

Audit & Risk Subcommittee 26 February 2020

Meeting is held in the Council Chamber, Level 2, Philip Laing House
144 Rattray Street, Dunedin



Members:

Cr Hilary Calvert
Cr Kevin Malcolm
Cr Andrew Noone
Cr Kate Wilson

Senior Officer: Sarah Gardner, Chief Executive

Meeting Support: Liz Spector, Committee Secretary

26 February 2020 09:00 AM

Agenda Topic	Page
1. APOLOGIES No apologies were received prior to publication of the agenda.	
2. ATTENDANCE Staff present will be identified.	
3. CONFIRMATION OF AGENDA Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.	
4. CONFLICT OF INTEREST Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.	
5. PUBLIC FORUM No requests to address the Audit and Risk Subcommittee have been received.	
6. ACTIONS (Status of Subcommittee Resolutions) There are no outstanding actions of the Audit & Risk Subcommittee.	
7. MATTERS FOR DECISION	3
7.1 APPOINTMENT OF CHAIR AND INDEPENDENT MEMBER To appoint a Chair of the Audit and Risk Subcommittee and confirm the process for selection and recommendation to Council of the appointment of an independent member to the Subcommittee.	3
7.2 AUDIT AND RISK WORK PROGRAMME To outline the proposed work programme to be covered at each meeting to ensure the responsibilities outlined in the Terms of Reference are fulfilled.	6

7.2.1	Attachment 1: Audit and Risk Work Programme 2020	8
8.	MATTERS FOR NOTING	9
8.1	HEALTH AND SAFETY REPORT - FEBRUARY 2020	9
	To summarise health and safety activities and statistics for the period January 2019 – January 2020. The report also summarises key areas of focus planned for the Health and Safety team for the upcoming 2020/21 financial year.	
8.2	LEGISLATIVE COMPLIANCE	15
	To receive Council's inaugural legislative Warrant of Fitness.	
8.2.1	Attachment 1: Legislative Warrant of Fitness	18
8.3	AUDIT MANAGEMENT LETTER RESPONSE	49
	This report outlines Council's response to the Audit Management Letter from the audit of the 2019 Annual Report and Financial Statements.	
9.	RESOLUTION TO EXCLUDE THE PUBLIC	52
	That the public be excluded from the following items:	
	- 2.1 Managed Fund Report (LGOIMA 48(1)(a): Sec 7(2)(c)(i) and 7(2)(h))	
	- 2.2 Risk Report (LGOIMA 48(1)(a): Sec 7(2)(c)(i), 7(2)(c)(ii), and 7(2)(e))	
9.1	Public Excluded Reason and Grounds	52
10.	CLOSURE	

7.1. CS1930 Appointment of Chair and Independent Member

Prepared for: Audit and Risk Sub-Committee
Report No. CS1930
Activity: Governance Report
Author: Amanda Vercoe, Executive Advisor
Endorsed by: Sarah Gardner, Chief Executive
Date: 14 February 2020

PURPOSE

- [1] To appoint a Chair of the Audit and Risk Subcommittee and confirm the process for selection and recommendation to Council of the appointment of an independent member to the Subcommittee.

EXECUTIVE SUMMARY

- [2] The Audit and Risk Subcommittee needs to consider the appointment of its Chair and recommend to Council the appointment of an independent member.

RECOMMENDATION

It is proposed that the following recommendations are taken in two parts.

That the Audit and Risk Subcommittee:

- a. Appoints a Chair for the Audit and Risk Subcommittee.**

Following appointment of Chair that the Audit and Risk Subcommittee:

- b. Confirms the skills and experience required in an independent member of the Subcommittee, being:**

- Audit and Financial Reporting
- Risk Management
- Health and Safety
- Investment Management
- Legal Compliance
- Governance

- c. Approves the process for the selection and appointment of an independent member of the Subcommittee, being:**

- Advertise the vacancy on the NZ Institute of Directors website
- Advertise the vacancy in the Otago Daily Times
- The Subcommittee members, assisted by the Chief Executive upon request, will review the applications and create a shortlist, and make a recommendation to Council on a suitable independent member at its meeting on 25 March 2020.

BACKGROUND

- [3] Council approved the Terms of Reference and membership of the Audit and Risk Subcommittee at its meeting on 11 December 2019. The Terms of Reference delegate appointment of the Chair to the Subcommittee itself. The Office of the Auditor General recommends that the Subcommittee's independent member be appointed as Chair.
- [4] Membership of the Subcommittee includes the appointment of an independent member. In establishing the Subcommittee and approving its terms of reference, Council did not stipulate how the appointment of an independent member should be undertaken. Due to Council establishing the subcommittee, Council needs to approve appointments to the Subcommittee (Local Government Act 2002, Schedule 7, Section 31).

ISSUE

- [5] The Audit and Risk Subcommittee needs to appoint a Chair and agree a process for recommending an independent member to be appointed to the Subcommittee by Council.

DISCUSSION

- [6] At the first meeting of the Subcommittee, a Chair needs to be appointed as the first item of business. Co-chairs of the Finance Committee will chair the meeting until a Chair has been appointed.
- [7] The Office of the Auditor General recommends as best practice that the independent member of the Subcommittee be appointed as the Chair. Reasons for this are that the independent member is impartial, can more readily ask the hard questions, and support strategic conversations.
- [8] An independent member also needs to be appointed to the Subcommittee by Council. It is proposed that the appointed members of the Subcommittee undertake the initial selection process for that role and make a recommendation to Council for approval.
- [9] Mr Davin Benham, the independent member from the last triennium has indicated he would be available, should the Subcommittee members wish to recommend his reappointment to Council.
- [10] Alternatively, a recruitment process to identify possible candidates could be run, as follows:
- Advertise the vacancy on the NZ Institute of Directors website (this matches other Council's practice)
 - Advertise the vacancy in the Otago Daily Times
 - The Sub-Committee members, including Chief Executive to review the applications and create a shortlist
 - A recommendation is made to Council on a suitable independent member, at its meeting on 25 March 2020.
- [11] The skills required in an independent member should align with the responsibilities of the Subcommittee and include:

- Audit and Financial Reporting
- Risk Management
- Health and Safety
- Investment Management
- Legal Compliance

[12] It would be expected the independent member would have previous governance experience in either the public or private sector including membership of audit and risk committees of those entities.

OPTIONS

- [13] Appoint a Chair from current members of the Subcommittee; or
- [14] Do not appoint a Chair, have the current co-chairs of the Finance Committee Chair the subcommittee until an independent member is appointed, and then reconsider the appointment of a Chair.
- [15] Recommend that Council reappoints David Benham as the independent member to the Subcommittee (Mr Benham has indicated that he would be available); or
- [16] Advertise for an independent member via the process outlined above, then recommend a candidate to Council.

CONSIDERATIONS

Policy Considerations

[17] Not applicable.

Financial Considerations

[18] There will be a small cost to advertising the vacancy.

Significance and Engagement

[19] Not applicable.

Legislative Considerations

[20] The Local Government Act 2002 applies.

Risk Considerations

[21] Having an effective Audit and Risk Subcommittee helps the Council manage its risk.

NEXT STEPS

[22] The next steps are, depending on the decision of the subcommittee, to advertise the vacancy with a view to having a recommendation for Council on 25 March 2020.

ATTACHMENTS

Nil

7.2. A&R1875 Audit and Risk Work Programme

Prepared for: Audit and Risk Subcommittee
Report No. A&R1875
Activity: Governance Report
Author: Nick Donnelly, General Manager Corporate Services
Endorsed by: Sarah Gardner, Chief Executive
Date: 14 February 2019

PURPOSE

- [1] The Audit and Risk Subcommittee is governed by its Terms of Reference which outlines the purpose and responsibilities of the Subcommittee. It is intended to hold Subcommittee meetings quarterly in February, May, September and November.
- [2] This paper outlines the proposed work programme to be covered at each meeting to ensure the responsibilities outlined in the Terms of Reference are fulfilled.

RECOMMENDATION

That the Audit and Risk Subcommittee:

- a) **Receives** this report.
- b) **Endorses** the proposed work programme for the Subcommittee for the 2020 calendar year.

BACKGROUND

- [3] The responsibilities of the Subcommittee as outlined in the Terms of Reference are covered under the headings of:
- Audit and Reporting
 - Risk Management
 - Health and Safety
 - Investments
 - Legal Compliance
 - Other (any other matters referred by Council or the Finance Committee)
- [4] A proposed timetable to cover these matters is attached.

CONSIDERATIONS

Policy Considerations

- [5] There are no policy considerations.

Financial Considerations

- [6] There are no financial considerations.
- [7] The proposed work programme is included in existing budgets.

Significance and Engagement

[8] There are no significance and engagement considerations.

Legislative Considerations

[9] There are no legislative considerations in setting the work programme itself.

[10] Specific pieces of work defined in the programme are included to ensure the Audit and Risk Subcommittee has oversight over various legislative requirements i.e. statutory reporting and audit requirements under the Local Government Act and health and safety requirements under the Health and Safety at Work Act.

Risk Considerations

[11] There are no risk considerations in setting the work programme itself.

[12] Not having a defined work programme and not adhering to that programme increases the risk that the Audit and Risk Subcommittee will not fulfil its purpose and responsibilities.

ATTACHMENTS

1. Audit and Risk Work Programme 2020 [7.2.1 - 1 page]

AUDIT AND RISK SUBCOMMITTEE						
Purpose: To assist the ORC in fulfilling governance responsibilities relating to its financial, reporting, legislative, health and risk management practices.						
Terms of Reference	Responsibility	Comments	Feb	May	Sep (Annual Report)	Nov
Audit and Reporting	Review the external Auditor's audit plan, audit management letter and management response to any issues raised during the external audit	Audit plan pre year end (Auditors to attend)				
		Audit management letter (Auditors to attend)				
		Management response (initial response November, follow up actions in February)				
	Consider changes in accounting policies, standards or reporting requirements and make recommendations for Council adoption	Prior to year end				
	Oversee internal control processes and procedures including financial policies, delegations and sensitive expenditure.	Prior to year end				
	Review the draft Annual Report including the Statement of Service and Performance and Financial Statements and make recommendation for Council adoption.					
	Oversee any internal audit functions or reviews and consider any matters referred to it by that function	Report on reviews as required				
Risk Management	Ensure a corporate risk management framework is in place and review risk reports	Risk report presented six monthly				
	Review Council's insurance matters and annual renewal process	Insurance renewal prior to year end				
	Review Council's business continuity and disaster recovery matters					
Health and Safety	Review Council's adherence to the Health and Safety at Work Act 2015 including monitoring health and safety performance, incidents and response	Standing agenda item at all meetings				
Investment	Review the performance of Council's investment portfolio including the long-term managed fund	Managed fund quarterly performance reports provided to each meeting (Fund Manager to report in person annually)				
	Oversee the performance of Council's investment manager including compliance of the managed fund with the Statement of Investment Policies and Objectives (SIPO)	Managed fund quarterly performance reports provided to each meeting (Fund Manager to report in person annually)				
	Review the Treasury Management Policy and SIPO and recommend changes to Council as required					
	Oversee the Investment Manager appointment process and make recommendations to Council on that appointment	As required				
Legal Compliance	Review Council's adherence to legislation that affects Council	Legislative compliance summary				
	Receive and consider updates on legislation that Council is required to operate under and/or enact	Report as legislation changes occur				
Other	Review any other financial matters referred to the Subcommittee by Council or the Finance Committee	As required				

Key: meeting this item will be covered in item by request at any meeting

8.1. P&S1818 Health and Safety Report - February 2020

Prepared for: Audit and Risk Sub-Committee
Report No. P&S1818
Activity: Governance Report
Author: Nicole Ross, Manager People and Culture
Endorsed by: Sally Giddens, General Manager People, Culture and Communications
Date: 13 February 2020

PURPOSE

[1] This report summarises health and safety activities and statistics for the period January 2019 – January 2020. The report also summarises key areas of focus planned for the Health and Safety team for the upcoming 2020/21 financial year.

RECOMMENDATION

That the Audit and Risk Subcommittee:

- 1) **Receives** this report.

BACKGROUND

Health and Safety Committee

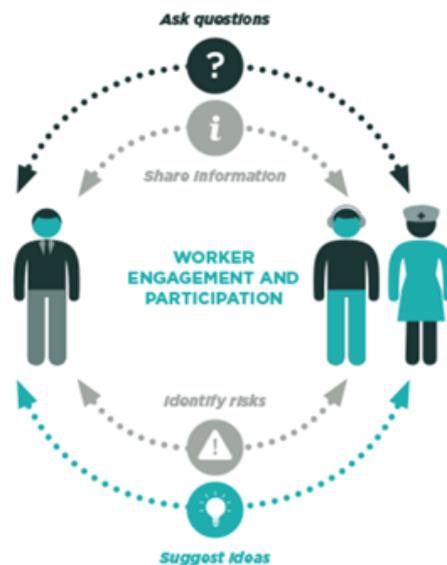


Image sourced from Worksafe New Zealand, 2017, <https://worksafe.govt.nz/managing-health-and-safety/businesses/worker-engagement-and-participation/>

[2] At the request of the Council Chief Executive, the Otago Regional Council [internal] Health and Safety Committee was re-established in December 2019.

- [3] A Health and Safety Committee enables ORC as an organisation and our 'worker representatives' to meet regularly and work in partnership to improve health and safety practices and processes across the organisation. As prescribed by Worksafe, the national Health and Safety regulator, the establishment of a Committee can be either at the request of workers, or a voluntary decision made by the employer.
- [4] The Committee, as well as the wider Health and Safety Representative group currently in place, supports ORC in meeting our obligations for meaningful worker engagement and participation under the Health and Safety at Work (Worker Engagement, Participation, and Representation) Regulations (2016).
- [5] To enable the efficient functioning of the Committee, Terms of Reference were developed in partnership with the existing Health and Safety Representative group, and subsequently signed off by the Executive Leadership Team (ELT). Health and Safety Representatives (representing each business unit), and ORC representatives were appointed to the Committee, inducted, and Committee expectations developed.
- [6] Committee meetings have been scheduled at 6-weekly intervals throughout the year. The first meeting was held on 16 January 2020.

Health and Safety Activity

- **Staffing and Movements**

- [7] As advised in the September 2019 Audit and Risk Committee Report, Victoria Donohue resigned as the Health and Safety Business Partner in August 2019. The position has been covered in the interim by a contractor (Tom Samuel, Director/Training Assessment and HSE Specialist of Sane Solutions Ltd).
- [8] Following an independent review of the health and safety function, two new roles have been established in place of the existing (vacant) Health and Safety Business Partner, and Health and Safety Administrator roles. Recognising the strong synergies between the functions of human resources and health and safety, both teams now report to the Manager People and Safety.
- [9] Rebecca Webster was appointed as the Safety and Wellbeing Partner and started on 10 February 2020. With a background in the health sector and recent work experience with the Australian Health and Safety Regulator Worksafe, Rebecca will add significant value and rigour to the current health and safety function at ORC.
- [10] To support the Safety and Wellbeing Partner, particularly in the aspects of contractor management and new initiatives planned for the upcoming year, the role of Safety and Wellbeing Coordinator was established in place of the vacant Health and Safety Administrator role. Gina Watts filled this position in December 2019. Gina joins ORC with a background in high-risk management, and the scope of this position will enable ORC to work more proactively in health and safety.

- **Work/Projects in Progress**

- [11] Projects during the last year include the development of an ORC Lone Worker Policy, Event Management (Plans), Fatigue Management and Work Hours Policy, Working at

Heights Audit, a security review of Philip Laing House, development of a Pandemic Plan and a full review of the health and safety risk register.

- [12] A draft copy of the Health and Safety Risk Register has been provided to the Health and Safety Committee, who will review the document during their next Committee meeting. It is important that the Risk Register is subject to discussion by a wider group, to reduce subjectivity and increase the rigour of the risk identification and mitigation process. Once confirmed by the Committee, the Risk Register will be tabled with the ELT for final comment and approval. It is anticipated that the Register will be available to the Audit and Risk Committee at the next Committee meeting (27 May 2020).
- [13] A key risk identified recently was the risk to Council and our people posed by the global COVID-19 (novel coronavirus) pandemic. ORC has followed advice from the Ministry of Health, and has provided ongoing updates, advice and guidance to people leaders and staff as it is provided by the Ministry. To ensure our efforts are based on a consistent and best practice approach, pandemic plans from like agencies have been sourced, and an ORC Pandemic Plan is advancing through the draft stages. From a management perspective, logistical decisions such as the provision of discretionary sick leave, quarantine periods and flexibility of work locations have been discussed, and will form part of our overall response plan should the situation in New Zealand escalate.
- [14] Mental health, high workloads and employee wellbeing are also at the forefront of contemporary organisational and health and safety practice. ORC has a number of initiatives underway and in progress to manage these risks:
- Requiring our people leaders to have regular one to one catch up meetings with each of their team members, providing a 'safe space' to talk about workloads or any other concerns.
 - Our recent and ongoing focus on culture and leadership development supports the building of trust between employee and manager, and gives a framework for sometimes difficult conversations about fatigue, mental health and wellbeing to be had.
 - An Employee Assistance Programme has been in place at ORC for some years, this service offers a free and confidential counselling service to all employees experiencing either work or home-related concerns.
- [15] Employees experiencing high workloads are supported proactively through measures such as the use of Council's 'Flexible Time' policy, flexible working arrangements and supplementing the workforce through the use of external contractors and consultants where required. An organisational Wellbeing Framework is currently in development to guide future decision-making in this critical space.
- [16] The development and ongoing review of policies and procedures demonstrates a strong commitment to continuous improvement across the health and safety function.
- [17] In the latter half of 2019, in response to a number of risks being raised by the ORC Health and Safety Representative Group, two working groups were formed at the request of the Chief Executive; the Security Working Group and the Outdoor Working Group. Both groups were provided with clear terms of reference for the review of organisational risks relating to security and outdoor work respectively. Following

completion of the reviews, groups submitted reports outlining their scope, methodologies, the risks identified, and recommendations for their elimination or control. The recommendations have been used as a basis for an action plan to implement changes, the process for which has been led by the Safety and Wellbeing function with input from a small group of key stakeholders. Actions taken thus far include waste chemical disposal, the installation of security cameras in the foyer at Phillip Laing House, increased signage at door access points, and changes to some inwards goods delivery processes. The action plans from these groups will also form part of the Safety and Wellbeing workplan going forward (refer section 20).

Health and Safety Reporting

- **Summary**

- No 'Notifiable Incidents' for the period January – December 2019
- Continuing low rates in the 'minor' category
- Steady reporting of near miss incidents, with the majority related to driving or vehicle use. This aligns with the number of kilometres driven, across the organisation as a whole, for each reporting period

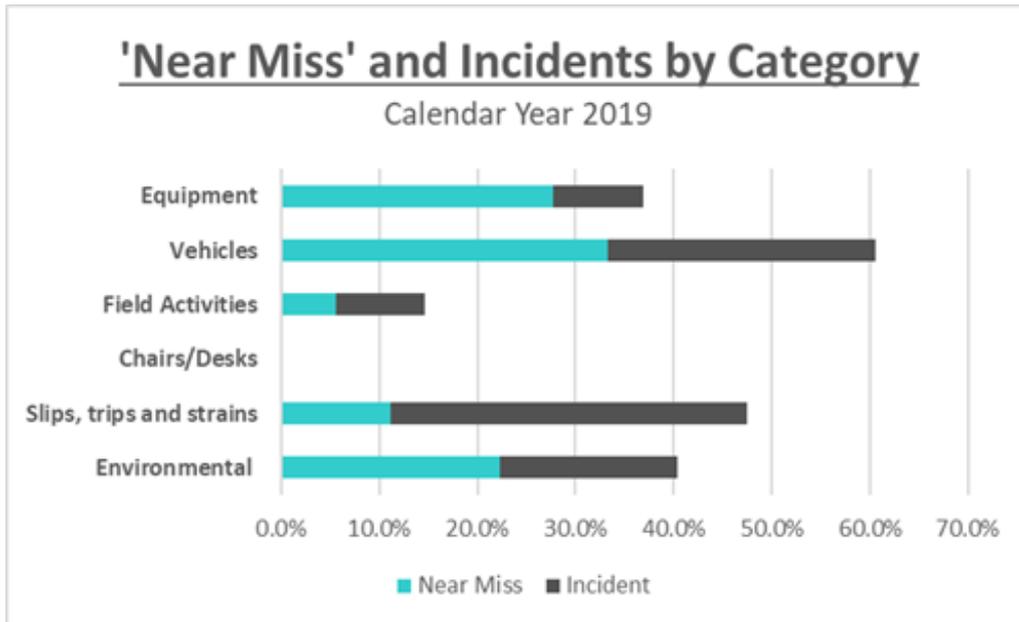
For the calendar year [2019] there have been:

- Twenty-eight incidents or near misses by ORC staff
- One incident recorded by a contractor

- **Vehicle Use**

[18] The chart below categorises incidents within the organisation, and their respective number of reported incidents over the calendar year 2019.

[19] Nine of the twenty-nine reported incidents related to the 'vehicle' category; this is consistent with the number of 'near misses' received, with driving or vehicle use being the clearest theme and ORC's most critical risk. Work is in progress, evidenced in both sections (3) and (5), to address risks associated with driving related harm. These include fatigue management, driver behaviour monitoring, working alone guidelines, and several wellbeing instruments. Over time, we will be analysing the trends to identify what the effect of these new initiatives has been in relation to reducing the number of vehicle-related near-miss and incident situations.



• **Definitions:**

Equipment	All reported near miss or incidents relating to any equipment used in the workplace.
Vehicles	All reported near miss or incidents relating to vehicles or their use.
Field Activities	All reported near miss or incidents relating to activities undertaken in the field.
Chairs/Desks	All reported near miss or incidents relating to chairs, desks or workstation ergonomics.
Slips, Trips and Strains	All reported near miss or incidents relating to slipping, tripping or strain injuries in the workplace (field or office).
Environmental	All reported near miss or incidents relating to the work environment, for example appropriate temperatures.

Health and Safety – Looking Forward

[20] There are four strategic priorities for the Safety and Wellbeing (Health and Safety) function at ORC for the current and approaching financial year, as we continue to provide support to an ever-evolving business. In summary, the key priorities are as follows:

1. Meeting Legislative Requirements and Risk Management
 - Audit of current practice and processes
 - Continuous improvement of contractor management and Safework permit systems
 - Ongoing development of risk management system, including the use of lag and lead indicators
 - Partnering with ORC leaders to ensure a focus on risk identification, elimination and mitigation
2. Wellbeing
 - In partnership with the wider People and Culture team, development of a fit for purpose organisational Wellbeing Framework

- Follow-up activities (cascaded from the Framework) to support and gauge employee wellbeing
 - Exploring self-managing wellbeing strategies
3. Systems and Process Improvement
- Procuring a fit for purpose health and safety management system
 - Continued development of health and safety materials, such as standard operating procedures, policies, processes and guidelines
 - Development and implementation of engaging and meaningful health and safety reporting
 - Implementation of action plan(s) developed by the Security and Outdoor Working Groups
4. Training and Development
- Embedding training needs analysis for high risk and field-based positions
 - Initiatives to support awareness of near-miss and incident reporting
 - Ongoing development and upskilling of Health and Safety Representatives' group.

ATTACHMENTS

Nil

8.2. CS1928 Legislative Compliance

Prepared for:	Audit and Risk Subcommittee
Report No.	CS1928
Activity:	Governance Report
Author:	Peter Kelliher, Legal Counsel Sophie Butt, Administration Officer - Legal
Endorsed by:	Nick Donnelly, General Manager Corporate Services
Date:	17 February 2020

PURPOSE

[1] To receive Council's inaugural legislative Warrant of Fitness.

EXECUTIVE SUMMARY

[2] Otago Regional Council staff have prepared a legislative Warrant of Fitness (WoF) as a tool to review and monitor performance against the legislative framework and identify areas where improvement or action is required.

[3] The WoF will provide a basis from which more focused internal audits will take place to ensure that Council operates its activities in a compliant manner.

[4] The Warrant of Fitness will be prepared annually for the Audit and Risk Subcommittee.

RECOMMENDATION

That the Audit and Risk Subcommittee:

- 1) **Receives** this report.

BACKGROUND

[5] The Otago Regional Council ("Council") is a creature of Statute and derives its functions, duties, and responsibilities from a range of Acts, Regulations, and other legislative instruments.

[6] Council must ensure it is compliant with these instruments. In order to do so, it must periodically review its performance against these instruments to ensure ongoing compliance.

DISCUSSION

[7] A legislative compliance framework is required to reduce the risk of consequences for the Council, such as:

- a. Loss of reputation;
- b. Loss of accreditation;
- c. Civil and criminal proceedings; and
- d. Investigation and censure from monitoring bodies. e.g. The Ombudsman, Auditor-General, Minister of Local Government, Minister for the Environment

- [8] A legislative Warrant of Fitness (“WoF”) has been prepared to provide a snapshot of Council’s current position. The WOF will be used as a tool to identify areas where improvement or action is required.
- [9] The WoF sets out:
- a. The key Acts and other legal obligations or requirements;
 - b. The general elements which have a duty or compliance requirement
 - c. The member of staff responsible for each element, and/or any delegations under legislation.
 - d. What the process is to make sure Council is in compliance.
 - e. Whether Council complies with the requirements or not.
- [10] For reporting on compliance, legislation has been grouped into seven key functions of Council.
- [11] Every effort has been made to identify the key legislation which staff and others are likely to encounter in the normal course of their employment. The list of statutes and other obligations which are set out in the WoF are not exhaustive – but will be reviewed annually.
- [12] Matters that are marked “Under Review” or “Underway” is where Council is in the process of obtaining compliance or reviewing the current process.
- [13] Matters which are marked “Non-compliant” does not necessarily mean all facets of the legislation is not compliant or that that the non-compliant grade will change - for example for the Local Government Official Information and Meetings Act 1987, from 1 July 2019 to date, there were 2 responses that were not sent within the statutory period.
- [14] The grades applied (i.e. compliant/non-compliant etc..) are based on information provided by staff and evidence of process/procedures. The WoF does not include verification of the information provided by staff, auditing of the processes/procedures or checking whether they have been followed. The Council is planning an internal audit programme to undertake such assessments.
- [15] The Council’s current Legislative WOF is included as an attachment to this report.

CONSIDERATIONS

Policy Considerations

- [16] There are no policy considerations arising from this report.

Financial Considerations

- [17] There are no financial implications associated with this report. There will be a cost associated with the auditing programme once developed.

Significance and Engagement

- [18] No matters in this report trigger the Council’s significance policy or require additional or specific consultation.

Legislative and Risk Considerations

[19] It is important that Council has an appropriate system in place to identify any areas of risk of non-compliance so that these can be addressed before they cause issues.

ATTACHMENTS

1. Legislative Warrant of Fitness [8.2.1 - 31 pages]

Legislative Warrant of Fitness – 2019/20

Contents

Council as a good employer2
Council as a landlord and land owner.....10
Council as an information holder and provider.....12
Council as a governance body15
Council as a policy maker.....18
Council as a financially prudent public entity.....22
Council as a regulator and matters of compliance27

Council as a good employer

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Criminal Records (Clean Slate) Act 2004 The Criminal Records (Clean Slate) Act establishes a clean slate regime that enables eligible individuals to conceal their criminal record in some circumstances.</p>	<p>Compliance with the prohibition to ask or require a person to disregard the effect of the clean slate scheme when answering a question about their criminal records. It is an offence to require or request an individual to disregard the effect of the clean slate and disclose, or give consent to the disclosure of his or her criminal record</p>	<p>Manager People and Culture</p>	<p>Y</p>	<p>Application for employment process Police checks for senior appointments (General Manager level) and as required.</p>	<p>Y</p>	<p>The requirements of the Act are met in Council's application process and during Criminal Conviction checks</p>
<p>Employment Relations Act 2000 This Act covers the negotiation of employment agreements and procedures for employment relations problems. It is integral to the function of the Council as an employer</p>	<p>Compliance with legislative requirements regarding employment agreements, bargaining, union membership, personal grievance processes, record keeping etc</p>	<p>Manager People and Culture</p>	<p>Y</p>	<p>Collective and Individual Employment Agreements Storage of Employee Records Policy Processes - Staff requests for flexible hours, review process.</p>	<p>Y</p>	<p>The requirements of this act are met - HR ensures compliance with all Individual and Collective Employment Agreements. Changes were made to the ERA this period and HR processes were updated to reflect the changes – such as restoration of the 30 day rule (all new employees are covered by the Collective Employment agreement for 30 days etc), providing employees a form to indicate whether they want to join a union, and we have also met with the PSA to</p>

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
						discuss how we will include pay rates in the collective agreement. HR ensure that meal and rest breaks are accounted for in employment contracts.
Equal Pay Act 1972 This Act enables the elimination and prevention of gender discrimination in remuneration rates in all sectors of paid employment	Rates paid to male or female staff (with the same (or substantially similar) skills, responsibilities and service) are consistent	Manager People and Culture	Y	Equal Opportunities policy Remuneration Policy Job Sizing system	Y	The Job Sizing system is now used to evaluate most positions at Council. This system determines what rates are paid for positions.
Health and Safety at Work Act 2015 An Act relating to the health and safety of employees and other people at work, to promote health and safety management by employers	Compliance with the requirements of as person conducting a business or undertaking under the Health and Safety at Work Act 2015.	Manager People and Culture CE, General Managers and staff also have statutory duties under the Act	Undertake all the duties and functions of a person conducting a business or undertaking under the Health and Safety at Work Act 2015	Health and Safety Manual H&S Committee Operational H&S Policy Paper based H&S reporting system	Y	Current health and safety manual. H & S Committee Compliance with health and safety procedures and systems Reporting undertaken in accordance with the Act
Holiday Act 2003 The purpose of this Act is to promote balance between work and other aspects of employees' lives and, to that end, to	As an employer, the Council must ensure that its employment contracts comply with the legislation and employees and allowed leave accordingly.	Manager People and Culture	Y	Leave Policy Individual and Collective Employment agreements	Y	HR ensures compliance with the Holiday Act and Individual and Collective Employment Agreements

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
provide employees with minimum entitlements to annual holidays, public holidays, sick leave and Bereavement leave	All required records are kept of this.					
Human Rights Act 1993 This Act governs the protection of human rights in New Zealand. It is applicable to the Council in employment and the provision of access to the disabled.	Compliance with requirement not to discriminate based on a prohibited ground * *Prohibited Grounds: Discrimination on the basis of gender, pregnancy and childbirth, marital status, religious ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment or family status, sexual orientation.	Manager People and Culture Manager Transport	No delegation required as Council is not exercising a power under legislation.	Equal Employment Opportunities Policy, Harassment (including bullying and discrimination) policy, Recruitment and Selection Policy, Substandard Performance, Misconduct and Disciplinary Policy (in draft) Transport – no specific policy/process but number of requirements in the Regional Public Transport Plan (“RPTP”) Administration of the Total Mobility Scheme	Y	HR ensures compliance with the Human Rights Act. Various policies are in place RPTP – Appendix 1 of the RPTP summarises a collaborative assessment of the accessibility needs of the transport-disadvantaged in the Otago region. Page 98: “Assessment of the Transport Disadvantaged”
Injury Prevention, Rehabilitation and Compensation Act 2001.	Comply with obligations as an employer for the payment of levies and premiums	Manager People and Culture	Y	Council has a login to the ACC website to trace our injuries.	Y	Council staff have met with ACC- ACC have not raised any issues or concerns.

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
This Act regulates the area of accident compensation coverage		Manager Finance - Reporting				
Kiwi Saver Act 2006 This Act is to encourage a long-term savings habit and asset accumulation by individuals for retirement. The Act aims to increase individuals' well-being and financial independence, particularly in retirement, and to provide retirement benefits.	Provision of employees with information packs, meet enrolment requirements for employees, compulsory contributions and tax credit entitlements etc.	Manager People and Culture Manager Finance - Reporting	No delegation required as Council is not exercising a power under legislation	Employee payroll start form Kiwisaver employee information sheet Kiwisaver information – existing staff wanting to join Cease KiwiSaver Compulsory Employer Contribution	Y	Staff manually link a person in Kiwisaver. If we do not put a Kiwisaver line in Pay Global, results in a pop up with a warning checking whether or not the person needs to be added.
Local Government Act 2002 This Act sets out the requirements of Council to be a good employer, and certain disclosure requirements regarding employee salaries in its Annual Reporting.	Compliance with requirement to be a good employer and other reporting requirements under this legislation. 42 Chief Executive A chief executive appointed under subsection (1) is responsible to his or her local authority for— (c)ensuring that all	Manager People and Culture	Council has delegations under the LGA but not specifically in relation to employment. The Local Government Act 2002 specifically identifies the CE as the employer of Council staff. S42 of the Act provides authority for the CE to comply with legislation	There are a number of policies that relate to Council being a good employer such as: Remuneration Policy, Equal Employment Opportunities Policy, Harassment (including bullying and discrimination) policy, Recruitment and Selection Policy, Substandard	Y	Manager People and Culture is responsible for meeting the reporting requirements under the Local Government Act 2002 in relation to employee salaries and the number of employees

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
	<p>responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed or exercised; and</p> <p>(g)employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy); and</p> <p>(h) negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).</p>			<p>Performance, Misconduct and Disciplinary Policy (in draft), Training and Development Policy (in draft), Domestic Violence Policy.</p> <p>Appointment Approval form – signed off by CEO</p>		
<p>Minimum Wage Act 1983 The Act provides for minimum wage rates for adults and for youth workers to be paid. The Minister has discretion to set the minimum wage order</p>	<p>Compliance with minimum wage rates.</p>	<p>Manager People and Culture</p>	<p>No delegation required as Council is not exercising a power under the legislation</p>	<p>Y - Process - Process payroll end of tax year Individual and Collective Employment Agreements</p>	<p>Y</p>	<p>Pay Global (payroll system) has a warning for minimum wage rates that warns Council staff if we try and pay a person less than the current minimum wage.</p>

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Parental Leave and Employment Protection Act 1987 Prescribes the minimum entitlement with respect to parental leave for male and female employees and protects employees during pregnancy and parental leave.</p>	<p>Comply with the requirements regarding parental leave under this legislation</p>	<p>Manager People and Culture</p>	<p>No delegation required as Council is not exercising a power under the legislation</p>	<p>Leave Policy, Harassment (including bullying and discrimination) policy, Collective and Individual Employment Agreements Process – Employee Parental Leave (in draft)</p>	<p>Y</p>	<p>Requirements are met as outlined in Council’s employee parental leave process</p>

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Protected Disclosures Act 2000 An employee of the Council (including a former employee and a person working under contract of services) may disclose information about serious wrongdoing in or by the organisation which the employee believes on reasonable grounds to be true or likely to be true and the purpose is to enable investigation of the allegations and the employee wishes the disclosure to be protected</p>	Compliance with the requirements regarding protection of employees, advising staff of Council's protected disclosures policy as required by legislation.	Legal Counsel	No delegation required as Council is not exercising a power under the legislation	In process of updating policy	Under review	There were no protected disclosures in the 2018/19 financial year.
<p>Smoke Free Environments Act 1990 The Act is intended to protect persons from cigarette smoke within all premises other than private homes. Another</p>	Employers must ensure that no smoking takes place in the workplace (with specific exceptions outlined in the Act – these do not apply to ORC)	Manager People and Culture	No delegation required as Council is not exercising a power under the legislation	Smokefree Policy (including ORC vehicles) also covered in Health and Safety Induction process.	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
part limits sponsorship by tobacco companies						
Waitangi Day Act 1976 The Act prescribes the observance of Waitangi Day as a public holiday.	Observance of Waitangi Day as a public holiday.	Manager People and Culture	No delegation required as Council is not exercising a power under the legislation	Leave Policy Individual and Collective Employment Agreements	Y	HR ensures compliance with the Holidays Act and Individual and Collective Employment Agreements
Wages Protection Act 1983 This legislation restricts the ability of an employer to deduct money from an employee's wages.	Comply with restrictions on making deductions from employee wages.	Manager People and Culture Manager Finance - Reporting	No delegation required as Council is not exercising a power under the legislation	Individual and Collective Employment Agreements. Form for Union deductions Instructions from staff members that wants to change payroll deductions sought in writing Induction packs for new staff	Y	HR ensure compliance with legislation and Individual and Collective Employment Agreements
The Domestic Violence – Victim's Protection Act 2018 Adds legal protections in the workplace for people affected by domestic violence	Compliance with employees' rights to take 10 days of paid domestic violence leave, ask for short term flexible working arrangements and not be treated adversely in the workplace because they might have experienced domestic violence.	Manager People and Culture	Y	Domestic Violence Policy Request for flexible working hours form Leave application process	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments

Council as a landlord and land owner

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
Otago Regional Council (Kuriwao Endowment Lands) Act 1994	Statutory process to be followed when selling and leasing land in this area	Legal Counsel	Y	Financial transactions authorised by General Manager Corporate Services	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
Act confirms vesting of land to the Council Redefines purpose for which land is held by Council Recognises existing leases in land						
Fencing Act 1978 This Act sets out the rights and obligations of property owners when fencing common boundaries.	Compliance with Council's obligations under the legislation as a property owner	Manager Support Services	Y	No specific process – issues dealt with as they arise in accordance with the Act	Y	
Property Law Act 2007 This act sets out various laws regarding leases.	Compliance with obligations under the Act – the area most commonly dealt with is obligations around commercial leases and rural licences.	Manager Support Services Manager Engineering	Y	No specific process – leases and renewals follow statutory process	Y	Council has approximately 131 leases/licences in place including floodbanks.
Trespass Act 1980 This act sets out the ability of person/entity to warn and trespass persons from land that they occupy or own	Compliance with processes regarding trespassing person from Council property. Persons who are trespassed have been done so on a sound legal basis	Manager Support Services Manager Customer Experience	Person in occupation	Under Review	Y	
Public Bodies Leases Act 1969 This Act relates to the powers of certain public bodies to lease land	Council ceased to be a leasing authority under the Public Bodies Leases Act as from 1 July 2003 – the exception is with respect to leases entered into before,	General Manager Corporate	Y	Statutory process followed	Y	Council holds leases in which the Public Bodies Leases Act continues to apply

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
	and current as at, that date and renewals					

Council as an information holder and provider

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
Copyright Act 1994 The Copyright Act protects the property	The Council must not copy, or allow to be copied, original	Manager Communication Channels	No delegation required as Council is not exercising a	No documented process or policies.	N	Staff copyright policy to be developed.

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
right associated with ownership of original works. The Council has compliance risks in relation to the use of original works by staff in conducting their work	works for which it does have this right.	Manager Communications and Engagement	power under the legislation			
Local Government Official Information and Meetings Act 1987 The intent of this Act is to make official information more freely available, to provide for proper access by each person to official information relating to that person, to protect official information to the extent consistent with public interest and the preservation of personal privacy. Where the Council makes official information available in good faith no civil or criminal proceedings should lie against it.	Compliance with the requirements to release information under LGOIMA and a duty to assist a requestor in order for them to make a request	Legal Counsel	Y – Council has delegation to make decisions on requests for information which can include withholding information under certain circumstances	LGOIMA & Privacy process – Under Review	Underway	During the 2018/19 period, two requests were responded to outside the statutory process. Timeliness of responses is reliant on other departments of Council. LGOIMA process cover the duty of assistance as set out in the Act.
Privacy Act 1993	Compliance with privacy principles and obligation to	Legal Counsel	Y – Council has the power to appoint	LGOIMA & Privacy process – Under Review	Y	Likely legislative change to the Privacy Act in 2020.

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>The New Zealand Privacy Act 1993 established the Office of the Privacy Commissioner and sets out its functions. It sets out the principles of privacy the Council must adhere to and matters relating to the collection, use and storage of private information and response to requests/complaints regarding private information.</p>	<p>release/update private information.</p>		<p>privacy officers and the power to respond to requests for information under the Privacy Act.</p>	<p>Storage of Employee Records Policy</p>		
<p>Public Records Act 2005 This Act establishes a recordkeeping framework and focuses on supporting good recordkeeping in government. The Council is to create and maintain records and to dispose of them in accordance with the authority of the Chief Archivist.</p>	<p>The Council is required to create and maintain full and accurate records in accordance with normal, prudent business practice. These records must also be accessible over time. The Council must gain the Chief Archive authorisation before disposing of public records.</p>	<p>Manager Support Services</p>	<p>No delegation required as Council is not exercising a power under the legislation</p>	<p>Information Management Policy (in draft) Training Material on use of Objective Storage of Employee Records Policy -Under Review</p>	<p>Underway</p>	

Council as a governance body

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Civil Defence Emergency Management Act 2002</p> <p>The purpose of this Act is to improve and promote the sustainable management of hazards and provide for planning and preparation for emergencies and for response and recovery in</p>	<p>Compliance with Council's obligations to co-ordinate civil defence readiness and operations under the Act.</p>	<p>Director Emergency Management</p>	<p>Y Appointments are made by the Civil Defence Emergency Management Group</p>	<p>Joint Council approach (ORC/DCC/QLDC/CODC/CDC/WDC).</p> <p>Staff training on-going.</p> <p>Incident Management team appointed and trained.</p> <p>Regular attendance at meetings.</p>	<p>Y</p>	<p>Civil Defence Emergency Management Group meets regularly for planning, exercises etc.</p>

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
the event of an emergency.						
<p>Local Authorities (Members' Interests) Act 1968</p> <p>This Act sets limits on the total of all payments made or to be made by or on behalf of the local authority in respect of all contracts made by it to elected members, and restrictions regarding voting where the elected member has a pecuniary interest</p>	Compliance with limits for contract payments, voting restrictions and disclosures to Auditor General	Executive Advisor	No delegation required as Council is not exercising a power under the legislation	<p>Members Interests process & register of interests maintained</p> <p>Council and Committee Meeting Standing Orders</p> <p>Conflict of Interest Declaration form</p>	Y	To the best of staff's knowledge this legislation has been complied with.
<p>Local Electoral Act 2001</p> <p>The purpose of this Act is to provide uniform rules in relation to the timing of local elections; and the right of individuals to vote, stand for election, and nominate candidates for election.</p>	Compliance with the obligations to undertake local body elections every three years	Executive Advisor	Y – Council delegates directly to the EO to carry out functions	Issuing special votes process.	Y	Contract with Electionz as Council's external Electoral Officer
<p>Local Government Act 2002</p> <p>The purpose of this Act is to provide for democratic and effective local government that recognises the diversity</p>	Compliance with the obligations of local authorities relating to community outcomes, the purpose of local government, Maori decision making and decision	Executive Advisor	No delegation required as Council is not exercising a power under the legislation	<p>Statutory processes followed</p> <p>Significance and Engagement Policy</p>	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>of New Zealand communities. The Act provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and promotes the accountability of local authorities to their communities; and provides for local authorities to play a broad role in meeting the current and future needs of their communities for good quality local infrastructure, local public services, and performance of regulatory functions.</p>	<p>making/consultation processes under the Act.</p>			<p>MOU and Participation protocol between Council and Ngāi Tahu/Kāi Tahu for Effective Consultation and Liaison</p>		
<p>Local Government Official Information and Meetings Act 1987 This act provides for the public notification of meeting to ensure the community has reasonable knowledge of when they will be held.</p>	<p>Compliance with obligations to publicly notify meetings and agendas/minutes.</p>	<p>Executive Advisor</p>	<p>Y</p>	<p>Adding minutes and agendas to the website How to place a notice of meetings advertisement Advertising notice of meetings deadlines Adding minutes and agendas to the website</p>	<p>Y</p>	<p>Meetings have all been notified in accordance with the Act this year. Agendas and minutes have been provided as required.</p>

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Ombudsmen Act 1975 The purpose of this Act is to create the Ombudsmen's office and set out its functions and powers.</p>	Comply with obligations to respond to and assist ombudsmen's investigations under LGOIMA and the Ombudsmen Act 1975	Legal Counsel	Act includes a requirement to assist the Ombudsman	No Processes identified – Council would be expected to comply with Ombudsmen directions.	Y	Two complaints were made to the Ombudsmen's office in 2018/19 regarding information requests/Council meetings – Council assisted the Ombudsmen with their investigations and responded to all requests from the Ombudsman in a timely manner

Council as a policy maker

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Human Rights Act 1993 This Act governs the protection of human rights in New Zealand. It is applicable to the Council in employment and the provision of access to the disabled.</p>	Accessibility for all as applies to public transport services	Manager Transport	No delegation required as Council is not exercising a power under legislation	Not really a specific policy/process but a number of items in the RPTP (Regional Public Transport Plan) are applicable. Total Mobility Scheme Contracts with transport operators	Y	Various parts of the RPTP touch on this, but more specifically: Appendix 1 of the RPTP summarises a collaborative assessment of the accessibility needs of the transport-disadvantaged in the Otago region (page 98 of the document).
<p>Local Government Act 2002 The purpose of this Act is to provide for</p>	The following documents in place and reviewed in accordance with legislative requirements:	Manager Corporate Planning	Y	Relevant policies in place	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>democratic and effective local government that recognises the diversity of New Zealand communities. The Act provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and promotes the accountability of local authorities to their communities; and provides for local authorities to play a broad role in meeting the current and future needs of their communities for good quality local infrastructure, local public services, and performance of regulatory functions.</p>	<ul style="list-style-type: none"> • Significance and Engagement Policy • Development Contribution Policy • Policy on the Remission and Postponement of Rates • Rates Remission Policy • Revenue and Financing Policy • Treasury Management Policy • Financial Strategy • Long Term Plan • Annual Plan • Annual Report • Code of Conduct and standing orders • Local Governance Statement • Triennial Agreement • Representation review • Pre-election report 					
<p>Local Electoral Act 2001 The purpose of this Act is to provide uniform rules in relation to the timing of local elections; and the right of individuals to vote, stand for election,</p>	<p>Representation review</p>	<p>Executive Advisor</p>	<p>Not required – Council decision process</p>	<p>Y – Council Election Protocols for elected members. Election protocol for Council staff</p>	<p>Y</p>	<p>Representation review - completed in 2018/2019. Due for review in six years' time.</p>

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
and nominate candidates for election						
Resource Management Act 1991 The purpose of this Act is to promote the sustainable management of natural and physical resources.	Regional Plans in place and reviewed in accordance with legislative requirements, including compliance with requirements in RPS, NES and NPS documents.	Manager Policy and Planning		Statutory process followed – no documented process	N - Plans have not been reviewed in the timeframes required by the RMA.	Water plan work is underway National Policy Statement for Freshwater Management has not been given effect to, however Council has adopted a programme of work to implement it Regional Plans Waste, Coast and Air are overdue for review
Bylaws Act 1910 Local Government Act 2002 Maritime Transport Act Council Bylaws The above acts have provisions regarding the creation of bylaws by local authorities.	The Council's Flood Protection Management Bylaw 2012 and Navigational Safety Bylaw 2019 are in place	Manager Engineering Harbourmaster	Not required – Council adopts the bylaws. Staff have appropriate warrants to enforce bylaws.	Statutory process followed – no documented process	Y	Under the LGA, Council must review bylaws made under the LGA and the Maritime Transport Act 1994 no later than 10 years after it was last reviewed.
Biosecurity Act 1993	In 2019, the Regional Pest Management Plan for Otago came into force. The Pest Plan is supported by a new Biosecurity Strategy which outlines Council's broader role in biosecurity	Manager Biosecurity	Y – Council has delegated various powers to the CE and GM Policy, Science and Strategy and GM Corporate Services	Statutory process followed – no documented process	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Land Transport Management Act 2003</p>	<p>Plans, strategies and programmes prepared and assessed.</p> <p>Delivery of public transport activities</p>	<p>Manager Transport</p>	<p>Y – Council has delegated various powers to Manager Transport and GM Operations</p>	<p>Development of Regional Public Transport Plan and Regional Land Transport Plan</p> <p>Variations to the Regional Land Transport Plan in accordance with the Act.</p>	<p>N</p>	<p>Not all vehicles in 2018/19 complied with the Regional Passenger Transport Vehicle standards – non-compliant vehicles have either left or are leaving the fleet. Regular inspections are now occurring. NZTA have been advised of the issue and remedial steps.</p> <p>Advice provided to staff in relation to variations to the RLTP</p>

Council as a financially prudent public entity

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Good and Services Tax 1985 This act provides the framework and rules for the payment of goods and services tax.</p>	<p>The Council must account for and pay GST</p>	<p>Manager Finance - Reporting</p>	<p>No delegation required as Council is not exercising a power under the legislation</p>	<p>Y</p>	<p>Y</p>	<p>Council properly accounts for and pays GST.</p> <p>Council uses a creditor checklist which must be completed before a creditor is loaded into the finance system. This includes GST status. Once the GST status is set the system works out if we have to pay GST or not.</p> <p>Staff manually review all suppliers before payment that are not having GST charged to check it is reasonable (i.e. overseas expenditure or not GST registered)</p>
<p>Income Tax Act 2007 The main purposes of this Act are to define, and impose tax on, net income, to impose obligations concerning tax and to set out rules for calculating tax and for satisfying the obligations imposed.</p>	<p>The Council must deduct and pay to the Commissioner of Inland revenue the following taxes or levies:</p> <ul style="list-style-type: none"> • ACC • PAYE • Fringe Benefit Tax • Withholding tax <p>The Council must comply with disclosure and tax rules relating to the sale and purchase of land</p>	<p>Manager Finance - Reporting</p>	<p>No delegation required as Council is not exercising a power under the legislation</p>	<p>Fringe Benefit Tax Policy, Creditor check process that includes Withholding Tax questions, Employees complete IRD form to advise of their tax rate which may be corrected by IRD</p>	<p>Y</p>	<p>Council properly attends to the taxes/levies listed.</p> <p>Council has a policy on FBT to trace FBT costs.</p> <p>Staff check all creditors for WHT when we set up as creditors and ask for exemption certificates (if they have them). Council has a process to ensure we don't continue use expired ones.</p> <p>Employee tax rates are set via their own IRD form that they</p>

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
						complete for us. IRD may then advise through website portal if is wrong and Council changes it accordingly.
<p>Local Government Act 2002 The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities. The Act provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and promotes the accountability of local authorities to their communities; and provides for local authorities to play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions.</p>	<p>Compliance with the statutory disclosures required in the Long-Term Plan, Annual Plan and Annual Report and associated regulations.</p>	<p>Manager Finance - Reporting</p>	<p>Y</p>	<p>Work to standards stated in the Plans and Reports and external audit checks compliance with these.</p>	<p>Y</p>	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
	<p>The long-term plan must contain a report from the Auditor General on whether the plan gives effect to the purpose set out in section 93(6); and</p> <p>The quality of information and assumptions underlying the forecast information.</p> <p>The Annual Report must contain the Auditor-General's report on;</p> <p>Financial statements (clause 29 of Schedule 10);</p> <p>Statement about budgeted and actual capital expenditure; and</p> <p>Whether the summary represents, fairly and consistently, the information regarding the major matters in the Annual Report</p> <p>Annual Report must contain information provided in Part 3, Schedule 10, LGA</p>	Manager Finance - Reporting	N/A	Refer 2018/19 Annual Report	Y	The Auditors Report confirmed compliance with the statutory requirements.
<p>Local Government Borrowing Act 2011</p> <p>The purpose of this Act is to facilitate the operation of the New Zealand Local Government Funding</p>	Compliance with the requirements for Local Authorities under the Act	Manager Finance - Reporting	N/A	N/A – not required as yet	N/A	Council currently does not have any borrowing. This will need to be developed when/if we borrow.

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Agency Limited. The Act authorises local authorities to deal with the Funding Agency in a manner in which they would otherwise not be authorised to do so; and authorises or requires local authorities, in certain situations, to act in a manner in which they would otherwise not be authorised or required to act.</p>						
<p>Local Government (Rating) Act 2002 This Act provides local authorities with flexible powers to set, assess, and collect rates to fund local government activities, ensures that rates are set in accordance with decisions that are made in a transparent and consultative manner and provides for processes and information to enable ratepayers to identify and understand their liability for rates.</p>	<p>Compliance with the processes for establishing rating structures and striking/collecting rates.</p>	<p>Manager Finance – Revenue Manager Finance - Reporting</p>	<p>Y – flexible powers to set, assess, and collect rates to und local government activities</p>	<p>Y – Internal process to check compliance with the Act and checked as part of statutory audit in October 2019</p>	<p>Y</p>	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
Port Companies Act 1988 and Companies Act 1993	The principle objective of every port company shall be to operate as a successful business (s5 Port Companies Act).	Council	N/A	Shareholders meeting Appointment of Directors Adoptions, alteration and revocation of constitution Statement of intent	Y	
Land Transport Management Act 2003 The Act sets out requirements for the operation, development and funding of public transport. The purpose of the LTMA is to contribute to the aim of achieving an affordable, integrated, safe, responsive and sustainable land transport system	Funding of public transport in accordance with the Act	Manager Transport	Y	Procurement procedures must be approved by the New Zealand Transport Agency Use approved funding procedures to obtain the Crown subsidiary	Y	Funding of public transport in accordance with the Act
Public Audit Act 2001 Public entities, such as local authorities, are accountable to Parliament and the public for their use of public resources and	Audited information is compliant	Manager Finance - Reporting	N/A	N/A	Y	The Auditor General appointed Heidi Rautjoki, using the staff and resources of Deloitte Limited to report on the information in Council's Annual Report.

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
powers conferred by Parliament. The Auditor-General provides independent assurance that public entities are operating, and accounting for their performance, in keeping with Parliament's intentions						The report provided comment on: whether the Council has complied with the requirements of Schedule 10 of the LGA that apply to the annual report; and - the completeness and accuracy of the Council's disclosures about its performance against benchmarks that are required by the Local Government (Financial Reporting and Prudence) Regulations 2014.

Council as a regulator and matters of compliance

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
Building Act 2004 The purpose of this Act is to regulate the building of structures in New Zealand.	Resource Management Act 1991 is provided in section 13 of the Building Act 2004, this includes Performing the functions of a building consent authority (BCA) for dams and carrying out functions and duties, including monitoring and enforcement.	Manager Engineering Manager Consents	Y – existing delegations	Y - Procedures and policies form part of the Building Consent Authority (“BCA”) documentation Policies require updating in light of changes to delegation/process.	N – policies and procedures do not match existing delegations Scheduled to be rectified March 2020	Council was reaccredited as a BCA on 8 September 2018. Council was externally audited in 2019, with the next audit scheduled for April 2020

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
<p>Local Government Act 2002 The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities. The Act provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and promotes the accountability of local authorities to their communities; and provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.</p>	<p>Provides power to make bylaws for specific areas. Provides powers of entry.</p> <p>Provides warranting requirements for Council officers</p>	<p>Manager Compliance</p> <p>Manager Engineering</p>	<p>Y – existing delegations</p>	<p>Reference to powers of entry in warrant training document</p>	<p>Y</p>	<p>Those warranted individuals' powers in relation to entry of land are performed in accordance with the Act.</p>
<p>Public Works Act 1981 This act provides the framework for Council to take land for the purposes of public</p>	<p>Land is acquired for public works in accordance with the act</p>	<p>Manager Support Services</p>	<p>N</p>	<p>Council adheres to the statutory procedure.</p>	<p>Y</p>	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
works; it also provides the framework for the disposal of land no longer required for a public work.	Land no longer required for public works is disposed of in accordance with the act					
Resource Management Act 1991 The purpose of this Act is to promote the sustainable management of natural and physical resources	Implementation of the Regional Plans, processing of resource and other consents within statutory timeframes, investigation on breaches of the Regional Plans and Act. Compliance with NES and NPS	Manager Consents Manager Compliance	Y	Record complaints Investigation Enforcement – section 84 Resource consent processes	N	98% of resource consent applications were processed within the statutory timeframe. Backlog of compliance monitoring and consent auditing for 2018/19 Enforcement statistics are reported periodically
	Compliance with resource consents issued to Council	Manager Engineering	No delegation required as Council is not exercising a power under the legislation – this is a compliance matter	N/A	N	There were no abatement notices; infringement notices; enforcement orders, or convictions, received in relation to those resource consents in 2018/19. Some performance monitoring matters outstanding during 2018/19 thus the non-compliant grade.
	Monitoring the state of the environment and keeping records required by section 35 of the Act.	Manager Science	No delegation as Council is not exercising a power under the legislation	Council’s State of the Environment monitoring programme covers water quality and quantity, and air quality Council keeps the information required in	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
				accordance with s35 of the Act		
	Monitoring of permitted activities - section 35	Manager Compliance	Inspections undertaken by warranted enforcement officers	Dairy farms are inspected by Council enforcement officers on a risk basis	Y	Council responds to complaints regarding contraventions of the Regional Plans, including permitted activity rules.
Search and Surveillance Act 2012 The purpose of this Act is to facilitate the monitoring of compliance with the law and the investigation and prosecution of offences in a manner that is consistent with human rights values by— • modernising the law of search, seizure, and surveillance to take into account advances in technologies and to regulate the use of those technologies; and • providing rules that recognise the importance of the rights and entitlements affirmed in other enactments, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Evidence Act 2006; and • ensuring investigative	Compliance with requirements to issue notices and record warrantless searches and otherwise obtain warrants in accordance with legislation.	Manager Compliance	Y – through the Resource Management Act 1991	No internal Processes. Selected enforcement officers are warranted to apply for and execute search warrants	Y	

Legislation and Purpose	Area of compliance	Responsible Manager	Delegations Y/N	Processes	Compliance Y/N/NA	Comments
tools are effective and adequate for law enforcement needs.						
Council Bylaws Flood Protection Management Bylaw 2012 Navigation Safety Bylaw 2019	Investigation and enforcement of breaches of Council bylaws	Manager Engineering Harbourmaster	Harbourmasters appointed	Record complaints Investigation and enforcement Bylaw approval processes	Y	Navigation Safety Bylaw - New infringement regime planned for 2020
Biosecurity Act 1993	Investigation of non-compliance of the Pest Management Plan	Manager Biosecurity	Appointment of Authorised Persons by virtue of the Pest Management Plan and Biosecurity Act.	Policy and procedure work commencing 2020	Underway	
Soil Conservation and Rivers Control Act 1941	The Act provides Council with such powers, rights, and privileges as necessary or expedient to carry out its functions including the power to construct, reconstruct, alter, repair, and maintain any flood protection/drainage works	Manager Engineering	Y	Council flood and drainage schemes established and operated under the Act. Assets are listed, funded and depreciated under LGA documents.	Y	Albert Town - A 230m rock protection structure (installed in 2003/4) has been damaged during high flows in 2019. A ~40m length of the outside shoulder of rockwork has been damaged with rocks displaced or missing, causing localised erosion and slumping of the river bank Investigations have been initiated to assess the extent of damage and cause of the failure.

8.3. CS1924 Audit Management Letter Response

Prepared for:	Audit and Risk Subcommittee
Report No.	CS1924
Activity:	Governance Report
Author:	Sarah Munro, Finance Manager - Reporting and Expenditure
Endorsed by:	Nick Donnelly, General Manager Corporate Services
Date:	14 February 2020

PURPOSE

- [1] This report outlines Council's response to the Audit Management Letter from the audit of the 2019 Annual Report and Financial Statements.

RECOMMENDATION

That the Audit and Risk Subcommittee:

- a) **Receives** this report.

EXECUTIVE SUMMARY

- [2] Responsibilities of the Audit and Risk Subcommittee include:
"Review the external Auditor's audit plan, audit management letter and management response to any issues raised during the external audit."
- [3] Deloitte is Otago Regional Council's statutory auditor appointed by the Officer of the Auditor General.
- [4] Deloitte completed its audit of the 2019 Annual Report and Financial Statements and reported its findings to the Audit and Risk Subcommittee in September 2019.
- [5] The following areas were noted in the Management Letter as requiring action from Council.
- Statement of Service Performance
 - Conflicts of Interest
 - Treasury Management Policy / Statement of Investment Policy and Objectives (SIPO)
 - Annual leave
- Deloitte's comments / recommendations on these areas are provided in the report below together with a response from staff.
- [6] Areas where Deloitte had no findings to report have not been included in this report.

STATEMENT OF SERVICE PERFORMANCE (SSP)

Audit Recommendation

- [7] That Council considers the following in its approach to future SSPs:
- Engaging a communications specialist to ensure that reporting to the public is in plain English, and cohesively summarise the priority areas of Council.
 - Adopting the OAG guidelines when reviewing its performance reporting framework and establishing future measures and targets. Measures that are inaccurate, unachievable or unable to be measured are not valuable to Council or the community. We encourage collaboration between Corporate and the managers responsible for each performance measure when setting performance measures and targets.

Staff Comment / Action

- [8] Council has reviewed its communication plan and is developing improvements to ensure that future Annual Plan and Long-Term Plan commentary is clearly communicated to the community.
- [9] A communications specialist has been engaged to undertake this for the Annual Plan 2020-21 consultation document.
- [10] Performance Measures are established in the Long-Term Plan. Council has initiated discussion and development of new performance measures for the Long-Term Plan 2021-31 process to ensure that adopted performance measures met OAG guidelines and best practise.

CONFLICTS OF INTEREST

Audit Recommendation

- [11] Whilst the procurement policy and conflicts of interest policy cover a number of areas related to bribery and corruption, neither specifically address the issue. Best practice would be to have a specific policy which includes; definitions of bribery and corruption, a statement pledging zero tolerance, a commitment to operate in line with a code of conduct and consequences for those the breach. It should also include references to procedures in place to prevent, detect or respond to bribery and corruption, and define role and responsibilities.

Staff Comment / Action

- [12] Council's Conflict of Interest policy has been revised to incorporate the recommendations above. The Procurement Policy references the Conflict of Interest Policy.

TREASURY MANAGEMENT POLICY / STATEMENT OF INVESTMENT POLICY AND OBJECTIVES

Audit Recommendation

- [13] It was noted that as at 30 June some areas of the investment portfolio were not compliant with the Treasury Management Policy (TMP) and Statement of Investment Policy and Objectives (SIPO).

- [14] Deloitte noted they were aware the transfer of investment manager during the year had impacted the portfolio and recommended that Council works with management and JB Were to revise the SIPO and TMP to reflect the current risk appetite of Council.

Staff Comment / Action

- [15] At the time the audit was undertaken the TMP and SIPO were being reviewed by staff and JB Were. Changes to these Policies were recommended to Council at the 25 September 2019 Council meeting.
- [16] Subsequent to the adoption of the amended SIPO there have been no compliance issues with the SIPO. Reporting on compliance with the SIPO is provided to the Audit and Risk Subcommittee quarterly.

ANNUAL LEAVE

Audit Recommendation

- [17] That Council actively monitor untaken annual leave and work toward reducing the outstanding leave balance. Council should discuss and encourage employees to utilise the leave available. In addition, consideration should be given to establishing a holiday leave policy or enforcing holiday leave accrual restrictions in employment agreements.

Staff Comment / Action

- [18] Annual leave balances continue to be an area of focus for Council's Executive Leadership Team and managers. Regular reporting and communication is made with managers and staff to ensure focus on the reduction in annual leave balances.

ATTACHMENTS

Nil

That the public be excluded from the following parts of the proceedings of this meeting, namely:

- 2.1 Managed Fund Report – December 2019
- 2.2 Risk Report

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under [section 48\(1\)](#) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
<i>2.1 Managed Fund Report December 2019</i>	Section 48(1)(a): Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.	Section 7(2)(c)(i) - To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information—would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; Section 7(2)(h) - To enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities.
<i>2.2 Risk Report</i>	Section 48(1)(a): Subject to subsection (3), a local authority may by resolution exclude the public from the whole or any part of the proceedings of any meeting only on 1 or more of the following grounds: (a) that the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.	Section 7(2)(c)(i) - To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information—would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; Section 7(2)(c)(ii) - To protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information—would be likely otherwise to damage the public interest; 7(2)(e) - To avoid prejudice to measures that prevent or mitigate material loss to members of the public.