

Decision-making for Official Information Requests Policy

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1 PURPOSE

The purpose of this policy is to:

- > Ensure timely, transparent and legally compliant handling of requests for information under the Local Government Official Information and Meetings Act 1987 (LGOIMA or the Act).
- > Provide clarity to requestors, elected members, officers and contractors of Queenstown Lakes District Council's processes and principles in relation to requests for information.

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- > Provide clarity to requestors, elected members, officer and contractors of Queenstown Lakes District Council as to how requests for information are handled and the reasons for steps taken through the response process.

2 SCOPE

This policy applies to:

- > All departments and business units of Queenstown Lakes District Council.
- > Elected members, including the Mayor, Councillors, and Community Board members, when acting in their official capacity.
- > Council employees, contractors, and consultants who may hold or manage official information.
- > Council-controlled organisations (CCOs) and Council-controlled trading organisations (CCTOs) where applicable under the Act.

This policy governs the handling of:

- > Requests for official information held by the Council, regardless of format (e.g. documents, emails, recordings).
- > Requests for internal communications, including officer and elected member emails and meeting notes.
- > Requests for information about Council meetings, hearings and workshops, agendas, reports and supporting materials, minutes and recordings.
- > Requests for personal information held by Council about individuals (in conjunction with the Privacy Act 2020).
- > Requests made in any form, including written email, or verbal (if later confirmed in writing), and need not cite the LGOIMA.

This policy does not apply to:

- > Information requests under the Privacy Act 2020 where the requester is seeking their own personal information.
- > Requests for information already publicly available, unless clarification or assistance is required.
- > Requests to generate / create new information.

3 PRINCIPLES

The principles that underlie this policy are:

- > Availability: Information shall be made available unless there is good reason to withhold it.
- > Transparency: Decisions and processes must be documented and accessible.
- > Timeliness: Requests must be responded to within statutory timeframes or agreed extensions and be responsive to requests for urgency.
- > Helpful: Requesters must be assisted to make their request with due particularity.

4 DEFINITIONS

- > Official information: Any information held by QLDC, including documents, emails, and recordings.
- > Request: Any communication seeking access to official information, regardless of format or whether the LGOIMA is

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cited.

- > Due particularity: Requests must be specific enough to enable identification of the information sought.
- > Person: Any individual or group – whether named or otherwise – there are no restrictions on eligibility of requesters under LGOIMA.

5 REQUESTS

Anyone is able to request official information QLDC and there are rules for how QLDC handles the requests under LGOIMA. Official information includes material held in any format such as, but not limited to:

- > Reports, policies, letters, emails, information held on our databases.
- > Video / recording footage, photos (noting that currently QLDC does not have the software to ‘blur’ others out of video footage).
- > Information that is known to an agency but not yet recorded in writing.
- > Information held by QLDC’s independent contractors.
- > Information held by elected members in their official capacity.

Requests can be made in any form, this includes by email, verbally, or in writing, and need not reference the Act.

5.1 REQUESTS BY ELECTED MEMBERS

Elected members have rights at common law to access information that is reasonably necessary to enable them to perform their duties as Council or Community Board members. However, elected members are not automatically entitled to access all information held by their Council solely on the basis of being an elected member. Access to any information to which their position does not entitle them, will be governed by the LGOIMA. When information is requested by an elected member as part of their role, the onus is on elected members to demonstrate that information is necessary to perform their duties. A final decision will be the responsibility of the Chief Executive.

An elected member may escalate a decision to the Office of the Ombudsman if they are not satisfied with the decision of the Chief Executive.

It is noted that the public interest in release to an elected member is particularly strong, given their role in a participatory democracy, and this position will be considered in any decision. This is relevant to the application of section 7 withholding grounds (which are subject to a public interest test), or to a decision whether or not to remit or waive a proposed charge for supplying information in view of the public interest.

Where information is released in full or in part in response to an elected member request it is standard practice of QLDC to share the response with all elected members for transparency and equitable access to information.

6 RESPONSES

The Council will acknowledge requests as as soon as practicable. A response communicating a decision will be provided as quickly as possible to LGOIMA requests, and within a maximum of 20 working days (unless the timeframe has been extended for legitimate reasons).

Working days means any day that is not:

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- > Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, King's Birthday, Waitangi Day, or
- > the day observed as the provincial anniversary day in the area in question – Otago Anniversary day on the Monday nearest to 23 March; and
- > any day between 20 December and 10 January inclusive.

Day 1 is the first working day after the day on which the request is received.

If the request is very extensive, officers can explore refining the request.

6.1 EXTENSION TO RESPONSE TIME

Occasionally QLDC may need to extend the timeframe. This happens when:

- > A request is made for a large quantity of information needing time for research and collation;
- > A request is complex; and/or
- > QLDC needs to consult with a third party which necessitates the need to extend the timeframe. Officers will advise if this is the case before the original due date.

Extending the maximum time limits to make a decision or transfer a request must happen within 20 working days after the day on which the request was received. This is covered under Section 14 of the Act.

6.2 ADDITIONAL TIMEFRAME REQUIREMENTS

Additional timeframe requirements are:

- > Seek clarification of a request within 7 working days, if the amended request is to be treated as a new request. This is covered under Section 13 (7) of the Act.
- > Transfer a request to another agency promptly, and no later than 10 working days, after the request is received. This is covered under Section 12 of the Act.

A requestor may ask that a request is treated as urgent. QLDC requires a requestor in these circumstances to provide a suitable reason if this is the case. QLDC will try and process urgent requests as soon as possible, however not meeting a request for urgency does not breach the requirements of the Act.

6.3 PUBLICATION OF LGOIMA RESPONSES

QLDC's default approach is to publish all responses unless there is a good reason not to. QLDC needs to take account of the Privacy Act 2020 which applies to requests by individuals for personal information about themselves that QLDC holds.

QLDC's webpage lets customers know how to make a request and also where they can find responses to official information requests that QLDC deems are of general public interest.

Refer to QLDC's Official Information Proactive Release Policy for further information.

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7 COSTS

Our approach is that QLDC's information is generally a public good and unless these are special reasons it is not appropriate to charge for providing it. Based on this policy it is rare for QLDC to charge for the supply of official information.

However, in some circumstances charging may be appropriate. These circumstances include:

- > Where there is limited public good from the release of the information,
- > Where there is a clear private good from the release of the information;
- > Where costs are incurred to process a request urgently;
- > Where a large amount of staff or consultant time will be required to collate the information.

QLDC may aggregate, for charging purposes, repeated requests from the same source in respect of a common subject over intervals of up to eight weeks.

If QLDC is going to charge for processing a request, officers will advise of the cost of processing the request before beginning work on it. A requestor can then decide to continue, withdraw or refine the request. QLDC may ask for some or all of the cost in advance.

The letter advising a charge will set out:

- > The decision to release the information, subject to a charge;
- > The estimated amount of the charge;
- > Details of how the charge was calculated;
- > The basis for the proposed charge; and
- > The requester's right to complain to the Ombudsman.

The Government has issued Charging Guidelines that are deemed "reasonable" by the Office of the Ombudsman. The guidelines specify standard charges of:

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

There is no charge for Privacy Act requests unless the Privacy Commissioner has authorised QLDC to impose a charge.

8 WITHHOLDING INFORMATION

The principle of the LGOIMA legislation is that information should be made available unless there is good reason (or reasons) for withholding it¹. The LGOIMA provides statutory reasons for withholding information or refusing a request.

QLDC is entitled to consider withholding information if it would:

- a) prejudice the maintenance of the law.

¹ Under sections 6 and 7 of the Act

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- b) endanger the safety of any person.
- c) breach the privacy of any natural person (including a deceased person).
- d) disclose confidential or commercially sensitive information.
- e) cause serious offence to Tikanga Māori or disclose the location of Waahi Tapu.
- f) breach an obligation of confidence.
- g) Prejudice any of the following: public health or safety; free and frank opinions necessary for the effective conduct of public affairs; QLDC's right to legal professional privilege; the commercial activities of QLDC; or negotiations being carried out by QLDC.

Clauses 8a) – b) above provide conclusive reasons for withholding information. Before deciding to withhold information under clauses 8c) – f) above, QLDC will assess whether or not the public interest in disclosure outweighs the need to withhold the information.

If QLDC withholds information, QLDC will explain the reason why.

8.1 WEIGHING PUBLIC INTEREST

The grounds for withholding official information in section 7 of the LGOIMA are subject to a 'public interest test'. This means agencies must balance the public interest in disclosing information against the need to withhold it. QLDC follows the Ombudsman's guide "*Public Interest: A Guide to the Public Interest Test*" on how the public interest test works in practice.

9 REFUSING A REQUEST

QLDC can also refuse a request for the following administrative reasons²:

- a) making the information available would be contrary to an enactment (e.g., Dog Control Act).
- b) making the information available would constitute contempt of Court or of the House of Representatives.
- c) the information is, or will soon be, publicly available.
- d) the request is made by or on behalf of a defendant, for information that could be sought under the Criminal Disclosure Act 2008.
- e) the document does not exist or cannot be found, despite reasonable efforts to locate it.
- f) the information cannot be made available without substantial collation or research.
- g) the information is not held by QLDC, and there are no grounds to believe the information is held by another agency or more closely connected with the functions of another agency.
- h) the request is frivolous or vexatious, or the information requested is trivial.
- i) QLDC can neither confirm nor deny the existence or non-existence of information.

If QLDC refuses to give information, QLDC will explain the reason why.

² Under section 17 of the Act

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10 PROCESS

The public can make a request in any form including by email, verbally or in writing. Requesters are advised to:

- > Email: informationrequest@qldc.govt.nz
- > Submit an online request: <https://www.qldc.govt.nz/your-council/lgoima-information-requests/make-an-official-information-request/>
- > Phone: (03) 441 0499
- > Write to: Democracy Services, Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348

Council staff who receive a request for information must email the request without delay to the Democracy Services team (via informationrequest@qldc.govt.nz) so that the appropriate process can commence.

11 IF A REQUESTOR IS NOT SATISFIED WITH A RESPONSE

If a requestor is not satisfied with the Council's response, they can request a review of the decision to the Director Democracy Services by emailing informationrequest@qldc.govt.nz or phoning (03) 441 0499.

If they are still dissatisfied with the response, they have the right to make a complaint to the Ombudsman by one of the following ways:

Email: info@ombudsman.parliament.nz

Post: The Ombudsman, PO Box 10152, Wellington 6143

Phone: 0800 802 602.

12 REFERENCES

Local Government Official Information and Meetings Act 1987	https://www.legislation.govt.nz/act/public/1987/0174/latest/DLM122242.html

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Privacy Act 2020	https://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html
Ombudsman Act 1975	https://www.legislation.govt.nz/act/public/1975/0009/latest/DLM430984.html
Public Records Act 2005	https://www.legislation.govt.nz/act/public/2005/0040/latest/DLM345529.html
Copyright Act 1994	https://www.legislation.govt.nz/act/public/1994/0143/latest/DLM345634.html
Official Information Proactive Release Policy	Link to follow

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13 ROLES AND RESPONSIBILITIES

POSITION	RESPONSIBILITIES
Chief Executive	<ul style="list-style-type: none"> > See reference to delegations below > Developing an organisational culture that recognises the importance of LGOIMA and the Council's commitment to openness and transparency > Ensuring all staff understand their responsibilities under LGOIMA > Ensuring all complaints and investigations initiated by the Office of the Ombudsman are processed appropriately.
General Manager Corporate Services	<ul style="list-style-type: none"> > Ensuring the organisation has the appropriate business function to support the processing of LGOIMA requests and fulfilling capability building for all staff > Ensuring the organisation has the appropriate business structure to support the statutory requirements relating to meetings under LGOIMA
Director Democracy Services	<ul style="list-style-type: none"> > Policy owner for this policy > Operational oversight of the Democracy Services team responsible for processing LGOIMA requests and facilitating meetings within statutory LGOIMA requirements, and delivering training throughout the organisation > Monitoring and reporting on performance against requirements of the LGOIMA > Oversight of operational improvements and organisational learning relating to LGOIMA > Oversight of relevant policies (including this Policy)
Executive Leadership Team	<ul style="list-style-type: none"> > Supporting the organisational commitment to openness and transparency and promoting the importance of understanding and adhering to LGOIMA requirements
Democracy Services team	<ul style="list-style-type: none"> > Coordinating responses to all requests under LGOIMA > Coordinating responses to all requests under the Privacy Act > Investigating and coordinating responses to complaints and investigations initiated by the Office of the Ombudsman > Advising staff on all aspects of the LGOIMA and providing training > Advising staff on decisions and responses to requests for information, including where withholding or refusal grounds may apply > Review and proactive release of previous responses > Public notification of meetings in accordance with LGOIMA and standing orders
Employees	<ul style="list-style-type: none"> > Ensuring personal awareness of organisational and individual requirements and obligations under LGOIMA > Assist in decisions and responses to requests for information
The Policy owner	<ul style="list-style-type: none"> > Regular review of the policy and ad hoc updates where necessary > Ensuring awareness of the policy

Specific powers to act under the Local Government Official Information and Meetings Act 1987 are detailed in the Queenstown Lakes District Council Register of Delegations available on the QLDC website here:

<https://www.qldc.govt.nz/your-council/council-meetings/>