



Local Government Official Information and Meetings Act compliance and practice

Christchurch City Council

LGOIMA compliance and practice at Christchurch City Council

Office of the Ombudsman

November 2019

ISBN: 978-0-473-50171-6 (print)

978-0-473-50172-3 (online)

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Opinion of the Chief Ombudsman

November 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 of my findings.

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 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 Local Government Official Information and Meetings Act 1987 (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 diminished. 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.

Achieving the purposes of LGOIMA depends significantly on the culture of a council and the attitudes and actions of its leaders. It is imperative that the Chief Executive and Senior leaders demonstrate a commitment to meeting LGOIMA obligations and actively foster a culture of openness.

My investigation identified serious concerns about the Council's leadership and culture, and its commitment to openness and transparency. As part of this investigation, a number of Council staff raised concerns about the behaviour of some members of the then Executive Leadership Team, and alleged methods to control certain types of information in order to keep negative information about the Council from the public and/or elected members. This led to a perception amongst staff that some members of the Executive Leadership Team were not supportive of openness and transparency.

I have found that the previous Chief Executive's failure to take appropriate and adequate action in relation to concerns expressed by staff, was unreasonable. Accordingly, I have made one recommendation, which I have not done lightly. I have recommended the Chief Executive review the practice of the Executive Leadership Team's involvement in controlling the flow of information to elected members and the public to ensure an approach is adopted that is consistent with the purposes of the LGOIMA; in particular, openness and transparency.

In August 2019, the Council provided comments on my provisional opinion. The previous Chief Executive also provided comments and I have taken this feedback into account in my final opinion. I understand the Council's Acting Chief Executive has discussed my opinion with the incoming Chief Executive and I note that it is her clear expectation that, as an organisation, Christchurch City Council is committed to openness and transparency. The Acting Chief

Executive also acted swiftly and has provided me with a draft improvement plan addressing the recommendation, and accepting all 39 suggested actions to improve its practices, with corresponding time frames. Some of my action points have already been completed. I will be following up with the Council on a regular basis over the next year to check in on the progress of the remaining action points.

The draft improvement plan is reproduced in full as an appendix to this report (Appendix 3). I am encouraged by the responses both by the Acting Chief Executive and the incoming Chief Executive. It is clear to me that the leadership team is serious about ensuring the behaviours identified as part of this investigation will not be tolerated at Christchurch City Council. I am confident that the Council has put the building blocks in place to regain the trust of staff, elected members and the public and it is committed to creating an environment that promotes openness and transparency, and this is championed by leaders at all levels.

I wish to acknowledge Council staff for the positive way they engaged with this investigation. In particular, I wish to thank those staff who came forward and raised concerns with me during my investigation. This highlights the importance of staff feeling able to raise issues with their senior leaders in order to speak freely without fear of reprisal. It is imperative that senior leaders take the time to listen and be open to hearing bad news. This includes providing feedback loops to staff so they are kept informed of progress and the outcome of their report of concern. The Council has advised me that it is putting increased focus on its Protected Disclosures Act policy, ensuring staff know of its existence and where to find it.

I have also advised the Council that it must be willing to receive and appropriately handle all reports of concern, even those that are not about serious wrongdoing. In this respect, its policies and procedures should explain what to do in the event that concerns do not meet the threshold of serious wrongdoing, and the process that will apply in that situation. This is important in order to embed the Council's commitment to fostering a culture in which staff are comfortable raising concerns with senior leaders.

Finally, I wish to thank the Senior Information Advisor and staff within the office of the Chief Executive, for the time they took to prepare the response to our detailed questionnaire; and all those staff who participated in employee surveys, and met with my investigators to discuss their role and share their views on the Council's LGOIMA practices.

I also acknowledge members of the public, including journalists, regular requesters, and regular council meeting attendees for the views they shared in our public survey.

I look forward to continuing my engagement with the Council as it works through implementing my recommendation and suggested actions.

Peter Boshier
Chief Ombudsman
November 2019

Introduction

This report sets out my opinion on how well Christchurch City Council¹ (the Council) is meeting its obligations under the Local Government Official Information and Meetings Act 1987 (LGOIMA).

My investigation has looked at how the Council deals with requests for official information, produces Land Information Memorandum (LIM) reports, and administers Council meetings in accordance with LGOIMA.

The purposes of LGOIMA are 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 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.² The full terms of reference for my investigation are in Appendix 1.

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

¹ When I use the term 'Council', this primarily relates to the operational arm of the organisation unless the context suggests otherwise.

² See sections 13(1) and 13(3) Ombudsmen Act 1975

Appendix 2 provides a set of good practice indicators for each of these areas. 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

For the reasons set out below, and based on the information before me, I consider that there was a failure by the previous Chief Executive to take appropriate and adequate action in relation to concerns expressed by staff about some members of the Executive Leadership Team's behaviour, which staff had said did not reflect the principle of availability in the LGOIMA, nor a commitment to openness and transparency. I am of the opinion that such failure was unreasonable.³

I recommend that the new Chief Executive review the practice of the Executive Leadership Team's involvement in controlling the flow of information to the public and elected members, to ensure an approach consistent with the principles and purposes of the LGOIMA; in particular, openness and transparency.

The Council has advised me it has, or will be implementing the following actions in response to my recommendation:

- The incoming Chief Executive has read my provisional opinion. She has indicated that she intends to address the issues raised, and that *"responding in an open and honest way will be the start of delivering the cultural change in our organisation at all levels."*
- The incoming Chief Executive will speak about my report at the Annual Leaders' Workshop in November.
- The Acting Chief Executive will develop an Improvement Plan with agreed mitigating actions and milestones for implementation.
- Senior Leadership practices will be reviewed, noting that any recommendations from the review will be added to the plan.

Through the investigation process, areas of good practice have been identified, and improvement opportunities suggested where there are areas of vulnerability. The Council has advised that it accepts all 39 of my suggested action points, and has developed a plan to implement these action points within the current financial year. I refer to some of the Council's specific responses in the body of this report.

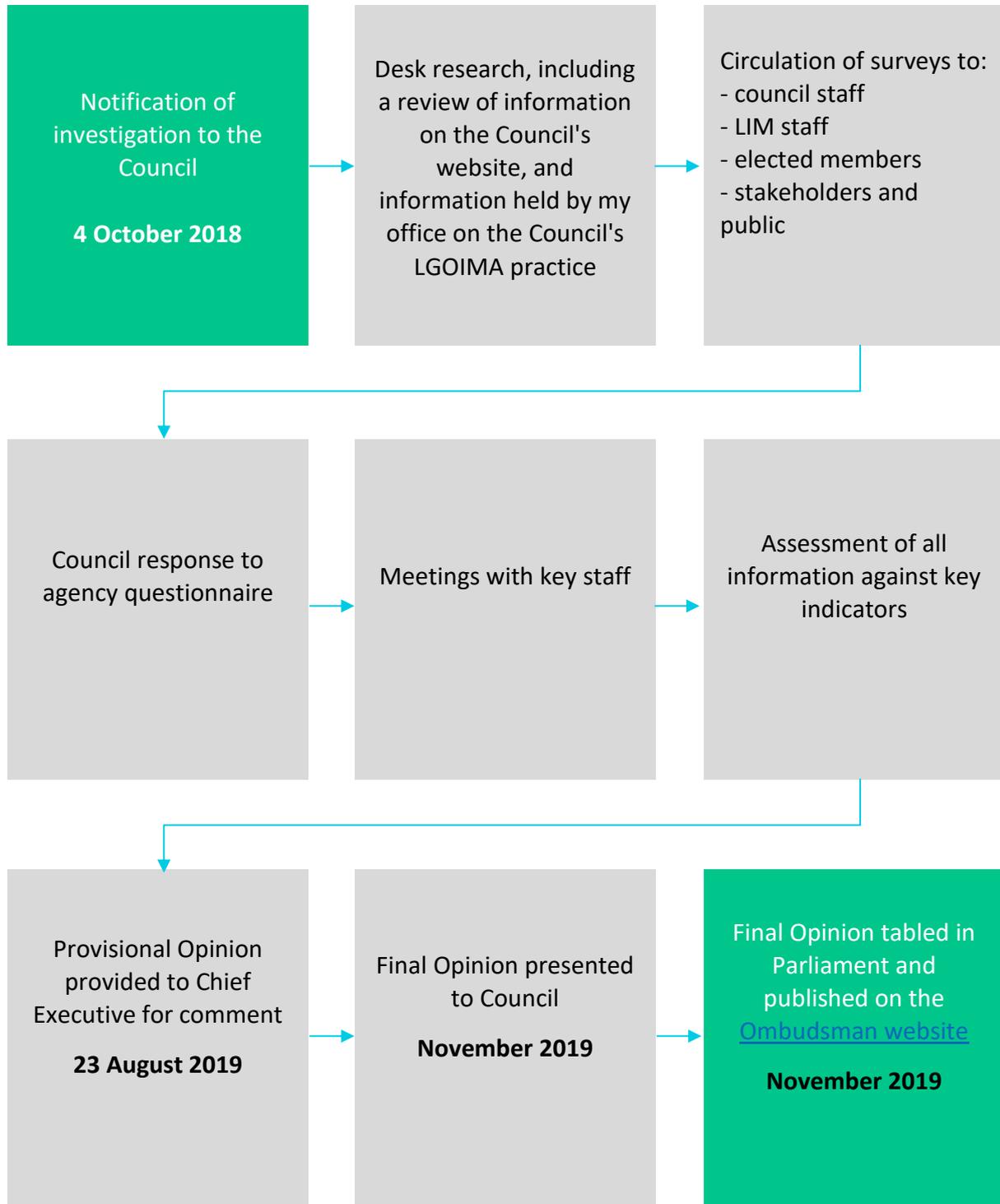
I deal with each of the dimensions listed above setting out:

- key findings;

³ 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.

- aspects that are going well; and
- opportunities to improve LGOIMA compliance and practice.

Timeline and methodology



Christchurch City Council: a snapshot

Christchurch lies between the Canterbury Plains and Pacific Ocean near the centre of the east coast of New Zealand's South Island, with a land area of 1,415 kilometres.

The local authority, Christchurch City Council, has 16 elected Councillors and one elected Mayor. Elections are held every three years.

The Council's responsibilities include infrastructure, emergency management, community services and environmental management. 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 1862.



In 2017/18, Christchurch City Council:

- served 388 400 residents
- received \$460 473 million in rates
- employed approximately 2135 staff
- received 600 requests under LGOIMA
- handled 98% of these requests within the legislative timeframe
- processed 11 031 LIM reports
- handled 100% of LIM applications within the legislative timeframe

Christchurch
City Council 

Image courtesy of the Department of Internal Affairs

MAYOR Hon Lianne Dalziel

DEPUTY MAYOR Cr Andrew Turner

ELECTED COUNCILLORS 16

WARDS Banks Peninsula, Burwood, Cashmere, Central, Coastal, Fendalton, Halswell, Harewood, Heathcote, Hornby, Innes, Linwood, Papanui, Riccarton, Spreydon, Waimairi

COMMUNITY BOARDS Banks Peninsula, Coastal-Burwood, Fendalton-Waimairi-Harewood, Halswell-Hornby-Riccarton, Linwood-Central-Heathcote, Papanui-Innes, Spreydon-Cashmere (53 elected members between 7 local boards)

CHIEF EXECUTIVE Dawn Baxendale

Executive summary

This summary draws together the key findings, recommendation, and suggested actions from my investigation. The diagram on page 16 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

My investigation identified serious concerns about the Council's leadership and culture, and its commitment to openness and transparency. In particular, Council staff raised concerns with me about various methods employed by some members of the Executive Leadership Team to keep negative information about the Council from the public and/or elected members. These methods allegedly included manipulating or removing information from reports, project reporting not occurring, staff being told not to record information or to keep information in draft form. This has caused a perception to develop among staff that some members of the Executive Leadership Team wished to manipulate any messaging about the Council that might be negative.

The previous Chief Executive indicated that she was aware of some of the concerns raised by staff, particularly in relation to the Council's performance reporting. The previous Chief Executive stated that the Executive Leadership Team had changed the process around the presentation of some reports, but it had not changed the content of those reports. She acknowledged that some staff were not comfortable with the evolving system around performance reporting but in her view, this was reflective, of staff not understanding the role of the Executive Leadership Team, rather than senior leaders acting inappropriately.

I nevertheless consider that, the previous Chief Executive did not take adequate and appropriate action to address staff concerns and ensure the actions and behaviours of some members of the Executive Leadership Team reflected the LGOIMA's principle of availability and the commitment to openness and transparency, and that this was unreasonable. In my view it is imperative that the new Chief Executive review the Executive Leadership Team's involvement in controlling the flow of information to the public and elected members to ensure an approach is adopted that is consistent with the principles and purposes of the LGOIMA, and in particular, openness and transparency.

In her response to my provisional opinion, the previous Chief Executive indicated that, where staff had expressed concerns to her about the actions of some members of the Executive Leadership Team, she had taken these very seriously. She also stated she had no knowledge of some of the issues staff raised with my investigators concerning the behaviours of some members of the Executive Leadership Team.

I acknowledge the previous Chief Executive considered she had dealt effectively with the concerns that were brought to her by staff. Notwithstanding this, during my investigation staff told me that issues of concern continued to occur, and a perception of secrecy existed.

The Chief Executive is ultimately accountable for staff's perceptions of openness and transparency; the culture within the Executive Leadership Team; and the culture of the Council

more broadly. The effectiveness of any Chief Executive depends on enlightened and conscientious leadership.

The new Chief Executive now has an opportunity to transform the culture at the Council and act as a positive role model for best practice in relation to the operation of the LGOIMA, and organisational transparency. Key actions include:

- All staff should be encouraged to identify process improvements in responding to LGOIMA requests and should receive LGOIMA training in accordance with their position. Where senior leaders actively encourage staff to identify areas for improvement, and provide a system to facilitate this, the improvements are more likely to be implemented.
- The Council should review its delegation framework to ensure decision-making and accountability at the senior level are clear.
- Develop a proactive release policy to support the Council’s commitment to transparency.

The Council has increased its public engagement through the ‘have your say’ page on their website, as well as having a team tasked with ensuring the Council delivers on consultation results. The Council has a good LGOIMA request webpage, which is easy to find, and provides clear information on making a request.

Councils are statutorily required to release a range of information. In addition to fulfilling these requirements, I am pleased that the Council publishes its LGOIMA responses. Further, the Council’s external messaging expresses a commitment to the principles and purposes of the LGOIMA, and to openness in general.

Recommendation

That the Chief Executive review the practice of the Executive Leadership Team’s involvement in controlling the flow of information to the public and elected members to ensure an approach is adopted that is consistent with the principles and purposes of the LGOIMA, in particular, openness and transparency

Action points

1. Ensure the outcome of the review of the Executive Leaderships Team’s practices is clearly understood by staff and any recommendations are implemented
2. Establish a process to ensure that any amendments made to documents/records are transparent, with clear lines of accountability, and a record of the amendment is made
3. Establish a clear process for staff reporting and raising concerns without fear of reprisal and ensure outcomes are clearly communicated back to staff
4. Regular consistent positive messaging by the Chief Executive and senior leaders about the importance of the LGOIMA and openness and transparency more generally in Council wide communications

Action points
5. Senior leaders to role model behaviours consistent with a commitment to openness and transparency
6. Complete the review of the structure of the Office of the Chief Executive to ensure the lines of decision-making and accountability are clear between the Director of the Office of the Chief Executive, the Senior Information Advisor, and the Chief Advisor to the Chief Executive
7. Ensure delegations for decisions on LGOIMA requests are clear, up to date and understood by senior leaders and staff
8. Assign a Senior Manager with specific strategic responsibility and executive accountability for official information practice
9. Senior leaders to champion a system for staff to identify and communicate opportunities for improvements to LGOIMA policies and practice, and proactive release
10. Senior leaders to set clear expectations that staff receive appropriate training on LGOIMA policies and procedures and make this expectation visible by attending training themselves
11. Include reference to LGOIMA compliance in job descriptions
12. Consider how a proactive release policy, once developed, can be incorporated into the Council's external communications strategy to further increase engagement and public participation in decision-making

Organisation structure, staffing, and capability

The Council employs a mixed model for handling LGOIMA requests. The LGOIMA team comprises two Information Advisors (one Senior) within the Office of the Chief Executive, who work with subject matter experts in relevant business units to process requests. This collaborative approach appears to be working well as the Council has steadily received more LGOIMA requests year by year while achieving a timeliness rating of 98 percent (from 1 July 2017 through 30 June 2018).

In my survey of Council staff, I note that many lauded the expertise held by the LGOIMA Team, who are often relied on for advice when questions arise.

The Council employs a centralised model for LIM applications, and staff in the Community Support, Governance and Partnerships Unit administer Council meetings. A Council Secretary assists the Executive Leadership Team with agendas and reports. Requests from elected members are made through the Office of the Chief Executive. There is a clear process to determine whether items should be discussed in public excluded (PX) sessions of Council meetings.

While the Council provides some training on the LGOIMA to staff, I believe it is essential to make some level of LGOIMA training mandatory for all staff upon induction, with refresher training being offered periodically to staff who handle information requests. Of the LGOIMA training that is offered, the material is sound. Staff involved in writing reports for Council

meetings receive training on InfoCouncil,⁴ and information management training is compulsory for new staff at induction.

Due to the size of the Council, there could be more staff cross-trained to cover for the Information Advisors. There are only two staff members on the LGOIMA Team, which is a potential vulnerability. Cross-training includes the ability to log, track and co-ordinate responses, manage the LGOIMA spreadsheet and provide advice on the LGOIMA.

Action points

1. Develop a LGOIMA training programme tailored to the needs of all staff, including for staff at induction, the Public Information and Participation (PIP) Team and Customer Services Teams
2. Develop and implement more detailed, regular training for delegated decision makers, including senior leaders and for staff in the LGOIMA Team
3. Ensure appropriate staff have access to, and understand how to use, the LGOIMA tracking spreadsheet to ensure back up is available if necessary

Internal policies, procedures, and resources

The Council has some useful resources to guide staff. These include guidance on LIM requests; template letters and emails for LGOIMA requests; an induction guide for elected members; and a policy on record keeping obligations. The Council also produces a guidance document for staff who write reports, on what to consider in relation to matters that may be heard in a public excluded portion of a meeting.

I encourage the Council to ensure that its policies are kept up-to-date and align with actual practice. The existence of policies does not necessarily mean they will be adhered to, and leaders need to consistently champion the importance of these policies.

Some staff advised that the guidance may not be consistent across different platforms. For instance, some information on the Council's primary document management system, TRIM, does not match the information available on the intranet. The Council may benefit from consolidating LGOIMA resources, and making them more visible and accessible to staff.

Furthermore, I suggest a review of the LGOIMA resources, including template letters, to incorporate guidance on how to apply withholding grounds while considering the public interest (among other points). The Council should consider updating the 'LGOIMA Assistance' wording on the intranet so it aligns with section 13 of the Act.

It would also be advantageous for the Council to develop a proactive release policy to underpin its current practice.

⁴ InfoCouncil is the system that supports the end-to-end advice and decision-making process at Council for elected member meetings.

Action points

1. Consider undertaking a review of Information Management (IM) policies and guidance to ensure they are fit for purpose
2. Ensure IM guidance is regularly reviewed and updated
3. Ensure IM guidance and policy is visible and easily accessible for staff and, if guidance is stored in more than one IM system, ensure guidance is consistent across all platforms
4. Leaders to champion sound record keeping practice
5. Prioritise the development of a proactive release policy with accountability for its delivery assigned to a senior leader
6. Review and update LGOIMA guidance incorporating my suggestions
7. Ensure LGOIMA guidance is regularly reviewed and updated
8. Consider amending template letters to include specific consideration of the public interest, where applicable

Current practices

My investigation found that the Council generally complies with LGOIMA obligations in terms of timeframes for responding to LGOIMA requests, timeframes for LIM reports, and meeting administration requirements. Overall, the LGOIMA responses reviewed within this investigation were generally comprehensive, but records of LGOIMA decision-making were minimal. I would encourage the Council to consider keeping a record of discussions that take place in workshops and briefings.

In addition to LGOIMA requests handled within the 'formal' process, other parts of the business (such as the Public Information and Participation (PIP) Team) also respond to straightforward requests for information. The Council must ensure that these requests are handled in accordance with the LGOIMA. This includes providing a reason for any information that is refused, and including the Ombudsman's contact details for making a complaint. It is crucial that regular training is provided to all Council teams that handle requests for information.

The Council may enhance its practice further by capturing the decision-making process for each response. I encourage the Council to move away from using a spreadsheet to input and track LGOIMA requests and decisions. I am concerned that the spreadsheet does not have a provision for documenting the decision-making process on a request. Implementing a formal peer review process would also assist in promoting transparency at a senior leadership level.

I am pleased to note that there appears to be a good working relationship between Council staff and elected members. Elected members direct their information requests to the Office of the Chief Executive, which usually supplies information under the common law, 'need-to-know' principle. Staff must be aware that information requests made by elected members are governed by LGOIMA.

It is important the Council ensures that the distinction between consultation and notification of elected members on LGOIMA requests is unambiguous, and there is no perception that elected members and/or Mayoral office staff have undue input on decision-making on LGOIMA requests. Therefore, I encourage the Council to develop a protocol to clarify when and in what circumstances decision makers will consult with elected members, including the Mayor and their staff. This consultation should be recorded, as a lack of record keeping is a vulnerability that could leave the Council open to criticism. It is also not appropriate that the Mayor's advisor attends the weekly meeting where LGOIMA requests are discussed.

Action points

1. Ensure that all public and media information requests, as well as property file requests, are handled in accordance with the provisions of the LGOIMA
2. Provide regular training to all Council teams that handle requests for information in any capacity
3. Upgrade to a database (non-spreadsheet) system to track LGOIMA requests and decisions
4. Record the reasoning behind LGOIMA decisions, including any consideration of the public interest and the results of any consultations with third parties
5. Record the administrative steps taken in respect of LGOIMA responses where relevant
6. Establish a formalised peer review process
7. Ensure records are kept of workshops and briefings
8. Provide training to staff who are processing elected member requests to ensure consistency of practice
9. Ensure that requests from elected members are handled in accordance with LGOIMA
10. Review the practice of sending all LGOIMA requests to the Mayor's office and develop a protocol between the Council and elected members to clarify elected member involvement in LGOIMAs
11. Ensure the Mayor's advisor is not a participant in the weekly meeting where LGOIMA requests are discussed

Performance monitoring and learning

The Executive Leadership Team receives a weekly spreadsheet of all open LGOIMA requests (which is extracted from the LGOIMA spreadsheet). Weekly meetings are held between various teams and include discussion of LGOIMA requests and key issues. I have been informed that the meetings can trigger review of policies and practice.

Aside from the meetings, performance monitoring could be improved by providing an analysis of the data collected in the LGOIMA spreadsheet, as well as capturing additional data. A monthly report should be provided to the Executive Leadership Team for record keeping purposes and point-in-time comparisons. Such information could later be used to inform decisions about resourcing, capacity and capability, to name a few.

Media requests made to the PIP Team and information requests made to Customer Services Teams are not captured in the LGOIMA spreadsheet. This results in an incomplete picture of

the Council’s reported LGOIMA timeliness compliance. The inclusion of these requests in LGOIMA reporting would result in a more accurate representation of Council performance, as would requests from elected members and property file requests.

On a positive note, the Council engages with my office to disperse guidance, reports and case notes to key staff. Staff are also kept informed of Ombudsman investigations into Council LGOIMA responses and their eventual outcomes.

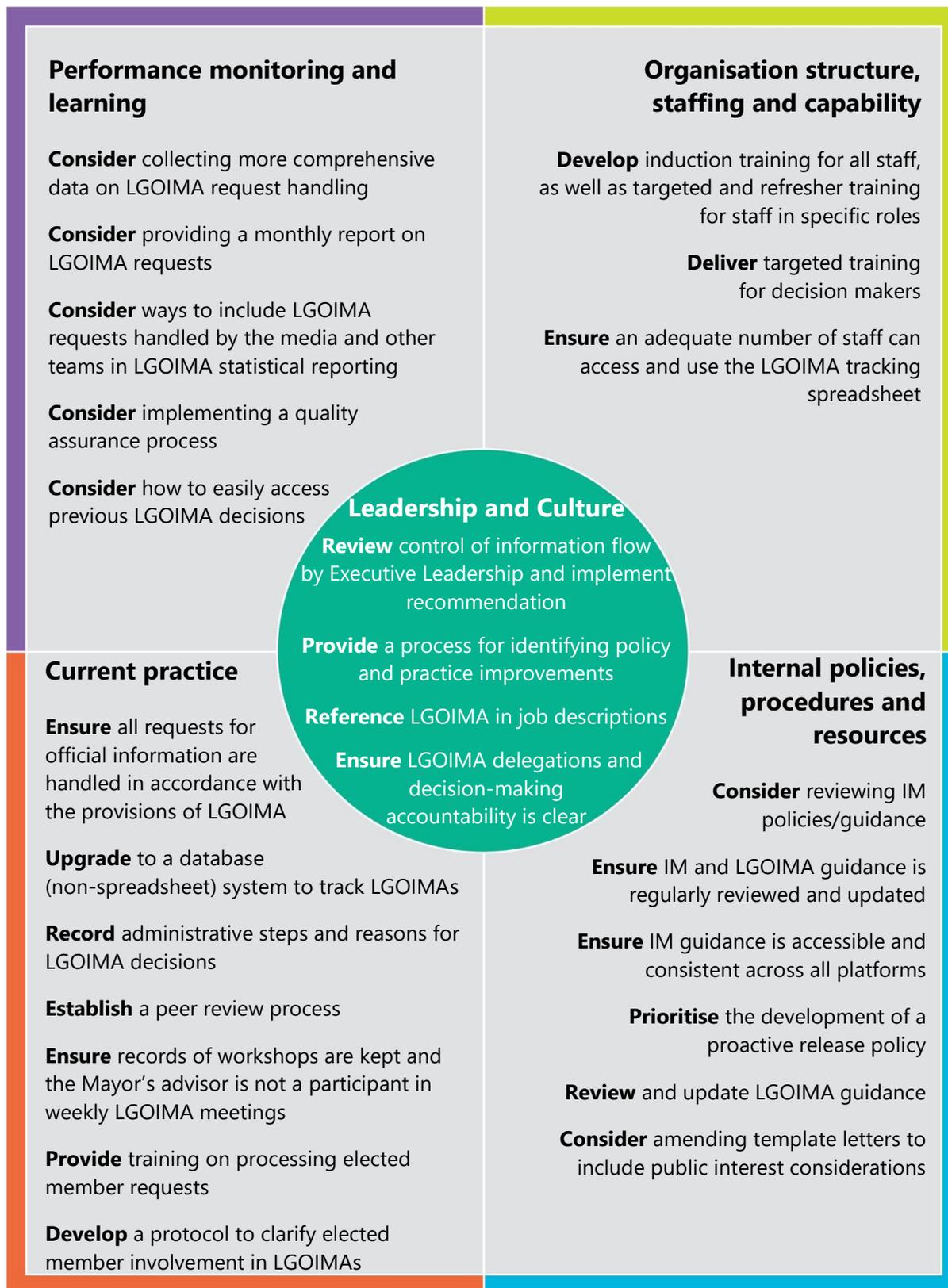
There is no clearly defined process for the Quality Assurance (QA) of LGOIMA requests at the Council. There is merit in the Council developing a more formalised QA system to ensure consistency of decision-making.

The Council does not appear to be taking adequate steps to record the decision-making process on LGOIMA requests. Failure to record the outcome of past decisions can make it difficult for other staff within the Council to locate similar, previous requests for information. The Council may wish to consider building a step into their decision-making process whereby similar requests are noted, which will help to ensure consistency of decision-making.

Action points

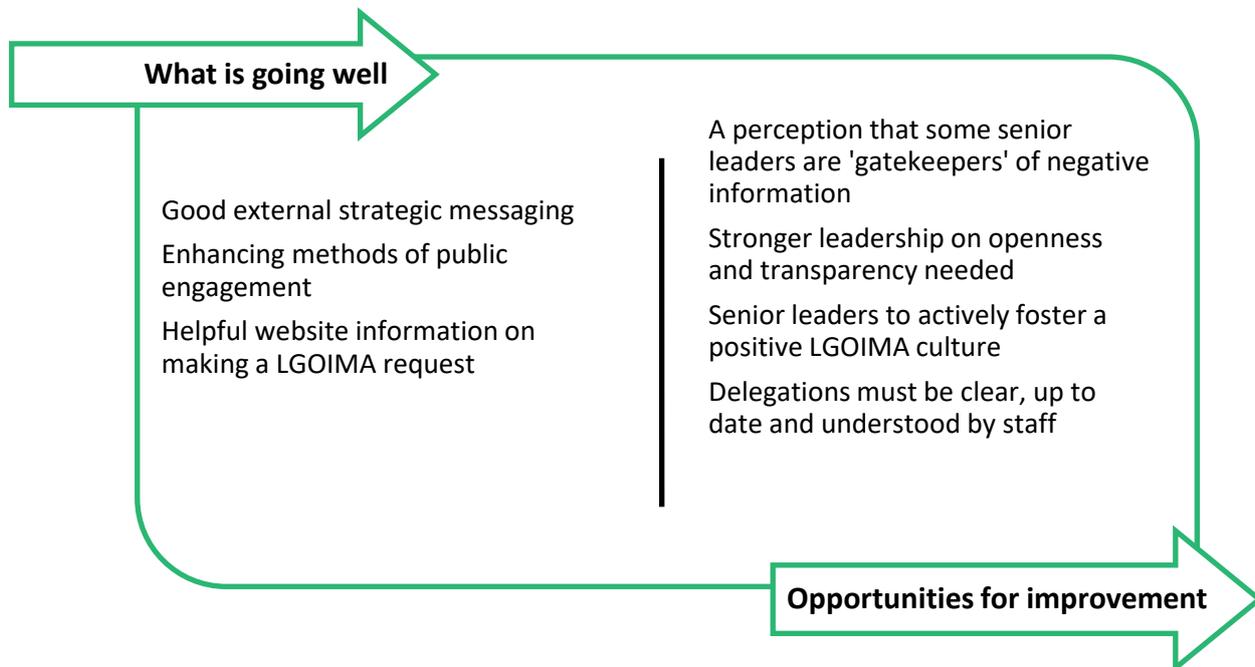
1. Consider analysing LGOIMA request data and collecting more comprehensive data on the Council’s handling of LGOIMA requests
2. Consider providing the Executive Leadership Team with a monthly report on LGOIMA requests
3. Consider ways to include requests handled by the PIP Team and Customer Services Team, as well as elected member requests and property file requests, in LGOIMA statistical reporting
4. Consider developing a formal quality assurance process for LGOIMAs
5. Consider how staff can quickly and easily access previous LGOIMA decisions

Lifting LGOIMA performance at Christchurch City Council: summary of actions



Leadership and culture

At a glance



Achieving the purposes of LGOIMA depends significantly on the culture of a council and the attitudes and actions of its leaders. Elected members, Chief Executives and senior managers should take the lead in developing an environment that 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.

To assess 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 LGOIMA obligations and actively foster a culture of openness;
- senior leadership have established an effective strategic framework which promotes a culture open to the release of information; and
- senior leadership demonstrate a commitment to proactive disclosure, and public participation with clear linkages to the Council's strategic plans creating a public perception, and a genuine culture, of openness.

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

A failure to build a culture of openness

The effective creation, management and recovery of information is essential for both the operation of LGOIMA and a healthy culture of openness and transparency within an organisation. As an indication of a council's internal culture of openness and transparency I would expect to see regular, clear statements from senior leaders to staff reflecting a commitment to the principles and purposes of the LGOIMA. I would also expect the Executive Leadership Team to role model behaviours that show a clear commitment to transparency. Where explicit messaging is supported by action, a culture of openness will follow.

At the time of my investigation, Christchurch City Council's Executive Leadership Team was made up of the Chief Executive and her direct reports comprising six General Managers, the Programme Manager of Water Supply, the Director of the Office of the Chief Executive, and the Chief Advisor to the Chief Executive (at the time of the investigation, this role was vacant).

During my investigation, a number of Council staff from across the organisation raised concerns about the tight control of information by some members of the Executive Leadership Team before distribution to the public and/or elected members, eliminating any direct flow of information from staff. I note this was particularly the case when the information did not portray the performance of the Council in a positive light.

A number of staff indicated that reports were allegedly being amended or manipulated, and project reporting was not occurring. I was also made aware that some staff had been told not to create records, or to keep reports in 'draft' in a misguided attempt to keep negative information away from the public and elected members. This behaviour is deeply concerning.

The impact of this behaviour on staff perception is reflected in the percentage of staff (17 percent of respondents to my staff survey) who indicated that they thought the Executive Leadership Team messaging around openness and public participation was 'moderately or strongly negative'. Compared with the answers to this question across the councils I have investigated to date, this figure is high. The average across the other local government agencies was six percent.

Staff perception of leadership support for openness and public participation

Leadership level	Moderately or strongly supportive	Moderately or strongly negative	'They are silent on the issue' or 'don't know'
Mayor	73%	8%	19%
Elected members	64%	10%	26%
Chief Executive	75%	11%	14%
Senior Leadership Team	69%	17%	14%
Immediate Manager ⁵	77%	8%	14%

⁵ Percentage does not total 100 due to rounding. Numbers have been rounded to the nearest percent.

It is not necessarily unusual or poor practice for senior leaders to review certain information and reports. Where it can become problematic is when the information produced by a business unit is tightly controlled and filtered by senior leaders prior to release to the public or elected members. Issues around transparency are also exacerbated if amendments are being made to documents with no clear justification, or it is not clear at whose direction amendments were made. Funnelling specific types of information through an Executive Leadership Team for review, combined with a lack of transparency about amendments to documents, provides an opportunity for those reports to be manipulated and creates the ideal environment for a perception of secrecy to grow within an organisation.

A number of staff my investigators spoke to noted that some members of the Executive Leadership Team assumed final editorial control of reports they produced, contributing to an environment where it was unclear at whose direction changes to documents were made and why. For right or wrong, this has caused a perception to develop among staff that some members of the Executive Leadership Team wished to manipulate any messaging about the Council that might be negative. A lack of transparency means there is little internal accountability for the final form of the information which is ultimately tendered to Council or made publicly available.

In order to protect staff, I will not specify the reports and situations that were of concern. Some staff were reluctant to talk about specific instances for fear of reprisal within the organisation. In any event, even a perception held by some staff that certain members of the Council's Executive Leadership Team were not supportive of openness and transparency is enough to cause me significant concern. Unmanaged negative perceptions can quickly become a reality in an organisation.

The following comments are reflective of the concerns raised, all from different staff members across the organisation:

A strong and often open directive to control information and to suppress or manage transparency and disclosure of information that might be perceived negatively by some or many stakeholders and the community.

... senior mid-level leaders in the organisation are very protective of their "patch" and as a result there is a lack of transparency and openness. Although the strategic frameworks talks about accountability, trust and inclusiveness, there are only a small number of teams actually following these principles.

Tendency to be protective of Council's image at the expense of openness

Once a LGOIMA is in its fine, but there is some culture to limit the creation of documents that may be open to LGOIMA in the future.

More transparency across the organisation, particularly at the executive level around what information gets sent out.

There are some public examples which may reflect a culture of defensiveness in response to negative stories about the Council. In 2018, media reported on the Council's unwillingness to

publicly release information about the touch wall screen at the new library.⁶ This issue was the subject of an Ombudsman investigation. Also in 2018, media reported on the budget for the delayed Christchurch Town Hall.⁷ The public scrutiny of these issues may have contributed, in part, to a cycle reinforcing the Council's reluctance to release negative or challenging information about its performance.

When I spoke to the previous Chief Executive, I asked her about the Executive Leadership Team's involvement in controlling the flow of information to the public and elected members, and particularly information that might portray it in a negative light. She indicated that she was aware of some of the examples given to my investigators by her staff. The previous Chief Executive explained that the Executive Leadership Team had changed the process around the presentation of some reports, but it had not changed the content of those reports. She acknowledged that some staff were not comfortable with the evolving system around, for example, performance reporting and this was reflective of staff not understanding the role of the Executive Leadership Team rather than staff acting inappropriately.

I consider that the previous Chief Executive's acknowledgement that some staff were not comfortable with the changes to the process, and her awareness of some of the concerns raised by staff, should have signalled an opportunity to take these concerns seriously and address them appropriately and communicate the outcome back to staff. I did not see any evidence that any communication back to staff was occurring at the Council in response to the concerns raised.

It is incumbent on senior leaders to set an example, and to establish a process that leaves no opportunity for a perception of secrecy to develop in either the eyes of the public or staff. If there is a risk that a perception is developing that the agency is not being transparent in its actions, then it is up to the Council's Executive Leadership Team, and especially the Chief Executive, to acknowledge that and take steps to rectify it by promulgating clear messages to staff about their actions and decisions.

Where information may reflect negatively on the Council, it becomes even more important that leaders are open and transparent about that information. Doing so reflects a willingness to build trust and accountability for the Council's actions. Some of the Executive Leadership Team appear to have become defensive in their approach, by becoming 'gatekeepers' of information, reflecting a cycle of reactive messaging. The effect of this has meant that the Council was not able to identify opportunities for proactive, positive engagement that would have helped build trust and a positive culture of openness both within the Council and with the public.

⁶ See <https://www.stuff.co.nz/the-press/news/105253796/council-releases-12m-cost-of-library-touch-wall-as-attorneygeneral-demands-urgent-action-over-secrecy> and <https://www.stuff.co.nz/the-press/news/104396882/christchurch-city-council-gets-slap-on-wrist-over-refusal-to-release-library-touch-wall-cost>

⁷ See <https://www.stuff.co.nz/the-press/news/104219388/council-tried-to-keep-multimilliondollar-christchurch-town-hall-budget-blowout-quiet>

I consider that there was a failure by the previous Chief Executive to take appropriate and adequate action to address staff concerns about some members of the Executive Leadership Team’s actions and behaviour, which staff had said did not reflect LGOIMA’s principle of availability, openness and transparency. I am of the opinion that such failure was unreasonable.

A new Chief Executive was appointed to the role in July 2019. This change in leadership provides a unique opportunity to transform the culture at the Council. It is imperative that behaviours are truly reflective of a culture of openness and transparency. I consider there is an urgent need for the Council to review the purpose and practice of involvement in information flows by the Executive Leadership Team. Once this review is completed, any changes to the process must be clearly communicated to staff, and all involvement of the Executive Leadership Team in the review of information must be transparent.

This review must be combined with consistent, clear messaging and behaviours that communicate a real expectation that the Council is committed to openness and transparency. As an indication of a council’s internal culture of openness and transparency I would expect to see regular, clear statements to staff reflecting a commitment to the principles and purposes of the LGOIMA. I would also expect senior leaders to role model behaviours that show a clear commitment to transparency. Where explicit messaging is supported by action, a culture of openness will follow.

This messaging and associated role modelling of expected behaviours must come from the top.

Recommendation

That the Chief Executive review the practice of the Executive Leadership Team’s involvement in controlling the flow of information to the public and elected members to ensure an approach is adopted that is consistent with the principles and purposes of the LGOIMA, in particular, openness and transparency

Action points

Ensure the outcome of the review of the Executive Leaderships Team’s practices is clearly understood by staff and any recommendations are implemented

Establish a process to ensure that any amendments made to documents/records are transparent, with clear lines of accountability, and a record of the amendment is made

Establish a clear process for staff reporting and raising concerns without fear of reprisal and ensure outcomes are clearly communicated back to staff

Regular consistent positive messaging by the Chief Executive and Senior Leaders about the importance of LGOIMA and openness and transparency more generally in Council wide communications

Senior Leaders to role model behaviours consistent with a commitment to openness and transparency

The Council's response:

The Council advises that it will implement the following actions in response to my recommendation by the end of the third quarter of the 2019/20 financial year:

- The incoming Chief Executive has read my provisional opinion. She has indicated that she intends to address the issues raised, and that *“responding in an open and honest way will be the start of delivering the cultural change in our organisation at all levels.”*
- The incoming Chief Executive will speak about my report at the Annual Leaders' Workshop in November.
- The Acting Chief Executive will develop an Improvement Plan with agreed mitigating actions and milestones for implementation.
- Senior Leadership practices will be reviewed – noting that any recommendations from the review will be added to the plan.

In relation to the third action point - 'establish a clear process for staff reporting and raising concerns without fear of reprisal and ensure outcomes are clearly communicated back to staff' - the Council has advised that it has a Protected Disclosures Act Policy that provides such a mechanism. The Council will develop and implement a plan to ensure staff are aware of the Protected Disclosures Act policy and process. This is to be linked to the development of LGOIMA training and to be included as part of induction training. The Chief Executive will also regularly communicate the existence of this policy and where to find it.

My comments:

I am pleased that the Council is committed to implementing my recommendation and suggestions. At the time of writing, they have already completed some of the actions outlined above. I look forward to following the Council's progress through the next year.

All public sector agencies must have in place procedures for making protected disclosures, and I note the Council's plan to ensure that staff are aware of the policy. Organisational commitment to, and communication of, the policies and procedures can help build a culture of reporting and ethical, accountable conduct.

The Council must be willing to receive and appropriately handle all reports of concern, even those that are not about serious wrongdoing. The Council's policy should explain what to do in the event that the report does not meet the threshold of serious wrongdoing, and the process that will apply in that situation. This is important in order to embed the Council's commitment to foster a culture in which staff feel comfortable raising concerns with senior leaders.

To ensure the Council embeds culture change, the procedures must be supported by the following actions:

- Regular discussion and reinforcement of the Council’s commitments by the Chief Executive and senior management;
- Tailored, regular training, provided in some form to all employees;
- Regular communications reinforcing the policy and procedures;
- When the Council does receive a protected disclosure, as well as lesser reports of concern or just feedback, it must be handled well. Council staff will be watching, and an organisation’s culture will be impacted if those concerns are perceived to be poorly handled.

My office has recently released a guide that provides information and advice for organisations developing and reviewing their internal procedures on protected disclosures, which the Council may wish to consult.⁸ My office is also available to provide advice and guidance on the Protected Disclosures Act 2000 as the Council implements this action point.

The previous Chief Executive’s response:

In her response to my provisional opinion, the previous Chief Executive indicated that, where staff had expressed concerns to her about the actions of the Executive Leadership Team, she had taken these very seriously. She also stated she had no knowledge of some of the issues staff raised with my investigators concerning the behaviours of some members of the Executive Leadership Team.

I acknowledge the previous Chief Executive considered she had dealt effectively with the concerns that were brought to her by staff. Notwithstanding this, during my investigation staff told me that issues of concern continued to occur, and a perception of secrecy existed.

The previous Chief Executive also expressed that it was unfortunate that the behaviours of only a few members of her Executive Leadership Team may have tainted the perception of all. I acknowledge the sincerity of the former Chief Executive’s position and I understand that she may not have intended the situation within the Council to have arisen.

The Chief Executive is ultimately accountable for staff’s perceptions of openness and transparency; the culture within the Executive Leadership Team; and for the culture of the Council more broadly. The effectiveness of any Chief Executive depends on enlightened and conscientious leadership.

⁸ <http://www.ombudsman.parliament.nz/resources-and-publications/guides/protected-disclosures-guides>

Further opportunities for improvement

Delegations and accountability for LGOIMA at a senior level

The Chief Executive has delegated LGOIMA decision-making authority to the following roles:

- the Chief Advisor to the Chief Executive, (this role is currently vacant)
- the Senior Information Advisor
- the Information Advisor (recently added)
- Head of Legal.

As I discuss further under [Organisation structure, staffing and capability](#), the LGOIMA Team (comprising an Information Advisor and Senior Information Advisor) sits within the Office of the Chief Executive. Previously, this team reported to the Chief Advisor to the Chief Executive. However, since that role was vacated in July 2018, the Information Advisors report to another member of the Executive Leadership Team; the Director of the Office of the Chief Executive.

I understand the Director role has been in place since July 2017, and is a 'pilot' role while a review is undertaken of the Offices of both the Chief Executive and the Mayor. The Director does not have delegation to sign out LGOIMA responses.

In my view, it is highly unusual that a member of staff with delegation to make decisions on LGOIMA requests (in this case, the Senior Information Advisor), should report to a more senior member of staff (the Director) who does not hold a delegation. Not only does this situation put those staff with delegation in a difficult position if there is disagreement on a LGOIMA response, I consider that the blurring of the lines of decision-making and accountability puts the Council at risk of non-compliance with the LGOIMA. It also concerns me that, with the role of Chief Advisor to the Chief Executive currently vacant, there is no clear line of internal accountability at the Executive Leadership Team level for the LGOIMA decisions that are made.

I also note that during meetings it was apparent that some General Managers were unsure of whether they had delegation to make LGOIMA decisions. It was also unclear whether the Information Advisor had appropriate delegation. This may be a matter of training for some General Managers on their roles and responsibilities. I mention it here because where an agency has appropriate delegations at a senior level, it signals the importance that the Executive Leadership Team places on LGOIMA practice and proactive release. I discuss training further under [Organisation structure, capability and capacity](#). Since the investigation began, the delegations register has been amended to include the Information Advisor, which is a positive step.

I understand the current structure around the Office of the Chief Executive is under review. I consider the lack of clarity in the current structure in relation to delegations, accountability and decision-making leaves the Council vulnerable to behaviours that enable a culture of mistrust to develop. This undermines openness and transparency, particularly where it is not clear who the decision maker is. I encourage the Council to complete the review and ensure

that delegations are clear, up to date and understood by the Executive Leadership Team and staff.

I also note the Council has stated that, although the Chief Executive has ‘explicit accountability’ for LGOIMA requests, the Council does not currently have a member of the Executive Leadership Team who has been assigned specific strategic responsibility and executive accountability for official information practice. It is not for me to determine where the responsibility for this should lie within the Executive Leadership Team, however I note that this function was previously held by the Chief Advisor to the Chief Executive. This role is vacant, and has been for some time. I consider that at a strategic leadership level it is important that a member of the Executive Leadership Team is charged not only with ensuring compliance with the LGOIMA, but also ensuring that information is, where possible, published proactively and made accessible in accordance with the Council’s clearly communicated expectation of openness and transparency.

It is important that delegations are clear and understood by staff. Decision-making and accountability for LGOIMA practice and proactive release at a senior level must also be clear.

Action points

Complete the review of the structure of the Office of the Chief Executive to ensure the lines of decision-making and accountability are clear between the Director of the Office of the Chief Executive, the Senior Information Advisor, and the Chief Advisor to the Chief Executive

Ensure delegations for decisions on LGOIMA requests are clear, up to date and understood by Senior Leaders and staff

Assign a Senior Manager with specific strategic responsibility and executive accountability for official information practice

The Council’s response:

The Council has completed the review of the Office of the Chief Executive and has clarified the delegations framework to include the role of the Director of the Office of the Chief Executive among those with the delegation to make decisions under the LGOIMA.

My comments:

I am pleased that the Council has clarified the delegations framework to ensure the lines of accountability are clear and completed the review of the structure of the Office of the Chief Executive. This will also address my wider concern about the ambiguity around who had ultimate accountability and responsibility for LGOIMA decisions. The lack of clarity about the organisational structure relating to LGOIMA processing, and the blurred lines of accountability put the Council at risk of non-compliance with the LGOIMA or, at least, the perception that this could occur.

Positive role modelling

As I have discussed above, the new Chief Executive has an opportunity to transform the culture at the Council by role modelling behaviours promoting openness and transparency.

There are a number of practical ways a Senior Leadership Team can model an internal culture of openness and transparency. These include:

- encouraging staff to identify opportunities for improvement in official information practice;
- ensuring all staff are trained to the appropriate level; and
- ensuring staff have compliance with the LGOIMA in their job descriptions.

The Council's LGOIMA Team meets to discuss practice improvements and opportunities for proactively releasing information. The team also discusses Ombudsman guidance when it becomes available.

I appreciate this collegial approach to identifying practice improvements. In addition, there should also be a framework for staff outside the LGOIMA Team to offer suggestions to improve the process. Where Senior Leaders actively encourage staff to identify areas for improvement and provide a system to facilitate improvements, they are more likely to be implemented. There are many different ways a system could be put in place that fits the Council's ways of working. For example, one staff member my investigators met with suggested more information about LGOIMA and the Council's work in this area could be on the Council's intranet. I encourage the Council to explore how this suggestion could be given effect.

As I discuss further under [Organisation structure, staffing and capability](#), there is informal, on the job training on the LGOIMA for staff who require it. I consider there is an opportunity for Senior Leaders to role model a clear expectation that staff receive training on the Council's policies, procedures and obligations under the LGOIMA, to a level appropriate to their role. Senior Leaders could make this expectation visible to staff by attending training themselves, and by clearly championing positive engagement with the purpose and principles of the LGOIMA, openness and transparency.

The Council provided evidence of the roles within the LGOIMA Team with expectations of LGOIMA compliance in their job description. The Council noted that there is no further reference to LGOIMA or to openness and transparency more generally in other staff job descriptions, but that this could be addressed. The standard template for a position description contains the following requirement:

Maintain a strict sense of professional ethics, maintaining confidentiality and privacy and abiding by Council Policy.

I note the Council's willingness to include a reference to LGOIMA compliance and expectations of openness and transparency more generally in staff position descriptions. I encourage the Council to include such a requirement, especially in Senior Manager job descriptions.

Action points

Senior leaders to champion a system for staff to identify and communicate opportunities for improvements to LGOIMA policies and practice, and proactive release

Senior leaders to set clear expectations that staff receive appropriate training on LGOIMA policies and procedures and make this expectation visible by attending training themselves

Include reference to LGOIMA compliance in job descriptions

The Council's response:

The Executive Leadership Team is to set the example for other staff by attending an inaugural session of LGOIMA training for leaders. This is planned for April to June of 2020.

My comments:

It is important that senior leaders' attendance at LGOIMA training is not just a one-off exercise. Effective role modelling should be consistent and sustained. Senior leaders should attend regular refreshers. Regular attendance at targeted training sessions for leaders and decision-makers sends a clear message that senior leaders are committed to the principles and purposes of the Act and of openness and transparency more generally.

I am nevertheless encouraged by the Council's commitment for its leaders to attend the first LGOIMA training for leaders.

Developing a proactive release policy to promote engagement

Although the Council proactively publishes LGOIMA responses online, which is commendable, it does not have a proactive release policy. Strong policy, backed up by practice, is a very effective means of demonstrating to staff and the public that senior leaders are active in their commitment to being transparent and open. To demonstrate leadership commitment it is also important that a senior leader has clear accountability for its development. I discuss further the need for a policy on proactive release under [Internal policies, procedures and resources](#).

I also recognise that the Council is very much focused on identifying the mechanisms for increased engagement, such as the Annual Report, tracking dashboards on the website and reporting back on how decisions are made. A proactive release policy is a mechanism to facilitate this engagement.

As I mention below, the Council has recognised that the Local Government Act 2002 (LGA) and LGOIMA provide the framework within which a local authority supports decision-making and transparency. I would like the Council to consider incorporating a proactive release policy into the external communication strategy as recognition of the importance of proactive release as another mechanism to promote public engagement.

Action point

Consider how a proactive release policy, once developed, can be incorporated into the Council's external communications strategy to further increase engagement and public participation in decision-making

Aspects that are going well

Strategic external messaging

The Council expresses through its external messaging a commitment to the principles and purposes of LGOIMA and to openness more generally. However, as I discuss above, I have serious concerns about the Council's internal messaging and behaviours about openness and transparency which can have the effect of undermining external messaging and influencing practice.

It is encouraging to see that the Council provides some external messaging about its commitment to LGOIMA in corporate documents. The Council's vision states that one of its strategic priorities is to 'Enable active citizenship and connected communities'.

Another example appears on the Council's website about 'how to make a LGOIMA request':

The Council is committed to conducting its day-to-day business openly and making decision-making processes and information available and accessible.

The Council includes in its Long Term Plan, 2018-28 Service Plan for Governance and Decision Making, an excellent description of how the legislative framework governing local government works together and sets the strategic framework in support of LGOIMA.⁹

The LGA, the Local Government Official Information [and Meetings] Act 1987 and the Electoral Act 2002 define the parameters within which Council conducts a broad range of governance and decision making actions...This activity provides the fundamental processes, structure and resources to support the formal component of local governance, ensuring compliance with the statutory requirements and promoting transparency and democratic accountability.

It is also pleasing to see that the Council's expectations for compliance with LGOIMA are set out in the long-term plan for Governance and Decision-making.¹⁰

Based on the staff survey and the meetings my investigators had with staff, there was a general sense that the Chief Executive and the Executive Leadership Team supported LGOIMA obligations. As discussed above, this is not the case in regards to some senior leaders' attitudes to openness and transparency more generally.

⁹ Although I would note that the reference to the Local Government Official Act 1987 should be corrected to read Local Government Official Information and Meetings Act 1987

¹⁰ See <https://ccc.govt.nz/assets/Documents/The-Council/Plans-Strategies-Policies-Bylaws/Plans/Long-Term-Plan/2018-2028/Service-Plans/Long-Term-Plan-2018-28-adopted-Service-Plan-Governance-Decision-Making.pdf>

Staff perception of leadership commitment to LGOIMA obligations

Leadership level	Moderately or strongly pro-LGOIMA	Moderately or strongly anti-LGOIMA	'They are silent on the issue' or 'don't know'
Mayor	52%	6%	42%
Elected members	47%	5%	48%
Chief Executive	74%	5%	21%
Senior Leadership Team	73%	9%	18%
Immediate Manager ¹¹	87%	3%	9%

Public engagement

The Council publishes a wide range of information about its activities on its website. Some of that information is published as a statutory requirement. The Council also publishes LGOIMA responses on its website, which is great to see. The Council publishes this information where it considers the requests to be of wider public interest, or where it relates to a subject that has been widely requested.

The Council's PIP Team (which includes the Council's Media Team) is responsible for ensuring the Council delivers on engagement and consultation that is effective, inclusive and consistent with the Local Government Act 2002. The Council has put increased focus on content that is resident driven, improving not only *what* the Council says but *how* it says it through thinking carefully about the tone of voice, use of plain English, and inclusive language. This approach is embodied in the Council's external communication strategy (still in draft form) which states:

Build trust and confidence

How we communicate needs to change. We need to build stronger relationships embrace different ways of reaching people and use new language and content.

As part of this increased focus, the Council also has what it refers to as a 'bespoke' webpage called 'have your say' which has been up and running for the last 18 months. All consultations are on this platform. The intent of the platform is to make it significantly easier for people to find out information about particular projects the Council is working on and to provide their views.

I commend the Council for placing increased focus on how it is communicating with the public. Empowering staff to be confident communicators and providing as many channels as possible to ensure the public can get in touch with the Council are examples of how an agency includes the public in Council decision-making.

However, I would like to see the Council better understand how proactive release of information can be viewed as another tool to demonstrate its commitment to openness,

¹¹ Percentage does not total 100 due to rounding. Numbers have been rounded to the nearest percent.

transparency and public participation. I discuss this earlier, under [Opportunities for improvement](#).

LGOIMA webpage

A council's website is an integral communication tool. It is an invaluable means of enabling and promoting public participation, openness and accountability and should make it easy for residents to access information the Council holds. In this respect, an agency's website is another signal of its leaders' commitment to the principle and purposes of LGOIMA.

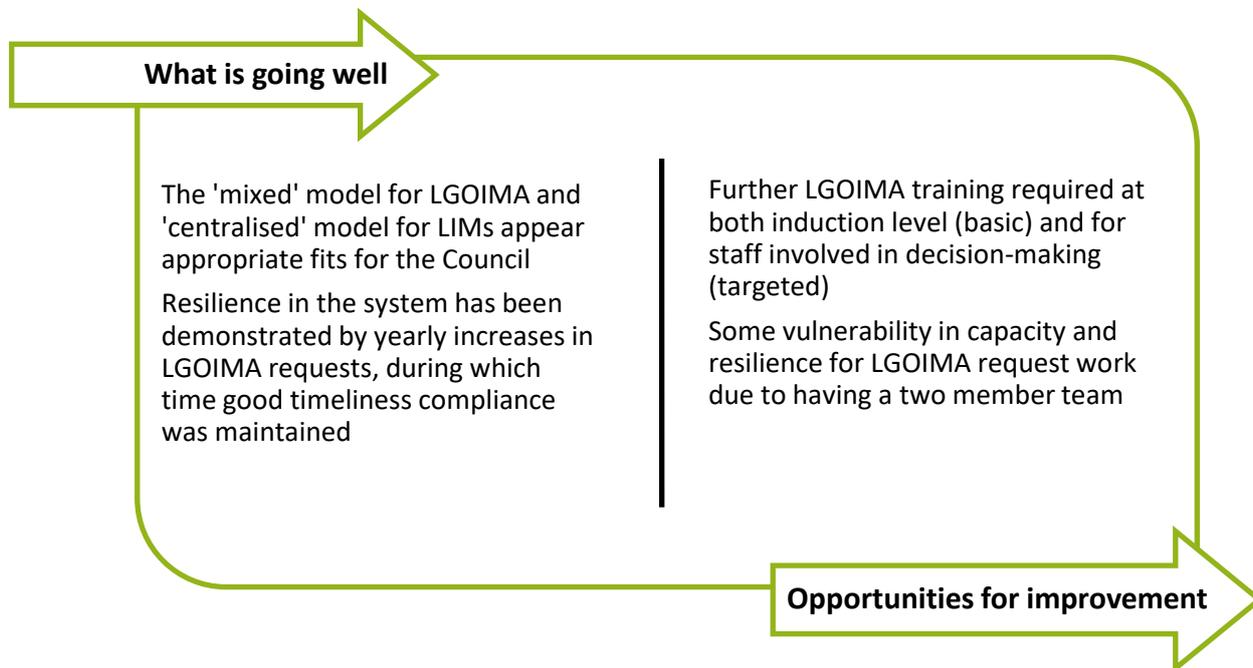
The section of the Council's website containing information about LGOIMA requests is located two 'clicks' from the homepage by selecting 'Council', then 'Request information'. It is pleasing to note that there is a range of helpful information for requesters of official information, including:

- how long it may take for the Council to respond to requests;
- an acknowledgement that requesters can ask for the request to be treated with urgency;
- a brief explanation of the principle of availability, and some of the reasons information may be withheld;
- links to pages on the Council's website that may hold the information being sought, such as –
 - annual reports
 - the Long Term Plan
 - Council agendas and minutes
 - consultation documents
- links to published LGOIMA responses, organised under subject headings;
- a link to the Council's fees policy, although this section notes that there is usually no charge for supplying information; and
- the requester's right to contact the Ombudsman if they are not satisfied with the Council's response.

Requesters are given multiple options for how to submit their request, including filling out an online form, posting a written request, phoning the Council, or presenting in person at a customer service centre. There is also an email address given for the Council's LGOIMA Team.

Organisation structure, staffing, and capability

At a glance



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

To assess the Council's organisational structure, staffing, and capability, 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 had the capability to discharge its LGOIMA obligations.

Aspects that are going well

Mixed model for handling LGOIMA requests

The Council operates a mixed model for responding to LGOIMA requests. This model of processing means that the co-ordination of LGOIMA requests is performance by a LGOIMA team, with some of the processing (such as identifying and collating the requested information) is performed by other business units.

The Council moved to this model for processing LGOIMA requests in 2015. Before this change in 2015, LGOIMA responses were overseen by the Legal Services Unit, and by different Council business units. Moving to a more centralised unit was seen as key in ensuring the Council was better equipped to manage its LGOIMA obligations.

The LGOIMA Team sits within the Office of the Chief Executive and comprises two Information Advisors (one Senior). The roles and responsibilities of the team are clearly defined. The LGOIMA Team is responsible for logging the request, tracking and co-ordinating responses to requests. The team will forward a request to the relevant business unit requesting the relevant information. The relevant subject matter expert will then collate information and provide direction about any information that should be withheld. The proposed response is reviewed by the relevant General Manager before being referred back to the LGOIMA team.

The Legal Team regularly provides advice to confirm the relevant provisions of the LGOIMA are applied correctly. This team is considered an essential part of the LGOIMA process (although not in a 'formalised' way). The PIP Team is also kept apprised of LGOIMA requests of interest. Peer review occurs on an informal basis, if at all. I discuss peer review further under [Current practices](#).

Staff my investigators spoke to noted the collaborative approach to responding to LGOIMAs, facilitated by the Information Advisors working in the Office of the Chief Executive, and by co-locating them near the General Managers. The LGOIMA Team maintains close connections with both the PIP Team and the Customer Service Centre as both teams also respond to requests for information. I discuss requests for information handled by the PIP and Customer Services Team further under [Current practices](#) and [Performance monitoring and learning](#) respectively. The decision on the request is then made by the Chief Executive (or a staff member with delegated authority, discussed earlier under [Leadership and culture](#)) and released by the LGOIMA Team.

The Council tracks all requests via a spreadsheet. It is kept in the Council's document management system, TRIM, for transparency. It is date sensitive and colour coded to alert staff of requests due within the next seven days or requests which are currently due. The Leadership Team receives a spreadsheet of all open requests every week, providing the opportunity for General Managers to query any requests relevant to their business area.

Generally, the LGOIMA structure and central placement of the LGOIMA team in the Office of the Chief Executive works well. However, I note that the placement of this team in the Office of the Chief Executive is also an area of vulnerability due to the perception of some staff that certain members of the Executive Leadership Team control the release of negative information. As I discussed earlier, under [Leadership and culture](#), any potential vulnerability and perception of secrecy could be managed if the Executive Leadership Team role model a strong culture of openness and transparency in its actions and its behaviours.

Staff rely on the LGOIMA team as a 'go to' resource, as well as intranet resources, for advice. When asked whether there were systems or resources in place to support them in responding to LGOIMA requests, 75 percent of staff survey respondents answered 'yes,' and 90 percent of those considered the resources to be effective. Evidence that the LGOIMA team is an effective resource is reflected in the following staff comments:

I know I can seek advice, but also rely on the Official Information office to check and to be the actual releaser of the information.

Staff in core LGOIMA roles provide support and answer questions.

The LGOIMA team is very effective and incredibly willing to assist.

LGOIMA team are always helpful and approachable.

Model for handling LIM requests

The Council operates a fully centralised model for processing LIM applications, through a team of both full time and part time staff. There is a dedicated system for tracking and monitoring LIM applications. New staff members are allocated a LIM 'buddy' who is an experienced staff member through their training. The practice of processing LIM requests is discussed further in [Current practices](#).

Administration of Council meetings

Meetings are administered by staff in the Community Support, Governance and Partnerships Unit. A Council Secretary performs the function of creating the agendas, reviewing the reports for meetings, sending the draft agenda to the Executive Leadership Team and attending internal agenda-setting meetings to review draft reports. When Councillors wish to obtain information, their requests are channelled through the Office of the Chief Executive then referred to the Council Secretary, if appropriate. I discuss elected member requests further under [Current practices](#).

Staff my investigators met with had a good understanding of the Council's administrative processes for meetings generally, relying on InfoCouncil to build the agenda and the Council's standing orders. As I discuss further below, staff who write reports receive comprehensive training on the specifics of report writing, including consideration of public excluded meetings. It was also apparent that staff had a clear understanding about the purpose of workshops and that Councillors understand that workshops are not a decision-making forum. I discuss the record keeping of workshops further under [Current practices](#).

The Council Secretary and Advisors provide advice to report writers on whether or not an item should be discussed in a public excluded session of a Council meeting. It was evident from meeting with Council staff that there is a process in place for making this decision. There are a number of stages where this will be debated, including at the agenda setting meeting attended by the Mayor, Deputy Mayor, the Chief Executive, staff from both the Mayor's office and the Office of the Chief Executive, Legal Team, and the Manager of the Communications Team. I note that a representative from the Legal Team is now also involved in the discussion of public excluded items (as another check on any unnecessary use of public excluded). One staff member noted that over the last couple of years there had been more of a focus on checks and balances on the decision to place an item in public excluded.

I commend the Council for the arrangement it has in place. However, as discussed in [Current practices](#), in order to avoid any ambiguity, the Council should ensure that it maintains records of the discussion and decision-making leading to a decision to hear an item in public excluded.

Training

The LGOIMA is discussed briefly at induction for all new staff. Those involved in writing reports for Council meetings receive training on InfoCouncil and this includes reference to Part 7 of the LGOIMA, public excluded report writing, and the authorisation of reports. Staff in governance advisory roles also receive LGOIMA induction training as it relates to meeting decision-making. One-on-one training is offered, particularly for new staff who are new to processing requests. The Information Advisors are asked to attend team meetings to provide tailored training and this occurs approximately 10 times per year. The advisors also provide training to Council Controlled Organisations (CCOs) on a regular basis.

The training on responding to LGOIMA requests is accompanied by training notes and hand-out material. I have reviewed the hand-out and consider it to be an accurate introduction to the LGOIMA. The material covers the key principles of the LGOIMA, and makes it clear that official information is not limited to documents. The training material states that official information includes information stored on computers, videos, tape recordings and mobile devices. The material discusses the distinction between making, and communicating a decision on a request, and providing the information requested. It also makes it clear that, although a maximum 20 working day time limit applies for making and communicating a decision, the decision must be communicated as soon as reasonably practicable. However, I note that although the withholding grounds are listed, there is little discussion on how the withholding grounds are applied in practice. I discuss how this material could be improved under [Internal policies, procedures and resources](#).

In the staff survey, 61 percent of staff said they had been adequately trained to respond to LGOIMA requests. However, when asked when they had last received any training, 51 percent answered 'never' and of those who had received training, the nature of the training was a 'general overview'. It was clear from comments I received on the staff survey that many staff rely on the LGOIMA Team, but also on their own experience. Some noted that more training would help:

I do feel I know my business so can handle LGOIMA requests

I have not received any training on LGOIMA ...Experience has given me more confidence, but training would definitely help.

Comes with age/experience.

I consider training is an area of vulnerability for the Council and I discuss this further under [Opportunities for improvement](#).

Information management training

Staff training on records and information management is compulsory at induction. Staff are unable to access the Council's EDRMS system, TRIM, until they have completed the training modules. The Records Management Team monitor use of TRIM and use the data to identify training opportunities. Teams can also self-assess their own training needs, and staff we spoke to identified that the self-assessment system has worked well to not only raise awareness of the importance of Information Management, but has also provided them with the opportunity

to target training to particular teams or to focus on particular topics. I discuss Information Management and Record Keeping further under [Internal policies, procedures and resources](#).

Opportunities for improvement

More formalised LGOIMA training

The *Not a Game of Hide and Seek* investigation outlined that an effective training framework should encompass:¹²

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

As I note above in [Aspects that are going well](#), some training is provided by the Information Advisors. However, the training appears to be delivered when requested and is not formalised or delivered regularly to ensure coverage across the Council's business units, particularly to those that may be involved in responding to requests.

One area for improvement is to ensure there is more than a brief discussion of LGOIMA in induction material. I consider it important for all staff to 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 piece of legislation in the operation of local government. LGOIMA induction training would also help highlight the importance of everybody's role in creating and storing documents in a manner that facilitates retrieval.

The Council informed me the most common reason for requests being late is due to waiting for information from other business units. This delay may be due to responding to LGOIMA requests infrequently, and giving a lower priority to LGOIMAs than 'business as usual' tasks. Training is an effective tool to emphasise to all staff in an organisation the importance of responding to LGOIMA requests and the priority it should be given.

As discussed in [Leadership and culture](#), some staff my investigators spoke with were not clear whether they had delegations to sign out LGOIMA responses, which I consider indicates a need for targeted training to senior leaders. Training is of particular importance if they are involved in the decision-making process (even if they may not have a delegation to sign out the request).

While I note that decision makers receive initial training from the Legal Services Unit, it is important that decision makers receive consistent and regular refreshers. I encourage the

¹² *Not a Game of Hide and Seek* (December 2015): 65.

Council to develop and introduce formalised training delivered to all senior leaders on a regular basis. This not only sends a clear message that senior leaders are committed to the principles and purposes of the Act and of openness and transparency more generally, but will also help to ensure that they are able to appropriately apply the LGOIMA provisions (including the public interest test).

While I appreciate that many senior leaders may have experience and good support mechanisms in place, relying on an individual's knowledge and past experience to make the appropriate decision underestimates the benefits of ongoing training and regular refreshers, including any changes in law or new opinions issued by my office. This can leave the Council vulnerable to unintended poor practice and decisions that are passed on to other staff and then embedded into practice. The benefits of requiring regular training for senior leaders involved in decision-making include:

- it would demonstrate leadership from the top, that responding to LGOIMA requests is core business and should be prioritised;
- it would test officials' understanding and knowledge;
- it would promote efficiencies and consistencies in decision-making; and
- it would demonstrate commitment to support and grow the professional development of staff.

I also note that those processing LGOIMA requests are not provided with specialised 'in depth' training. The Information Advisor receives on the job training, however, there does not appear to be formalised 'advanced' training for such staff.

As I discuss further under [Current practices](#), it is important that the PIP Team and Customer Services Teams receive targeted training to ensure they are aware of their obligations under the LGOIMA when responding to information requests from the media and from the public.

As the Council is aware, staff from my office are available to deliver LGOIMA training, and to assist in the development and/or delivery of a training programme, including the type of training required for different roles (for example, targeted training for the PIP Team and specialist training).

Action points

Develop a LGOIMA training programme tailored to the needs of all staff, including for staff at induction, the PIP Team and Customer Services Teams

Develop and implement more detailed, regular training for delegated decision makers, including senior leaders and for staff in the LGOIMA Team

Capacity of LGOIMA Team

The Council has experienced a steady increase in the number of requests received over the past few years. The Council advised me that in the 2018 calendar year they responded to 678 requests, compared with 547 in 2017, and 507 in 2016. It is clear that the LGOIMA Team have

been able to cope with the demand and these increases have been managed within current staffing levels. Locating the LGOIMA Team in the Office of the Chief Executive also grants the ability to draw on other staff in the office to provide support if there are any spikes in demand.

The Council informed me the current structure has capacity for growth, and there is evidence that the capacity of the team is monitored by the Senior Information Advisor and senior leaders within the Office of the Chief Executive.

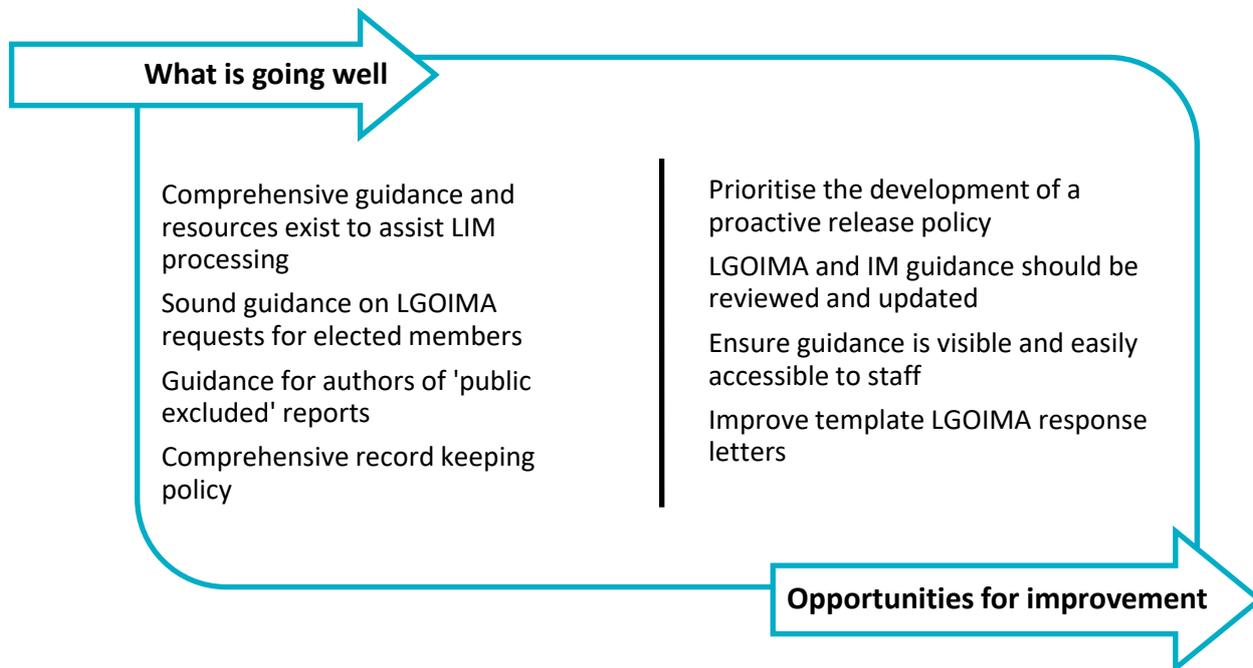
However, for a large council such as Christchurch City Council, I encourage it to be mindful of relying on two staff members to perform the role of logging, tracking, co-ordinating responses and providing advice to staff. This may be problematic if one or both of those staff members are unexpectedly absent. Although I note that there is the ability to draw on other staff in the Office of the Chief Executive, the Council should ensure these staff members are familiar with the tracking system and are trained in the principles and purposes of the LGOIMA.

Action point

Ensure appropriate staff have access to, and understand how to use, the LGOIMA tracking spreadsheet to ensure back up is available if necessary

Internal policies, procedures and resources

At a glance



While it is not a legislative requirement, nor an assurance that compliance with LGOIMA will occur, I do expect as a matter of good practice that councils 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 Act's principles, purposes and statutory requirements. This includes policies, procedures and resources in relation to:

- dealing with official information, the administration of Council meetings, and producing LIM reports;
- records and information management; and
- proactive release of information.

Aspects that are going well

LIM guidance and resources

The Council has produced a guidance document to assist staff processing LIM requests, which, like other requests for official information, are governed by the LGOIMA. There is a

supplementary document produced by the Council's Legal Team that gives guidelines on discretionary information that may be included in LIMs. The guidance is thorough, and it is written in a clear, 'plain English' style.

In addition to the guidance documents, the LIM Team use a LIM report template and a checklist to guide the process. Sixty-five percent of staff who responded to our survey for LIM processing staff said the guidance and resources available to them were 'useful' or 'very useful'.

Elected members induction guide

The Council has produced an induction document for elected members to guide them on their role and responsibilities, and where these 'fit' in relation to the roles of the full Council, the Mayor, and the Chief Executive and officials of the Council.

In relation to requests for information, this document provides a good overview of the process for requesting information from the Council, and elected members' responsibilities when requests for information are made of them. The guidance makes it clear that information held by elected members which relates to Council business, is defined as 'official information' under the LGOIMA and is therefore able to be requested. It also highlights that official information can be in the form of handwritten notes, emails (even from personal email addresses if the information relates to Council business), and memories of conversations.

Finally, the guidance makes it clear that decisions on information requests are made by the Chief Executive of the Council, and it refers to the Ombudsman website for more information on LGOIMA requests.

The guidance could be improved by including information about the purpose of workshops – I discuss this in [Current practices](#).

Records management policy

The Council has a comprehensive policy outlining its record keeping obligations, and a retention and disposal schedule for records. The policy highlights the requirements of the Public Records Act 2000 (PRA), and details the obligations of staff at different levels in relation to record keeping.

The Council's General Manager of Corporate Services is the executive sponsor of the PRA. It is encouraging that the Council has a senior leader in this role as it is important for leaders to champion sound record keeping policy, which I discuss below under [Opportunities for improvement](#).

In addition to the record keeping policy, there is a section on the intranet titled 'Records and document management' which gives an overview of the policy and provides links to relevant legislation and other material in TRIM and on the intranet (such as the Council's document naming conventions and approved acronyms).

Of course, practice should align with policy, and the existence of policies and guidance does not necessarily ensure that staff are aware of, and adhere to them. I will discuss this further below, under [Opportunities for improvement](#).

Guidance document for authors of reports

Typically, Council meetings are held in public. The public can be excluded from a meeting or part of a meeting when there is reason under section 6 or 7 of the LGOIMA that makes it necessary for the information to be heard and deliberated on by elected members in private. I am pleased to note the Council has produced a guidance document for staff authoring reports to be considered in meetings, or parts of meetings, from which the public are excluded.

This document gives primacy to a *‘principle of openness and transparency’*, and includes the guidance that *‘if the public interest in an item outweighs the reasons for withholding a report, then then report should not be considered as confidential.’* It includes advice for authors of reports on how to appropriately title a confidential report, noting even confidential reports will be listed by title in publicly available agendas, and that *‘the public have a right to know what will be discussed at a meeting.’*

I note that there is a section in the guidance titled *‘Releasing the report from PX’* which states that public excluded items require a restatement clause specifying if and when the decision and/or report needs to be restated in open minutes (i.e. made public). There is a provision in InfoCouncil for either a release date or release event to be entered in association with each report, which will trigger consideration of restatement.

The policy regarding the restatement of information heard in a public excluded meeting is excellent, however the Council’s practice may not align with its policy in this respect. I will discuss this further under [Current practices](#).

Opportunities for improvement

Use of Information Management system

A number of staff who responded to our survey raised concerns about the inconsistent use of TRIM, the Council’s information management system. Indeed, the Council itself has identified this as a concern in its Records Management Policy, which states:

Council records are not consistently saved in the Council’s records management system (TRIM)...Information is often stored on individual PCs, flash drives, email inboxes, etc., which makes it inaccessible to others and in turn poses a risk to the Council.

I understand that some staff use the older shared drive system rather than TRIM in some cases, for example when a file is too large to upload to TRIM, or when they are unable to create an appropriate folder within TRIM. Staff also noted that TRIM could be cumbersome when it came to searching for information. This may drive some staff to store information in formats they find easier to access, but which may be inaccessible to others.

Having multiple information management 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 information is stored in a system other than TRIM, there is a risk that not all information within the scope of a LGOIMA request will be found and considered for release to the requester.

While the Council has a comprehensive record management policy, it does not seem that practice consistently aligns with policy. The Council should be reminded that having policies does not necessarily guarantee they will be adhered to, and leaders need to consistently champion the importance of adhering to record keeping obligations, as well as providing staff the resources to do so. This could include:

- having adequate assistance available from subject matter experts in the Document Management Team and/or information management ‘champions’ in business units;
- sufficient information management training, including induction training and ongoing refresher courses; and
- visible, easy to access guidance material.

In relation to the ease of access to guidance material, it can be confusing to staff when different pieces of guidance are stored on different platforms. As I discuss below, in relation to LGOIMA guidance, the Council should ensure that the guidance it produces for staff is consistent across the different platforms it uses (i.e. TRIM and the intranet).

I am aware the Council completed a Public Records Act maturity assessment in late 2018. Based on self-assessment, the Council attained a reasonably high maturity level, but it did identify that some work could be done to raise awareness among staff about the existing policies and records management obligations. I strongly encourage the Council to prioritise this work.

Action points

Consider undertaking a review of IM policies and guidance to ensure they are fit for purpose

Ensure IM guidance is regularly reviewed and updated

Ensure IM guidance and policy is visible and easily accessible for staff and, if guidance is stored in more than one IM system, ensure guidance is consistent across all platforms

Leaders to champion sound record keeping practice

Development of a proactive release policy

The Council proactively releases a range of information. Much of this information must be released as a statutory requirement, such as the Long Term Plan, minutes of Council meetings, annual reports, and consultation documents. In some areas, the Council goes beyond the legal requirements. For example, it publishes responses to LGOIMA requests, which I consider a laudable practice.

However, the Council lacks a clear policy to support its practice and, crucially, to promote accountability and consistency in the release of information. As I discussed earlier, under [Leadership and culture](#), I share the concern raised by Council staff about the flow of information where its release is tightly controlled by members of the Executive Leadership Team. There appears to be a risk-averse approach to releasing information that portrays the Council's performance negatively. If the Council establishes and abides by some guiding principles about the consistent release of information, and where accountability rests for its release, it may go some way toward allaying these concerns.

A 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 can 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 are received about a subject, or there is otherwise high public 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

Review and update LGOIMA guidance

There are several documents and pieces of guidance available to staff that, together, give an overview of the Council's LGOIMA process, and of the legislation. Among these are:

- A LGOIMA process flowchart, which maps the involvement of relevant staff/teams at each stage in the Council's LGOIMA process.
- A LGOIMA 'key date guide' which indicates when each stage of the Council's LGOIMA process should be complete based on the difficulty and 'risk' of the response.
- A document titled 'LGOIMA process' which provides an overview of the Council's LGOIMA process and some key aspects of the legislation, such as transferring requests and reasons for extensions. This appears to be tailored to staff in operational business units (distinct from staff in the LGOIMA Team).
- A document titled 'A summary of key provisions in the LGOIMA, relating to requests for official information'. This document outlines the principle of availability and some key legislative timeframes such as that for making and communicating a decision, and transferring and extending requests; and it lists conclusive, good and administrative reasons to withhold or refuse information.
- A page on the intranet titled 'Local Government Official Information and Meetings Act (LGOIMA)'. This appears targeted to staff in the Contact Centre and includes information about how to determine whether the request should be processed by the LGOIMA Team; guidance on frequently asked questions; who can make a LGOIMA request; and the fact that the requester need not cite the LGOIMA in order for it to be considered a LGOIMA request.

In my view, these documents do not contain sufficient information to be considered a comprehensive guide for staff on how to interpret and apply the LGOIMA as it relates to requests for information. The existing guidance lacks key information for staff, such as:

- when the agency has an obligation under the LGOIMA to consult with requesters;
- considering requests for urgency;
- the fact that the LGOIMA applies to all requests for official information whether it is processed within the 'formal' process or not;
- providing information in an alternative form; and
- how to scope the request.

There was a mixed response from staff about how easy it is to access LGOIMA guidance and resources. Although 56 percent of staff who responded to our survey said they found it 'very easy' or 'moderately easy' to find LGOIMA resources, there were also a number of comments from staff who said they didn't know if guidance existed. Others noted that they believed guidance might be available on the intranet but information was sometimes outdated and/or

difficult to find. Some staff noted that when there was some guidance stored in TRIM, and some on the intranet, it was difficult to be sure which was the ‘source of truth’.

There are also some aspects of the guidance that are not entirely accurate, such as this excerpt from the ‘LGOIMA Assistance’ on the Council’s intranet:

By law, we are required to respond formally and acknowledge receipt of LGOIMA request, as this triggers the start of the 20-day turnaround time allowed for our response.

While it is best practice to acknowledge receipt of a LGOIMA request, it is not a legal obligation. More importantly though, it is not this action that triggers the time-limit for making and communicating a decision on a request; it is triggered by receipt of the request. It should also be noted that 20 days is the maximum time limit; the actual legal obligation is to make and communicate a decision as soon as reasonably practicable. I encourage the Council to update this aspect of its guidance so it aligns with section 13 of the LGOIMA.

I urge the Council to review the guidance available for staff, and make amendments as per my suggestions above. The Council may also consider whether it would be helpful to consolidate some of the separate pieces of guidance, if appropriate, in order to make it easier for staff to find and use them.

Guidance and policy documents should then be reviewed and updated on a regular basis. This will allow the Council to update 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](#))).

Action points

Review and update LGOIMA guidance incorporating my suggestions

Ensure LGOIMA guidance is regularly reviewed and updated

Template letters and emails

The Council has a suite of template LGOIMA response letters tailored to different scenarios, which aid staff in compiling responses in a timely fashion. In addition, it has template emails for internal use, in order to help expedite the process of coordinating LGOIMA responses internally.

During the investigation, the Council amended some of these templates in order to incorporate a more ‘friendly’ tone, and remove unnecessary technical language. I applaud these efforts, though I note some other improvements can still be made.

As with a number of agencies I have investigated, the Council's template LGOIMA response letters contain some wording relating to consideration of the public interest, where this is applicable.¹³ The Council's template response letter where information is withheld, states:

In the Council's view the reasons for withholding this information are not outweighed by public interest considerations in section 7(1) favouring their release.

It is encouraging 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 staffs' 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/or public participation) are detailed for both the information of requesters, and as a prompt for staff to ensure due consideration has been given to public interest factors.

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

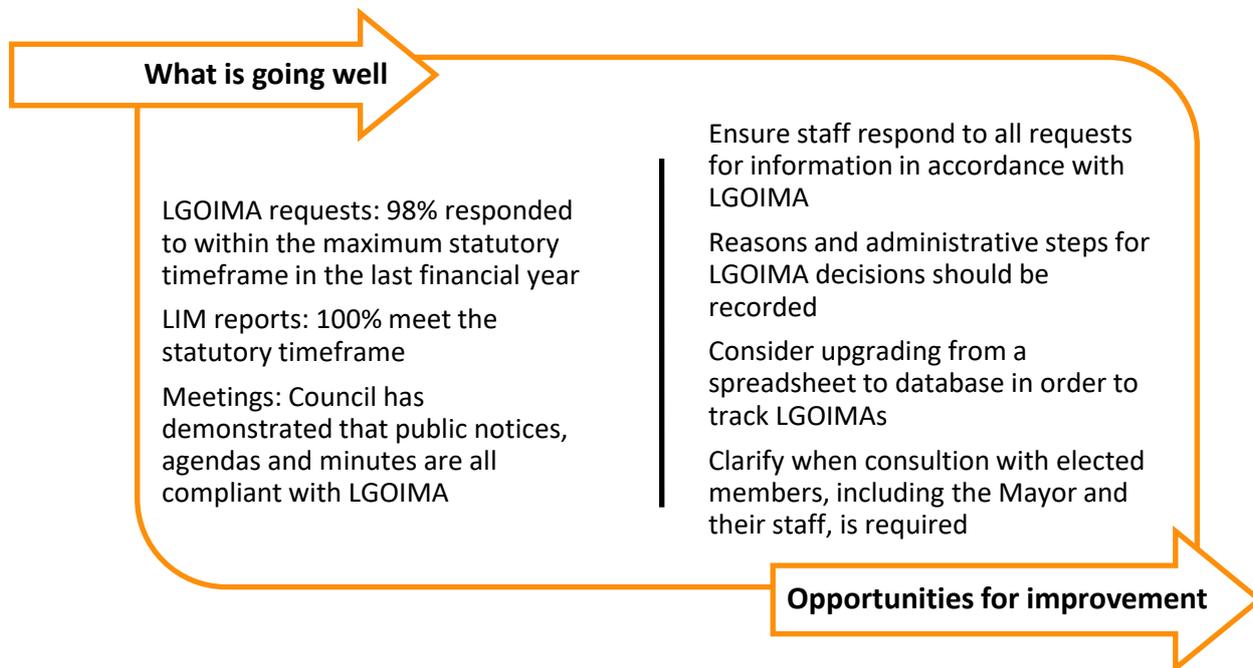
Action point

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

¹³ Agencies subject to the LGOIMA are required to consider, when the grounds in s7(2) are thought to apply, whether the reasons for withholding the information are outweighed by other factors in the public interest which render it desirable to release the information.

Current practices

At a glance



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

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

- the Council's practices demonstrate understanding and commitment to the principles and requirements of LGOIMA;
- Council staff have a good technical knowledge of LGOIMA; and
- the Council is coping with the volume and complexity of its LGOIMA work and is compliant with the Act.

Aspects that are going well

Official Information practices

For the period 1 July 2017 to 30 June 2018, the Council completed 600 LGOIMA requests. The average time to respond to a request was 14.8 working days. Five hundred and eighty seven of these requests had decisions made and communicated within the maximum statutory (20 working day) timeframe. In 13 instances, a decision was not made and communicated within this timeframe. Therefore, the Council has a rate of 98 percent timeliness in responding to LGOIMA requests. This is a commendable achievement.

To gain an understanding of the Council's processing of requests, my investigators reviewed a random selection of recent LGOIMA request files. Overall, the LGOIMA responses reviewed within this investigation were comprehensive. Of the files reviewed, I was pleased to note the following:

- The Council made appropriate use of legislative mechanisms for dealing with large and complex requests.
- Consultation and reasonable assistance was provided to requesters.
- Managers were copied on emails at the start of a request, which is useful if any issues arise and need to be escalated further into the process.
- Consideration was given to releasing information in accessible formats.
- Decision letters were tailored to the request, were written in plain English and had a helpful approach.
- There was generally a good approach to releasing as much information as possible.

Council staff are aware that information requests are to be forwarded to the LGOIMA Team if they cannot be answered straight away. The LGOIMA team works closely with both the Legal Team and the PIP Team. These three teams have weekly meetings together to discuss topics of interest.

There were also some practices identified that need improvement, which I discuss further below.

LIMs

The Council processed 11,031 LIM reports from 1 July 2017 to 30 June 2018. All of the LIM applications were processed inside the 10 working day timeframe. One meeting attendee said the majority of LIM applications are processed in six working days or less. Of those processed after six days, most are due to a delay in receiving payment from the applicant.

Responses from the staff survey suggest that, on the whole, the Council has adequate systems in place to support staff members processing LIM applications. Although 50 percent of those who responded to the staff survey said they did not receive training in relation to LIM applications, 75 percent said there are systems in place to support them if they have questions. Ninety five percent of survey respondents said the support systems are effective.

A number of staff survey respondents said the system works because of a supportive team leader and team members. One survey respondent said:

Team leader excellent – Document Management very approachable and will make every effort to ensure file is scanned or hard copy delivered immediately if required.

The effective system and supportive team is reflected in the fact that 100 percent of LIM applications are processed within the 10 day timeframe. I commend the Council on reaching and maintaining its timeliness standards given the volume of LIM requests received.

Timeliness standards are not the only targets to be taken into consideration. The Council also ensures quality targets are met through its audit process. A QA process is completed on two randomly selected LIM applications for each staff member per month. The results are recorded on a QA check form and an audit spreadsheet.

Although not handled within the 'formal' LGOIMA process, the Council does make it clear to requesters that the information is available under the LGOIMA:

Document information

This Land Information Memorandum (LIM) has been prepared for the purpose of section 44A of the Local Government Official Information and Meetings Act 1987 (LGOIMA). It is a summary of the information that we hold on the property. Each heading or "clause" in this LIM corresponds to a part of section 44A. Sections 1 to 11 contain all of the information known to the Christchurch City Council that must be included under section 44A(2) LGOIMA. Any other information concerning the land as the Council considers, at its discretion, to be relevant is included at section 11 of this LIM (section 44A(3) LGOIMA).

The Council also states further information may be available by requesting the property file.

It is encouraging to see the Council informing requesters that the information is available under LGOIMA, and advising them how they can request the property file if required.

Meeting Practices

LGOIMA meeting notification requirements have specific timeframes.¹⁴ Based on my review, I am satisfied that the Council is compliant with the statutory requirements for public notifications of meetings, publication of agendas and issuing minutes. The public is notified of meetings on the Council's website and in the newspaper the month prior to the meeting occurring. Agendas are published on a Monday before the Thursday meeting. However, one meeting attendee said staff prefer to release the agenda on the Friday before the meeting. This ensures agendas are published well in advance of the required two working days before the meeting.

Meeting minutes are taken, which are published on the Council's website after the meeting has occurred. The Council meetings are also livestreamed, so an accurate record of the public portion of the meeting is immediately available.

Section 48 of the LGOIMA states that a local authority may exclude the public from meetings on certain grounds. The Council has stated that there is ongoing messaging and direction from leadership regarding matters considered in public excluded sessions. The Council has introduced the practice of including on its meeting agenda a '*plain English reason*' why the public is excluded, and '*when reports can be released*'.

Meeting attendees stated that the public is only excluded if there is a good reason and it is justifiable. As outlined in [Organisation structure, staffing and capability](#), there are several stages where the public excluded option is scrutinised – by the report writer, sign off by the

¹⁴ See s 46 LGOIMA

General Manager and the legal team's views are also sought. However, one staff survey respondent expressed a view that there is a tendency for senior leaders and Councillors to '*put meeting agenda items that are likely to provoke public controversy into public excluded*'. This perception highlights the importance of having clear processes to decide the content to be discussed in the public excluded portion of the meeting. Further, keeping accurate records of the decision-making process would provide protection against the perception of improper practice.

I acknowledge the Council's efforts in relation to information heard in the 'public excluded' portion of meetings. In particular, subsequently releasing reports heard in the public excluded session goes some way to ensuring adherence to the principle of openness and transparency.

However, unless there is a formal process for releasing Council reports from public excluded meetings and a process of reviewing the release, it may be difficult to ensure the practice actually happens. I urge the Council to ensure the regular review of past reports heard in public excluded, and to ensure there is a clear record of the released reports in either the meeting minutes or the agenda.

Record Keeping

The Council recently completed a 12 month Public Records Act assessment, and is now working to improve its record keeping. A key shift in focus has been to encourage everyone at the Council to take responsibility for information management and record keeping. Support for this should be shown at a senior leadership level. I applaud the Council for independently undertaking this assessment to better its practices.

Opportunities for improvement

Application of LGOIMA to all information requests

Not all requests for information received by the Council are logged in the spreadsheet of LGOIMA requests. The Council's PIP Team responds to straightforward media requests and enquiries. Staff across the Council (including the Customer Services Team) respond to straightforward 'Business as Usual' requests, where a response can quickly be provided to the requester.

Twenty to 30 media requests are received per day and logged in Wrike, '*an online project management software*'. This system tracks the volume of enquiries and the themes. While my investigators were told LGOIMA provisions are consistently applied to media enquiries (although a 24 hour timeframe for response is adhered to), it was noted by one staff member in a meeting that media requests do not always reference the relevant LGOIMA refusal ground.

While I understand the need for a mechanism to swiftly process requests, the Council must be mindful—as must all agencies—that all requests for information are governed by the LGOIMA.

All staff, including those in the PIP Team, the Customer Services Team and those staff who respond to property file requests, need to be aware that where information is refused the

decision must be communicated in accordance with section 18 of the LGOIMA, which requires the Council to:

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

In relation to the above, after the investigation commenced, the Council notified my office of several processes and practices that had been reviewed for improvement. One such improvement was that any decisions made on media requests under the LGOIMA will be done so by a delegated staff member, and standard LGOIMA wording will be incorporated in the response (such as including Ombudsman contact details for making a complaint).

Although this is a positive first step, it is also crucial that the entire PIP Team, as well as staff across the Council, are trained on handling information requests in accordance with the LGOIMA. This should include:

- Providing specific guidelines and training on their obligations under the LGOIMA;
- Consideration of appropriate consultation or referral processes to LGOIMA specialists when information requests become complex and the teams are unable to meet them fully, in the requester's preferred format, and within their preferred timeframe.

As mentioned in [Organisation structure, staffing, and capability](#), I do not consider it is sufficient to rely solely on guidance from more senior staff to ensure the teams are consistently compliant with the LGOIMA. While senior staff may have experience in local government, without the benefit of ongoing training and regular refreshers, the Council is susceptible to inadvertently passing on poor practices to other staff, who then assimilate the poor practices into daily routine.

I note that the tracking of media requests handled by the PIP Team provides an opportunity to collect data that reflects a truer picture of the Council's performance, and could also inform the Council's proactive release practice. This is discussed further in [Performance monitoring and learning](#).

Action points

Ensure that all public and media information requests, as well as property file requests, are handled in accordance with the provisions of the LGOIMA

Provide regular training to all Council teams that handle requests for information in any capacity

Documenting decision-making

It is important for agencies to keep records of the process of decision-making on LGOIMA requests. Doing so:

- will enable the agency to provide grounds in support of its reasons for refusing a LGOIMA request, if they are sought by the requester;
- 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 Council makes decisions on LGOIMA requests, thereby developing a consistent approach.

It is not for me to determine the best system for the Council to adequately record key decision-making elements. However, due to the volume of requests being received by the Council and the vulnerability of excel spreadsheets when for example, storing a lot of data, I suggest moving away from using a spreadsheet to input and track LGOIMA requests. I would encourage the Council to consider alternative options.

The Council has informed me that it is already actively looking at alternatives to the LGOIMA spreadsheet, but have yet to settle on an option.

In relation to how LGOIMA requests are currently documented, my investigators received conflicting information. Some staff said decision-making is only documented via email, while others said all Council decisions are documented in both TRIM and the LGOIMA spreadsheet, with all email correspondence saved into Outlook Archive folders.

The Council's LGOIMA spreadsheet does not have a specific field for documenting the decision-making process on a request. I understand there is a column in the spreadsheet used to capture '*Outcome/Response/Status/Notes*', however, documenting the decision making process in this column could become convoluted for complicated requests.

In my view, the key elements that ought to be documented for decisions on LGOIMA requests are:

- The reasons for withholding information in this particular instance – how and why the relevant withholding ground applies;
- If a withholding is being considered under section 7(2) of the LGOIMA, how the public interest test in section 7(1) was considered;
- If a possibly controversial decision to release information is being made – the reasons for that decision (for example how privacy or commercial sensitivity grounds were considered, or whether the decision to release was due to the public interest);
- If the requested information involves a third party, the consultation that took place with that third party and how the third party's views were considered;
- Where appropriate, the administrative steps in relation to processing a LGOIMA request. Documenting the steps taken to search for documents, and the number and type of documents located, can assist staff handling similar requests in future (particularly if the request is for a broad range of information). In addition, documenting 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 into refusals for administrative reasons, as well as decisions to charge for the supply of information.

During the review of the selected LGOIMA files, my investigators found that acknowledgement of LGOIMA requests were not being sent consistently to requesters. Of those sent, only a few included the date the request was received. This conflicts with the information provided in meetings with LGOIMA staff, who stated acknowledgements are sent to requesters as soon as reasonably practicable every time.

As it was not clear from the files that this was always occurring, there appears to be some irregularity in record keeping. I also propose the Council reword their acknowledgement template in line with best practice advice offered by my office.¹⁵

Similar to the above, it was unclear whether there is always a peer review process in place for LGOIMA responses before they are sent to requesters. In reviewing LGOIMA files, my investigators found that the practice of peer review was inconsistent. However, in meetings with LGOIMA staff, my investigators were assured that a draft copy of the LGOIMA response is circulated to relevant internal parties before being sent to the requester.

Based on this, in order to ensure quality responses, I would encourage the Council to introduce a formalised peer review process. This could be as simple as a checklist to document elements including:

- who made a decision on the request;
- discussion on the decision; and
- that all aspects of a request have been responded to.

I consider it an important part of council management to maintain checks and balances to create a culture of openness and transparency around the LGOIMA decision-making process, especially when any last-minute changes are made.

Action points

Consider an alternative (non-spreadsheet) system to track LGOIMA requests and decisions

Record the reasoning behind LGOIMA decisions, including any consideration of the public interest and the results of any consultations with third parties

Record the administrative steps taken in respect of LGOIMA responses where relevant

Establish a formalised peer review process

¹⁵ See <http://www.ombudsman.parliament.nz/resources-and-publications/templates-and-work-sheets/template-letters>

Workshops

It is common for councils to conduct workshops or briefing sessions in relation to complex or technical issues on which elected members will later be required to make decisions. Because these are not forums for decision making, such sessions are not required to be held in accordance with LGOIMA meeting provisions.

One staff survey respondent said that the Council conducts informal briefing sessions where information is shared between staff and Councillors, and these discussions are not recorded. A potential issue with this is that discussion in briefings may come at the expense of debate in the chamber at a publicly notified meeting, which would have the effect of decreasing public transparency.

Another meeting attendee said he was confident that everyone was clear that workshops are not for decision-making and are just for discussion. However, I am concerned that records of these discussions are not kept.

It is a matter of good practice to have clarity and consistency around record-keeping for workshops. I am also mindful of the PRA obligations to create and maintain full and accurate records.¹⁶ It seems to me that it would be helpful to have a standard approach to the type of record kept for workshops, and that the record should at least summarise what the workshop was about, and who attended. This record would then be open to be requested under the LGOIMA.

I urge the Council to review its processes to ensure that it is being as open and transparent as possible. For instance, it may consider keeping a full record of discussions that take place in workshops and briefings. The Council could then consider including the notes in its Council or committee agenda.

Having a policy to reinforce the purpose of workshops and briefings as information sharing forums, rather than decision-making forums, is also advisable.

Action point

Ensure records are kept of workshops and briefings

¹⁶ See s 17(1) PRA

The Council's response:

The Council has responded that it will identify those workshops and briefings that require formal records and that the Council secretariat will take minutes at any workshops and briefings where it has been identified that formal records should be kept.

My comment:

As noted in my opinion, a record of all workshops should be kept by the Council, not just a certain subset of workshops and briefings identified by the Council as requiring formal records. At a minimum, the record should capture what the workshop was about; who attended; and key actions, activities and matters considered.

The Council should be mindful of the perception about openness that could form amongst the public and staff if certain workshops are selected to have records kept, and certain workshops are excluded from the practice.

Elected member requests

Elected members direct their information requests to the Office of the Chief Executive. The enquiry is co-ordinated from there and directed to the appropriate part of the organisation for response. One staff member said that elected members are happy with a '*single point of entry*' and the volume of requests has increased since the process changed.

I acknowledge that Councils usually supply decision-making information to Councillors under the common law, 'need-to-know' principle. Where an elected member requests further information, a Council can consider whether this information should be supplied on the same basis, or whether it is more appropriate to treat it as a LGOIMA request. The important point is that when an elected member requests information, that request is subject to LGOIMA, regardless of whether it is processed through the 'formal' LGOIMA process, as it would be if anyone else requested the information.

I am not confident that the Council has provided enough training and support for those staff members responsible for managing requests from elected members and how the LGOIMA applies to those requests. The Council might like to consider providing training to those who are processing elected member requests to ensure consistency of practice.

It appears that information sought by elected members is generally provided to them, and where information is fully released there is unlikely to be any issue. However, where information is fully or partially refused, alternative information is provided, or some form of restriction of access is imposed, the LGOIMA applies and must be complied with in all respects.

In responding to elected members' request, the Council should ensure that the reasons for refusal and a reference to seeking a review by the Ombudsman is always provided. The Council should disclose the most information possible to the requester, by using whichever approach best facilitates this (LGOIMA or the need-to-know principle).

Action points

Provide training to staff who are processing elected member requests to ensure consistency of practice

Ensure that requests from elected members are handled in accordance with LGOIMA

Elected member involvement on LGOIMA requests

LGOIMA decisions must be made by the Chief Executive or any ‘*officer or employee*’ authorised by the Chief Executive.¹⁷ Elected members (Mayors or Councillors) are not ‘*officers or employees*’, and are therefore not permitted to make decisions on LGOIMA requests. The Council must ensure that elected members are not involved, or seen to be involved, in the decision-making process on LGOIMA requests. This is to ensure there is no political interference, or even the perception of such, in the decision made by the Chief Executive.

LGOIMA requests are discussed at a weekly meeting involving the Director of the Office of the Chief Executive, advisors in the Office of the Chief Executive, the PIP Team and an advisor from the Mayor’s office. The role of the advisor from the Mayor’s office in this meeting is not clearly defined. This lack of clarity leaves the Council vulnerable to a perception of political interference in the decision making process. Accordingly, I do not consider it appropriate that an advisor from the Mayor’s office is involved in the weekly meeting, particularly if decisions on requests are discussed in that meeting.

The Mayor’s office also receives advance notice of LGOIMAs of interest, and the office is sent all LGOIMAs for review ahead of release. In addition to the potential for political interference, or the perception of such, this practice may put the Council at risk of failing to meet its obligations under LGOIMA to make and communicate a decision on a request ‘*as soon as reasonably practicable*’ and, once the decision is made, to release information ‘*without undue delay*’.

Although it is not appropriate for elected members to be involved in the process of decision making on LGOIMA request, there are times when it may be appropriate for the Council to consult or notify members on LGOIMA requests.¹⁸ I encourage the Council to develop a protocol that is in compliance with the LGOIMA, to clarify when and in what circumstances decision makers will consult with elected members, including the Mayor and their staff. For example, I encourage the Council to distinguish between:

- consultation – this means the Council can seek input before a decision is made; and
- notification – this means the Council is letting the elected members know about the decision on a request.

¹⁷ See s 13(5) LGOIMA

¹⁸ See s 13(6) LGOIMA

When the discretion to consult is exercised, it would be prudent to include guidance on time limits, in order for the Council to meet its requirement to make and communicate the decision on a request within the maximum 20 working days.

Consultation may be necessary where:

- the information is about the elected member;
- the information was supplied by the elected member; and/or
- release could adversely affect the elected member.

Notification may occur at the same time or shortly before the decision is sent to the requester. This approach ensures the Council is meeting its obligation to make and communicate a decision on a request *'as soon as reasonably practicable'*¹⁹ and, once a decision is made, to release information without *'undue delay.'*

It is unclear whether the Council keeps a record of elected member consultations on a request, or if a decision was notified to an elected member. I consider this lack of record keeping to be a vulnerability that could leave the Council open to criticism. If a response was queried, there would be no record explaining whether or not consultation had taken place and what the content and outcome was of that consultation. If a clear policy exists, the risk of real or perceived improper involvement by elected members in the Council's decision-making process is minimised.

Action points

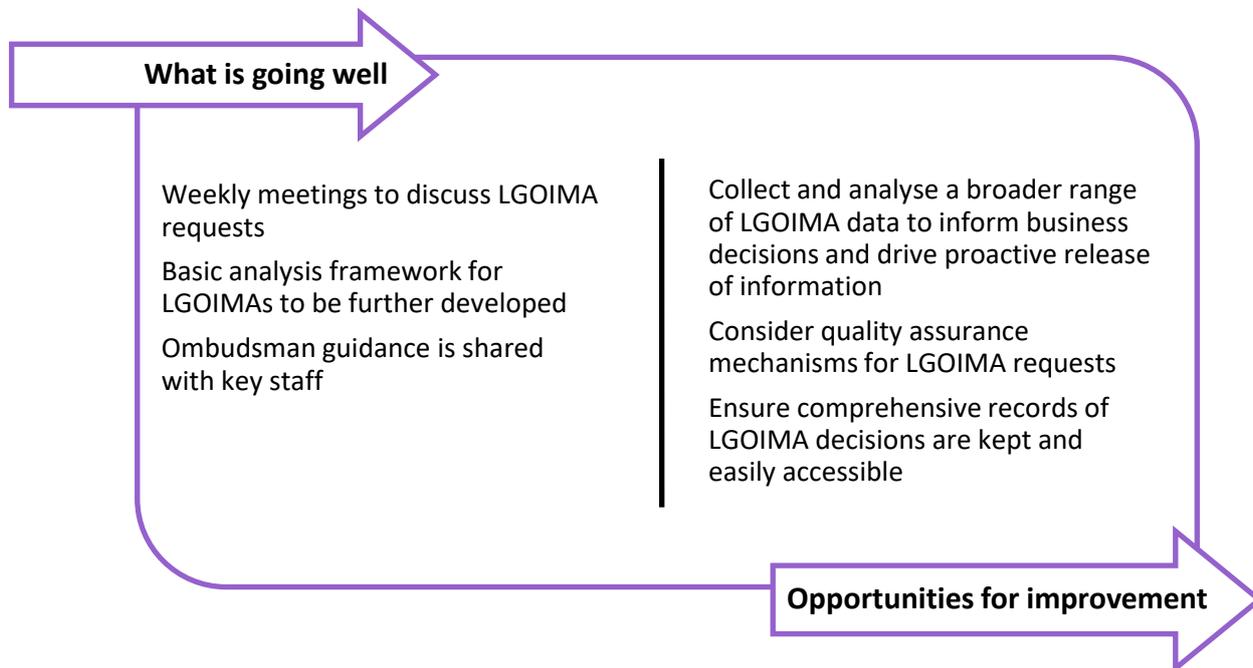
Review the practice of sending all LGOIMA requests to the Mayor's office and develop a protocol between the Council and elected members to clarify elected member involvement in LGOIMAs

Ensure that the Mayor's advisor is not a participant in the weekly meeting where LGOIMA requests are discussed

¹⁹ See s 13(1) LGOIMA

Performance monitoring and learning

At a glance



Ombudsmen have consistently advocated maintaining a full audit trail in respect of any decision made by an agency. Making decisions under LGOIMA is no different. Once this information is recorded, agencies have a wealth of information that can be used to inform business planning and future decisions concerning access to information, 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 and learning of the Council in respect of its LGOIMA obligations, I considered whether:

- the Council had an established system for capturing meaningful information about its LGOIMA activities and established appropriate and relevant performance measures;
- there was regular reporting and monitoring about the Council's management performance in respect of LGOIMA compliance; and
- the Council learned from data analysis and practice.

Aspects that are going well

Monitoring of LGOIMA requests

The Executive Leadership Team receives a weekly spreadsheet of all open LGOIMA requests, indicating they maintain some oversight. The information captured in this spreadsheet is extracted from the LGOIMA spreadsheet and contains the following data:

- the information requested;
- who the request is from;
- the specific staff member(s) in the Council the request is forwarded to;
- the business unit(s) within the Council the request is forwarded to;
- the names of any business unit(s) within the Council who require or request an advance copy of the response;
- notes;
- deadline for response.

There is a weekly meeting between the LGOIMA Team and the Executive Leadership Team to discuss any requests that require prioritisation or urgent action. The open LGOIMA requests spreadsheet is the basis for that discussion. There is a separate weekly meeting for the LGOIMA Team, other staff from the Office of the Chief Executive, the PIP Team and the Mayor's office to discuss hot topics, key issues, notable LGOIMA requests and information that could be proactively released. The outcomes from these meetings can lead to reviews of policies and current practice.

While these meetings are advantageous, more value could be added by providing an analysis of the data collected in the LGOIMA spreadsheet. The Council provided evidence of a one-off analysis of LGOIMA requests in the form of an email from 2018 (examining the yearly LGOIMA request data from 2017). This analysis comprised:

- the number of requests in total (including the number answered outside the maximum 20 working day statutory timeframe);
- repeat requesters;
- Council business groups that handle the most requests;
- popular topics for requests;
- how the request was received (Official Information Inbox, PIP Team, etc.);
- estimation of the time taken to answer the request by the LGOIMA Team (in hours); and
- the number of Ombudsman complaints (including their outcomes if an outcome had been reached).

I would strongly encourage the Council to incorporate this analysis into a monthly report to share with the Executive Leadership Team. Additional information on LGOIMA requests could also be captured and included. I go into further detail under [Opportunities for improvement](#).

The Council produces a Performance Report on Public Information and Participation for the Finance and Performance Committee. This report provides a number of insights into the Council's engagement through its various digital platforms and Contact Centre. However, this

report does not mention LGOIMA or LIM requests. Perhaps the format of this report could inspire the creation of a similar report for LGOIMA requests.

Since this investigation began, the Council has proactively employed their own improvements in relation to LGOIMA requests, such as capturing data on extensions and whether a request was released in full, released in part, or refused. I strongly support these initiatives, which are in line with suggestions I would have made based on my findings.

Ombudsman guidance

The Council has proactively incorporated guidance provided by my Office to improve their LGOIMA template letters. Guidance and reports are frequently circulated to key Council staff, who have the opportunity to meet with my Office on a regular basis to discuss case notes and best practice. Key staff are also informed of Ombudsman investigations into Council LGOIMA responses and the eventual outcomes.

Opportunities for improvement

Analysis and reporting of LGOIMA performance data

Data analysis of LGOIMA performance and information demand should be regularly reported to the Executive Leadership Team, and at least quarterly to the Chief Executive.

As noted above, a spreadsheet of all open LGOIMA requests goes to the Executive Leadership Team on a weekly basis. However, it does not appear that a full and robust analysis of the LGOIMA data is being undertaken. This means the Council is missing the opportunity to record key statistics for reporting purposes and point-in-time comparisons. Such information could later be used to notify leadership of emerging themes or trends, opportunities for proactive release, resourcing, capacity or capability issues, and the outcome of any Ombudsman investigations.

While timeliness is 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 more meaningful information about the Council's LGOIMA performance.

In addition to timeliness compliance rates, 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 number and reason for transfers, and whether the transfer was made in time;
- The reason for extensions;
- Whether the decision was notified to, or consulted with, elected members;
- 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;
- The reasons any for delays; and
- Whether the response was proactively published and if not, why.

While some of this information was said to be captured by the Council (such as the number of transfers and whether the transfers were made in time), my investigators did not find evidence of this. I understand some data can be ascertained through a manual search of individual LGOIMA responses, but having the proper processes in place to capture and extract data could lessen the time-consuming task of manual research.

As previously discussed, another issue to note is the importance of capturing data on information requests that are processed by the PIP Team and Customer Services Team, as well as elected member requests and property file requests. At present, requests sent to the PIP Team are recorded by their own tracking system, but are not included in LGOIMA tracking overall. This results in an incomplete picture of the Council's reported LGOIMA timeliness compliance, and restricts the Council's ability to accurately gauge information demand.

The inclusion of media, public, elected member and property file information requests in LGOIMA reporting would result in more accurate reported rates of compliance with LGOIMA timeliness obligations.

Action points

Consider analysing LGOIMA request data and collecting more comprehensive data on the Council's handling of LGOIMA requests

Consider providing the Executive Leadership Team with a monthly report on LGOIMA requests

Consider ways to include requests handled by the PIP Team and Customer Services Team, as well as elected member requests and property file requests, in LGOIMA statistical reporting

Monitoring quality

An important part of performance monitoring is that it enables an agency to learn from previous practice in order to inform future practice. At present, the Council does not appear to have a clearly outlined quality assurance process for LGOIMA requests and responses. In the staff survey, 16 percent of participants noted quality assurance processes did not give them confidence that all relevant information for a LGOIMA request had been included, which is of concern.

There is merit in the Council developing a more formalised QA system to ensure consistency of decision-making and the identification of risk. This might include a random check of closed files on a periodic basis or could be modelled after the quality assurance process used by the Council for LIMs. Having a robust quality assurance process will further supplement a formal peer review process, as suggested in [Current practices](#).

Action point

Consider developing a formal quality assurance process for LGOIMAs

Record of decision-making process

The Council does not appear to be taking adequate steps to record the decision-making process on LGOIMA requests. There is a cover sheet for summarising the basis of decisions on LGOIMA. However, it is not always used and was described as being hard to keep up. Additionally, the Council reported they do not keep file notes of telephone calls or discussions in relation to decision-making on LGOIMA requests.

As suggested in [Current practices](#), the Council should establish a process for capturing information about the decision-making on requests. 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. This may be in the form of a file note on TRIM or the existing coversheet could be adapted for this purpose.

Failure to record the outcome of past decisions can make it difficult for other staff within the Council to locate similar, previous requests (to either ensure consistency of decision-making or justified departure from a standard line of response). The Council may wish to consider building a step into their decision-making process whereby similar requests are noted, which will also help to ensure consistency of decision-making.

Action point

Consider how staff can quickly and easily access previous LGOIMA decisions

Appendix 1: LGOIMA practice investigation terms of reference

This document sets out the terms of reference for a self-initiated investigation by the Chief Ombudsman into the practices of Christchurch City Council (the 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 the Council liaises with its elected members on LGOIMA requests, and may meet with elected members if, as the investigation progresses,

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.

it would be prudent to. The investigation will also consider how the agency administers Part 7 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.

The investigation will not consider the processes and decision making of Council Controlled Organisations (CCOs) or Community Boards (CBs), as they are separate statutory entities and are subject to obligations under the LGOIMA in their own right.²³ However, the investigation will consider the extent to which the agency subject to the investigation has appropriate processes, policies or resources in place to manage the relationship between the CCO or CB and the council in relation to:

- transferring requests to ensure compliance with the requirements of s12 of LGOIMA
- decision making and accountability on a request, in that the lines of accountability and decision making are clear between the Council and CCO or CB particularly in circumstances where the Council provides administrative support for LGOIMA responses²⁴
- consultation on requests, to ensure the process is managed appropriately.

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 the processing of Land Information Memorandum requests (LIM), and 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.

²² See s13(1) Ombudsmen Act 1975

²³ Council Controlled Organisations are subject to Parts 1-6 of LGOIMA see section 74 of Local Government Act 2002.

²⁴ The decision must be made by the Chief Executive or any officer or employee authorised by the Chief Executive (see section 13(5)). Elected members (mayors or councillors or members of boards) are not officers or employees and are therefore not permitted to make decisions on LGOIMA requests.

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

The following surveys will be conducted:

- 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
 - 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 council staff about their experience of the LGOIMA culture and practice within the council.
- 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
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.

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

Other

A review of the Council's intranet.

A review of a sample of files held by the Council on previous requests for information, previous requests for LIMs, 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 Mayor or Chairperson before he forms his final opinion, if the Mayor or Chairperson so requests.²⁵

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 of the 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 Mayor, 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.

²⁵ See section 18(5) Ombudsmen Act 1975.

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 members²⁶, chief executive, 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)
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.	<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.

²⁶ 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)
<p>Senior leadership have established an effective official information strategic framework which promotes an official information culture open to the release of information.</p>	<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 demonstrates 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 compliance²⁷ – 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).

²⁷ This indicator is also relevant to performance monitoring and learning.

Elements	Things to look for (indicators)
<p>Agency has the capability to discharge its official information obligations, and obligations around local authority meetings.</p>	<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. ✓ Good policies, procedures and resources exist for decision making on requests, which cover:

Elements	Things to look for (indicators)
	<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. <ul style="list-style-type: none"> ✓ 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 ✓ 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.

Elements	Things to look for (indicators)
<p>The agency has appropriate record keeping and information management policies, procedures and resources.</p>	<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)
<p>The agency has accurate and comprehensive proactive release policies, procedures and resources.</p>	<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 ✓ The agency consults with, and provides reasonable assistance to requesters

Elements	Things to look for (indicators)
	<ul style="list-style-type: none"> ✓ 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 <i>Good proactive release policies, procedures and resources</i> 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 ‘A request made in accordance with section 10 may be refused (if)... the

Element	Things to look for (indicators)
	<p><i>information requested cannot be made available without substantial collation or research.'</i></p> <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. <ul style="list-style-type: none"> ✓ 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.
<p>There is regular reporting about the agency's management and performance in respect of official information requests.</p>	<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)
<p>The agency learns from data analysis and practice.</p>	<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 ‘champions’ ✓ The agency monitors relevant data, guidance and publications, including those produced by the Office of 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.

Appendix 3.

DRAFT IMPROVEMENT PLAN

LGOIMA COMPLIANCE AND PRACTICE AT CHRISTCHURCH CITY COUNCIL

Leadership and Culture

We recognise the aspects of leadership and culture which the Ombudsman identified are going well:

- Good external strategic messaging
- Enhancing methods of public engagement
- Helpful website information on making a LGOIMA request

We will continue to implement and enhance these.

We acknowledge the opportunities for improvement and intend to address these:

	Recommended Action	Lead	Action	When
A	That the Chief Executive review the practice of the Senior Leadership Team's involvement in controlling the flow of information to the public and elected members to ensure an approach is adopted that is consistent with the principles and purposes of the LGOIMA, in particular, openness and transparency	CE	The new Chief Executive (to start Q2 F20) has read the Chief Ombudsman's provisional opinion. She has indicated that she intends to address the issues raised: "responding in an open and honest way will be the start of delivering the cultural change in our organisation at all levels."	Q2 F20
		CE	New CE to speak about the Ombudsman report at the Annual Leaders Workshop in November.	Q2 F20
		Acting CE/DOCE	Improvement Plan developed with agreed mitigating actions and milestones for implementation.	Completed

	Recommended Action	Lead	Action	When
			Recommendations from the Review of Senior Leadership Team's practices will be added to the Plan.	
		CE	Review of Senior Leadership practices	Q3 F20
1	Ensure the outcome of the review of Senior Leadership Team's practices is clearly understood by staff and any recommendations' are implemented	CE	Communication of agreed practices	Q3 F20
2	Any amendments made to documents/records are transparent, with clear lines of accountability, and a record of the amendment is made	DOCE	While the Council has the capability in its InfoCouncil and TRIM systems that capture and log changes, we will investigate whether this is fit for purpose and the look to make changes as required.	Q2 F20
3	Establish a clear process for staff speaking up and raising concerns without fear of reprisal and ensure outcomes are clearly communicated back to staff	Head of Risk and Audit	Council has a Protected Disclosures Act Policy that provides a mechanism to allow staff to speak up and raise concerns without fear of reprisal	Completed
		Head of Risk and Audit	Develop and implement plan to ensure staff are aware of the Protected Disclosures Act Policy and process. This is to be linked to the development of LGOIMA training and to be included as part of induction training.	Q2 F20
		CE/Acting CE	CE /Acting CE to regularly communicate the existence of this policy and where to find it	Initiated - ongoing

	Recommended Action	Lead	Action	When
4	Regular consistent positive messaging by the Chief Executive and Senior Leaders about the importance of the LGOIMA and openness and transparency more generally in Council wide communications	Acting CE/CE	Acting CE to send message to all staff about the importance of the LGOIMA and openness and transparency more generally in Council wide communications.	Initiated - ongoing
		Acting CE	Acting CE to include performance goal and target regarding adhering to LGOIMA and Information Management in Senior Leaders/ELT personal development plans	Completed
		GMs	GMs/Senior Leaders to cascade performance and target goal into personal development plans of Senior Leaders/direct reports	Completed
		Acting CE	Acting CE to send message to all staff about the importance of the LGOIMA performance target	Completed
		Acting CE/LGOIMA Team	Plan and provide briefing on LGOIMA and Ombudsman's finding for the new CE	October 2019
		OCE	Arrange meeting for new CE with Office of Ombudsman Office	Q2 F20
		CE / PIPs	Reference the Council's intentions around openness and transparency and availability of information in external documents	Ongoing

	Recommended Action	Lead	Action	When
5	Senior Leaders to role model behaviours consistent with a commitment to openness and transparency	ELT	Confirm expectations that Senior Leaders role model behaviours consistent with a commitment to openness and transparency.	Initiated - ongoing
		CE/OCE	Workshop on LGOIMA at Senior Leaders quarterly meetings	By Q4 F20
		ELT/PIP	Include positive messaging on openness and transparency as part of regular all staff communications	Ongoing
6	Complete the review of the structure of the Office of the Chief Executive to ensure the lines of decision-making and accountability are clear between the Director of the Office of the Chief Executive, the Senior Information Advisor, and the Chief Advisor to the Chief Executive	CE	Review of the structure of the Office of the Chief Executive, including the clarification of the lines of decision-making and accountability between the Director of the Office of the Chief Executive, the Senior Information Advisor, and the Chief Advisor to the Chief Executive.	Completed
		DOCE	Clarify and communicate lines of decision-making and accountability for GMs	Q2 F20
7	Ensure delegations for decisions on LGOIMA requests are clear, up to date and understood by Senior Leaders and staff	Head of Legal	Change delegations register to delegate to the Director of the Office of Chief Executive the power of decision making under the LGOIMA relating to the provisions of Official Information.	Completed

	Recommended Action	Lead	Action	When
		DOCE	Incorporate explanation of delegations and decision making in updated LGOIMA training.	Q2 F20
8	Assign a Senior Manager with specific strategic responsibility and executive accountability for official information practice.	Acting CE	Assign to the Director of the Office of the Chief Executive the specific strategic responsibility and executive accountability for official information practice.	Completed
9	Senior Leaders to champion a system for staff to identify and communicate opportunities for improvements to LGOIMA policies and practice, and proactive release	DOCE	Develop a mechanism for staff to volunteer their suggestions for improvements to LGOIMA policies and practice and proactive release practices. This will be championed by ELT and senior leaders (Note that inviting all staff will help demonstrate that this is an organisational wide commitment).	Q2 F20
		GMs	Include LGOIMA to agendas of Heads regular meetings	Initiated. Ongoing
10	Senior Leaders to set clear expectations that staff receive appropriate training on LGOIMA policies and procedures and make this expectation visible by attending training themselves	ELT	ELT set the example to other staff by attending inaugural LGOIMA training for leaders session.	Q4 F20
		ELT	Performance goal added to personal development plans of ELT/Senior Leaders	Completed
		Head of PIP	Use internal Communications Team to publicise LGOIMA training	Q3 F20

	Recommended Action	Lead	Action	When
11	Include reference to LGOIMA compliance in job descriptions	Head of HR	Add reference to LGOIMA compliance to position descriptions as position descriptions are reviewed and renewed.	Initiated – ongoing.
12	Consider how a proactive release policy, once developed, can be incorporated into the Council’s external communications strategy to further increase engagement and public participation in decision making	DOCE	Set up an inter-group project team to develop a proactive release policy.	Q2 F20
		DOCE	Develop a proactive release policy for approval by ELT	Q2 F20
		ELT	Champion the provision of information for proactive release in line with the policy	From Q3 F20

Organisation Structure, Staffing and Capability

We recognise the aspects of our organisation structure, staffing and capability which the Ombudsman identified are going well:

- The 'mixed' model for LGOIMA and 'centralised' model for LIMs
- Resilience in the system has been demonstrated by yearly increases in LGOIMA requests, during which time good timeliness compliance was maintained

We will continue to implement and enhance these aspects.

We acknowledge the opportunities for improvement and intend to address these:

	Recommended Action	Lead	Action	When
1	Develop a LGOIMA training programme tailored to the needs of all staff, including for staff at induction, the Public Information and Participation (PIP) Team and Customer Services Teams	DOCE	Establish an inter-group LOGIMA training team to develop a LGOIMA training programme.	Q2 F20
		DOCE	Develop a LGOIMA training programme tailored to the needs of all staff, including for staff at induction, the Public Information and Participation (PIP) Team and Customer Services Teams, including staff at induction as well as regular training for delegated decision makers.	Q3 F20
		ELT	Approve the LGOIMA training programme.	Q3 F20
		Head of HR	Implement the LGOIMA training programme.	Ongoing from Q3 F20.
2	Develop and implement more detailed, regular training for delegated decision makers, including Senior Leaders and for staff in the LGOIMA Team	DOCE	Establish an inter-group LOGIMA training team to develop a LGOIMA training programme.	Q2 F20
		DOCE	Develop a more detailed training package for delegated decision makers, including Senior	Q2 F20

	Recommended Action	Lead	Action	When
			Leaders and for staff in the LGOIMA Team	
		ELT	Approve the LGOIMA training programme.	Q2 F20
		Head of HR	Implement the LGOIMA training programme.	Ongoing from Q3 F20.
3	Ensure appropriate staff have access to, and understand how to use, the LGOIMA tracking spreadsheet to ensure back up is available if necessary	DOCE	Develop a process map for the Council's LGOIMA processes in ProMapp	Q2 F20
		DOCE	Integrate the two Senior Advisors to the Chief Executive into the LGOIMA process and spreadsheet in order to build capacity in the Official Information Team.	Q2 F20

Internal policies, procedures and resources

We recognise the aspects of our internal policies, procedures and resources which the Ombudsman identified as going well:

- Comprehensive guidance and resources exist to assist LIM processing
- Sound guidance on LGOIMA requests for elected members
- Guidance for authors of 'public excluded' reports
- Comprehensive record keeping policy

We will continue to implement and enhance these aspects.

We acknowledge the opportunities for improvement and intend to address these:

	Recommended Action	Lead	Action	When
1	Consider undertaking a review of Information Management (IM) policies and guidance to ensure they are fit for purpose	CIO	Undertake a review of Information Management (IM) policies and guidance to ensure they are fit for purpose	Completed
2	Ensure IM guidance is regularly reviewed and updated	CIO	Undertake an annual review of IM guidance and update as required.	Initiated - Ongoing.
3	Ensure IM guidance and policy is visible and easily accessible for staff and, if guidance is stored in more than one IM system, ensure guidance is consistent across all platforms	CIO	Provide link to IM guidance and policy on organisational intranet	Q3 F20
		CE	Message regarding IM guidance and policy in CE all staff update	Q3 F20
4.	Leaders to champion sound record keeping practice	CE	Champion sound record keeping practice at annual leaders workshop on 5 November	5 Nov 19
		CE	Include periodic communication to staff from the CE on the importance of sound record keeping.	Ongoing.
		ELT/Senior Leaders	ELT and Senior Leadership Group to champion sound record keeping practice	Ongoing.

	Recommended Action	Lead	Action	When
5.	Prioritise the development of a proactive release policy with accountability for its delivery assigned to a senior leader	DOCE	Set up an inter-group project team to develop a proactive release policy.	Q2 F20
		DOCE	Develop a proactive release policy for approval by ELT	Q2 F20
		ELT	Champion the provision of information for proactive release in line with the policy	From Q3 F20
6.	Review and update LGOIMA guidance incorporating my suggestions	DOCE	Set up an inter-group project team to review and update LGOIMA guidance incorporating the Ombudsman's suggestions	Q2 F20
		DOCE	Complete a review and update LGOIMA guidance incorporating the Ombudsman's suggestions.	Q2 F20
7.	Ensure LGOIMA guidance is regularly reviewed and updated	DOCE	Conduct an annual review of LGOIMA guidance to ensure LGOIMA practice is in accordance with best practice and update as required.	Ongoing.
8.	Consider amending template letters to include specific consideration of the public interest, where applicable	Senior Info Advisor	Amend template letters to include specific consideration of the public interest, where applicable.	Q2 F20

Current Practices

We recognise the aspects of our current practices which the Ombudsman identified as going well:

- LGOIMA requests: 98% responded to within the maximum statutory timeframe in the last financial year
- LIM reports: 100% meet the statutory timeframe
- Meetings: Council has demonstrated that public notices, agendas and minutes are all compliant with LGOIMA

We will continue to implement and enhance these aspects.

We also note that:

- Our Official Information Team received 616 LGOIMA requests.
- Our Media Team responded to 4,496 media enquiries.
- Our Business Solutions supplied 11,031 LIM reports within the statutory timeframe
- Our OCE Team responded to 1,305 requests from elected members
- Our Call Centre receives approximately 50,000 queries every month

We acknowledge the opportunities for improvement and intend to address these:

	Recommended Action	Lead	Action	When
1	Ensure that all public and media information requests, as well as property file requests, are handled in accordance with the provisions of the LGOIMA	DOCE	Establish an Official Information Co-ordination Group (OICG) which includes subject matter experts from OCE, Business Solutions (LIMS and Property Files), PIP and Document Management	Q2 F20
		OICG	Ensure that all public and media information requests, as well as property file requests, are handled in accordance with the provisions of the LGOIMA through the Official Information Co-ordination Group	Ongoing from Q2 F20
2		DOCE	Set up an inter-group training team to develop a	Q2 F20

	Recommended Action	Lead	Action	When
	Provide regular training to all Council teams that handle requests for information in any capacity		LGOIMA training programme.	
		DOCE	Develop a LGOIMA training programme(as identified above)	Q3 F20
		Head of HR	Implement the LGOIMA training programme.	Ongoing from Q3 F20.
3	Upgrade to a database (non-spreadsheet) system to track LGOIMA requests and decisions	DOCE	Establish an Official Information Co-ordination Group (OICG) (as identified above)	Q2 F20
		OICG	Investigate and agree on a cross organisation database system to capture official information requests to the council and decisions	Q3 F20
		OICG	Implement a cross organisation database system to capture official information requests to the council and decisions	Q3 F20
4	Record the reasoning behind LGOIMA decisions, including any consideration of the public interest and the results of any consultations with third parties	DOCE	Develop a coversheet to record the reasoning behind LGOIMA decisions, including any consideration of the public interest and the results of any consultations with third parties.	Completed
		DOCE	Implement the use of coversheet to record the reasoning behind LGOIMA decisions, including any consideration of the public interest and the results of any consultations with third parties	Ongoing

	Recommended Action	Lead	Action	When
		DOCE	Ensure the process to record the reasoning behind LGOIMA decisions, including any consideration of the public interest and the results of any consultations with third parties is enshrined in the LGOIMA process and captured in ProMapp.	Q3 F20
		OICG	Transition to a cross organisation database system with the ability to record the reasoning behind LGOIMA decisions, including any consideration of the public interest and the results of any consultations with third parties.	Q3 F20
5	Record the administrative steps taken in respect of LGOIMA responses where relevant	DOCE	Develop a coversheet and check list to record the administrative steps taken in respect of LGOIMA responses where relevant	Completed
		DOCE	Implement the use of a coversheet and checklist to record the administrative steps taken in respect of LGOIMA responses where relevant.	Ongoing
		DOCE	Ensure the administrative steps taken in respect of LGOIMA responses where relevant is enshrined in the LGOIMA process and captured in ProMapp.	Q3 F20
		OICG	Transition to a cross organisation database system with the ability to	Q3 F20

	Recommended Action	Lead	Action	When
			record the administrative steps taken in respect of LGOIMA responses where relevant.	
6	Establish a formalised peer review process	DOCE	Establish an Official Information Co-ordination Group (OICG) (as identified above).	Q2 F20
		OICG	Develop a formalised peer review process and capture this process in ProMapp.	Q3 F20
7	Ensure records are kept of workshops and briefings	ELT	Identify those workshops and briefings that require formal records.	Ongoing from Q2 F20.
		Council Secretariat	Undertake minuting of identified workshops and briefings.	Ongoing from Q2 F20.
8	Provide training to staff who are processing elected member requests to ensure consistency of practice	DOCE	Set up an inter-group project team to develop a LGOIMA training programme.	Q2 F20
		DOCE	Develop a LGOIMA training programme for staff who are processing elected member requests to ensure consistency of practice.	Q3 F20
		ELT	Approve the LGOIMA training programme	Q3 F20
		Head of HR	Implement the LGOIMA training programme.	Ongoing from Q3 F20.
9	Ensure that requests from elected members are handled in accordance with LGOIMA	DOCE	Develop a process for the handling of elected member requests that is in accordance with	Completed.

	Recommended Action	Lead	Action	When
			LGOIMA and ensure this is captured in ProMapp	
		OCE	Ensure requests from elected members are handled using the Council process.	Initiated - Ongoing.
10	Review the practice of sending all LGOIMA requests to the Mayor's office and develop a protocol between the Council and elected members to clarify elected member involvement in LGOIMAs	DOCE	Establish an Official Information Co-ordination Group (as identified above).	Q2 F20
		OICG	Develop a protocol between the Council and elected members to clarify elected member involvement in LGOIMAs and ensure this is captured in ProMapp	Q3 F20
11	Ensure the Mayor's advisor is not a participant in the weekly meeting where LGOIMA requests are discussed	DOCE	Change weekly LGOIMA meeting to an emerging issues meeting, structured so the representative from the Mayor's Office is not present when LGOIMA requests are discussed.	Completed
		DOCE	Ensure the developed protocol between the Council and elected members to clarify elected member involvement in LGOIMAs is followed by staff at the emerging issues meeting	Q2 F20

Performance and Monitoring

We recognise the aspects of our performance and monitoring which the Ombudsman identified as going well:

- Weekly meetings to discuss LGOIMA requests
- Basic analysis framework for LGOIMAs to be further developed
- Ombudsman guidance is shared with key staff

We will continue to implement and enhance these aspects.

We acknowledge the opportunities for improvement and intend to address these:

	Recommended Action	Lead	Action	When
1	Consider analysing LGOIMA request data and collecting more comprehensive data on the Council's handling of LGOIMA requests	DOCE	Establish an Official Information Co-ordination Group (as identified above).	Q2 F20
2	Consider providing the Senior Leadership Team with a monthly report on LGOIMA requests	DOCE	Provide ELT with a regular report on LGOIMA requests	Ongoing from Q2 F20
3	Consider ways to include requests handled by the PIP Team and Customer Services Team, as well as elected member requests and property file requests, in LGOIMA statistical reporting	DOCE	Establish an Official Information Co-ordination Group (as identified above).	Q2 F20
4	Consider developing a formal quality assurance process for LGOIMAs	OICG	Develop a formal quality assurance process for LGOIMAs and capture this process in ProMapp	Q3 F20

	Recommended Action	Lead	Action	When
5	Consider how staff can quickly and easily access previous LGOIMA decisions	OICG	Identify how staff can better access previous LGOIMA decisions.	Q2 F20