

Our reference: qA98801
Enquiries to: Lyndon Cleaver
Email: Lyndon.Cleaver@es.govt.nz

11 July 2024

Marie
fyi-request-27225-c816067c@requests.fyi.org.nz

Dear Marie,

Official information request for investigations and prosecutions under the maritime transport 1994

I refer to your official information request dated 17 June 2024 and received by Environment Southland on 25 June 2024 for information regarding prosecutions and investigations under the Maritime Transport Act.

The information you have requested is below.

1. 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).

We have only investigated and taken enforcement action in one instance under the Maritime Transport Act 1994 in the past 10 years. This was an incident at Riverton involving a recreational fishing boat and a rowing skiff. It did not meet the threshold for prosecution and an infringement was issued.

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

There is a requirement to report all maritime incidents/accidents to both Maritime New Zealand and the Harbourmaster in the first instance. As a matter of due course Maritime NZ will determine if the incident meets their threshold for investigation or it is passed over to the Regional Council for investigation consideration. There is no formal process for how this happens or who investigates a particular incident.

3. 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.

As above

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

Investigations and enforcement action will generally be undertaken by Environment Southland's Resource Management team, with support and expert advice from the Harbourmaster or his representative. This will be carried out in line with the Enforcement Policy available on our website (<https://www.es.govt.nz/environment/compliance/compliance-information>)

5. Please provide the criteria used to determine if you investigate an recreation boating incident.

All incidents/accidents are required to be reported to the Harbourmaster. The Harbourmaster will usually gather some initial information to determine if there is a reason to investigate further, for example whether there has been a potential breach of the Environment Southland Navigation Safety Bylaws.

6. 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.

Conflict of interest is covered within our Enforcement Policy and references the Conflict of Interest Statement within our staff handbook. In 2018 our organisational Conflict of Interest Policy was developed and is available on our website (<https://www.es.govt.nz/about-us/plans-and-strategies/policies/conflict-of-interest-policy>).

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

If you wish to discuss this response with us, please feel free to contact Lyndon Cleaver.

Yours sincerely,



Paul Hulse
General Manager, Integrated Catchment Management