

13 September 2019

LGOIMA No. 8140005445
(Please quote this in any correspondence)

Edwin Hollier
By Email: fyi-request-10734-2f21efd4@requests.fyi.org.nz

Dear Edwin

Local Government Official Information And Meetings Act 1987

General manager licencing

I refer to your request which we received on 17 August 2019, about Section 56 (2)(c) of the State Sector Act in relation to the appointment of the General Manager of Auckland Council's Licencing and Compliance department.

Our response to your request is set out below.

Is the Chief Executive aware of s56(2)(c) of the State Sector Act requiring "the impartial selection of suitably qualified persons for appointment?"

Was the Chief Executive aware of this during the selection process?

The State Sector Act does not apply to Auckland Council because it is not a department (or departmental agency) in the public service. However, clause 36 of the Seventh Schedule of the Local Government Act contains an equivalent provision that is relevant to Council as local authority employer.

All our managers including the Chief Executive are familiar with the requirements of clause 36, specifically an impartial selection process if there is a contestable situation and appointing the best suited person to positions.

Did the Chief Executive receive any legal advice on this matter during the selection process?

We can confirm that there was no need to seek legal advice on this matter when the Chief Executive was considering the appointment to the General Manager, Licencing and Compliance.

As previously advised in our response of 9 August 2019 the individual who was directly appointed to the role had already demonstrated the necessary competencies, aptitude and experience required for the position.

Does the Chief Executive believe the direct appointment was impartial?

We do not accept that clause 36 requires a contestable process in every recruitment scenario, but rather that if there is a contestable process then the selection process must be impartial. There are various scenarios where a good employer's personnel policy will allow for the direct appointment of a suitably qualified individual. The primary consideration is that established by clause 36(3)(a), which requires a preference to be given to the person best

suited to the position. In the circumstances of this particular appointment, the Chief Executive determined that the appointee was well qualified for the role and therefore the best suited person for the appointment.

Should you believe Auckland Council has not responded appropriately to your request you have the right to seek a review of the decision from the Ombudsman.

If you have any further queries please contact me on 09 301 0101, quoting LGOIMA No. 8140005445.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jenny Hua', written in a cursive style.

Jenny Hua
Privacy & LGOIMA Business Partner
Democracy Services