

Our ref 582427 (Complaint ground: 582428)
Contact Lucy Moss-Mason
4 October 2022



Mr Harry Wilson
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Tēnā koe Harry

Local Government Official Information and Meetings Act investigation
Mrs Emily Ireland
Report about a proposed shortlist for options for Featherston's wastewater treatment

I refer to Mr Stefan Corbett's correspondence of 7 September 2022, concerning the Local Government Official Information and Meetings Act 1987 (LGOIMA) complaint made by Mrs Emily Ireland about South Wairarapa District Council's decision to refuse her request for a report about a proposed shortlist of options for Featherston's wastewater treatment.

I have now had an opportunity to consider Mr Corbett's correspondence and the comments he has made. Having considered all the issues raised, I have formed the final opinion that the Council should not have refused Mrs Ireland's request.

The Council's comments

Mr Corbett advised that Wellington Water's performance regarding the Featherston wastewater project has been subject to intense scrutiny from the public and the media. He advised that release of the report would damage the Council's relationship with Wellington Water, which is akin to an employment relationship.

I am unconvinced by Mr Corbett's assertion that it is necessary to withhold the report to maintain the effective conduct of public affairs through its relationship with Wellington Water. While Wellington Water is a council-controlled organisation, I do not consider that its relationship with the Council is that of an employment relationship. Rather, Wellington Water is jointly owned by several local authorities in the Wellington region. Its purpose is to manage water services. One of its primary activities is to provide direction and advice to local authorities and I do not consider that it would be inhibited in its duties if the report were released.

Mr Corbett commented that if I found that the Council was not entitled to withhold the document, the Council '*would feel obliged to release all similar material if it was requested by media again in similar circumstances*'. My letter of 2 September 2022 advised my expectation that agencies consider official information requests on a case-by-case basis. I will not repeat myself here. However, if the Council requires assistance with any future requests, it is welcome to contact my Office on 0800 802 602 (Freephone) or email info@ombudsman.parliament.nz.

Alternatively, there are numerous published guides on my website which the Council may wish to refer to.¹

Consultation with Wellington Water

Following Mr Corbett's comments, my staff have consulted with Wellington Water about release of the report. While Wellington Water would prefer that the report not be released due to it being in draft format, it did not raise any concerns about the impact of release on its relationship with the Council. In relation to the draft format of the report, my 2 September 2022 letter advised that it is open to the Council to provide Mrs Ireland with appropriate contextual information such as a statement alongside the report, clarifying that it was later rejected and that the Council is awaiting revised advice from Wellington Water.²

I understand that Mr Corbett advised Ms Moss-Mason on 24 August 2022, that he phoned his counterpart at Wellington Water to discuss Mrs Ireland's request. However, Wellington Water advised Ms Moss-Mason that it does not hold records of any such consultation. While I am not disputing Mr Corbett's assertion, section 17 of the Public Records Act 2005 requires that every local authority, including the Council must *'create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice'* so that they can be used for subsequent reference.

It would be prudent for the Council to ensure that it is creating and maintaining records in accordance with the requirements of the Public Records Act. Among other things, careful recordkeeping would assist the Council in any future investigations to demonstrate the actions it took to support the decisions it made. If I have concerns about the Council's recordkeeping in the future, I may consult the Chief Archivist.

Recommendation

I recommend that the Council release the report to Mrs Ireland.

As a matter of courtesy, I have written to the Mayor, providing him with a copy of this letter and the letter of 2 September 2022. These letters set out my opinion and the recommendation I have made.

I have also advised the Mayor and Mrs Ireland of my final opinion and recommendation.

I have now completed my investigation. Thank you for the assistance that has been provided.

Under section 32 of LGOIMA, a public duty to observe an Ombudsman's recommendation is imposed from the commencement of the 21st working day after the date of that recommendation. This public duty applies unless, before that day, the Council, by resolution at a meeting of the Council, decides otherwise and records that decision in writing.

¹ Office of the Ombudsman, [Resources and publications](#), retrieved September 2022.

² For further information on releasing draft documents, see Office of the Ombudsman, [The OIA and draft documents: A guide to how the OIA applies to requests for draft documents](#), published April 2019.

Please notify Ms Moss-Mason by **18 October 2022** the steps that will be taken to give effect to my recommendation.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Peter Boshier'.

Peter Boshier
Chief Ombudsman