

12 June 2018

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Alan Preston

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via email: fyi-request-7834-fa45d269@requests.fyi.org.nz

www.dia.govt.nz

Dear Mr Preston

Official Information Act Request Reference: 17/18-0434

Thank you for your request for information under the Official Information Act 1982 (the OIA) and the Local Government Official Information and Meetings Act 1987 (the LGOIMA) dated 15 May 2018. Please note that Archives New Zealand does not hold information subject to the LGOIMA.

You asked:

Is Auckland Council complying with the Public Records Act 2005?

Archives New Zealand does not currently monitor local authority PRA compliance through a comprehensive monitoring framework that would allow this question to be answered; a framework is currently under development. I also note that recordkeeping audits under the PRA could be used for compliance monitoring, but these provisions apply only to central government public offices, not local authorities.

Archives New Zealand's Government Recordkeeping directorate has twice investigated sections of Auckland Council and its predecessor agencies for alleged breaches of the PRA and each time did not find evidence of breach or unauthorised disposal.

I am releasing to you the documents that relate to these two investigations. A schedule of documents is attached as Appendix A. Please note that the personal information of one of the complainants is being withheld under section 9(2)(a) of the OIA. I do not consider that the withholding of this information is outweighed by the public interest in it.

You asked:

If Auckland Council is complying in part - but not fully, which sections of the Public Records Act are they not complying (fully) with?

Since when have they not been complying?

Is there any reasonable explanation given by Auckland Council for their non-compliance with the Public Records Act?

What measures need to be taken by Auckland Council to ensure that they are fully compliant with the Public Records Act?

Because investigations have not found Auckland Council to have been in breach of the PRA, these questions are not able to be answered, assuming as they do, that the Council is in a state of non-compliance.

You asked:

Is it within the powers of Archives New Zealand to enforce compliance by Auckland Council?

If it is not within the powers of Archives New Zealand to enforce compliance, who does that power lie with?

The Chief Archivist is empowered through section 27 the PRA to issue, review, amend or revoke standards for local authority records and archives. Section 11 provides for the issue of instructions in accordance with the PRA. Section 29 provides for inspections of local authority records and archives. Offence provisions are contained in Section 61 of the PRA.

The Chief Archivist may also direct the administrative head of a public office to report on specified aspects of its recordkeeping practices or the public records that in controls (section 31). However, as with recordkeeping audits, this provision applies only to central government public offices, not local authorities.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Yours sincerely



Johanne Spring
Acting Chief Archivist
Archives New Zealand

Appendix A: Documents for OIA request

#	Name of document	Document date	Withhold section
Documents from first investigation			
1.	Investigating a complaint about Auckland Council recordkeeping (A555195)	11 March 2011	R
2.	20110523 - Letter of complaint - Penny Bright - re Section 17 Public Records Act (A571494)	23 May 2011	R
3.	File Note - Complaint from Penny Bright against Auckland Council - Breach of PRA (A571609)	23 May 2011	R
4.	Penny Bright's blog post 25 May 2011 waterpressure wordpress (A574654)	25 May 2011	R
5.	RE File Note - Complaint from Penny Bright against Auckland Council - Breach of PRA - from Cathy Holmes re rev (A573625)	30 May 2011	R
6.	Initial response to P Bright - Water Pressure spokesperson (A573712)	30 May 2011	R
7.	Further communication with Penny Bright - 7 6 2011 (A589127)	7 June 2011	R
8.	Letter acknowledging complaint - note to Penny Bright re timeframes for formal response - Patrick Power, 10 06 (A576358)	10 June 2011	R
9.	Penny Bright complaint acknowledgment letter - draft 10 June 2010 (A576349)	28 June 2011	R
10.	Complaint under the Public Records Act 2005 - Vogel, Raewyn to Bright, Penny - 28 06 2011 (A780529)	28 June 2011	R
11.	Letter to Auckland Council CEO notifying receipt of complaint (A599353)	12 September 2011	R
12.	RE Re-activating investigation under the Public Records Act (A793309)	14 July 2014	R
13.	Re-activating investigation under the Public Records Act - response (A794233) Attachment	18 July 2014	R
14.	Phone Call complaint - Penny Bright - 21 08 2014 (A800405)	21 August 2014	R

#	Name of document	Document date	Withhold section
15.	Progress on your complaint (email following up on phone conversation) - Power, Patrick to Bright, Penny - 21 0 (A800406)	21 August 2014	R
16.	Carr, Shanann to Bruce Thomas Re-activating investigation under the Public Records Act (A804888)	18 September 2014	R
17.	Letter from Bruce Thomas re Bright investigation (A806713)	25 September 2014	R
18.	Carr, Shanann - Response to Bruce Thomas (A808086) And attachments	9 October 2014	R
19.	Public Records Act - Penny Bright - letter from Auckland Council (A810130)	24 October 2014	R
20.	Letter to Penny Bright regarding Auckland Council (A798281)	19 December 2014	R
21.	Letter from the Chief Archivist, Marilyn Little (A818240)	23 December 2014	R
22.	Record of conversation with Penny Bright 22 May 2015 (A837750)	22 May 2015	R
23.	Whaleoil article - 20 September 2016 (A908265)	20 September 2016	R
24.	RE Penny Bright private prosecution under the Public Records Act of Auckland Council (A907706)	23 September 2016	R
Documents from second investigation			
1.	FW Public Records Act 2005 Breach Concern (A816682)	4 December 2014	s9(2)(a)
2.	Investigation Notes 9(2)(a) and Auckland Transport (A816800)	11 December 2014	s9(2)(a)
3.	9(2)(a) Auckland Transport Investigation Notification of Complaint letter Kylie Welch (A817971)	19 December 2014	s9(2)(a)
4.	Clarification of copies regarding Auckland Transport (A818126)	22 December 2014	s9(2)(a)
5.	CA Coversheet - Auckland Transport direction to report of 21 April (A832460)	20 April 2015	s9(2)(a)
6.	Signed letter to Auckland Transport – 22 April 2015 (A833637)	22 April 2015	s9(2)(a)
7.	Initial Assessment regarding Auckland Transport - 21 April 2015 (A832520)	21 April 2015	s9(2)(a)

#	Name of document	Document date	Withhold section
8.	Email to 9(2)(a) re response of Chief Archivist - 29 04 2015 (A833653)	29 April 2015	s9(2)(a)
9.	Auckland Transport delay in response to Direction (A837587)	13 May 2015	s9(2)(a)
10.	30 10 2015 - Query and acknowledgment - Newport, J to 9(2)(a) (A858147)	30 October 2015	s9(2)(a)
11.	30 10 2015 - Query as to status of response - Newport, J to Moss, A (A858146)	30 October 2015	s9(2)(a)
12.	Reminder and escalation, Martin P - Rooijackers, G (A861608)	30 October 2015	s9(2)(a)
13.	Response from Auckland Transport - 21 December 2015 (A871101)	21 December 2015	s9(2)(a)
14.	Compliance Assessment Report - Jan 2016 - Draft (A868367)	1 January 2016	s9(2)(a)
15.	CA Coversheet - Auckland Transport response to direction to report - draft (A871867)	15 February 2016	s9(2)(a)
16.	Letter to Jones R at Auckland Transport, Feb 2016 - Draft (A871104)	29 February 2016	s9(2)(a)
17.	Compliance Assessment Report - Signed 08 09 2016 (A907303)	8 September 2016	s9(2)(a)
18.	CA Coversheet - Auckland Council request for report (A905433)	8 September 2016	s9(2)(a)
19.	Letter to Auckland Council 9 September 2016 (A896875)	9 September 2016	R
20.	Auckland Council response to direction to report of 9 September 2016 (A907929)	9 September 2016	R
21.	Assessment of Auckland Council Response - November 2016 - Final (A908646)	30 September 2016	s9(2)(a)
22.	CA Coversheet - Response to Auckland Council and 9(2)(a) - 11 November 2016 (A914480)	11 November 2016	s9(2)(a)
23.	Letter from Chief Archivist to 9(2)(a) - 11 November 2016 - Signed (A913260)	11 November 2016	s9(2)(a)
24.	Letter from Chief Archivist to Chief Executive Auckland Council - 11 November 2016 - Signed (A913199)	11 November 2016	s9(2)(a)