

09 July 2024

Marie

**By email:** [fyi-request-27224-69724810@requests.fyi.org.nz](mailto:fyi-request-27224-69724810@requests.fyi.org.nz)

Dear Marie

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**Local Government Official Information and Meetings Act 1987 (“LGOIMA”):  
Request for Information**

I refer to your request dated 11/06/2024 requesting information on investigations and prosecutions under the Maritime Transport Act 1994. Your request has been referred to me to reply. Please see our responses below and in the documents attached.

Q1: Could you please advise of any investigations and prosecutions by your council under the Maritime Transport Act 1994 in the last 10 years (or timeframe that doesn't invoke the too must work refusal clause).

There has only been one investigation in the 10-year period relating to the Coastal Environment and it's an ongoing investigation. This investigation is not being carried out under the Maritime Transport Act 1994. Please see attached for all Maritime infringements.

Q2: Your internal procedures/manuals and other documents in relation to whether you investigate and prosecute or Maritime New Zealand does.

Please see attached.

Q3: What is your understanding (any agreements or memorandum of understanding with Maritime New Zealand) on decisions and how those decisions are made as to whether you or Maritime NZ investigate recreational boating incidents.

There is no agreement or Memorandum Of Understanding (MOU) in place with Maritime New Zealand (MNZ). If an incident or accident is reported to the Harbour Masters Office (HMO) we discuss it with the MNZ manager of compliance for the South Island. If MNZ wish to investigate using their own criteria they will take the lead and may involve the HMO. If MNZ decides not to investigate, the HMO will decide what action we will take, which could include running it through our enforcement decision process.

Q4: Please provide your standard operating procedures for investigating and prosecuting under the Maritime Transport Act 1994 (or general if not specific).

Please see attached.

Q5: Please provide the criteria used to determine if you investigate a recreational boating incident.

All reported incidents are initially investigated to a degree, see attached document 'Enforcement Decision Process and Checklist'

- Is there a clear party against which enforcement can be taken?
- Is there clear evidence indicating that an offence was committed?
- Can we prove that the offence was caused by this/these parties?
- Is it in the public interest?
- Is the offence or area of identified heightened risk?
- What were the effects of the incident? – Nil Actual, Potentially Minor, Actual Minor, Potentially Moderate, Actual Moderate, Potentially Major, Actual Major, Ongoing.

Q6: Please provide the code of conduct and conflict of interest policy in relation to your investigators. For example, if a victim and complainant in a recreational boat incident is a friend of one of your investigators or officers, and then they called your officer on a weekend, then went your officers house to complain about the incident and told your officer how angry they were about the other people on board, and their treatment etc...(when police and harbour master were already aware of the incident and choose not to act) would your officer then be able to recommend and lead an investigation into the accident including making recommendations to prosecute the people the officers friend was angry at? (This situation did not involve your council, or other councils, but was a situation with an officer from a govt department investigating an incident under the circumstances described). I am not trying to get an opinion, rather demonstrate the angle I am taking regards policies and documents that relate to this and would either allow or disallow that example to happen in your organisation.

All our staff are aware of the organisation's conflict-of-interest policy. With respect to the example mentioned above, it is unlikely this would happen at the HMO as it would be identified as a conflict of interest, which means the complainant's request would be handled by another officer.

You will be aware that if you are not satisfied with this response, you are able to refer this matter to the Office of the Ombudsman under s27 (3) of the Local Government Official Information and Meetings Act 1987.

Should you require any further information or clarification, please do not hesitate to contact LGOIMA@ecan.govt.nz in the first instance.

Yours sincerely,



**Stephen Hall**  
Director of Operations