

**5. CANTERBURY WASTE JOINT STANDING COMMITTEE
OFFICIAL INFORMATION REQUESTS**

RR 9863

Officer responsible Legal Services Manager	Author Peter Mitchell
Corporate Plan Output: Legal Advice	

The purpose of this report is to establish a process for responding to official information requests received in respect of regional landfill matters.

INTRODUCTION

An issue has arisen with the standing committee regarding the processing of official information requests relating to the new regional landfill.

A request has been received by Mr Dennis Morgan, secretary to the Canterbury Waste Joint Standing Committee and the Canterbury Waste Subcommittee, from a group of Hurunui residents seeking information considered by the joint standing committee and the Canterbury Waste Subcommittee in public excluded.

Requests have also been received from the Christchurch Press.

This report is to outline relevant law and options for the processing of such requests.

BACKGROUND

As you will be aware, ten local authorities in the Canterbury region have formed a joint standing committee. This standing committee meets at least once every three years.

The joint standing committee has in turn, established a Canterbury Waste Subcommittee which will deal with operational matters relating to the regional landfill and meet on a regular basis.

Regarding official information requests, the Local Government Official Information and Meetings Act 1987 (LGOIMA) does not provide any specific system for dealing with information that is in effect held collectively by ten local authorities.

In legal terms it appears to the writer that the information would be held by all ten, therefore a request could be made to any one of those ten and there should be a process in place whereby the ten authorities agree as to how such requests should be dealt with.

Further, LGOIMA does not provide any special status for reports considered in public excluded. Such reports are to be considered on the same basis as all other information held by a territorial authority.

LGOIMA provides that the person who makes the decision where a request is received by an individual authority, is the chief executive of that authority. At that stage, while (s)he may choose to consult elected members, the decision-making power rests with the chief executive as to whether to release the information, or refuse in whole, or in part.

Therefore there is a need to apply that legal system to the joint standing committee approach.

It appears to the writer that the Canterbury Waste Subcommittee (which next meets on 18 May 1999) could agree to a system whereby the chief executive of a nominated council (or his delegated nominee) would be responsible for making decisions on official information requests received in respect of the regional landfill issue.

Therefore the issue now arises as to which council should official information requests be directed and which chief executive officer or nominee should make decisions on those requests on behalf of the joint standing committee.

Potential options could be:

1. That the Christchurch City Council, as the authority providing administrative support, process such requests and be responsible for making decisions on such requests on behalf of the other councils;
2. That another territorial authority be responsible for processing the requests and the chief executive officer of that authority be responsible for making decisions on the requests;
3. That the senior officer serving the joint standing committee be responsible for processing the requests and making decisions on the requests.

In terms of a process to deal with official information requests, it seems logical that there be one officer who deals with them on a day-to-day basis so as to ensure consistent administration on behalf of the territorial authorities in responses to such requests, and also to deal with the Office of the Ombudsmen in the event that complaints are made to their office concerning refusals of information.

Section 12 of the Local Government Official Information and Meetings Act 1987 authorises any of the territorial authorities receiving a request to transfer the request to another local authority, and inform the person making the request of that transfer where it is believed by the person receiving the request that the information sought is more closely connected with the functions of another local authority.

In the present context, and although neither the Canterbury Waste Joint Standing Committee nor the Canterbury Waste Subcommittee are local authorities, clearly information requests relating to the regional landfill are within the purview of that joint standing committee and subcommittee and should be processed by a person familiar with the information held by the joint standing committee and the subcommittee on behalf of their parent councils.

The Christchurch City Council has already agreed to provide administrative support to the joint standing committee and the subcommittee and in the present context it is considered appropriate that the senior officer reporting to the subcommittee, at the present time Mr Mike Stockwell, be delegated the power by the City Manager of the City Council to make decisions on official information requests. In practical terms such decisions would also be on behalf of all other ten local authorities.

To provide advice to Mr Stockwell it is recommended by the City Manager that the City Council's Legal Services Manager, who has made decisions for the City Council for a number of years on official information requests, be consulted in the processing of such requests, and furthermore, that where a request emanates from the district of one of the ten territorial authorities, then the Chief Executive Officer of that territorial authority also be consulted before any decision is made.

This would also be in addition to the existing provisions in the Memorandum of Understanding that upon receipt of any request, the two joint venture companies also be consulted before a decision is made.

If a request is refused, then Mr Stockwell would also deal with the Office of the Ombudsmen in terms of an investigation into that refusal.

The Local Government Official Information and Meetings Act 1987 provides that if the Ombudsman recommends that information be released, then only the full Council has the authority to "veto" that recommendation. In the present context there are ten councils potentially involved and it will be a matter of discussion with the Office of the Ombudsmen at the time as to how any such recommendation by his office would be processed by the parent councils.

- Recommendation:**
1. That it be noted that Mr Mike Stockwell will be authorised by the City Manager of the Christchurch City Council to make decisions on official information requests relating to the activities of the Canterbury Waste Joint Standing Committee and the Canterbury Waste Subcommittee on behalf of the Committees and their parent councils.
 2. That where any Chief Executive Officer of the parent councils receives an official information request that such request be transferred to the Christchurch City Council in terms of section 12 of the Local Government Official Information and Meetings Act 1987.
 3. That before Mr Stockwell makes a decision on an official information request he consult with:
 - (a) The Chief Executive Officer of the territorial authority from where the request has originated; and
 - (b) The Legal Services Manager of the Christchurch City Council.

In addition to any contractual obligations the Council has to consult with any other parties.

Chairman's Recommendation: That the information be received.