

**Audit, Finance & Risk Committee**

11 June 2024

**Report for Agenda Item | Rīpoata moto e Rāraki take [7]**

**Department: Corporate Services**

**Title | Taitara: Privacy Annual Update**

**Purpose of the Report | Te Take mō te Pūroko**

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The purpose of this report is to provide the committee with an end-of-year update on matters relating to the Privacy Act 2020 and Council's Privacy Policy and practice.

**Recommendation | Kā Tūtohuka**

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That the Audit, Finance & Risk Committee:

1. **Note** the contents of this report.

**Prepared by:**



**Name:** Naell Crosby-Roe  
**Title:** Governance & Stakeholder Services  
Manager  
20 May 2024

**Prepared by:**



**Name:** Katie Church  
**Title:** Director People & Capability  
20 May 2024

**Prepared by:**



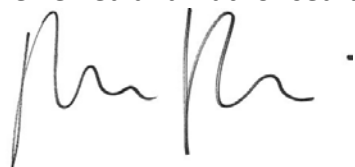
**Name:** Ryan Clements  
**Title:** Chief Information Officer  
20 May 2024

**Prepared by:**



**Name:** Brendon Peet  
**Title:** Legal Counsel  
20 May 2024

**Reviewed and Authorised by:**



**Name:** Meaghan Miller  
**Title:** General Manager Corporate Services  
20 May 2024

## Context | Horopaki

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1. Under the Privacy Act 2020 (the Act), Queenstown Lakes District Council (QLDC) must follow a set of rules when handling personal information. The Act governs how organisations can collect, store, use and share personal information. The Act also defines a privacy breach that either has caused or is likely to cause serious harm and the processes for managing those situations.
2. The Council has four delegated positions that act as privacy officers under the Act: Legal Counsel, Chief Information Officer, People & Capability Director, and Governance & Stakeholder Services Manager. These delegated officers are tasked with increasing awareness of organisational requirements and responsibilities under the Act and responding to reported actual or potential breaches.
3. The Council is committed to an ongoing programme of organisational development relating to privacy and how potential privacy issues are managed.
4. This report is recommended practice from the Office of the Privacy Commissioner Te Mana Mātāpono Matatapu and is to provide an end-of-year update to the Audit, Finance & Risk Committee regarding actions taken to improve organisational capability and compliance, responses to requests made under the Act, and a summary of potential / actual breaches and notifiable events.

## Analysis and Advice | Tatāritaka me kā Tohutohu

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### **Organisational capability and compliance**

5. The onboarding programme for new staff has been updated to ensure that all new starters are aware of the Privacy Act 2020 and Council's own Privacy Policy. As part of this programme they are directed to complete the Privacy ABC modules provided by the Office of the Privacy Commissioner.
6. Having approved the initiation of a project at the end of the 2022-2023 financial year to log all privacy breaches and investigations in the Council's TechnologyOne Request Management System, the system has now been signed off and will be in use from 1 July 2024. This has been set up with appropriate security settings so only limited, delegated roles can access the data and the associated records which are automatically stored in Council's ECM records management system. This will provide much easier reporting and record keeping.
7. Privacy officers are aware of and following the recently introduced Privacy Amendment Bill 2023 which *"addresses a current gap that arises because there is no requirement for an agency (public or private) to notify an individual when it collects personal information about the individual indirectly (i.e., from a source other than from the individual concerned). This means an individual may not know that an agency holds their personal information."* It is unclear what effect this amendment would have on the sector with questions around actions such as receiving the

electoral role from the Electoral Commission or land information from Land Information New Zealand. This Bill is with Government's Justice Committee and submissions closed on 14 June. Officers have reviewed and are supportive of a submission made by Taituarā on behalf of the sector.

8. In August 2023, Council concluded an internal review of QLDC CCTV policy and compliance. This was undertaken by the legal team and concluded that the publicly available policy has a clear purpose, is consistent with QLDC values and relevant laws, and has explicit actions for achieving defined goals. It also contains meaningful and relevant information for implementation and creates a clear operational framework. The review did recommend that at the next formal policy review and update that principle 2 ("*That CCTV is chosen and managed in collaboration with others who are affected*") should be considered for removal as it is unclear and potentially misleading as the policy is not designed to be a mechanism for further consultation. Rather, Council should follow the guidelines in the Policy carefully when installing new CCTV. The proposed location and the reasons for CCTV in specific locations should be justified in accordance with the Policy, and the community should be fully informed. During the course of the year Council has undertaken to address areas where improved signage was required.
9. In parallel with the policy review, the Property and Regulatory teams have created new forms to be used in the need identification for new CCTV. These forms clarify the existing process and create a clearer paper trail of decision making.
10. Officers continued to focus on competency building and attended webinars hosted by Taituarā and Simpson Grierson in February on the Privacy Act and managing breaches, Resolving Privacy Complaints, and Notifying Affected Parties.

#### **Requests made under the Privacy Act**

11. During the financial year 2023-2024, four requests for information were made for personal information:
  - a) Two were internal for access to CCTV footage. These related to books missing or alleged stolen from QLDC libraries. Approval was provided to delegated staff on both occasions.
  - b) One was partially fulfilled, with some information withheld on the grounds of section 53(C) of the Privacy Act 2020 which provides that an agency may refuse access to any personal information requested if the disclosure of the information would be likely to prejudice the maintenance of the law by any public sector agency, including the prevention, investigation, and detection of offences and the right to a fair trial.
  - c) One was asked to refine their request which produced thousands of records which would have significantly impacted the Council resources required to respond considering all records required to be reviewed to confirm whether they were in scope and if any withholding grounds applied. The request was not refined and the grounds for refusal were section 53(h) of the Privacy Act 2020. This section allows organisations to withhold personal information from the individual concerned if the request is frivolous or vexatious, or the information requested is trivial.

## Investigations under the Act

12. Privacy officers have been required to consider three matters in this financial year.

- a) Advice was provided during the pilot for smart water metering with regard to providing the water usage data for tenants in rental accommodation to a property owner. Whilst Principle 3 (*Collection of information from subject*) was considered, Principles 5 (*Storage and security of personal information*) and 6 (*Access to personal information*) were satisfactorily in place and advice confirmed there was no breach in this instance.
- b) In early 2024, Council was alerted to an issue with its new environmental monitoring system with images of personal residences being streamed online. Despite clear instruction from officers the provider had enabled a feature that was not required or desired. The provider had also not completed a comprehensive privacy impact assessment. The image capture and feed were immediately disabled, and the Office of the Privacy Commissioner formally notified. All affected parties have been directly advised and Council has received complaints from three residents as a result. The matter is ongoing at the time of this report being written however the Commission has confirmed that they are satisfied with the actions taken and the lessons learnt. Actions have included requiring the provider to complete a full privacy impact assessment and undertake through acceptance testing, blurring/redacting of images captured to ensure no private residences are included, consideration of relocation of cameras, updates to the relevant QLDC web content and maintaining a list of named delegated roles to ensure secure access of any images.
- c) In May 2024, Council was advised that an officer had sent emails to external parties with email address in the “to” field rather than blind copy. Whilst all email addresses were business addresses, advice from the Office of the Privacy Commissioner was to formally notify the office of a potential breach and let the affected parties (97 across three emails) know giving the advice that they could raise concerns with the Office of the Privacy Commissioner. Council has not been advised of any complaints as a consequence and the officer involved now has awareness of the privacy requirements under the Act and Council’s policy.

13. Advice Options have not been presented relating to the contents of this report as it is for noting only.

## Consultation Process | Hātepe Matapaki

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### Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

14. This matter is of low significance, as determined by reference to the Council’s Significance and Engagement Policy 2021 because it is for noting only. The issues discussed relate to specific individuals and all matters have been satisfactorily investigated and appropriately addressed.

### Māori Consultation | Iwi Rūnaka

15. Consultation is not required on this matter.

#### Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

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16. This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK10029 Ineffective compliance management practices within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.

17. The approval of the recommended option, recognising that this recommendation is to 'note' only, will allow Council to retain the risk at its current level. Note that other actions summarised within the report continue to identify and actively manage or remove any risks associated with privacy and Council's obligations and responsibilities.

#### Financial Implications | Kā Riteka ā-Pūtea

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18. There are no financial implications associated with this matter.

#### Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

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19. The following Council policies, strategies and bylaws were considered:

- QLDC Privacy Policy 2021
- QLDC Significance and Engagement Policy 2021
- QLDC CCTV Policy

20. The recommended option is consistent with the principles set out in the named policies.

21. This matter is not included in the Long Term Plan/Annual Plan and does not relate to these plans.

#### Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

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22. The matters in this report relate to the Council's need to comply with the Privacy Act 2020.

#### Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

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23. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. This report reflects the Council's obligations under the Privacy Act 2020 and its commitment to cultivating trust and data security. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

24. The recommended option is consistent with the Council's plans and policies.