

#### 4. BYLAW REVIEW PROCESS – DATA COLLECTION AUDIT



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##### PURPOSE OF REPORT

1. At a special Council meeting to consider proposed new bylaws on 19 June 2008, the Council made a series of resolutions seeking a review of, and report back on, the bylaw review process.
2. The purpose of this report is to advise the Regulatory and Planning Committee on one aspect of the Council's resolution of 19 June 2008, which requested staff to:

*“Review how adequate the Council's current data collection system(s) are in meeting the requirements to demonstrate nuisance issues when the Council reviews or considers making new bylaws.”*

##### EXECUTIVE SUMMARY

3. With the adoption of eight new bylaws there was a recognition among Councillors and staff that there are flaws with the Council's current data collection system regarding the detection of nuisances and the recording of complaints and offences for the purpose of bylaw making. There is a desire by Councillors for staff to provide quality data to support the analysis for the next bylaw reviews. For example, this might include data to support the need for current clauses in the bylaw(s), data to evaluate the possibility of regulating new issues, or data to dispel or confirm perceptions of a nuisance.
4. Bylaw making must follow the process set out in the Local Government Act 2002 (LGA 2002). This process includes the section 155 analysis (generally: identifying a problem and whether a bylaw is the most appropriate way of dealing with the problem). The requirements in section 155 also align, to some extent, with the general decision-making requirements contained in sections 77-82 of the LGA 2002, including requirements in relation to decisions, community views, compliance with procedure and consultation. During the major review of bylaws in 2008, there were difficulties in undertaking LGA 2002 requirements because the Council's systems for collecting information about nuisances and issues were highly variable. For some bylaw reviews information systems were inadequate or the collected information was in a form that meant the issues were difficult to identify, or the information was difficult to retrieve.
5. The LGA 2002 establishes a much more rigorous test to establish nuisance in bylaw-making than the Local Government Act 1974 (LGA 1974). The intention behind the Act's requirement to review bylaws is to ensure that they are relevant and appropriate in the current context. This is particularly important considering that a violation of a bylaw can lead to a range of enforcement measures (depending on the particular bylaw), including fines being issued of up to \$20,000 on summary conviction; seizure of property or the power to recover damages; powers of entry by local government enforcement officers; the police being given powers of arrest, search, and seizure<sup>1</sup>; or prosecution by the local authority.
6. Information collection is important and may contribute to a clearer understanding of whether a significant problem exists, whether a bylaw is the most appropriate way of addressing a problem, whether an issue is better dealt with under other legislation or through another organisational body, and what options (besides a bylaw) are available to address perceived issues. Evidence to validate or dismiss a perceived issue or establish evidence of a new issue or nuisance assists Councillors and Council officers when reviewing a bylaw to ascertain what matters should or should not be included in a new bylaw.

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<sup>1</sup> This is only in relation to a bylaw prohibiting liquor in a public place.

### *Problems and Proposed Improvements*

7. After interviewing staff in the Council Call Centre, in Information Management and Communication Technology (IM&CT), staff responsible for 2008 bylaw reviews, and operational staff<sup>2</sup>, a number of weaknesses with the current data collection systems were identified. In some cases officers had limited or no information about complaints or identified nuisances available to them. This was a failure of the current data collection systems.
8. There are a number of improvements being made to the organisation's data collection systems in relation to the bylaw reviews. These include:
  - (a) The identification of a clear staff group responsible for each bylaw and its review, including the bylaw group's responsibility to develop and present an annual report to the Regulatory and Planning Committee on the monitoring of each bylaw's operation and any emerging issues. There will be a coordinated approach to the delivery of annual reports to the Regulatory and Planning Committee to avoid a large number of reports going to the Committee.
  - (b) The identification of a unit (Strategy and Planning Group) which will carry out a regular review and analysis of Service Request System<sup>3</sup> data for all bylaws on behalf of the groups that are responsible for the bylaws.
  - (c) A report template will be developed to assist the group responsible for the bylaw(s) in reporting to the Regulatory and Planning Committee annually on the monitoring of each bylaw's operation and any emerging issues.
  - (d) Amending the Service Request System categorisation so that service requests can be linked to specific bylaws.
  - (e) Ensuring the Service Request System is able to record 'new' nuisances/issues more effectively.
  - (f) Ensuring a more consistent approach to the recording of enforcement activity.
  - (g) An improved system for staff to report and record issues/nuisances.
  - (h) An improved use of residents survey information and of specific research and campaigns to assist in monitoring the bylaw(s) operation and the section 155 analyses required for each bylaw review.
9. **Attachment One** is helpful in understanding the current system compared with the updated available information sources for the next bylaw reviews.

### **FINANCIAL IMPLICATIONS**

10. There are no financial implications, though there will be some staff time required to establish the improved systems and in preparing reports on the operation of bylaws. The improvements to systems are not extensive and will largely become automated once established.

### **Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?**

11. The ongoing staff costs associated with this report are budgeted within the 2009-2019 LTCCP.
12. The cost of reviewing the Council's bylaws on a regular basis will require additional funding in future years. These costs will be reported to the Council once a rolling programme of bylaw reviews has been finalised. Additional funding will also be required to institute any changes that may arise as a result of modification to the bylaws.

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<sup>2</sup> Rangers, animal control officers, traffic wardens, and enforcement officers.

<sup>3</sup> The Service Request System is a system of recording and managing all customer contacts and associated workflow through to completion. A 'service' is an activity, facility or utility provided by the Council, with associated processes (Service Events) which may be initiated by a member of the public. For example, a complaint about a pothole in the road. The Service Request System provides a number of different types of Service Event:

- Service Request (asking for something to happen)
- Event Query (asking about the status of a Service Request)
- Incident Report (telling the Council something that affects a service)
- Service Inquiry (asking for information about a service)
- Feedback (complaints, compliments, and suggestions)

## **LEGAL CONSIDERATIONS**

13. There is a requirement under section 155 of the LGA 2002 for the Council to determine whether a bylaw is the most appropriate way of addressing a perceived problem. It is necessary therefore that the Council have reliable information captured over time about various incidents that occur on land or infrastructure that the Council owns or for which it is responsible. To enable the Council to be able to achieve this, it is necessary for accurate records to be kept of the results on the operation of each bylaw and other emerging nuisances/issues that occur, so that the requirements of section 155 of the LGA 2002 can be properly fulfilled.

## **ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS**

14. This report aligns with the Enforcement and Inspections Activity Management Plan in the 2009-2019 LTCCP. Without the ability to create regulation through the required process, the Council's ability to deal with nuisances/issues is undermined.

## **ALIGNMENT WITH STRATEGIES**

15. Not applicable.

## **CONSULTATION FULFILMENT**

16. In relation to this report, the matter has been consulted internally with IM&CT and Call Centre officers, the Transport and Greenspace Unit, the Strategy and Planning Group, the Inspections and Enforcement team (including Animal Control), and the Water and Waste Unit.

## **RECOMMENDATION**

That the Regulatory and Planning Committee **notes** that:

- (a) That the report be received.
- (b) That a report on the operation and enforcement of each Christchurch City Council Bylaw be presented to the Regulatory and Planning Committee on an annual basis.

## BACKGROUND

17. On 19 June 2008 at a special meeting of the Council, eight new bylaws were recommended to the Council for adoption as a result of a review of 31 Council bylaws. The Council's resolution requested that staff review how adequate the Council's present data collection system is in meeting the requirements to demonstrate nuisance when the Council reviews or considers making new bylaws, in order to improve the bylaw making process in the future. This project was also undertaken to update the Service Request System to align with the eight new bylaws and to determine how to gain greater consistency across the organisation in respect of data collection processes. The Council requested that information on this matter be reported back to Councillors.
18. An audit was carried out by staff which involved interviewing officers responsible for the previous bylaws, enforcement staff, IM&CT officers, and Customer Service representatives<sup>4</sup>, and subsequently, improvements either have been or are being made to the information systems.

### **The need for improved information systems**

19. Bylaw making must follow the process set out in the LGA 2002, which includes the section 155 analysis (Generally: Identifying the problem and whether a bylaw is the most appropriate way of dealing with the problem). The requirements in section 155 also align to some extent with the general decision making requirements in sections 77-82 of the LGA 2002. In order to carry out the section 155 analysis, evidence of the nuisance or issue is required. During the last bylaw reviews there were difficulties in adequately undertaking the LGA 2002 requirements because the organisation's systems for collecting information about nuisances/issues were either inadequate or collected information in a form that meant the issues were difficult, if not impossible, to identify.
20. The LGA 2002 requires a much more rigorous approach to bylaws than the LGA 1974. The intention behind LGA 2002's requirement to review bylaws is to ensure that they are relevant and appropriate in the current context. The LGA 2002 requires the Council to go back to first principles and to establish:
  - (a) Is there a significant problem
  - (b) Is a bylaw the most appropriate way of addressing the problem
  - (c) Are there other, more effective options?

Evidence to validate or dismiss a perceived issue or establish evidence of a new issue or nuisance assists Councillors and Council officers when reviewing a bylaw to ascertain what matters should or should not be included in a bylaw.

### **What do the information systems need to do for bylaw purposes?**

21. The information systems need to collect information in a manner that either confirms or denies the existence of nuisances that bylaws are designed to address. They also need to detect and verify the existence of nuisances the Council has the power and authority to regulate but are not addressed in current bylaws. Other purposes of information systems include the appropriate capture, investigation and resolution of nuisances and complaints.

### **Weaknesses in information systems used for recent bylaw reviews**

22. After an audit of the Council's data collection systems in relation to the detection of nuisances and the recording of complaints and offences, staff have come to some conclusions which are discussed in this report. There are some key weaknesses in the current information system which hindered rather than assisted the recent bylaw reviews (particularly the section 155 analysis).

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<sup>4</sup> This included discussions about their data collection systems and methods of analysis.

### *Ownership Issues*

23. During the last bylaw reviews there were some issues with ownership. It was not always clear which staff unit held the responsibility for reviewing each bylaw. There was also no clear staff role responsibility for each bylaw review. This complicates the data collection process as it can be difficult to ascertain who should be responsible for collecting data regarding a certain bylaw. This is further complicated by some complaints having no obvious target or not fitting logically with any staff units or teams. In these latter cases there is the potential for data to be lost as a consequence.

### *Inconsistent methods of data collection*

24. There are inconsistent methods of collecting information across the organisation. The audit found that there is no person within the organisation who knows all the data sources the Council currently holds, how they link up across the organisation, what information they contain, and whether they are adequate.

### *Over-reliance on customer complaints*

25. There are disadvantages with gathering data only from the Service Request System. The data in the Service Request System indicates people's level of irritation with an issue, but are not necessarily an indication of how frequently an issue or nuisance is occurring or whether the issue is significant. For example, the percentage of people responding to the Residents' Survey who register their annoyance with, for example, noise, would represent about 30,000 people. However, the Christchurch City Council Customer Centre would only receive about 10,000 complaints about noise per year.<sup>5</sup> The latter complaints may only represent about a third of those affected by a nuisance, if not less. Furthermore, when it comes to extracting the data from the Service Request System, while word searches are useful, they will not be able to differentiate whether the data relates to a bylaw-related nuisance, or whether other legislation or another organisation's mandate covers the nuisance.

### *A number of Unit databases*

26. There are multiple team, group or unit-owned databases which hold information on offences, infringements and some complaints, but these are not standardised. There is the potential for data to be doubled up between the Service Request System and the individual databases or not to be captured or stored in any of them. For some bylaw reviews, this enforcement activity data was utilised as evidence in support of some of the existing bylaw clauses.

### *Customer complaints not collected in ways that supported bylaw analyses*

27. Data analysed for the recent bylaw reviews was primarily based on the number of requests for service via the Service Request System and/or data from team or unit databases on the number of offences committed. Some reviews related to previous bylaw clauses as the primary rationale behind their continued existence. If data was collected for the reviews, it was gathered incrementally and often not analysed until a section 155 analysis was required. The quality of the assessment was not ideal, because at times the information about complaints or nuisances was inadequate.

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<sup>5</sup> There is a difference between the percentage of complaints made compared with the percentage of people who consider something to be an issue, but do not make a formal complaint. The Inspections and Enforcement Unit receive service requests around over-hanging trees and actions them. However it is not a true reflection of how many incidents the Unit deal with. For example, when a complaint is received and the site visited, the enforcement officer is required to identify other addresses which are offending. This at times can be another 20 addresses. In the 1999 annual residents survey, about 21 per cent of respondents noted noise from neighbours as being a problem. Of these, 30 per cent considered it a major problem; 25 per cent sometimes a problem; and 44 per cent considered it a minor problem. Those who considered noise from neighbours to be a major problem were more likely to complain (65 per cent) as compared with those considering it sometimes a problem (52 per cent), while only 23 per cent who considered it a minor problem complained. Overall less than half of the total (42 per cent) complained. These figures have a sample error of 9 per cent at the 90 cent confidence level, so this must be taken into account in projecting the figures to the total city population. But even taking this into account, it does reveal that the potential number of complainants is much higher than the Council actually receives. The numbers of those who state they consider neighbour noise a major problem could range from 11,000 to almost 30,000 compared with the 8,294 complaints received in 1999 by the Council Call Centre.

28. Some information coming through the Council Call Centre is not captured in the Service Request Systems, but is sent directly to individual units to investigate. All calls need to be logged through the Call Centre and entered into the Service Request System.
29. Systems for gathering information on complaints that do not currently breach bylaws, but are 'new' nuisances the Council could consider including in a bylaw, have been inadequate.

#### *Banks Peninsula data collection*

30. It proved difficult, during the last bylaw reviews, to find pre-amalgamation data from the former Banks Peninsula District Council as their information systems were not accessible. Calls to the Council Call Centre should now capture any complaints or nuisances in the Banks Peninsula area. Given that the physical, social and economic environment is often significantly different on Banks Peninsula than the rest of the city, it is particularly important that data about nuisances in Banks Peninsula are collected.

#### *Failure to collect information at closure of service request or investigation*

31. The Service Request System is currently not collecting 'action information' or investigation closure information consistently. It is important that information is collected following the investigation of a complaint about whether an issue was confirmed and whether, and how, the investigation or complaint was resolved (for example, what action was taken).

#### **Responsibility for data collection and reporting**

32. One clear systemic weakness identified is the lack of clear staff ownership and responsibility for ensuring adequate data is being collected for the review of each bylaw.
33. An 'owning group' has been identified for each bylaw. Organisational arrangements between the owning group, the Strategy and Planning Group, the Legal Services Unit, and the Inspections and Enforcement Unit are being clarified. However, it is expected that the owning group will ultimately be accountable to the General Managers' Bylaws Group, for feeding back information around data collection as appropriate. This will include the responsibility of leading and presenting an annual report to the Regulatory and Planning Committee (the Committee) on the operation of each bylaw and any emerging issues.
34. Strategy and Planning Group staff will carry out a regular review and analysis of Service Request System data for all bylaws on behalf of the groups responsible for the bylaws. The results of these efforts will be fed back to the owning groups once a year (including any recommendations around the addition of new Service Request System categories).
35. A template for reporting back on the monitoring and operation of bylaws to the Committee will be developed. This will be, in general terms, a generic report which touches on the administration, enforcement and any emerging issues of each bylaw. It will be the owning groups' responsibility to fill out the reporting template and to determine if further information is required to produce a satisfactory insight into the operation of the bylaw(s).

#### **Potential information sources could be used for future reviews**

36. In an effort to generate data on nuisances to support the section 155 analyses of the next round of bylaw reviews, and to create greater consistency around the data collection processes across the organisation, officers have made a number of modifications to the Service Request System, and have identified new information sources which can be used to collect information on 'perceived' and 'new' nuisances. These new information sources are elaborated below.

### *Customer complaints*

37. As a result of undertaking this audit, staff determined that there was a requirement for categories to be added to the Service Request System to align with the clauses in the newly adopted bylaws. Modifications to the Service Request System will pick up complaints made by the public which should confirm the existence or lack of nuisances related to the new bylaws.
38. The Service Request System will also be able to assist in the identification of 'new' nuisances. New nuisances/issues will be identified as such because whilst they will not be accommodated by the existing complaint categories in the Service Request database, they will be captured in 'miscellaneous' categories. Strategy and Planning staff will be responsible for monitoring these miscellaneous categories periodically, in addition to monitoring the categories which directly apply to each bylaw. Additional categories may need to be added to the Service Request System in the future to capture data effectively around these emerging issues.
39. A programme of work is currently underway to replace the current Service Request System with a new system – Local Authority System Enhancement and Replacement (LASER),<sup>6</sup> which includes the Service Inquiry Management System (SIMS). SIMS will be able to log events to a property address or a geospatial location and provides the opportunity for improved reporting – for example a pothole incident could be logged against a point on the road where the pothole is, rather than the current situation where it is logged against a nearby property address. SIMS could also find information using quite specific searches, for example "the amount of broken glass within the last three months", "the number of wandering dogs reported in parks", or "the number of Incident Reports in the area bordered by Colombo, Lichfield, Manchester and Hereford Streets, grouped by Service".
40. In some cases there are specific reasons why databases that provide information about nuisances in relation to specific bylaws should remain with the unit concerned. For example, the Water and Waste Unit, in addition to having Service Request System categories that are well aligned to bylaw clauses, collects other information relevant to bylaw making and maintains a number of databases for this purpose. Refuse stations provide the Water and Waste Unit with a waste analysis tool and undertake a triennial waste depot audit. This supports the review of the Water and Waste Unit bylaws.<sup>7</sup> Furthermore, contractors such as City Care report to the Water and Waste Unit once per year regarding issues such as tampering with water connections. There are three databases<sup>8</sup> which provide further data for water and waste bylaws. It has been indicated by water and waste officers that all data will be in one source within one to two years.

### *Enforcement activity and staff observations*

41. Staff observations should be recorded consistently in the Service Request System. Council staff<sup>9</sup> need to ensure that they are reporting new nuisances and complaints by the public to the Council Call Centre instead of individual, group, team or unit databases. Information around the need for staff to report formally, nuisances or complaints by the public, and to conclude investigations, shall be sent to the relevant unit managers to inform the relevant staff.
42. Officers need to, upon completion of an investigation or even if the investigation is stalled, alert the Call Centre of relevant information (for example, whether any other issues arose from the investigation or whether there was an actual issue to deal with or whether and how the issue was handled etc). This should allow the Call Centre to confirm the outcome of the investigation to customers and to provide useful data for the next bylaw reviews. There is a need to improve consistency.

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<sup>6</sup> The Council currently uses the GEMS and Worksmart software applications to manage core components of business including Requests for Service. The GEMS/Worksmart software is now at 'end of life' and the Council is planning to migrate the functions within GEMS/Worksmart into a new solution.

<sup>7</sup> Cleanfill licensing, trade waste, water-related, waste management and licensed waste handling.

<sup>8</sup> Transfer stations, Kate Valley operations, and cleanfill operations.

<sup>9</sup> Including Park Rangers, Parking Wardens, Animal Control Officers and Enforcement Officers.

43. Organisations contracted by the Council should be made aware of the importance of reporting nuisances or potential issues formally by the relevant bylaw owning group who contract services out. These organisations, such as Armourguard<sup>10</sup> or City Care, have the potential to supply the Council with useful data, for example, the amount of broken glass found and other 'eyes on the street' information.

*Residents survey*

44. There could be better use made of the Residents Survey for data collection for the bylaws and their reviews. However, this will always only provide a general picture of a nuisance(s). Any indications of a new or identified nuisance may need to be followed up by the owners of the bylaw(s) through the examination of other sources of information.

*Specific research*

45. Specific research tailored to meet the needs of individual bylaws may be a productive means of gaining a more detailed view of perceived, identified or 'new' issues. This could, depending on resources available, include a survey approach by officers, which could occur whereby officers are:
- (a) Checking compliance with the bylaw.
  - (b) Checking the quantity and nature of an offence.

There could be the opportunity to use campaigns to ascertain whether a nuisance is more perceived than real or otherwise, for bylaw matters. The Inspections and Enforcement Unit currently undertake campaigns around the city to determine whether there is adherence to some bylaws. For example, in August/September 2007, the Unit undertook a campaign in relation to footpath signage in the inner city that breached the Public Places and Signs Bylaw 2003.<sup>11</sup> This is a form of data collection that should contribute to the bylaw-making process.

46. Not all bylaws will be able to utilise data solely from the Service Request System. There are other sources of data which may need to be investigated. For example, the review of the Marine and River Facilities Bylaw lacked data concerning the weight that Council-owned marine and river structures, such as wharves and jetties, could hold. The key argument that the bylaw was needed to protect the integrity of the structures lacked support without a structural engineer's report on each structure. The time constraints placed on the bylaw review process meant that there was not time to obtain structural engineers' reports. During the next review of this bylaw, there will be a need to establish the structural integrity of the Council owned or managed marine and river facilities.
47. It is important for the staff responsible for bylaw(s) to give consideration to 'new' issues which emerge through the Service Request System. If research unearths evidence to support the theory that a nuisance is actual then the new nuisance may need to be tested through the requirements of section 155 in the LGA 2002.

**Conclusion**

48. A number of improvements have been made, or are currently underway, to data collection systems to provide the necessary information for future bylaw reviews. These are summarised in **Attachment One**. The owners of the bylaw(s) have ultimate responsibility for their bylaws and for ensuring relevant data is collected for each bylaw review. To assist this task, Strategy and Planning Group staff will carry out a regular review and analysis of Service Request System data for all bylaws on behalf of the groups that are responsible for the bylaws. It is the owning Group that will be responsible to the Regulatory and Planning Committee through the development and presentation of an annual report on the monitoring of each bylaw's operation and any emerging issues.

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<sup>10</sup> For example, contracted for after hours noise control.

<sup>11</sup> 514 business premises were checked and 130 premises were initially found to be in breach of the bylaw as a result of those businesses having more than one footpath sign contrary to the Council's Policy for