

Official information practice investigation — terms of reference

Auckland Transport

September 2024

This document sets out the terms of reference for a self-initiated investigation by the Chief Ombudsman into the practices of Auckland Transport relating to the Local Government Official Information and Meetings Act 1987 (LGOIMA).¹

Purpose of the investigation

The investigation will consider how Auckland Transport meets the requirements and purposes of Parts 1 – 6 the LGOIMA and, to the limited extent that it applies, through its administration of meetings under Part 7 of the Act.²

The investigation will consider all relevant policies, processes and practices; including supporting administrative structures, leadership and culture, information management, public participation and proactive release of information, to the extent that these relate to LGOIMA or advance its objectives.

The investigation will identify areas of good practice, and make suggestions for improvement opportunities where areas of vulnerability are identified.³

Scope of the investigation

The investigation will evaluate Auckland Transport’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 and resources

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

² See section 42 of the Local Government (Auckland Council) Act 2009, which provides Part 7 of LGOIMA applies to meetings, or parts of meetings, where Auckland Transport intends to make, or will make, a bylaw. I also note s 96 of the same Act provides that specified meetings must be held in public.

³ 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 council was unreasonable or contrary to law under s 22 of the OA.

- Current practices
- Performance monitoring and learning

The investigation will also consider how Auckland Transport administers Part 7 meetings where compliance with Part 7 is required by law (see s 42 of the Local Government (Auckland Council) Act 2009). I note that section 96 of the same Act provides that specified meetings must be open to the public. The investigation will not directly consider decisions taken by the Auckland Transport Board⁴. However, in relation to decisions by the Board, the reasonableness of any advice provided by officials or employees, on which the decision was based, may be considered as part of the investigation.

The investigation will not consider the processes and decision-making of Auckland Transport's shareholder, Auckland Council, under LGOIMA. However, it will consider the extent to which Auckland Transport has appropriate processes, policies or resources in place to manage the relationship between Auckland Transport and Auckland Council in relation to:

- Transferring requests to ensure compliance with the requirements of section 12 of the LGOIMA.
- Consultation on requests, to ensure the process is managed appropriately.

A sample of decisions reached by Auckland Transport on individual LGOIMA requests and media information requests may be considered as part of this investigation, to assist the Chief Ombudsman's understanding of Auckland Transport's official information practices.

If evidence emerges concerning specific examples of LGOIMA breaches, 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 questionnaire of Auckland Transport's official information practices, a staff survey, interviews with key staff, and a survey of the public. As information arises, it may become clear to my staff that other avenues of investigation are also required; if this occurs, you will be advised accordingly. As usual, any requests for information during this investigation will be made

⁴ See s 13(1) of the Ombudsmen Act, as the Board is the equivalent of a committee of the whole. For clarity, decisions by committees are within scope

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 Auckland Transport'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).

Questionnaire

A questionnaire for the agency will be provided, 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
- Training materials and quality assurance processes
- Reports on LGOIMA performance and compliance to Auckland Transport's senior management
- The logging, tracking and responses to LGOIMA requests
- The logging, tracking and responses to media information requests
- 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
- Other policies, procedures and guidance documents relevant to the investigation.

Surveys

The following surveys will be conducted:

- A survey of staff asking about their experience of the LGOIMA culture and practice within Auckland Transport.
- A survey of the public including key media and stakeholder organisations. The Chief Ombudsman may issue a media release that includes a link to the public survey.

Interviews

In addition to the meeting between the Chief Ombudsman and Auckland Transport’s Chief Executive, the investigation team will interview staff from Auckland Transport 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
Processing and dispatching of LGOIMA requests	½ to 1 hour
Decision makers on LGOIMA requests	½ to 1 hour
Media/communications	1 hour
External relations/stakeholder engagement	1 hour
Website content	½ to 1 hour
Information management	½ to 1 hour
Human resources and training	½ to 1 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
Receiving public enquiries (receptionist, call centre manager if relevant)	½ to 1 hour
Those involved in the administration and arrangement of meetings under part 7 (see s 42 of the Local Government (Auckland Council) Act 2009) or that are otherwise required to be open to the public (see s 96 of the Local Government (Auckland Council) Act). For example, Auckland Transport staff who act as the secretariat for the Board and/or provide advice and make recommendations to the Board as to whether items should be discussed in public excluded meetings	1 hour

If requested, the interview recording and/or notes gathered from the interview will be sent to individual interviewees.

The investigation team may meet with additional staff, as the investigation progresses.

Other

A review of a sample of files held by Auckland Transport on previous requests for information and records held on relevant recent CCO meetings.

A review of a sample of media information requests.

Follow up period

After information has been gathered through the methods outlined above, the investigation team may request additional information or clarification from Auckland Transport on points that have arisen throughout the course of the investigation, to assist our understanding of matters of fact and to provide the opportunity for further relevant information to be supplied.

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 Auckland Transport's official information practices. The draft will be provided to the Chief Executive for comment.

The Chief Ombudsman may consult the Chair of the Board at any time during or after the investigation, and is required to consult with the Chair before he forms his final opinion, if the Chair so requests.⁵

Final report

Comments received on the draft report will be considered for amendment of, or incorporation into, the final report. The final report will be sent to Auckland Transport's Chief Executive and Chair, published on the Ombudsman's website, and tabled in Parliament.

⁵ See s 18(5) OA