

LGOIMA Response to [REDACTED]

04 July 2024

Dear [REDACTED]

I am writing to you in response to requests for information the Council received from you under the Local Government Official Information and Meetings Act on Monday 10 June and Wednesday 26 June 2024.

These were as follows:

Monday 10 June: *All emails sent between Gore District Council and Worksafe NZ re: Worksafe being able to talk to staff from the Council, including what happened when they talked to staff without permission. This related to the death of Lachlan Jones at the Gore oxidation pond.*

Wednesday 26 June: *The terms of reference for the contractor who was subject to the in-committee agenda item on Tuesday 25 June titled Contractor Engagement. This request is related to the inquest into the death of Lachlan Jones at the Gore oxidation ponds.*

The Council has reviewed its extensive files in relation to your **10 June LGOIMA**. Please find attached our response. The names of those involved have been redacted in accordance with Section 7(2)(a) – to protect the privacy of individuals.

With regard to your **26 June LGOIMA**, the Council does not hold terms of reference for this agenda item. That aside, we wouldn't release the details of contracts or discussions about contracts under Section 7(2)(a) – to protect the privacy of individuals and Section 7(2)(i) – to enable the local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).

However, the Council is able to confirm this item related to a contract with former Chief Executive Stephen Parry to represent the Council at the inquest into Lachlan Jones' death. The contract was not continued for the second part of the inquest, which starts in August.

The Council notes that you have made four requests under the Local Government Official Information and Meetings Act in five weeks. All relate to the death of Lachlan Jones. The Council appreciates this is a sensitive case and has responded as soon as possible, despite the fact that research into two of your requests took considerable staff time.

To date, the Council has chosen not to charge. However, we need to flag with you the potential for the Council to consider charging to manage multiple requests from the same requester.

If you are unsatisfied with the response, you are entitled to lodge a complaint with the Office of the Ombudsmen. You can find more information on its website <http://www.ombudsman.parliament.nz>

Kind regards



Sonia Gerken

General Manager Communications / Customer Support

[Redacted]

From: [Redacted]
Sent: Wednesday, July 31, 2019 11:54 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Voluntary statement [Redacted]

Should be fine [Redacted]

Ngā mihi

[Redacted]

W worksafe.govt.nz



WORKSAFE

Mahi Haumaru Aotearoa

Getting you home healthy and safe.
That's what we're working for.



From: [Redacted]
Sent: Wednesday, 31 July 2019 11:42 a.m.

[Redacted]

Subject: RE: Voluntary statement [Redacted]

Thanks [Redacted]. I wonder if it wouldn't be better to email the letter to me and I will make direct contact with [Redacted] and explain it to [Redacted]. I wouldn't be too comfortable having the letter just turn up at [Redacted] home address.

I don't see [Redacted] often at all but can certainly make contact with [Redacted] and ask [Redacted] to come into the office.

Would that approach be acceptable?

Regards, [Redacted]

[REDACTED]

Gore District Council

29 Bowler Avenue, PO Box 8, Gore 9740, New Zealand



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From [REDACTED]
Sent: Wednesday, July 31, 2019 11:16 AM

[REDACTED]

Subject: RE: Voluntary statement [REDACTED] [REDACTED]

Hi [REDACTED]

I will put something together today and have it through to you either this afternoon or tomorrow morning. What address can I send it so that [REDACTED]s it?

I will copy you in too.

Thanks,

Ngā mihi

[REDACTED]

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From: [REDACTED]

Sent: [REDACTED]

To: [REDACTED]

Subject: Voluntary statement - [REDACTED]

Hi [REDACTED] just wanted to clarify following our discussion post the duty holder interview on 23 July, that WorkSafe was going to write [REDACTED] [REDACTED] (and copy me in) requesting her to make a voluntary statement? Or was I to do that?

My understanding was WorkSafe was going to write [REDACTED] and once that had been done I would follow it up with confirmation with [REDACTED]. I had indicated I didn't believe [REDACTED] had an email address.

I would appreciate if you could confirm what is to happen.

Regards, [REDACTED]

[REDACTED]

Gore District Council

29 Bowler Avenue, PO Box 8, Gore 9740, New Zealand



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[Redacted]

From: [Redacted]
Sent: Monday, July 13, 2010 6:07 PM
To: [Redacted]
Cc: [Redacted]
Subject: Contact with Council staff member [Redacted]

Dear [Redacted]

Thank you for your email received on Monday 15 July which has raised some concern for the Council as the employer of [Redacted]

First, [Redacted] is very much a [Redacted] [Redacted]. Therefore, [Redacted] may not be in the best position to give detailed answers to questions that WorkSafe may wish to pose.

The approach from WorkSafe has caused a degree of anxiety for [Redacted]. We do not believe that it is ideal to attempt on more than one occasion to contact [Redacted]. This does present the risk of making [Redacted] compelled to submitting to the request of WorkSafe.

We undertook from the outset of this tragedy in January to comply fully with any requests from, and to cooperate with, WorkSafe. That is still the case. We acknowledge the obligation the Council has in respect of section 176 of the Health and Safety at Work Act 2015 and there is no question that there has been any deviation from that obligation, and nor would there be.

The Council does not have a vested interest in ensuring any witnesses do not talk to WorkSafe. What we do have, is an obligation for the wellbeing of our employees, to ensure they are aware of their rights and for them to be fully supported in situations like an interview for a voluntary statement. From my understanding, [Redacted] did not appear to be fully aware of just what was being asked of [Redacted].

I record that I did not advise [Redacted] not to talk with WorkSafe, although that could have come from one of [Redacted] colleagues.

I consider the last paragraph of your email in respect of [Redacted] to form best practice going forward for WorkSafe when liaising with employers and those employees that WorkSafe wishes to interview. That way, the employer is fully aware of what is being requested and it can then arrange the appropriate support to be provided for its employee.

I look forward to hearing from you.

Regards, [Redacted]

[Redacted]

Gore District Council
29 Bowler Avenue, PO Box 8, Gore 9740, New Zealand



[REDACTED]

From: [REDACTED]
Sent: Monday, July 15, 2019 4:04 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: WorkSafe New Zealand Investigation - Gore oxidation ponds [UNCLASSIFIED]

Hi [REDACTED],

[REDACTED] is away on leave at the moment so I thought I would respond to the communications [REDACTED] had recently received from Gore District Council.

1) Contact with [REDACTED]

Thank you for your email dated 11 July 2019. I'm sorry to hear of your disappointment with the way in which WorkSafe New Zealand is conducting the investigation into the oxidation pond drowning.

I confirm that WorkSafe will continue to use you as the point of contact for Gore District Council with regards to this investigation. Everything relating to the duty-holder interview and documentation will go through you.

With regards to witness interviews, WorkSafe New Zealand frequently makes direct contact with the people that we wish to speak to. This is because it is a voluntary statement that they can choose to provide if they wish – they should not be influenced by anyone else with regards to this decision.

Duty holders involved in our investigations often have a vested interest in ensuring that witnesses do not talk to WorkSafe. To protect both the duty holder and the witness we ensure that the option to provide an interview is given directly to the witness. We also let the witness choose their own support person and/or lawyer, or they can choose to consult with their employer – this protects them and ensures they have support they are comfortable with. I understand, in this case, that [REDACTED] initially contacted [REDACTED] by phone to make initial inquiries and the only other time [REDACTED] spoke with [REDACTED] was when [REDACTED] was asking if [REDACTED] would be prepared to take part in a voluntary interview.

[REDACTED] indicated that [REDACTED] has been told by Gore District Council not to speak to us anymore. As this may simply be a misunderstanding, WorkSafe reiterates that it still wants to conduct an interview with [REDACTED] if [REDACTED] is willing. It respectfully reminds Gore District Council of its duty to assist under section 176 of the Health and Safety at Work Act 2015.

Accordingly, can you please ask [REDACTED] will consent to a voluntary witness interview and let [REDACTED] choose [REDACTED] own support person and/or legal representative and contact either myself or [REDACTED] anytime.

week of 28 Jan. (incl 29 Jan)
2) Duty Holder Interview Arrangements:

I understand that Gore District Council has suggested Tuesday 23rd July 2019 at 10am would suit the Gore District Council. I can confirm that this date and time suits both [REDACTED] and [REDACTED] and we can use one of the interview rooms at the Invercargill WorkSafe New Zealand office at 65 Arena Avenue, Invercargill.

Please confirm that this date/time/location still suits whomever will be speaking on behalf of Gore District Council and I will book an interview room.

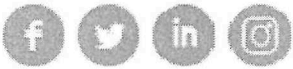
We look forward to hearing from you at your earliest convenience.

Kind Regards,

Ngā mihi



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New Zealand Legislation

Health and Safety at Work Act 2015

- with search matches highlighted

176 Duty to assist inspectors

- (1) Any person on whom a duty is imposed by relevant health and safety legislation must give all reasonable assistance to enable an inspector to enter, inspect, examine, inquire, or exercise any other power under relevant health and safety legislation.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction,—
 - (a) for an individual, to a fine not exceeding \$10,000;
 - (b) for any other person, to a fine not exceeding \$50,000.

Compare: 1992 No 96 s 47

[REDACTED]

From: [REDACTED]
Sent: Thursday, July 11, 2019 3:17 PM
To: [REDACTED]
Subject: Contact with Council staff

Dear [REDACTED]

I became aware this morning that you have attempted on at least three occasions to contact our [REDACTED] to make a "voluntary statement" in relation to the oxidation pond fatality.

I need to record my extreme disappointment with your actions in contacting the staff member directly and not – as was advised to you from the outset – to channel all communications through me as the Council's [REDACTED]

Can you please provide me with an explanation about why you have chosen to avoid the agreed communication channel.

At the very least, I would have expected you to have copied me into any request being made so we can ensure our staff are appropriately supported.

I look forward to hearing from you.

Regards, [REDACTED]

[REDACTED]

Gore District Council
29 Bowler Avenue, PO Box 8, Gore 9740, New Zealand

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