshops.

Recording the decision making process

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

- will enable the agency to provide grounds in support of its reasons for refusing an LGOIMA request, if they are sought by the requester;¹³

¹³ See s 18(a)(ii) LGOIMA.

- will make it easier to respond to the Ombudsman in the event of an investigation of a complaint; and
- provides an opportunity to create a repository of knowledge about how the agency makes decisions on LGOIMA requests, thereby developing a consistent approach. (I discuss this further below, under [Performance monitoring and learning](#)).

In many cases, the Council's decision-making process can only be inferred or pieced together from associated documents, such as internal emails, in individual LGOIMA files. In cases where the staff member drafting the response conducts consultations verbally rather than via email, there may not be a complete record of the decision making process, which should include the Council's consideration of any factors in the public interest to release information. If this information is only held 'in the mind' of the staff members involved, it may be time consuming to recreate the details of their thought process in retrospect. Indeed, it may not be possible at all if the staff member has left the agency. The Council may benefit from ensuring that its decision-making process on LGOIMA requests is documented in one, discrete place that can be easily accessed by staff.

Action point

Record reasons for LGOIMA decisions, for example in a covering memo or file note which is accessible to staff. If the final decision is to refuse, this reasoning should include the basis for the decision, and the details and outcome of any consultations involved

Public interest considerations

The Council uses a number of LGOIMA response template letters, tailored to different scenarios (extension of time limit for decision, consultation with third party, transfer to another agency, etc). These letters are accurate in terms of the LGOIMA, and are a useful tool to assist staff in responding to requesters in a consistent and timely manner. I note that the template letters for LGOIMA decisions in which information is withheld in whole or in part under section 7 of the LGOIMA contains the following paragraph relating to the public interest:

We have considered whether the public interest in the requested information outweighs Greater Wellington Regional Council's need to withhold certain aspects of the requested documents. As a result, we do not consider that the public interest outweighs Greater Wellington Regional Council's reason for withholding parts of the document under the grounds identified above.

It is pleasing that the Council includes this detail to assure requesters that any countervailing public interest factors have been considered where information has been withheld under section 7 of the LGOIMA. However, the Council must ensure that this does not become a rote phrase, the automatic inclusion of which in its template letters inhibits staff's genuine consideration of the public interest.

The Council's template letters may be further enhanced by including a section wherein the specific public interest factors the Council has considered (for example, accountability, transparency and public participation) are detailed for the information of requesters.

I note that training on this topic, discussed earlier under [Organisation structure, staffing and capability](#), will increase staffs' knowledge and confidence in applying the public interest test.

Action point

Consider amending template letters to include specific consideration of the public interest, where applicable

Reviewing minutes of public excluded meetings

Although the Council has sound processes in place for the administration of public meetings in line with the requirements of Part 7 of the LGOIMA, there remains an opportunity to enhance its processes in a way that will promote openness and transparency.

The Council's standing orders make it clear that any request for minutes of a meeting or part thereof from which the public was excluded must be considered in accordance with the LGOIMA. I encourage the Council to consider, as a matter of good practice, going further than this. The Council could consider adding a step in the meeting administration process wherein minutes from public excluded meetings are reviewed and released publicly when and if the reasons for its exclusion from a public hearing no longer apply.

I note that this would align with the purpose of the LGOIMA *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.*¹⁴

Action point

Consider adding a step to the meeting administration process wherein minutes from public excluded meetings are reviewed, and released where the reasons for exclusion no longer apply

¹⁴ See s4 LGOIMA

The Council's response:

The Council has advised me that it 'has a longstanding practice of acting consistently with (the) proposed action point.'

There is also some guidance in the Democratic Services Advisor Deskfile, an internal team information resource, on how to implement this practice. The guidance states:

When minutes that were taken in a PE (public excluded) part of a meeting no longer need to be PE they are put to the next meeting for confirmation in public.

It is unclear, if the minutes are unable to be publicly confirmed in the next meeting, whether they will be revisited at a later date, when/if the reasons for exclusion no longer apply.

I commend the Council for its practice in this area, and I encourage it to further develop its policy in order to clarify whether the minutes of public excluded meetings or portions of meetings will be revisited beyond the timeframe of the following meeting.

Policy around charging for the supply of information

Although the Council has guidelines for staff in its LGOIMA Guidance on how to utilise the facility in the LGOIMA to fix a charge for the supply of information, I gather from discussions with staff that a number of them consider that an unofficial 'policy' or understanding has developed that the Council will not charge for the provision of information.

It is certainly no bad thing for an agency to be cautious and considered in its approach to fixing a charge for the supply of information requested under the LGOIMA. However, where 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.¹⁵

If staff do not give genuine consideration to fixing a charge for the supply of information because they are under a misapprehension that the Council will opt, in every case, not to charge, the Council risks breaching the above sections of the LGOIMA, with the result that information may be withheld, which could otherwise have been made available at a charge.

The Council may benefit from addressing this perception among staff. Targeted training for those involved in collating information, decision making, and drafting responses may strengthen confidence in determining whether charging may be appropriate. I discussed targeted training for specific roles in greater detail earlier, under [Expanding LGOIMA training](#). It may also be beneficial for the Council to ensure that case notes and opinions published by

¹⁵ See ss 17(f) and 17A(1)(a) LGOIMA.

the Ombudsman are regularly monitored, and relevant decisions are distributed to staff, as required.

The same is true of the Council's policy around refusing requests that are frivolous or vexatious. Although there are helpful guidelines in the Council's LGOIMA Guidance around how to consider whether a request could be considered frivolous or vexatious, staff may lack confidence in the use of this ground because it is rarely applied. However, there may be times when it is applicable. The Council should therefore ensure staff are aware of the provision and knowledgeable about its potential application.

As I discussed earlier, under [Internal policies, procedures and resources](#), the Council may consider proactively releasing its LGOIMA policies. Where agencies have reasonable and clearly articulated policies for approaching such issues as charging for the provision of information, and considering whether requests are frivolous or vexatious, it may be less vulnerable to criticism when it applies these policies.

Action point

Ensure the Council has a clear policy around charging for the supply of official information, and that sufficient training and guidance is provided so the policy is known and understood by staff

Media and other information requests

The Council has a media team responsible for responding to straightforward information requests from the media. I understand the need for a mechanism to swiftly process requests according to the demands of the 24-hour news cycle. However, the Council must be mindful—as must all local government agencies—that such requests are governed by the LGOIMA.¹⁶ This makes little practical difference when the media team is able to fully meet the requester's needs in their preferred timeframe but, if not, it is essential the LGOIMA is complied with in all respects.

In particular, decisions on requests from the media to decline in full or in part must be communicated in accordance with section 18 of the LGOIMA, which requires that an agency:

- provides the reason for the refusal and, if requested, the grounds in support of that reason; and
- advises the requester that they may make a complaint to the Ombudsman and seek an investigation and review of this decision.

The same is true for information requests received through other pathways, such as the Contact Centre. I understand that straightforward requests for information submitted in this way may be handled outside the 'formal' LGOIMA process. In this situation the Contact Centre may respond to the requester directly, or they may forward the request to the relevant

¹⁶ This applies only to requests seeking information already held by the Council as described, not requests for the creation of new information, such as a request for comment on an issue.

business unit, in order that they can respond to the requester. I do not discourage a system where requests for information are dealt with swiftly and directly. However, because staff receive little formal training on how to identify LGOIMA requests, and there is little guidance on the topic, I cannot be confident that requests are always correctly identified, nor handled in line with the requirements of section 18 of the LGOIMA, listed above.

I wish to stress that I am not suggesting that every information request received should be funnelled through the Democratic Services team or, necessarily, entered into the *Workflow* system; only that the Council must ensure that all information requests are handled in accordance with the provisions of LGOIMA. This should include providing specific guidelines and training for the media team and all customer-facing staff on how to recognise a LGOIMA request, and their obligations where they are responding to a LGOIMA request outside the formal process.

I discuss the tracking of media requests, and their inclusion in LGOIMA reporting statistics further, under [Performance Monitoring and Learning](#).

Action point

Ensure that all requests for official information are handled in accordance with the provisions of the LGOIMA

System for logging LGOIMA requests

There are multiple pathways for LGOIMA requests to be submitted to the Council. In addition to those submitted directly to the Democratic Services team via the Council's website, requests are also submitted verbally at Council meetings, and via email, phone or social media channels monitored by the Council's Contact Centre. Those requests identified by the Contact Centre as needing to be referred to Democratic Services, are first sent to the Records Team to log in *Workflow*.

It is not for me to determine the most efficient process for the Council to employ. However, it does strike me as potentially cumbersome that a LGOIMA request may be touched by two different teams – the Contact Centre and the Records Team – before finding its way to the team that will process the request. This may represent a risk to the Council in terms of its obligation to make and communicate a decision on a request as soon as reasonably practicable.

I encourage the Council to undertake a review of its process for logging LGOIMA requests into the *Workflow* system, taking into account all points of entry for requests, in order to determine whether its current method is optimally efficient.

Action point

Review the system for logging LGOIMA requests and affect any potential improvements identified

Workshops

Workshops are informal meetings used for conducting certain types of business, such as providing information to elected members on complex issues. They are not forums for decision making. The Council's Standing Orders state:¹⁷

Workshop, advisory group, working party or briefing means an informal forum held primarily for information and/or discussion purposes, and at which no resolutions or decisions are made.

Some staff we spoke to held concerns about a recent workshop that took place with the purpose of discussing several options before elected members of the Council. I am advised that, while a decision was not made, the discussion of elected members veered toward the two more favoured options. When a LGOIMA request was received which asked for the background of how these two options evolved, it was declined on the basis the information requested did not exist, as minutes were not taken at the workshop.

There are two potential issues here. One is the appropriate use of workshops, and the other is the availability of information produced in workshops.

Based on discussions with staff and the results of surveys of staff and elected members, I have received no indication that the Council may be deliberately using workshops to make de facto decisions.

As to the second issue, while there is no requirement under Part 5 of the LGOIMA for minutes to be taken at workshops, the Council should, as a matter of good practice and in order to align with any relevant provisions of PRA,¹⁸ consider taking minutes, notes or recording Council workshops. Doing so has the potential benefits of:

- demonstrating and facilitating transparency;
- providing a reference for the Council in the event of issues around decision making processes that may arise internally; and
- providing a reference for the Council in the event of an Ombudsman investigation or a complaint from another party.

Action point

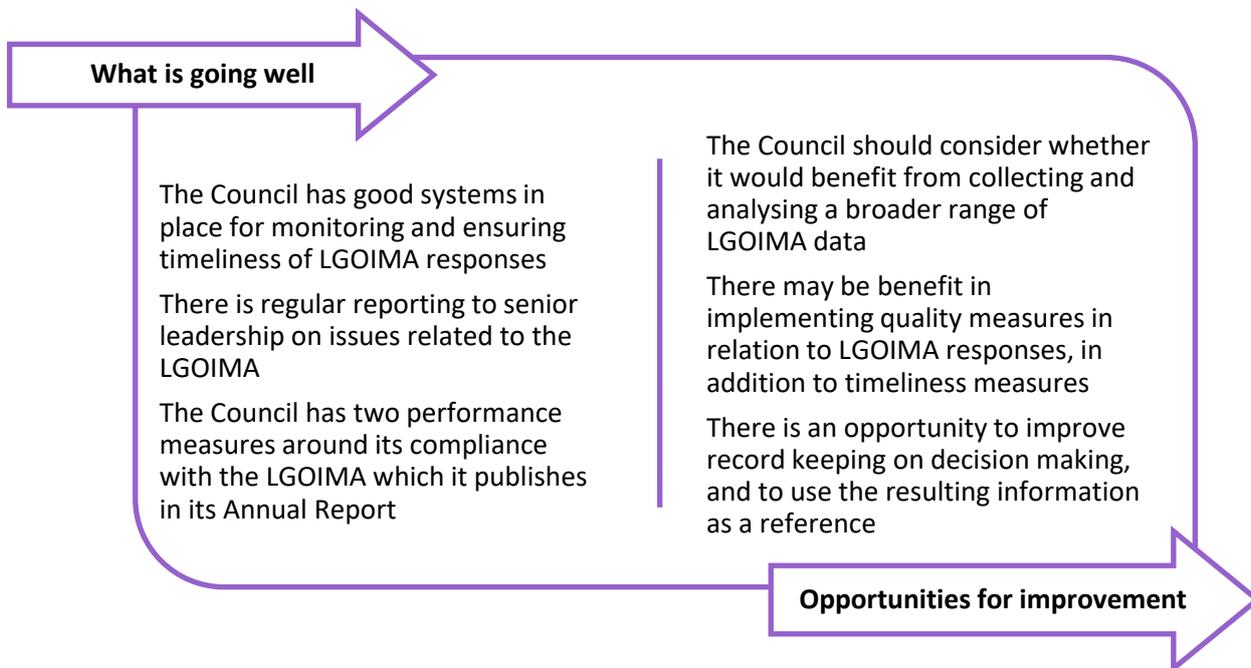
Develop guidance for keeping records of workshops

¹⁷ See <http://www.gw.govt.nz/assets/Greater-Wellington-Regional-Council-Standing-Orders.pdf>

¹⁸ Consider s17 Public Records Act 2005

Performance monitoring and learning

At a glance



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

To assess performance monitoring in respect of requests for access to official information, I considered whether:

- the Council has an established system for capturing meaningful information about its official information activities and has established appropriate and relevant performance measures;
- there is regular reporting and monitoring about the Council’s management performance in respect of LGOIMA requests; and
- the Council learns from data analysis and practice.

After discussing aspects that are going well for the Council, I identify some opportunities for improvement.

Aspects that are going well

Regular reporting to senior leadership team

The Council's performance in relation to LGOIMA timeliness obligations for making available meeting agendas to the public, and responding to requests for official information, is reported to its Executive Leadership Team (ELT) on a quarterly basis, and to the executive Council quarterly and half-yearly.

In addition to the quarterly overview of performance against LGOIMA timeliness obligations, issues around LGOIMA requests are a standing item in the ELT's fortnightly meeting, and the status of all active LGOIMA requests is sent by email to senior managers on a weekly basis. This consistent oversight of LGOIMA responses, and the accountability placed on managers to achieve timeliness targets has, I do not doubt, contributed to the Council's strong performance in this area.

I encourage Council to consider how it may benefit from collecting, analysing and reporting on an expanded range of LGOIMA data, which I will discuss further below, under [Collection and analysis of LGOIMA data](#).

Publication of LGOIMA performance measures

The Council has two performance measures around its compliance with the LGOIMA which it monitors and publishes in its Annual Report. These are:

- Percentage of time meeting agenda is available to the public at least two working days prior to each meeting; and
- Percentage of logged official information requests for which a decision is made and communicated to the requestor within the prescribed statutory timeframes.

In the 2017/18 financial year the Council's target for both of these measures was 100 percent; it attained 100 percent and 98.5 percent, respectively. I commend the Council for publishing these measures as it promotes accountability and transparency, and it demonstrates the Council's commitment to adherence with LGOIMA obligations.

Opportunities for improvement

Collection and analysis of LGOIMA data

The Council collects some data on LGOIMA requests, and reports regularly to senior leadership on some aspects of performance, mostly relating to adherence with LGOIMA timeliness obligations. While timeliness and throughput are important, other measures (like the outcome of a request) are equally important. An undue focus on timeliness can incentivise fast, but poor quality, decisions. There is an opportunity to collect other, meaningful information about the Council's LGOIMA performance. I encourage the Council to consider whether it may benefit from collecting other information, such as:

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

- the type of requester;
- the number and reason for transfers, and whether the transfer was made in time;
- the reason for extensions;
- the outcome of the request (granted in full, granted in part, refused in full);
- the number and amount of charges made and collected;
- the time from receipt of the request to communication of the decision;
- the time from receipt of the request to release of the information; and
- the reasons for delays.

The collection and analysis of the above data may assist the Council in recognising:

- emerging themes or trends in LGOIMA requests;
- opportunities for proactive release of information; and
- resourcing, capacity or training issues.

Action point

Consider collecting more comprehensive data on LGOIMA request handling so that opportunities for improvement and for the proactive release of information can be identified

Inclusion of all official information requests in LGOIMA statistical reporting

As I discussed earlier, under [Current practices](#), the Council's media team and the Contact Centre frequently respond to straightforward information requests from the media and other requesters. At present, these are recorded by those teams' own tracking systems, but are not included in LGOIMA tracking overall. This not only results in an incomplete picture of the Council's reported LGOIMA timeliness compliance, but also an incomplete picture of its overall transparency and openness. The inclusion of media and other information requests in LGOIMA reporting would result in a more accurate – and, in all likelihood, improved – reported rate of compliance with LGOIMA timeliness obligations.

While the Council may need separate reporting systems for the Democratic Services, media and Contact Centre teams to gauge their respective performances and workloads, I encourage the Council to base its reporting on LGOIMA compliance on the combined total of LGOIMA requests handled across all teams. I am not suggesting that every one of these requests should be logged in *Workflow*, however it may be possible to collate information the Council already gathers to report more accurately on the number of requests the Council deals with.

This approach may also assist the media and Contact Centre teams in keeping their LGOIMA obligations front of mind, and encourage knowledge sharing between the teams.

Action point

Consider ways to include LGOIMA requests handled by the media and other teams in LGOIMA statistical reporting

Quality measures

The Council set a self-imposed target to make and communicate a decision on logged official information requests within the prescribed statutory timeframe, 100 percent of the time. The Council publishes the performance target along with its actual performance in its Annual Report. In the 2017/18 financial year it achieved a laudable 98.5 percent.¹⁹ Although the full year results for the 2018/19 financial year are not available at the time of writing this report, the Council advised me that in the first half of the reporting year, the Council received more requests than it would receive, on average, in a full year, while maintaining close to 100 percent LGOIMA timeliness compliance. As I discussed earlier, under *Current practices*, the Council should take much credit for achieving this level of LGOIMA timeliness compliance in the face of a substantial increase in the number of requests for official information.

I now encourage the Council to move toward even greater improvements, taking into consideration not solely LGOIMA timeliness adherence, but also the quality of its responses. The quality of LGOIMA responses may encompass factors such as a robust and adequately documented decision making process, and the inclusion of contextual information to assist requesters. Methods to assess quality may include, for example, peer review with a set of criteria that each response is to be assessed against, and/or a random quality assurance check of closed files on a regular basis.

Action point

Consider implementing performance measures based on quality as well as timeliness

Record of decision making process

As noted earlier under *Current Practices*, the Council could do more to document its decision making process on LGOIMA requests. While there is some record of consultations, there is no discrete place where the rationale behind the decision is clearly articulated.

The resulting information should be stored in a place where it is accessible to all staff to assist as a reference point in the handling of future LGOIMA requests.

An important aspect of performance monitoring is that it enables the Council to learn from its data to inform future decision-making. Therefore, failure to record the outcome of past decisions can make it difficult for other staff to locate similar, previous requests to either ensure consistency of decision making or justified departure from standard lines of response. The Council may wish to consider building a step into their decision making process whereby similar requests are reviewed, which will also help to ensure consistency of decision-making.

¹⁹ See GWRC Annual report 2017/18 <http://www.gw.govt.nz/assets/10-year-plan/GWRC-annual-full-report2017-18WEB.pdf>

Appendix 1. Official information practice investigation — terms of reference

Greater Wellington Regional Council

6 December 2018

This document sets out the terms of reference for a self-initiated investigation by the Chief Ombudsman into the practices of Greater Wellington Regional Council relating to the Local Government Official Information and Meetings Act 1987 (LGOIMA).²⁰

Purpose of the investigation

The investigation will consider how the Council works to achieve the purposes of the LGOIMA through its processing and decision-making under that Act, (in relation to both the Act's official information and meetings parts).

The investigation will include consideration of the Council's supporting administrative structures, leadership and culture, processes and practices, including information management public participation, and proactive release of information to the extent that these relate to achieving the purposes of the LGOIMA.

The investigation will identify areas of good practice, and make suggestions for improvement opportunities if any areas of vulnerability are identified.²¹

Scope of the investigation

The investigation will evaluate the Council's leadership and culture, organisational systems, policies, practices and procedures needed to achieve the purposes of the LGOIMA, with reference to a set of indicators, grouped around the following dimensions:

- Leadership and culture
- Organisation structure, staffing and capability
- Internal policies, procedures, resources and systems
- Current practices
- Performance monitoring and learning

The investigation will include consideration of how Council liaises with its elected members on LGOIMA requests, and may meet with elected members if, as the investigation progresses, it would be prudent to. The investigation will also consider how the agency administers Part 7

²⁰ See sections 13(1) and 13(3) of the Ombudsmen Act 1975 (OA).

²¹ Formal recommendations under the OA will only be made if the Chief Ombudsman forms an opinion that a decision, recommendation, act, or omission by the agency was unreasonable or contrary to law under section 22 of the OA.

Local Authority meetings. The investigation will not consider decisions taken by full council (committee of the whole).²² However, in relation to decisions by full council, the reasonableness of any advice provided by officials or employees, on which the decision was based may be considered as part of the investigation.

A sample of decisions reached by the Council on individual LGOIMA requests may be considered as part of this investigation, to assist the Chief Ombudsman's understanding of the Council's official information practices. Other samples that may be reviewed include records of recent Council meetings.

If evidence emerges concerning specific examples of LGOIMA breach, then a determination will be made in each case as to whether it can be addressed adequately within this investigation, or whether a separate stand-alone intervention is warranted. Any process issues which can be resolved during the course of the investigation will be rectified immediately.

Investigation process

The Manager Official Information Practice Investigations will work with a team of Senior Investigators and Investigators to assist the Chief Ombudsman conduct the investigation. The investigation team will liaise with your nominated contact official during the investigation. Information may be gathered through the processes set out below.

Information gathering

The information for the investigation will be gathered through desk research, a detailed survey of the Council's official information practices, a staff survey, a survey of elected members, meetings with key staff, and a survey of key external stakeholders. As usual, any requests for information during this investigation will be made pursuant to section 19 of the Ombudsmen Act 1975 and subject to the secrecy provisions in section 21 of that Act.

Desk research

A review of publicly available information including the Council's annual reports, strategic intentions documents, and any other material made available on its website. Desk research will also review data and information held by the Office of the Ombudsman (for example, statistical data).

Surveys

A survey of the agency, including requests for the supply of internal documents about:

- Authorisations to make decisions on LGOIMA requests
- Strategic plans, work programmes, operational plans
- Policies, procedures and guidance on responding to LGOIMA requests

²² See s13(1) Ombudsmen Act 1975

- Training materials and quality assurance processes
- Reports on LGOIMA performance and compliance to the agency's senior management.
- The logging and tracking of LGOIMA requests for response
- Template documents for different aspects of request processing
- Policies, procedures and guidance on records and information management to the extent they facilitate achieving the purposes of the LGOIMA
- Policies, procedures and guidance on proactive publication.

A survey of key media and stakeholder organisations that have sought information from the agency. The Chief Ombudsman may issue a media release that includes a link to the stakeholder survey.

A survey of elected members, asking them about training received on LGOIMA, information management, and their roles and responsibilities under LGOIMA.

Meetings

In addition to the meeting between the Chief Ombudsman and the Council's Chief Executive, the investigation team will meet with staff within the agency as set out in the schedule below. Also included is the likely length of time required for each meeting:

A member or members of staff with responsibility for	Approximate time required
Strategic direction, organisation and operational performance	1 hour
Logging and allocating and tracking LGOIMA requests, processing and dispatch of LGOIMA requests	1 hour
Providing information in response to LGOIMA requests.	½ to 1 hour
Decision makers on LGOIMA requests	½ hour
Media/communications	1 hour
External relations / stakeholder engagement	1 hour
Website content	½ hour
Information management	½ hour
Human Resources and training	½ hour
Providing legal advice on the LGOIMA, including the application of refusal grounds, when a response is being prepared, and 'public excluded' resolutions	1 hour

A member or members of staff with responsibility for	Approximate time required
Receiving public enquiries (receptionist, call centre manager if relevant)	½ hour
Those involved in the administration and arrangement of meetings under part 7, for example the Council Secretary or meeting secretary, and including council staff who provide advice and make recommendations to elected members as to whether items should be discussed as public excluded meetings.	1 hour

A summary of key points gathered from the meetings will be sent by email to the individual staff to confirm accuracy.

Other

A review of the Council's intranet.

A review of a sample of files held by the Council on previous requests for information and records held on recent Council meetings.

Fact checking

After all the information has been gathered, an initial summary of the facts relevant to support each of the indicators will be sent to the Council to ensure any relevant information has not been overlooked.

Reporting

Draft report

The draft report of the Chief Ombudsman's investigation will cover the indicators and incorporate good practices as well as any issues that may have been identified during the investigation. The draft report will outline the Chief Ombudsman's provisional findings and when relevant, identify the suggestions and/or recommendations that may be made to improve Council's official information practices. The draft will be provided to the Chief Executive for comment.

The Chief Ombudsman is required to consult with the chairperson before he forms his final opinion, if the chairperson so requests.²³

Final report

Comments received on the draft report will be considered for amendment of, or incorporation into, the final report. The Chief Ombudsman will provide the final report to the Chief Executive

²³ See section 18(5) Ombudsmen Act 1975.

of Greater Wellington Regional Council, so that he can respond to the findings and suggestions and/or recommendations.

The final report will be made available to the Council's chairperson, published on the Ombudsman's website, and tabled in Parliament.

Evaluation

Following completion of his investigation, the Chief Ombudsman will conduct a review exercise as part of his Continuous Improvement programme. This will involve seeking the views of the Council's senior managers on their experience of this practice investigation, its value and relevance to their improving their work practices, and how future investigations may be improved when applied to other agencies.

Appendix 2: Key dimensions and indicators

Introduction

There are five key dimensions that have an impact on official information good practice in local government agencies:

[Leadership and culture](#)

[Organisation structure, staffing and capability](#)

[Internal policies, procedures and resources](#)

[Current practice](#)

[Performance monitoring and learning](#)

These dimensions are underpinned by a series of **indicators**, which describe the elements of good practice we would expect to see in order to evaluate whether each of the dimensions is being met.

These indicators are not exhaustive and do not preclude an agency demonstrating that good practice in a particular area is being met in other ways.

Note: Where this document refers to 'official information requests', this includes requests made under Part 2, Part 3, Part 4 and applications for Land Information Memoranda under section 44A.

Leadership and culture

Achieving the purposes of the Local Government Official Information and Meetings Act 1987 (the Act) largely depends on the attitudes and actions of leaders, including elected members²⁴, chief executives, senior leaders and managers within the agency.

Elected members, chief executives and senior managers should take the lead in promoting openness and transparency, championing positive engagement with official information legislation.

Elements	Things to look for (indicators)
<p>Elected members, chief executives, senior leaders and managers demonstrate a commitment to the agency meeting its obligations under the Act and actively foster a culture of openness within the agency</p>	<ul style="list-style-type: none"> ✓ Chief executives, leaders and the relevant elected members work together to promote a culture of positive LGOIMA compliance and good administrative practice ✓ Senior leaders make clear regular statements to staff and stakeholders in support of the principle and purposes of official information legislation, reminding staff of their obligations ✓ Senior leaders demonstrate clear knowledge and support of the Act's requirements ✓ Senior leaders encourage staff to identify areas for improvement and provide the means for suggesting and implementing them when appropriate ✓ Senior leaders make examples of good practice visible ✓ A visible and explicit statement exists about the agency's commitment to openness and transparency about its work

²⁴ Elected members are not subject to LGOIMA, but they do hold information that is subject to the Act, and they are requesters under the Act. The expectation is that they model openness and transparency in the work that they do, and demonstrate a commitment to compliance with the legislation in order to secure the public's trust and confidence in the local authority.

Elements	Things to look for (indicators)
Senior leadership have established an effective official information strategic framework which promotes an official information culture open to the release of information	<ul style="list-style-type: none"> ✓ The agency has a strategic framework describing how it intends to achieve: <ul style="list-style-type: none"> – Compliance with the Act – Good practice – A culture of openness and continuous improvement – Participation and access to information by the public and stakeholder groups ✓ Senior leaders takes an active role in the management of information ✓ A senior manager has been assigned specific strategic responsibility and executive accountability for official information practices including proactive disclosure ✓ Senior managers have accountabilities for compliance with the Act ✓ Appropriate delegations exist for decision makers and they are trained on agency policies and procedures and the requirements of the Act ✓ Senior leaders model an internal culture whereby all staff: <ul style="list-style-type: none"> – Are encouraged to identify opportunities for improvement in official information practice (including increasing proactive disclosure) and these are endorsed and implemented – Are trained to the appropriate level for their job on official information policies and procedures and understand the legal requirements – Have compliance with the Act in their job descriptions, key performance indicators, and professional development plans ✓ Senior leaders oversee the agency’s practice and compliance with the Act, the effectiveness of its structures, resources, capacity and capability through regular reporting. Any issues identified that risk the agency’s ability to comply with the Act are actively considered and addressed

Elements	Things to look for (indicators)
<p>Senior leadership demonstrate a commitment to proactive disclosure of information and public participation, with clear links to the agency's strategic plans, thereby creating a public perception, and a genuine culture of openness</p>	<ul style="list-style-type: none"> ✓ Senior leaders are committed to an active programme of proactive disclosure and stakeholder engagement where the agency seeks and listens to the public's information needs through: <ul style="list-style-type: none"> – Regular stakeholder meetings and surveys – Reviewing and analysing requests and media logs – Reviewing and analysing website searches ✓ There is clear senior leadership commitment to the proactive release of information resulting in the agency publishing information about: <ul style="list-style-type: none"> – The role and structure of the agency and the information it holds – Strategy, planning and performance information – Details of current or planned work programmes, including background papers, options, and consultation documents – Internal rules and policies, including rules on decision-making – The agency's significance and engagement policy – Corporate information about expenditure, procurement activities, audit reports and performance – Monitoring data and information on matters the agency is responsible for – Information provided in response to official information requests – Other information held by the agency in the public interest ✓ The agency holds up to date information that is easily accessible (easy to find, caters for people requiring language assistance or who have hearing or speech or sight impairments) about: <ul style="list-style-type: none"> – What official information it holds – How it can be accessed or requested by the public and its stakeholders – How to seek assistance – What the agency's official information policies and procedures are (including charging) – How to complain about a decision ✓ The agency makes information available in different formats, including open file formats ✓ The agency's position on copyright and re-use is clear ✓ The public and stakeholders perceive the agency to be open and transparent

Organisation structure, staffing and capability

Responding to official information requests is a core function of the local government sector.

Therefore, it is expected agencies will organise their structure and resources to ensure they are able to meet their legal obligations under the Act considering each agency's size, responsibilities and the amount of information held.

Elements	Things to look for (indicators)
<p>Agency has the capacity to discharge its official information obligations, and obligations around local authority meetings, with clear and fully functioning:</p> <ul style="list-style-type: none"> • roles; • accountabilities; • reporting lines; • delegations; and • resilience arrangements 	<ul style="list-style-type: none"> ✓ An appropriate, flexible structure exists to manage official information requests and obligations around local authority meetings which is well resourced reflecting the: <ul style="list-style-type: none"> – Size of the agency – Number of requests received (and from whom, public, media, other) – Number or percentage of staff performing official information and meeting functions in the agency – Percentage of time these staff are also required to undertake other functions – Need to respond within statutory time limits – Use of staff time, specialisations, structural resilience ✓ Roles and responsibilities are clearly defined: <ul style="list-style-type: none"> – Specific responsibility exists for coordinating, tracking and monitoring official information requests and agency decisions (and ombudsman decisions) and there is the authority and support to ensure compliance²⁵ – Decision makers are sufficiently senior to take responsibility for the decisions made and are available when required, and if not, resilience arrangements exist. – The official information function is located in an appropriate unit or area within the agency that facilitates effective working relationships with relevant business units (for example, media and legal teams)

²⁵ This indicator is also relevant to performance monitoring and learning

Elements	Things to look for (indicators)
Agency has the capability to discharge its official information obligations, and obligations around local authority meetings	<ul style="list-style-type: none"> ✓ Training at all levels on the requirements of the Act is provided regularly and staff are expected to attend, and to apply the knowledge acquired ✓ Training is role specific with additional training for senior managers, decision makers and staff with official information and meeting responsibilities to support their work ✓ Expectations are set by senior leaders that regular refreshers are provided to all staff ✓ Training is provided on information management and record keeping that is role-specific and includes guidance on information retrieval as well as information storage ✓ The process for staff to assess and make decisions on official information requests and meetings is clear, understood, up to date and staff apply and document the process ✓ Agency staff, including front line staff and contractors, know what an official information request is and what to do with it. ✓ User-friendly, accessible resources, guidance and 'go to' people are available ✓ Staff official information capability is regularly assessed and monitored through, for example, performance reviews and regular training needs analyses ✓ Official information obligations, and obligations related to local authority meetings are included in induction material for all staff ✓ The agency's internal guidance resources are accessible to all staff

Internal policies, procedures and resources

Agencies should develop or adopt policies and procedures that will assist staff to consistently apply the requirements of the Act supported by good systems, tools and resources ensuring effective processing of requests consistent with the requirements of the Act.

Elements	Things to look for (indicators)
<p>The agency has official information and meeting policies, procedures and resources that are accurate and fit for purpose</p>	<ul style="list-style-type: none"> ✓ Good policies, procedures and resources exist for receipt and assessment of requests, which cover: <ul style="list-style-type: none"> – What is official information – Identifying the type of official information request received (Part 2, 3, 4 or 6 of LGOIMA) and distinguishing from Privacy Act requests – What to do if information is held by an elected member – Identifying the scope of the request – Consulting with and assisting the requester – Logging requests for official information – Acknowledging receipt of the request – Correctly determining statutory time limits and tracking the handling of the requests – Identifying who in the agency should respond to the request – Establishing criteria for deciding whether, and if so, how a response to a request should be provided urgently – Managing potential delays (including the reasons for them, the escalation process and invoking the extension provision) ✓ Good policies, procedures and resources exist for information gathering on requests, which cover: <ul style="list-style-type: none"> – Identifying the information within the scope of the request – Searching, finding and collating the information at issue – Documenting the search undertaken for the information within the scope of the request (including time taken if charging is likely) – Transferring requests to other agencies and advising the requester – Consulting officials within the agency and third parties – What to do if the information is held by a contractor covered by the Act by virtue of section 2(6) of LGOIMA – Engaging with elected members on official information requests

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> ✓ Good policies, procedures and resources exist for decision making on requests, which cover: <ul style="list-style-type: none"> – Making a decision whether to release the information – Making a decision on the format in which information is released – Making a decision whether to charge for the release of information – Guidance on application of withholding or refusal grounds relevant to requests made under Parts 2, 3 and 4 – Guidance on any statutory bars on disclosure relevant to the legislation the agency administers – Imposing conditions on release where appropriate – Advising the requester of the decision – Recording reasons for each item of information withheld, and the agency’s consideration of the public interest in release where required ✓ Good policies, procedures and resources exist for releasing requests, which cover: <ul style="list-style-type: none"> – Providing the information in the form requested – Preparing information for release (including redactions) ✓ Good policies, procedures and resources exist for the administration of local authority meetings, which cover: <ul style="list-style-type: none"> – How and when meetings (ordinary and extraordinary) are publicly notified – How items not on the agenda for a meeting may be dealt with – How and when agendas and associated reports are made available to the public – When it is appropriate to hold a workshop rather than a meeting – Preparing, and allowing the public to inspect or receive copies of minutes of meetings and workshops – Decision making on whether meetings should be ‘public excluded’ – Ensuring a resolution to exclude the public is compliant with Schedule 2A LGOIMA ✓ The agency has tools and resources for processing official information requests, such as templates, checklists, ‘go-to’ people, effective tracking and monitoring systems, and redaction software and staff are trained on how to use them.

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> ✓ The agency's official information and meeting policies, procedures and resources are regularly reviewed and up-to-date ✓ Staff find the policies useful and easy to access
The agency has appropriate record keeping and information management policies, procedures and resources	<ul style="list-style-type: none"> ✓ Staff are able to identify, access and collate information that has been requested under the Act ✓ The agency has accurate and comprehensive records and information management policies, procedures and resources which enable information relevant to a request to be identified and collated ✓ The policies and procedures cover aspects such as: <ul style="list-style-type: none"> – Creating, organising, maintaining and storing records – How to access information held by elected members – Managing and modifying records – The security of information – A guide to determining which records systems exist and what information each holds – Retaining, retrieving and disposing of records – Both manual and electronic records, including personal email accounts, instant messaging and text messages – Assigned responsibilities and performance criteria for records and information management by staff – The provision of secure audit trails – Annual/periodic audits of records ✓ These policies and procedures are regularly reviewed and up-to-date ✓ Staff find the policies and procedures useful and easy to access

Elements	Things to look for (indicators)
The agency has accurate and comprehensive proactive release policies, procedures and resources	<ul style="list-style-type: none"> ✓ The policies and procedures cover the release of such things as: <ul style="list-style-type: none"> – Information that has been released in response to official information requests – Information described in section 21 of the LGOIMA about the agency’s internal decision making rules, including its official information policies and procedures – Strategy, planning and performance information – Financial information relating to income and expenses, tendering, procurement and contracts – Information about work programmes and policy proposals – Information about public engagement processes, including public submissions – Minutes, agendas, and papers of advisory boards or committees – Information about regulatory or review activities carried out by agencies ✓ The policies and procedures include a process for identifying opportunities for proactive release, for example, where a high number of official information requests is received about a subject ✓ The policies and procedures include a process for preparing for proactive release, including managing risks around private or confidential information, commercially sensitive information and information subject to third party copyright ✓ The policies outline how and where the information should be made available for access, and if any charge should be fixed ✓ They are regularly reviewed and up-to-date ✓ Staff know about the agency’s proactive release policies and procedures ✓ Staff find the policies useful and easy to access

Current practices

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

Elements	Things to look for (indicators)
<p>Official information and meeting practices demonstrate understanding, compliance, and commitment to the principles and requirements of the Act.</p>	<ul style="list-style-type: none"> ✓ The agency complies with maximum statutory timeframes to transfer, extend, decide on requests, and release official information ✓ The agency complies with statutory timeframes for notifying meetings, and making available agendas ✓ The agency makes standing orders, meeting agendas and associated reports, and meeting minutes available to the public ✓ The agency produces comprehensive meeting minutes which contain, for example: <ul style="list-style-type: none"> - the time the meeting opened and closed, the date, place and nature of the meeting - the names of the councillors attending the meeting, those who have leave of absence or who have given an apology, and the arrival and departure times of councillors who arrive or leave during the course of the meeting - a record of every resolution, motion, amendment, order, or other proceeding of the meeting and whether they were passed or not - any 'public excluded' resolutions are in the form set out in Schedule 2A and comply with section 48 LGOIMA - the outcome of any vote taken - the names of members voting for or against a motion when requested or after a division is called ✓ Requests are handled in accordance with the applicable law (Privacy Act; Part 2, 3, 4, or 6 of LGOIMA) ✓ The agency makes appropriate use of the withholding grounds and administrative reasons for refusal, and the provisions for excluding the public from the whole or any part of local authority meetings ✓ The agency makes appropriate use of the legislative mechanisms for dealing with large and complex official information requests ✓ The agency gives proper consideration to the public interest in release of official information, and explains this to requesters ✓ The agency interprets the scope of official information requests reasonably

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> ✓ The agency consults with, and provides reasonable assistance to requesters ✓ The agency consults appropriately with third parties ✓ Elected members involvement in agency official information decision making is appropriate ✓ The process for escalation of issues is used where necessary and is effective ✓ Official information is released in the form requested unless there is a good reason not to ✓ Consideration is given to releasing information in accessible formats ✓ There is evidence that agency practice aligns with its policies and procedures ✓ Staff regularly use the agency's policies and procedures
The agency has good record keeping and information management practices	<ul style="list-style-type: none"> ✓ The agency documents its handling of official information requests, including the steps taken to search for the requested information, the information identified as relevant to the request, and the reasons for its decisions ✓ The agency's records and information management practices facilitate official information compliance (it is generally easy to find information that has been requested under the Act) ✓ Staff regularly use the agency's records and information management policies and procedures as described in <i>Good records and information management policies, procedures and resources</i> ✓ The agency demonstrates good record keeping processes and practices for all meetings, both formal and informal
The agency has good proactive release practices	<ul style="list-style-type: none"> ✓ The agency publishes useful information online including the types of information described in the 'Good proactive release policies, procedures and resources' indicator, under Internal policies, procedures, and resources ✓ The agency publishes information in multiple formats, and applies open use standards ✓ The agency's position on copyright and re-use is clear ✓ Staff use the agency's proactive release policies and procedures where applicable

Performance monitoring and learning

Agencies should adopt performance monitoring and learning frameworks that enable them to learn and drive performance improvement and innovation.

Element	Things to look for (indicators)
<p>The agency has an established system for capturing and analysing data to inform meaningful and appropriate performance measures</p>	<ul style="list-style-type: none"> ✓ Performance measures include: <ul style="list-style-type: none"> – Quantity –for example the number of requests, from where and the number processed – Efficiency –for example duration of request handling, number of responses that exceed legislative maximum time limits, the reasons for any delays – Quality- for example outcome of any internal quality assurance reviews and/or external reviews of official information and meeting decisions and processes and whether or not the results of those reviews provide evidence of system wide issues – Monitoring of opportunities for proactive release –for example identifying common types of requests or a high number that indicates information that could be made available ✓ The agency collects data about its performance under the Act including: <ul style="list-style-type: none"> – The number of requests – The type of request (Part 2, 3, 4 or 6 of LGOIMA) – The type of requester (for example; media, political researcher, corporation, individual citizen, elected member, interest group etc) – The information sought – The number and reason for transfers, and whether the transfer was made in time – The number and reason for any ‘public excluded’ resolutions – The number, length and reason for extensions – The outcome of the request (granted in full, granted in part, refused in full, withdrawn or abandoned) – The number and amount of charges made and collected – The grounds on which information was withheld or the request refused – Whether the requester was consulted prior to any refusal under section 17(f), which provides that <i>‘A request made in accordance with section 10 may be refused (if)... the information requested cannot be made available without substantial collation or research.’</i>

Element	Things to look for (indicators)
	<ul style="list-style-type: none"> - Whether any elected member was consulted on the decision - Whether the decision was notified to any elected member - Whether, and which, third parties were consulted - The time from receipt of the request to communication of the decision - The time from receipt of the request to release of the information - If the time limit (extended or not) was breached, the reasons for the delay - Whether the response was proactively published and if not, why - Whether the Ombudsman investigated or resolved a complaint about the request - The outcome of the Ombudsman's investigation or involvement - The outcome of any internal quality assurance reviews of processes or decisions - Staff time spent and costs incurred in processing official information requests, including the time spent assisting in processing requests by staff who are not in core LGOIMA roles ✓ The agency analyses this data to determine whether it is complying with its relevant performance measures ✓ The agency monitors information demand (for example, through official information requests, website use, and other enquiries) to identify opportunities for proactive release ✓ The agency monitors any difficulties in identifying and collating information that has been requested
There is regular reporting about the agency's management and performance in respect of official information requests	<ul style="list-style-type: none"> ✓ Data about the agency's official information performance, and information demand is regularly reported to senior leaders, and at least quarterly to the Chief Executive ✓ Reports include emerging themes or trends, opportunities for improvement and proactive release, resourcing, capacity or capability (training) issues ✓ Reporting informs planning, resourcing and capability building decisions

Element	Things to look for (indicators)
The agency learns from data analysis and practice	<ul style="list-style-type: none">✓ The agency has a system for sharing official information learning and experience, such as meetings, newsletters, email or intranet updates, or official information '<i>champions</i>'✓ The agency monitors relevant data, guidance and publications, including those produced by the Ombudsman, Local Government New Zealand and the Department of Internal Affairs✓ The agency monitors the outcome of Ombudsman investigations and reports these to relevant staff, including official information decision makers✓ The agency analyses information to determine where it has the potential to improve official information practice, stakeholder relations, or increase opportunities for public participation✓ The agency periodically reviews its relevant systems, structures, and compliance with policies and procedures✓ The agency actively participates in initiatives to share and discuss best practice externally, for example through forums, interest groups, networks and communities of practice