

Notice is given that an ordinary meeting of the Full Council will be held on:

**Date:** Thursday 24 October 2019  
**Time:** 9.30am  
**Meeting Room:** Motueka Memorial Hall  
**Venue:** 8 Pah Street  
Motueka

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## Full Council

### AGENDA

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#### MEMBERSHIP

<b>Mayor</b>	Mayor King	
<b>Deputy Mayor</b>		
<b>Councillors</b>	Cr Bryant	Cr McNamara
	Cr Butler	Cr Ogilvie
	Cr Greening	Cr Tuffnell
	Cr Hill	Cr Turley
	Cr Hutt	Cr Walker
	Cr MacKenzie	Cr Wensley
	Cr Maling	

(Quorum 7 members)

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## **AGENDA**

**1 OPENING, WELCOME**

**2 APOLOGIES AND LEAVE OF ABSENCE**

**Recommendation**

**That apologies be accepted.**

**3 PUBLIC FORUM**

**4 DECLARATIONS OF INTEREST**

**5 LATE ITEMS**

**6 CONFIRMATION OF MINUTES**

Nil

**7 PRESENTATIONS**

Nil

**8 REPORTS**

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**9 CONFIDENTIAL SESSION**

Nil



## 8 REPORTS

### 8.1 ELECTION OF DEPUTY MAYOR

Decision Required

<b>Report To:</b>	Full Council
<b>Meeting Date:</b>	24 October 2019
<b>Report Author:</b>	Janine Dowding, Chief Executive Officer
<b>Report Number:</b>	RCN19-10-7

#### 1 Summary

- 1.1 The business of the inaugural meeting is required to include the election of the Deputy Mayor unless the Mayor exercises their powers under S41A(3)(a) of the Local Government Act and appoints the Deputy Mayor.
- 1.2 At the Council meeting the Mayor once sworn in will indicate his preference for this process,
- 1.3 In the event that a Deputy Mayor is to be elected by Council majority rather than appointed by the Mayor, Clause 25, Schedule 7 of the Local Government Act 2002 firstly requires all local authorities to determine by resolution which voting system they will use for the election of Deputy Mayor.
- 1.4 Two systems are available for this process under the Local Government Act 2002. System A requires the successful candidate to get the majority of the votes of the members present and voting. It is akin to a transferable voting system and only works if there are three or more candidates in the contest for one position. Multiple voting rounds may be needed.
- 1.5 System B is a majority vote system akin to first past the post and requires the successful candidate to get more votes than any other candidate during a single voting round. This report recommends that Council adopts System B.
- 1.6 Council should note that whichever system it chooses will also apply to the appointment of Chairpersons and Deputy Chairpersons of a Council committees.

#### 2 Draft Resolution

**That the Full Council:**

1. receives the Election of Deputy Mayor report ; and
2. adopts Voting System B, outlined in Clause 25(4) of the Local Government Act 2002 for the election or appointment of the Deputy Mayor, Chairperson and Deputy Chairperson of a committee and a representative of a local authority; and
3. by majority vote of Council under Voting System B, appoints \_\_\_\_\_ as Deputy Mayor of Tasman District Council.

### 3 Purpose of the Report

- 3.1 To advise the Council on the two systems of voting available for the appointment of the Deputy Mayor, chairpersons and deputy chairpersons of committees, and other appointed representatives of Council, as set out in Clause 25, Schedule 7, of the Local Government Act 2002, and to decide which system to adopt.
- 3.2 To advise the Council that Section 41A (3)(a) of the Local Government Act 2002 provides mayors with the powers to appoint the Deputy Mayor; establish committees of the territorial authority; and to appoint the chairperson of each committee. Should the Mayor decide not to exercise his power to appoint the Deputy Mayor, the Council must appoint a Deputy Mayor at this meeting.

### 4 Background and Discussion

#### Role and Powers of Mayors

- 4.1 The Local Government Act 2002 includes the following:

#### **41A Role and powers of mayors**

*“(1) The role of a mayor is to provide leadership to—*

*“(a) the other members of the territorial authority; and*

*“(b) the people in the district of the territorial authority.*

*“(2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.*

*“(3) For the purposes of subsections (1) and (2), a mayor has the following powers:*

*“(a) to appoint the deputy mayor:*

*“(b) to establish committees of the territorial authority:*

*“(c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—*

*“(i) may make the appointment before the other members of the committee are determined; and*

*“(ii) may appoint himself or herself.*

*“(4) However, nothing in subsection (3) limits or prevents a territorial authority from—*

*“(a) removing, in accordance with clause 18 of Schedule 7, a deputy mayor appointed by the mayor under subsection (3)(a); or*

*“(b) discharging or reconstituting, in accordance with clause 30 of Schedule 7, a committee established by the mayor under subsection (3)(b); or*

*“(c) appointing, in accordance with clause 30 of Schedule 7, 1 or more committees in addition to any established by the mayor under subsection (3)(b); or*

*“(d) discharging, in accordance with clause 31 of Schedule 7, a chairperson appointed by the mayor under subsection (3)(c).*

*“(5) A mayor is a member of each committee of a territorial authority.*

*“(6) To avoid doubt, a mayor must not delegate any of his or her powers under subsection (3).*

*“(7) To avoid doubt,—*

*“(a) clause 17(1) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority unless the mayor of the territorial authority declines to exercise the power in subsection (3)(a):*

*“(b) clauses 25 and 26(3) of Schedule 7 do not apply to the appointment of the chairperson of a committee of a territorial authority established under subsection (3)(b) unless the mayor of the territorial authority declines to exercise the power in subsection (3)(c) in respect of that committee.*

### **Voting Systems**

4.2 If the Mayor chooses not to appoint the Deputy Mayor then that decision must go to a vote at today’s meeting. Clause 25, Schedule 7 of the Local Government Act 2002 stipulates that local authorities must determine by resolution which voting system they will use for the election of Deputy Mayor and various other appointments.

4.3 The two systems are as follows (Clause 25(3) and (4), Schedule 7 of the Local Government Act 2002):

#### **System A**

a) *Requires that a person is elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee present and voting; and*

b) *Has the following characteristics:*

- i. *There is a first round of voting for all candidates; and*
- ii. *If no candidate is successful in that round there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and*
- iii. *If no candidate is successful in the second round, there is a third, and if necessary subsequent round of voting from which, each time, the candidate with the fewest votes in the previous round is excluded; and*
- iv. *In any round of voting, if two or more candidates tie for the lowest number of votes, the person excluded from the next round is resolved by lot.*

#### **System B**

a) *Requires that a person is elected or appointed if he or she receives more votes than any other candidate; and*

b) *Has the following characteristics:*

- i. *There is only one round of voting; and*
- ii. *If two or more candidates tie for the most votes, the tie is resolved by lot.*

4.4 If the Mayor intends to appoint a member as Deputy Mayor that will need to occur after the Mayor makes and attests the declaration. In that case, this report could be received but

need not be considered. However, at a later date, the Council would still need to make a decision on a voting system, so may choose to make that decision in accordance with this report.

## 5 Options

### Systems of Voting

Council may resolve to adopt either System A or System B.

- 5.1 System A – this is a form of transferable voting. It is more complex, but it does provide for the candidate to have the majority of votes at the final vote.
- 5.2 System B – this system is simple and has been used by Council in the past. The person elected under this system may not have the support of the majority of Councillors; however, the person with the greatest support at the first vote is elected. This has been Council's preferred system and therefore we recommend it be adopted.

### Appointment of Deputy Mayor

- 5.3 The Mayor has the option of either exercising his powers under Section 41A of the Local Government Act 2002 for the appointment of a deputy mayor, or may ask the Council to elect a Deputy Mayor with the option of using System A or B as prescribed in Clause 25, Schedule 7 of the Local Government Act 2002. The Mayor may choose to make a recommendation to Council on his preference on who should be his Deputy.

## 6 Strategy and Risks

- 6.1 The Council is able to remove a deputy mayor from office who was appointed by the Mayor by a vote.

## 7 Policy / Legal Requirements / Plan

- 7.1 The adoption of a voting system fulfils the requirements of Clause 25, Schedule 7 of the Local Government Act 2002.

## 8 Consideration of Financial or Budgetary Implications

- 8.1 The Remuneration Authority sets the remuneration for the Deputy Mayor.

## 9 Significance and Engagement

- 9.1 Adopting a System of Voting is a procedural action of very low significance. The law allows for the decision to be made without any consultation.



Issue	Level of Significance	Explanation of Assessment
Is there a high level of public interest, or is decision likely to be controversial?	Low	
Is there a significant impact arising from duration of the effects from the decision?	No	
Does the decision relate to a strategic asset?	No	
Does the decision create a substantial change in the level of service provided by Council?	No	
Does the proposal or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	No	
Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	No	
Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	No	
Does the decision involve Council exiting from or entering into a group of activities?	No	

## 10 Conclusion

10.1 The Council is required to resolve a system of voting to enable the election of the Deputy Mayor and other appointments, and then to have the Deputy Mayor appointed or elected.

## 11 Next Steps / Timeline

11.1 The election or appointment of Deputy Mayor will be shared with Council staff and announced in the media after this meeting.

## 12 Attachments

Nil



**8.2 TASMAN DISTRICT COUNCIL STANDING ORDERS FOR COUNCIL MEETINGS**

Decision Required

<b>Report To:</b>	Full Council
<b>Meeting Date:</b>	24 October 2019
<b>Report Author:</b>	Janine Dowding, Chief Executive Officer
<b>Report Number:</b>	RCN19-10-8

Item 8.2

**1 Summary**

- 1.1 Clause 27, Schedule 7 of the Local Government Act 2002 requires all local authorities to adopt a set of Standing Orders for the conduct of its meetings and those of its committees.
- 1.2 Standing Orders is a set of rules that provide formal guidance about the way that Council conducts its meetings.
- 1.3 They also outline the Council's agreed principles of behaviour within meetings.
- 1.4 Elected members must abide by the Standing Orders adopted by the Council unless the Standing Orders are suspended.
- 1.5 The proposed Standing Orders 2019 (Attachment 1) are attached to this report and are adapted from the Local Government New Zealand (LGNZ) model Standing Orders. A guide to Standing Orders prepared by Local Government New Zealand (LGNZ) is also attached (Attachment 2).
- 1.6 It is recommended that Council adopt the Standing Orders attached to this report.

**2 Draft Resolution****That the Full Council:**

- 1) receives the Tasman District Council Standing Orders for Council Meetings Report; and**
- 2) adopts the use of the casting vote for the Mayor and chairpersons in the case of statutory decisions only; and**
- 3) selects Option B as the default for speaking and moving motions; and**
- 4) adopts the Standing Orders contained in Attachment 1 of this report.**

### 3 Purpose of the Report

- 3.1 To consider adopting Tasman District Council's Standing Orders (Attachment 1) as required under Clause 27, Schedule 7 of the Local Government Act 2002 (LGA).

### 4 Background and Discussion

- 4.1 Clause 27, Schedule 7 of the LGA requires local authorities to adopt a set of Standing Orders for the conduct of its meetings.
- 4.2 Standing Orders is a set of rules that provide a formal framework for the way Council conducts its meetings. They outline the Council's agreed principles of behaviour within meetings.
- 4.3 Standing Orders also ensure that the Council meets the requirements of the LGA and the Local Government Official Information and Meetings Act 1987 (LGOIMA), amongst other legislation.
- 4.4 Any amendment to Standing Orders, or the adoption of new Standing Orders, requires a support of not less than 75% of members present and voting.
- 4.5 Tasman District Council adopted the last version of Standing Orders in 2016. The 2016 Standing Orders were similar to the New Zealand Standard Model Standing Orders for meetings of local authorities and community boards used by many councils throughout New Zealand.

### 5 Optional Clauses

- 5.1 There are a number of optional clauses in the model Standing Orders. These optional clauses are:

- A casting vote for the Chairperson (clauses 18.3); and
- The choice of a default option for speaking and moving motions:

A - formal, (cl. 22.2); or

B - medium, (cl. 22.3); or

C - informal, (cl. 22.4). Factors to consider

#### Casting vote

- 5.2 The LGA 2002 allows chairpersons to use a casting vote if provision for such a vote is made in a councils standing orders. The vote can be used when there is an equality of votes.

- 5.3 There are three options for Council's consideration. The Mayor, Chairperson or person presiding at the meeting:

**Option 1:** can utilise the casting vote for any decision where there is an equality of votes;

**Option 2:** can utilise the casting vote where a statutory decision is required (including but not limited to Annual Plan, Annual Report, Long Term Plan, Regional

Land Transport Plan, Bylaws, Tasman Resource Management Plan change); or

**Option 3:** cannot utilise the casting vote.

- 5.4 The LGNZ standing order template includes the casting vote option (Option 1). However, staff are aware that there has historically been some concern by some elected members over the use of the casting vote. Consequently, staff are recommending (Option 2). The reason is that some decisions have to be made because we have statutory obligations and timelines to meet.

### Speaking and Moving Options

- 5.5 The LGNZ standing orders template offers councils a choice of three frameworks, Options A, B or C, for speaking to and moving motions and amendments.
- **Option A** is the most formal of the three and limits the number of times members can speak and move amendments, for example, members who have moved and seconded a motion cannot then move and second an amendment to the same motion and only members who have not spoken to a motion or substituted motion may move or second an amendment to it. (This is the framework used in the Standards New Zealand Model Standing Orders.)
  - **Option B** is less formal than Option A. While limiting the ability of movers and seconders of motions to move amendments it allows any other members, regardless of whether they have spoken to the motion or substituted motion, to move or second an amendment.
  - **Option C** provides substantial flexibility by removing the limitations placed on movers and seconders by the other two options.
- 5.6 The Council is asked to agree on a default option which will apply to all meetings unless a chairperson, or meeting, agree to apply one of the other two options at specific meeting. It is recommended that the default option be marked as Default in the adopted standing orders. Our Council has previously used Option B, therefore it is the option recommended in this report.

## 6 Policy / Legal Requirements / Plan

- 6.1 The Standing Orders have been legally reviewed to ensure they meet current legislation.
- 6.2 The adoption of a set of Standing Orders fulfils the requirements of Clause 27, Schedule 7 of the Local Government Act 2002.
- 6.3 Such adoption also ensures that other legislation, such as the Local Government Official Information and Meetings Act 1987, is complied with.

## 7 Consideration of Financial or Budgetary Implications

- 7.1 There are no financial considerations associated with this report.

## 8 Significance and Engagement

8.1 Adopting a set of Standing Orders is considered of very low significance as it does not have a high degree of public interest and it does not impact on levels of service or have financial implications. Therefore, we consider Council can make the decisions contained in this report without community engagement.

Issue	Level of Significance	Explanation of Assessment
Is there a high level of public interest, or is decision likely to be controversial?	Low	There is unlikely to be much public interest in the Standing Orders, particularly given they generally align with the LGNZ model standing orders.
Is there a significant impact arising from duration of the effects from the decision?	Low	Council can amend the Standing Orders at any time.
Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)	No	
Does the decision create a substantial change in the level of service provided by Council?	No	
Does the proposal or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	No	
Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	No	
Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	No	
Does the proposal or decision involve Council exiting from or entering into a group of activities?	No	

## 9 Conclusion

9.1 It is recommended that the Council adopt the Standing Orders 2019.

**10 Next Steps / Timeline**

10.1 The Standing Orders will come into effect when adopted by resolution and will apply to all meetings of the Full Council, its Committees, Subcommittees, quasi-judicial committees and subordinate decision-making bodies. The Golden Bay and Motueka Community Boards will be asked to adopt Standing Orders for Community Boards at their inaugural meetings.

**11 Attachments**

- |    |  |    |
|----|--|----|
| 1. | Tasman District Council Standing Orders 2019 | 17 |
| 2. | LGNZ Guide to Standing Orders                | 95 |







# Standing Orders

24 October 2019

## Preface

Standing orders contain rules for the conduct of the proceedings of local authorities, committees, subcommittees and subordinate decision-making bodies, and local and community boards. Their purpose is to enable local authorities to exercise their decision-making responsibilities in a transparent, inclusive and lawful manner.

In doing so, the application of standing orders contributes to greater public confidence in the quality of local governance and democracy in general.

These standing orders have been designed specifically for local authorities, their committees, subcommittees and subordinate decision-making bodies, and local and community boards. They fulfil the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 with regard to the conduct of meetings.

Please note standing orders do not apply to advisory bodies or workshops unless incorporated in their specific terms of reference.

It is mandatory that councils adopt standing order for the conduct of their meetings and the meetings of any subordinate bodies, such as committees and subcommittees (see cl. 27 Schedule 7 of the Local Government Act 2002).

For clarity's sake whenever a question about the interpretation or application of these standing orders is raised, particularly where a matter might not be directly provided for, it is the responsibility of the Chairperson of each meeting to make a ruling.

All members of a local authority must abide by standing orders.

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## Item 8.2

## Attachment 1

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**Item 8.2**

**Attachment 1**

## 1. Introduction

These standing orders have been prepared to enable the orderly conduct of local authority meetings. They incorporate the legislative provisions relating to meetings, decision making and transparency. They also include practical guidance on how meetings should operate so that statutory provisions are complied with and the spirit of the legislation fulfilled.

To assist elected members and officials the document is structured in three parts:

- Part 1 deals with general matters
- Part 2 deals with pre-meeting procedures
- Part 3 deals with meeting procedures.

Following Part 3 the Appendices provide templates and additional guidance for implementing provisions within the standing orders. Please note; the Appendix is an attachment to the standing orders and not part of the standing orders themselves, consequently amendments to the Appendix do not require the agreement of 75% of those present). In addition the 'Guide to Standing Orders' provides additional advice for Chairpersons and staff on implementation of the standing orders and are not part of the standing orders.

### 1.1 Principles

Standing orders are part of the framework of processes and procedures designed to ensure that our system of local democracy and in particular decision-making within local government is transparent and accountable. They are designed to give effect to the principles of good governance, which include that a local authority should:

- conduct its business in an open, transparent and democratically accountable manner;
- give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- make itself aware of, and have regard to, the views of all of its communities;
- take account, when making decisions, of the diversity of the community, its interests and the interests of future communities as well;
- ensure that any decisions made under these standing orders comply with the decision-making provisions of Part 6 of the LGA; and
- ensure that decision-making procedures and practices meet the standards of natural justice.

These are reinforced by the requirement that all local authorities act so that "governance structures and processes are effective, open and transparent" (s. 39 LGA 2002).

### 1.2 Statutory references

The Standing Orders combine statutory provisions with guidance on their application. Where a statutory provision has been augmented with advice on how it might be implemented the advice (so as not to confuse it with the statutory obligation) is placed below the relevant legislative reference. In some cases

the language in the statutory provision has been modernised for ease of interpretation or amended to ensure consistency with more recently enacted statutes.

It is important to note that during a meeting any statutory references in the standing orders apply throughout the period of the meeting, regardless of whether or not parts or all of the Standing Orders have been suspended. These provisions must also be carried through into any amendment of the standing orders that might be made. Please note, where it is employed the word 'must', unless otherwise stated, identifies a mandatory legislative requirement.

### 1.3 Acronyms

LGA 2002 Local Government Act 2002

LGOIMA Local Government Official Information Act 1987

LAMIA Local Authority Members' Interests Act 1968

### 1.4 Application

For the removal of any doubt these standing orders do not apply to workshops or meetings of working parties and advisory groups.

## 2. Definitions

**Adjournment** means a break in the proceedings of a meeting. A meeting, or discussion on a particular business item, may be adjourned for a brief period, or to another date and time

**Advisory group** means a group of people convened by a local authority for the purpose of providing advice or information that is not a committee or subcommittee. These standing orders do not apply to such groups. This definition also applies to workshops, working parties, working group, panels, forums, portfolio groups, briefings and other similar bodies.

**Agenda** means the list of items for consideration at a meeting together with reports and other attachments relating to those items in the order in which they will be considered. It is also referred to as an 'order paper'.

**Amendment** means any change of proposed change to the original or substantive motion.

**Audio link** means facilities that enable audio communication between participants at a meeting when one or more of the participants is not physically present at the place of the meeting.

**Audio visual link** means facilities that enable audiovisual communication between participants at a meeting when one or more of them is not physically present at the place of the meeting.

**Chairperson** means the person presiding at a meeting – the presiding member.

**Chief executive** means the chief executive of a territorial authority or regional council appointed under section 42 of the LGA 2002, and includes, for the purposes of these standing orders, any other officer authorized by the local authority.

**Clear working days** means the number of working days (business hours) prescribed in these standing orders for giving notice and excludes the date of the meeting and date on which the notice is served.

**Committee** includes, in relation to a local authority:

- (a) A committee comprising all the members of that authority;
- (b) A standing committee or special committee appointed by that authority;
- (c) A joint committee appointed under clause 30A of Schedule 7 of the LGA 2002; and
- (d) Any subcommittee of a committee described in (a), (b) and (c) of this definition.

**Community board** means a community board established under s.49 of the LGA 2002.

**Contempt** means being disobedient to, or disrespectful of, the chair of a meeting, or disrespectful to any members, officers or the public.

**Council** means, in the context of these standing orders, the governing body of a local authority.

**Deputation** means a request from any person or group to make a presentation to the local authority which is approved by the Chairperson and which may be made in English, te reo Māori or New Zealand Sign Language.

**Electronic link** means both an audio and audio visual link.

**Extraordinary meeting** has the same meaning as defined in cl. 22 of Schedule 7 of the LGA 2002.

**Foreshadowed motion** means a motion that a member indicates their intention to move once the debate on a current motion or amendment is concluded.

**Joint committee** means a committee in which the members are appointed by more than one local authority in accordance with clause 30A of Schedule 7 of the LGA 2002.

**Karakia timatanga** means an opening prayer.

**Karakia whakamutunga** means a closing prayer.

**Lawfully excluded** means a member of a local authority who has been removed from a meeting due to behaviour that a Chairperson has ruled to be contempt.

**Local authority** means in the context of these standing orders a regional council or territorial authority, as defined in s. 5 of the LGA 2002, which is named in these standing orders, and any subordinate decision-making bodies established by the local authority.

**Mayor** means the Mayor of a territorial authority elected under the Local Electoral Act 2001.

**Meeting** means any first, inaugural, ordinary, or extraordinary meeting of a local authority, subordinate decision-making bodies and any community or local board of the local authority convened under the provisions of LGOIMA.

**Member** means any person elected or appointed to the local authority.

**Mihi whakatau** means a brief welcome typically delivered by one person without any further formalities.

**Minutes** means the record of the proceedings of any meeting of the local authority.

**Motion** means a formal proposal to a meeting.

**Mover** means the member who initiates a motion.

**Newspaper** means a periodical publication published (whether in New Zealand or elsewhere) at intervals not exceeding 40 days, or any copy of, or part of any copy of, any such publications; and this includes every publication that at any time accompanies and is distributed along with any newspaper.

**Notice of motion** means a motion given in writing by a member in advance of a meeting in accordance with, and as provided for, in these standing orders.

**Open voting** means voting that is conducted openly and in a transparent manner and may be conducted by electronic means. The result of the vote must be announced immediately it has concluded. Secret ballots are specifically excluded.

**Order paper** means the list of items for consideration at a meeting together with reports and other attachments relating to those items set out in the order in which they will be considered. An order paper is also referred to as an agenda.

**Ordinary meeting** means any meeting, other than the first meeting, of a local authority publicly notified in accordance with sections 46(1) and (2) of LGOIMA.

**Petition** means a request to a local authority which contains at least 20 signatures.

**Powhiri** means a formal welcome involving a Karanga from the Tangata Whenua (the home people) followed by formal speech making. A Powhiri is generally used for formal occasions of the highest significance.

**Presiding member** means the person chairing a meeting.

**Procedural motion** means a motion that is used to control the way in which a motion or the meeting is managed as specified in standing orders 24.1 – 24.7.

**Public excluded information** refers to information which is currently before a public excluded session, is proposed to be considered at a public excluded session, or had previously been considered at a public excluded session and not yet been released as publicly available information. It includes:

- any minutes (or portions of minutes) of public excluded sessions which have not been subsequently released by the local authority;

- any other information which has not been released by the local authority as publicly available information.

**Public excluded session**, also referred to as confidential or in-committee session, refers to those meetings or parts of meetings from which the public is excluded by the local authority as provided for in LGOIMA.

**Public forum** refers to a period set aside usually at the start of a meeting for the purpose of public input.

**Publicly notified** means notified to members of the public by a notice contained in a newspaper circulating in the district of the local authority, or where there is no such newspaper, by notice displayed in a public place. The notice may also be replicated on a council’s website.

**Qualified privilege** means the privilege conferred on member by s. 52 and s. 53 of LGOIMA.

**Quasi-judicial** means a meeting involving the consideration of issues requiring the evaluation of evidence, the assessment of legal argument and/or the application of legal principles.

**Quorum** means the minimum number of members required to be present in order to constitute a valid meeting.

**Regional Council Chairperson** means the member of the governing body of a regional council elected as Chairperson of that regional council under cl.25 Schedule 7 LGA 2002.

**Resolution** means a motion that has been adopted by the meeting.

**Right of reply** means the right of the mover of a motion to sum up the debate and reply to those who have spoken against the motion. (The right can also apply to an amendment.)

**Second** means the member who seconds a motion.

**Sub judice** means under judicial consideration and therefore prohibited from public discussion elsewhere.

**Subordinate decision-making body** means committees, subcommittees, and any other bodies established by a local authority that have decision-making authority, but not local or community boards or joint committees.

**Substantive motion** means the original motion. In the case of a motion that is subject to an amendment, the substantive motion is the original motion incorporating any amendments adopted by the meeting.

**Substantive resolution** means the substantive motion that has been adopted by the meeting or a restatement of a resolution that has been voted on in parts.

**Subcommittee means** a subordinate decision-making body established by a council, or a committee of a council, local board or community board. See definition of “Committee”.

Working day means any day of the week other than:

- Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s Birthday, and Labour Day and, if Waitangi Day or Anzac Day falls on a weekend, the following Monday.

- (b) A day in the period commencing with the 25th day of December in any year and ending with the 15th day of January in the following year.

Should a local authority wish to meet between the 25th of December and the 15th day of January in the following year any meeting must be notified as an extraordinary meeting unless there is sufficient time to notify an ordinary meeting before the commencement of the period.

**Working party** means a group set up by a local authority to achieve a specific objective that is not a committee or subcommittee and to which these standing orders do not apply.

**Workshop**, means in the context of these standing orders, a gathering of elected members for the purpose of considering matters of importance to the local authority at which no decisions are made and to which these standing orders do not apply. Workshops may include non-elected members. See definition of “advisory group”. Workshops are also described as briefings.

## General matters

### 3. Standing orders

#### 3.1 Obligation to adopt standing orders

A council is required to operate in accordance with standing orders for the conduct of its meetings and the meetings of its committees and subcommittees. Local boards and community boards must also adopt standing orders. Standing orders must not contravene any Act.

*cl. 27(1) & (2), Schedule 7, LGA 2002.*

#### 3.2 Process for adoption and alteration of standing orders

The adoption of standing orders and any amendment to standing orders must be made by the Council and by a vote of not less than 75 % of the members present. Similarly, in the case of a local and community board the adoption of standing orders and any amendments also requires a vote of not less than 75% of the members of the specific board.

*cl. 27(3) Schedule 7, LGA 2002.*

#### 3.3 Members must obey standing orders

All members of the local authority, including members of committees and subcommittees, must obey these standing orders. Local boards and community boards which have adopted these standing orders must also comply with them.

*cl. 16(1) Schedule 7, LGA 2002.*

#### 3.4 Application of standing orders

These standing orders apply to all meetings of the local authority, its committees, subcommittees and subordinate decision-making bodies. They will also apply to any local boards and community boards unless stated otherwise. This includes meetings and parts of meetings that the public are excluded from.

#### 3.5 Temporary suspension of standing orders

Any member of a council, committee, subcommittee and subordinate body, and local and community board, may move a motion to suspend standing orders at a meeting of which they are a member. Any such motion must also include the reason for the suspension. If seconded, the Chairperson must put the motion without debate and at least 75 per cent of the members present and voting must support the motion for it to be carried.

*cl. 27(4), Schedule 7, LGA 2002.*

A motion to suspend standing orders may also identify the specific standing orders to be suspended. In the event of suspension those standing orders prescribed in statute will continue to apply, such as the quorum requirements.



### **3.6 Quasi-judicial proceedings**

For quasi-judicial proceedings the local authority or a local or community board may amend meeting procedures. For example, committees hearing applications under the RMA 1991 have additional powers under the Commissions of Inquiry Act 1908.

### **3.7 Physical address of members**

Every member of a local authority, local board and community board must give to the chief executive a physical residential or business address within the district or region of the local authority and, if desired, an electronic or other address, to which notices and material relating to meetings and local authority business may be sent or delivered. Members are to provide their address within 5 working days of the publication of the declaration of the election results.

## **4. Meetings**

### **4.1 Legal requirement to hold meetings**

The local authority must hold meetings for the good government of its city, district or region. The same requirement applies to local boards and community boards in respect of their communities. Meetings must be called and conducted in accordance with:

- (a) Schedule 7 of the LGA 2002;
- (b) Part 7 of LGOIMA; and
- (c) These standing orders.

A meeting can be adjourned to a specified time and day if required by resolution of the meeting.

### **4.2 Meeting duration**

A meeting cannot continue more than six hours from when it starts (including any adjournments) or after 10.30pm, unless the meeting resolves to continue. If there is no such resolution any business on the agenda that has not been dealt with must be adjourned, transferred to the next meeting or transferred to an extraordinary meeting.

No meeting can sit for more than three hours continuously without a break of at least ten minutes unless the meeting resolves to extend the time before a break.

### **4.3 Language**

A member may address a meeting in English, te reo Māori or New Zealand Sign Language. A Chairperson may require that a speech is translated and printed in English or te reo Māori.

If a member intends to address the meeting in New Zealand Sign Language, or in te reo Māori when the normal business of the meeting is conducted in English, they must give prior notice to the Chairperson not less than 2 working days before the meeting. Where the normal business of the meeting is conducted in te

reo Māori then prior notice of the intention to address the meeting in English must also be given to the Chairperson not less than 2 working days before the meeting.

#### 4.4 Webcasting meetings

Webcast meetings should be provided in accordance with the protocols contained in Appendix 5.

#### 4.5 First meeting (inaugural)

The first meeting of a local authority following a local authority triennial general election must be called by the chief executive as soon as practicable after the results of the election are known. The chief executive must give elected members not less than 7 days' notice of the meeting. However in the event of an emergency the chief executive may give notice of the meeting as soon as practicable.

*cl. 21(1) - (4), Schedule 7, LGA 2002.*

#### 4.6 Requirements for the first meeting

The chief executive (or, in the absence of the chief executive, their nominee) must chair the first meeting until the Chairperson has made an oral declaration and attested the declaration (see cl. 21(4), Schedule 7 (LGA 2002)).

The business to be conducted at the first meeting following a general election must include the following:

- (a) The making and attesting of the declarations required of the mayor (if any) and members under cl.14, Schedule7, (LGA 2002), and
- (b) The election of the Chairperson (if any) and the making and attesting of the declaration required of the Chairperson under cl. 14 Schedule7, (LGA 2002), and
- (c) A general explanation, given or arranged by the chief executive, of:
  - i. LGOIMA; and
  - ii. Other laws affecting members, including the appropriate provisions of the Local Authorities (Members Interests) Act 1968; and sections 99, 105, and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910; and the Financial Markets Conduct Act 2013;
- (d) The fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings; and
- (e) The election of the deputy Mayor or deputy Chairperson in accordance with cl.17 Schedule7, (LGA 2002).

*cl. 21(5), Schedule 7, LGA 2002.*

It is common for councils to adopt standing orders at the first meeting; however this is not always necessary as, if not amended, standing orders will remain in force after each triennial election.

Please note that the election of a deputy mayor is not required if the Mayor has already made the appointment under s. 41A (3)(a) of the LGA 2002 prior to the meeting. Nothing limits a territorial authority from removing a deputy Mayor from office in accordance with cl.18 of Schedule 7 LGA 2002.

## **5. Appointments and elections**

### **5.1 Mayoral appointment of deputy Mayor, committee chairs and members**

A Mayor may appoint the deputy Mayor, the Chairperson and the members of each committee of the territorial authority. The names of any appointments made by the Mayor must be tabled at the first meeting of the council after the appointments are made. The Mayor may also appoint him or her self.

*s. 41A (3) LGA 2002.*

### **5.2 Council Discharge of a Mayoral Appointment**

Nothing, however, limits or prevents a territorial authority from discharging deputy Mayor, a Chairperson or a member of a committee appointed by the Mayor. Any decision by the territorial authority to discharge a deputy Mayor shall follow the procedure in Standing Order 5.5.

If the Mayor declines to appoint a deputy Mayor or committee Chairpersons in accordance with s.41A LGA 2002, the council (or a committee, if so directed by the council) must elect those positions in accordance with standing order 5.4.

*cl. 31, Schedule 7 LGA 2002*

### **5.3 Establishment of committees by the Mayor**

The Mayor may establish committees of the territorial authority. Where a Mayor exercises this right a list of the committees and their terms of reference must be tabled at the next following meeting of the Council. Should the Mayor decline to establish committees under s. 41A then any decision to establish committees must follow the processes set out in these standing orders.

Nothing, however, limits or prevents a territorial authority from discharging or reconstituting, in accordance with cl. 30 of Schedule 7, LGA 2002, a committee established by the Mayor or appointing, more committees in addition to any established by the Mayor.

*s. 41A (3) and (4) LGA 2002.*

### **5.4 Elections of regional Chairpersons, deputy Mayors and deputy Chairpersons**

The council (or a committee responsible for making the appointment) must decide by resolution to use one of two voting systems (see standing order 5.5) when electing people to the following positions:

- the Chairperson and deputy Chairperson of a regional council;
- the deputy Mayor;
- the Chairperson and deputy Chairperson of a committee; and
- a representative of a local authority.

Please note, this provision does not apply in situations where a mayor has used their appointment powers under s.41A to appoint a deputy Mayor or committee chairs. See Appendix 7.

*cl. 25 Schedule 7, LGA 2002.*

### **5.5 Removal of a deputy Mayor**

A deputy Mayor, whether appointed by the Mayor under standing order 5.1 or elected by the council, can only be removed in accordance with cl. 18, Schedule 7, of the LGA 2002. See Appendix 8.

*cl. 18, Schedule 7, LGA 2002.*

### **5.6 Voting system for chairs, deputy Mayors and committee chairs**

When electing a regional council chair, a deputy Mayor or a committee chair the local authority must resolve to use one of the following two voting systems.

#### **System A**

The candidate will be elected or appointed if he or she receives the votes of a majority of the members of the local authority or committee who are present and voting. This system has the following characteristics:

- (a) there is a first round of voting for all candidates;
- (b) if no candidate is successful in the first round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and
- (c) if no candidate is successful in the second round, there is a third round, and if necessary subsequent rounds, of voting from which, each time, the candidate with the fewest votes in the previous round is excluded.

In any round of voting, if two or more candidates tie for the lowest number of votes, the person to be excluded from the next round is resolved by lot.

#### **System B**

The candidate will be elected or appointed if he or she receives more votes than any other candidate. This system has the following characteristics:

- (a) there is only one round of voting; and
- (b) if two or more candidates tie for the most votes, the tie is resolved by lot.

*cl. 25 Schedule 7, LGA 2002.*

## **6. Delegations**

## 6.1 Limits on delegations

Unless clearly stated in the LGA or any other Act, a council may, for the purposes of efficiency and effectiveness, delegate to a committee, subcommittee, subordinate decision-making body, community board, local board, member, or officer of the local authority, any of its responsibilities, duties, or powers except:

- (a) the power to make a rate;
- (b) the power to make a bylaw;
- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan;
- (d) the power to adopt a long-term plan, annual plan, or annual report;
- (e) the power to appoint a chief executive;
- (f) the power to adopt policies required to be adopted and consulted on under the LGA in association with the long-term plan or developed for the purpose of the local governance statement;
- (g) *Repealed*;
- (h) the power to adopt a remuneration and employment policy.

*cl. 32 (1) Schedule 7, LGA 2002.*

## 6.2 Committees may delegate

A committee, subcommittee, subordinate decision-making body, local board, community board, member, or officer of the local authority, may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the body that made the original delegation.

*cl. (2) & (3), Schedule 7, LGA 2002.*

## 6.3 Use of delegated powers

The committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, duties are delegated may, without confirmation by the council, committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.

*cl. 32(2) & (3)(4) Schedule 7, LGA 2002.*

## 6.4 Decisions made under delegated authority cannot be rescinded or amended

Nothing in these standing orders allows a council, committee and subcommittee to rescind or amend a lawfully made decision of a subordinate decision-making body carried out under a delegation authorising

the making of that decision. The same requirement applies to a local board and community board in relation to any committees or subcommittees with delegated authority.

*cl. 30 (6), Schedule 7, LGA 2002.*

### **6.5 Committees and sub committees subject to the direction of the local authority**

A committee, subcommittee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given to them.

*cl. 30 (3) & (4), Schedule 7, LGA 2002.*

### **6.6 Duty to consider delegations to community boards**

The council of a territorial authority must consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role.

*cl. 32(6) Schedule 7, LGA 2002.*

## 7. Committees

### 7.1 Appointment of committees and subcommittees

A council may appoint the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate. A committee may appoint the subcommittees that it considers appropriate, unless it is prohibited from doing so by the council.

*cl. 30(1) & (2), Schedule 7, LGA 2002.*

### 7.2 Discharge or reconstitution of committees and subcommittees

Unless expressly provided otherwise in legislation or regulation:

- (a) a local authority may discharge or reconstitute a committee or subcommittee, or other subordinate decision-making body; and
- (b) a committee may discharge or reconstitute a subcommittee.

A committee, subcommittee, or other subordinate decision-making body is, unless a council resolves otherwise, discharged when members elected at a subsequent triennial general election come into office.

*cl. 30 (5) & (7), Schedule 7, LGA 2002.*

**Please note:** s.12 (2) of the Civil Defence and Emergency Management Act 2002 states that a Civil Defence and Emergency Management Group is not deemed to be discharged following a triennial election.

### 7.3 Appointment or discharge of committee members and subcommittee members

A council may appoint or discharge any member of a committee and, if established by the council, a subcommittee. A committee may appoint or discharge any member of a subcommittee appointed by the committee unless directed otherwise by the council.

*cl. 31 (1) & (2), Schedule 7, LGA 2002*

### 7.4 Elected members on committees and subcommittees

The members of a committee or subcommittee may be, but are not required to be, elected members of a local authority. A council or committee may appoint a person who is not a member of the local authority to a committee or subcommittee if, in the opinion of the council or committee, the person has the skills, attributes or knowledge to assist the committee or subcommittee.

At least one member of a committee must be an elected member of the council. In the case of a committee established by a local board or community board at least one member must be a member of that board. A staff member of the local authority, in the course of their employment, can be a member of a subcommittee but not a committee.

*cl. 31(4) Schedule 7, LGA 2002.*

### **7.5 Local authority may replace members if committee not discharged**

If a local authority resolves that a committee, subcommittee or other subordinate decision-making body is not to be discharged under cl. 30 (7) Schedule 7, LGA 2002, the local authority may replace the members of that committee, subcommittee or subordinate decision-making body after the next triennial general election of members.

*cl. 31(5) Schedule 7, LGA 2002.*

### **7.6 Membership of Mayor**

The Mayor is a member of every committee of the local authority.

*s. 41A (5), LGA 2002.*

### **7.7 Decision not invalid despite irregularity in membership**

For the purpose of these standing orders a decision of a local authority, committee, local board and community board is not invalidated if:

1. there is a vacancy in the membership of the local authority, committee, local or community board at the time of the decision; or
2. following the decision some defect in the election or appointment process is discovered and/or that the membership of a person on the committee at the time is found to have been ineligible.

*cl. 29, Schedule 7, LGA 2002.*

### **7.8 Appointment of joint committees**

A local authority may appoint a joint committee with another local authority or other public body if it has reached agreement with each local authority or public body. The agreement must specify:

- (a) the number of members each party may appoint; and
- (b) how the Chairperson and deputy Chairperson are to be appointed; and
- (c) the terms of reference of the committee; and
- (d) what responsibilities, if any, are to be delegated to the committee by each party; and
- (e) how the agreement may be varied.



The agreement may also specify any other matter relating to the appointment, operation, or responsibilities of the committee agreed by the parties.

*cl. 30A (1) & (2), Schedule 7, LGA 2002.*

## **7.9 Status of joint committees**

A joint committee is deemed to be both a committee of a council and a committee of each other participating local authority or public body.

*cl. 30A (5), Schedule 7, LGA 2002.*

## **7.10 Power to appoint or discharge individual members of a joint committee**

The power to discharge any individual member of a joint committee and appoint another member in their stead must be exercised by the council or public body that made the appointment.

*cl. 30A (6)(a), Schedule 7, LGA 2002.*

## Pre-meeting

### 8. Giving notice

Please note; the processes described in this section (standing orders 8.1 – 8.13) apply as appropriate to local boards and community boards.

#### 8.1 Public notice – ordinary meetings

All meetings scheduled for the following month must be publicly notified not more than 14 days and not less than 5 days before the end of every month, together with the dates on which and the times and places at which those meetings are to be held. In the case of meetings held on or after the 21st day of the month public notification must be given not more than 10 nor less than 5 working days before the day on which the meeting is to be held.

*s. 46, LGOIMA.*

#### 8.2 Notice to members - ordinary meetings

The chief executive must give notice in writing to each member of the local authority of the time and place of any meeting. Notice must be given at least 14 days before the meeting unless the council has adopted a schedule of meetings, in which case notice must be given at least 14 days before the first meeting on the schedule.

*cl. 19 (5), Schedule 7, LGA 2002.*

#### 8.3 Extraordinary meeting may be called

An extraordinary council meeting may be called by:

- (a) resolution of the council, or
- (b) a requisition in writing delivered to the chief executive which is signed by:
  - i. the Mayor or Chairperson, or
  - ii. no less than one third of the total membership of the council (including vacancies).

*cl. 22 (1) Schedule 7, LGA 2002.*

#### 8.4 Notice to members - extraordinary meetings

Notice in writing of the time and place of an extraordinary meeting called under standing order 8.3 and of the general nature of business to be considered must be given by the chief executive to each member of the council at least 3 working days before the day appointed for the meeting. If the meeting is called by a resolution then notice must be provided within such lesser period as is specified in the resolution, as long as it is not less than 24 hours.

*cl. 22 (3), Schedule 7, LGA 2002.*

## 8.5 Public notice - extraordinary meetings

Where an extraordinary meeting of a local authority was called and notice of that meeting was inconsistent with these standing orders the local authority must, as soon as practicable following the meeting, give public notice stating that:

- (a) the meeting has occurred;
- (b) the general nature of business transacted; and
- (c) the reasons why it was not correctly notified.

*s. 46 (3) & (4), LGOIMA.*

## 8.6 Process for calling an extraordinary meeting at an earlier time

If the nature of business requires a meeting to be held at an earlier time than is allowed by the notice requirements specified in standing order 8.4, a meeting may be called by the Mayor or Chairperson, or if the Mayor and Chairperson are not available, the chief executive.

*cl. 22 (2) Schedule 7, LGA 2002.*

## 8.7 Notification of extraordinary meetings held at an earlier time

Notice of the time, place and matters to be considered of a meeting called under Standing Order 8.6, must be given by the person calling the meeting or by another person on that person's behalf. Notice must be given to each member of the council and the chief executive by whatever means is reasonable in the circumstances and at least 24 hours before the time appointed for the meeting.

*cl. 22 (4), Schedule 7 LGA 2002.*

## 8.8 Chief executive may make other arrangements

The chief executive is to make any other arrangement for the notification of meetings, including extraordinary meetings, as the local authority may, from time to time, determine.

*s. 46(5) LGOIMA.*

## 8.9 Meetings not invalid

The failure to notify a public meeting under these standing orders does not of itself make that meeting invalid. However, where a local authority becomes aware that a meeting has been incorrectly notified it must, as soon as practicable, give public notice stating:

- that the meeting occurred without proper notification;
- the general nature of the business transacted; and
- the reasons why the meeting was not properly notified.

*s. 46 (6), LGOIMA.*

## 8.10 Resolutions passed at an extraordinary meeting

A local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the local authority unless -

- (a) the resolution was passed at a meeting or part of a meeting from which the public was excluded; or
- (b) the extraordinary meeting was publicly notified at least 5 working days before the day on which the meeting was held.

*s. 51A, LGOIMA.*

## 8.11 Meeting schedules

Where the local authority adopts a meeting schedule it may cover any period that the council considers appropriate and may be amended. Notification of the schedule, or an amendment, will constitute notification to members of every meeting on the schedule or the amendment. This does not replace the requirements under LGOIMA to also publicly notify each meeting.

*cl. 19 (6) Schedule 7, LGA 2002.*

## 8.12 Non-receipt of notice to members

A meeting of a local authority is not invalid if notice of that meeting was not received, or not received in due time, by a member of the local authority or board unless:

- (a) it is proved that the person responsible for giving notice of the meeting acted in bad faith or without reasonable care; and
- (b) the member concerned did not attend the meeting.

A member of a local authority may waive the need to be given notice of a meeting.

*cl. 20 (1) & (2) Schedule 7, LGA 2002.*

## 8.13 Meeting cancellations

The Chairperson of a scheduled meeting may cancel the meeting if, in consultation with the chief executive, they consider this is necessary for reasons that include lack of business, lack of quorum or clash with another event.

The chief executive must make a reasonable effort to notify members and the public as soon as practicable of the cancellation and the reasons behind it.

## **9. Meeting agenda**

### **9.1 Preparation of the agenda**

It is the chief executive's responsibility to prepare an agenda for each meeting listing and attaching information on the items of business to be brought before the meeting so far as is known, including the names of the relevant members.

When preparing business items for an agenda the chief executive should consult the Chairperson.

### **9.2 Process for raising matters for a decision**

Requests for reports may be made by a resolution of the council, committee, subcommittee, subordinate decision-making body, local boards or community board and, in the case of all decision-making bodies other than the council, must also fall within the scope of their specific delegations. A process for requesting reports is described in Appendix 11.

### **9.3 Chief executive may delay or refuse request**

The chief executive may delay commissioning any reports that involve significant cost or are beyond the scope of the committee that made the request. In such cases the chief executive will discuss options for meeting the request with the respective Chairperson and report back to a subsequent meeting with an estimate of the cost involved and seek direction on whether the report should still be prepared.

If a member makes a direct request to a chief executive asking that a report is prepared the chief executive may refuse. In such cases an explanation should be provided to the member.

### **9.4 Order of business**

At the meeting the business is to be dealt with in the order in which it stands on the agenda unless the Chairperson, or the meeting, decides otherwise. An example of a default order of business is set out in Appendix 10.

The order of business for an extraordinary meeting must be limited to items that are relevant to the purpose for which the meeting has been called.

### **9.5 Chairperson's recommendation**

A Chairperson, either prior to the start of the meeting and/or at the meeting itself, may include a recommendation regarding any item on the agenda brought before the meeting. Where a Chairperson's recommendation varies significantly from an officer's recommendation the reason for the variation must be explained.

### **9.6 Chairperson's report**

The Chairperson of a meeting has the right, through a report, to direct the attention of a meeting to any matter which is on the agenda or which falls within the responsibilities of that meeting.

## 9.7 Public availability of the agenda

All information provided to members at a local authority, or local or community board, meeting must be publicly available except where an item included in the agenda refers to a matter reasonably expected to be discussed with the public excluded.

*s. 5 & 46A, LGOIMA.*

## 9.8 Public inspection of agenda

Any member of the public may, without payment of a fee, inspect, during normal office hours and within a period of at least 2 working days before a meeting, all agendas and associated reports circulated to members of the local authority and local and community boards relating to that meeting. The agenda:

- (a) must be available for inspection at the public offices of the local authority (including service centres), at public libraries under the authority's control and on the council's website, and:
- (b) must be accompanied by either:
  - i. the associated reports; or
  - ii. a notice specifying the places at which the associated reports may be inspected.

*s. 46A (1), LGOIMA.*

## 9.9 Withdrawal of agenda items

If justified by circumstances an agenda item may be withdrawn by the chief executive. In the event of an item being withdrawn the chief executive should inform the Chairperson.

## 9.10 Distribution of the agenda

The chief executive must send the agenda to every member of a meeting at least two clear working days before the day of the meeting, except in the case of an extraordinary meeting (see Standing Order 8.4).

The chief executive may send the agenda, and other materials relating to the meeting or other council business, to members by electronic means.

## 9.11 Status of agenda

No matter on a meeting agenda, including recommendations, may be considered final until determined by formal resolution of that meeting.

## 9.12 Items of business not on the agenda which cannot be delayed

A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:

- (a) the reason the item is not on the agenda; and

- (b) the reason why the discussion of the item cannot be delayed until a subsequent meeting.

*s. 46A (7), LGOIMA*

Items not on the agenda may be brought before the meeting through a report from either the chief executive or the Chairperson.

**Please note** that nothing in this standing order removes the requirement to meet the provisions of Part 6, LGA 2002 with regard to consultation and decision-making.

### **9.13 Discussion of minor matters not on the agenda**

A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

*s. 46A (7A), LGOIMA.*

### **9.14 Public excluded business on the agenda**

Items that are likely to be discussed under public excluded must be indicated on each agenda and state the general subject of the item. The chief executive, however, may exclude public access to any reports, or parts of reports, which are reasonably expected to be discussed with the public excluded.

*s. 46A (9), LGOIMA.*

### **9.15 Qualified privilege relating to agenda and minutes**

Where any meeting is open to the public and a member of the public is supplied with a copy of the agenda, or the minutes of that meeting, the publication of any defamatory matter included in the agenda or in the minutes is privileged. This does not apply if the publication is proved to have been made with ill will or improper advantage has been taken of the publication.

*s. 52, LGOIMA.*

## Meeting Procedures

### Opening and closing

Local authorities, local boards and community boards may, at the start of a meeting, choose to recognise the civic importance of the occasion through some form of reflection. This could be an expression of community values, a reminder of the contribution of members who have gone before or a formal welcome, such as a mihi whakatau. Options for opening a meeting could include a karakia timitanga, mihi whakatau, or powhiri as well as a karakia whakamutunga to close a meeting where appropriate.

## 10. Quorum

### 10.1 Councils

The quorum for a meeting of the council is:

- (a) half of the members physically present, where the number of members (including vacancies) is even; and
- (b) a majority of the members physically present, where the number of members (including vacancies) is odd.

*cl. 23 (3)(a) Schedule 7, LGA 2002.*

### 10.2 Committees and subcommittees

A council sets the quorum for its committees and subcommittees, either by resolution or by stating the quorum in the terms of reference. Committees may set the quorums for their subcommittees by resolution provided that it is not less than two members.

In the case of subcommittees the quorum will be two members unless otherwise stated. In the case of committees at least one member of the quorum must be a member of the council, or if established by a local board or community board, the relevant board.

*cl. 23 (3)(b) Schedule 7, LGA 2002.*

### 10.3 Joint Committees

The quorum at a meeting of a joint committee must be consistent with Standing Order 10.1. Local authorities participating in the joint committee may decide, by agreement, whether or not the quorum includes one or more members appointed by each local authority or any party.

*cl. 30A (6)(c) Schedule 7, LGA 2002.*

### 10.4 Requirement for a quorum

A meeting is constituted where a quorum of members is present, whether or not they are all voting or entitled to vote. In order to conduct any business at a meeting, a quorum of members must be present for the whole time that the business is being considered.



*cl. 23(1) & (2) Schedule 7, LGA 2002.*

## **10.5 Meeting lapses where no quorum**

A meeting must lapse, and the Chairperson vacate the chair, if a quorum is not present within 30 minutes of the advertised start of the meeting. Where members are known to be travelling to the meeting, but are delayed due to extraordinary circumstance, the Chairperson has discretion to wait for a longer period.

No business may be conducted while waiting for the quorum to be reached. Minutes will record when a meeting lapses due to a lack of a quorum, along with the names of the members who attended.

## **10.6 Business from lapsed meetings**

Where meetings lapse the remaining business will be adjourned and be placed at the beginning of the agenda of the next ordinary meeting, unless the Chairperson sets an earlier meeting and this is notified by the chief executive.

# **11. Public access and recording**

## **11.1 Meetings open to the public**

Except as otherwise provided by Part 7 of LGOIMA, every meeting of the local authority, its committees, subcommittees, local boards and community boards, must be open to the public.

*s.47 & 49(a), LGOIMA.*

## **11.2 Grounds for removing the public**

The Chairperson may require any member of the public whose conduct is disorderly, or who is creating a disturbance, to be removed from the meeting.

## **11.3 Local authority may record meetings**

Meeting venues should contain clear signage indicating and informing members, officers and the public that proceedings may be recorded by the local authority and may be subject to direction by the Chairperson.

## **11.4 Public may record meetings**

Members of the public may make electronic or digital recordings of meetings which are open to the public. Any recording of meetings must be notified to the Chairperson at the commencement of the meeting to ensure that the recording does not distract the meeting from fulfilling its business.

Where circumstances require the Chairperson may stop the recording for a period of time.

## **12. Attendance**

### **12.1 Members right to attend meetings**

A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee.

*cl. 19(2), Schedule 7, LGA 2002.*

If the member of the local authority is not an appointed member of the meeting at which they are in attendance they may not vote on any matter at that meeting. However, they may, with the leave of the chair, take part in the meeting's discussions.

A member attending a meeting of which they are not an appointed member is not a member of the public for the purpose of s.48 LGOIMA. Consequently, if the meeting resolves to exclude the public any members of the local authority who are present may remain unless they are lawfully excluded.

Please note: this section does not confer any rights to non-elected members appointed to committees of a local authority.

### **12.2 Attendance when a committee is performing judicial or quasi-judicial functions**

When a committee is performing judicial or quasi-judicial functions members of the local authority who are not members of that committee are not entitled to take part in the proceedings.

### **12.3 Leave of absence**

A council, local board or community board may grant a member leave of absence following an application from that member.

In addition a council, local board or community board may delegate the power to grant a leave of absence to the Chairperson in order to protect a member's privacy. The Chairperson will advise all members of the council, local board or community board whenever a member has been granted leave of absence under delegated authority. Meeting minutes will record that a member has leave of absence as an apology for that meeting.

### **12.4 Apologies**

A member who does not have leave of absence may tender an apology should they be absent from all or part of a meeting. The Chairperson must invite apologies at the beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apologies.

For clarification, the acceptance of a member's apology constitutes a grant of 'leave of absence' for that meeting.

## 12.5 Recording apologies

The minutes will record any apologies tendered before or during the meeting, including whether they were accepted or declined and the time of arrival and departure of all members.

## 12.6 Absent without leave

Where a member is absent from the council, local board or community board for four consecutive meetings without leave of absence (not including extraordinary meetings) then the office held by the member will become vacant. A vacancy created in this way is treated as an extraordinary vacancy.

*cl. 5 (d) Schedule 7, LGA 2002.*

## 12.7 Right to attend by audio or audio visual link

Provided the conditions in these standing orders are met members of the local authority or its committees have the right to attend meetings by means of an electronic link, unless they have been lawfully excluded.

## 12.8 Member's status: quorum

Members who attend meetings by electronic link will not be counted as present for the purposes of a quorum.

## 12.9 Member's status: voting

Where a meeting has a quorum, determined by the number physically present, the members attending by electronic link can vote on any matters raised at the meeting.

## 12.10 Chairperson's duties

Where the technology is available and a member is attending a meeting by audio or audio visual link, the Chairperson must ensure that:

- (a) the technology for the link is available and of suitable quality;
- (b) procedures for using the technology in the meeting will ensure that:
  - i. everyone participating in the meeting can hear each other;
  - ii. the member's attendance by audio or audio visual link does not reduce their accountability or accessibility of that person in relation to the meeting;
  - iii. the requirements of Part 7 of LGOIMA are met; and
  - iv. the requirements in these standing orders are met.

If the Chairperson is attending by audio or audio visual link then chairing duties will be undertaken by the deputy chair or a member who is physically present.

*cl. 25A (3) schedule 7, LGA 2002.*

### **12.11 Conditions for attending by audio or audio visual link**

The Chairperson may give approval for a member to attend meetings by electronic link, either generally or for a specific meeting. Examples of situations where approval can be given include:

- (a) where the member is at a place that makes their physical presence at the meeting impracticable or impossible;
- (b) where a member is unwell; and
- (c) where a member is unable to attend due to an emergency.

### **12.12 Request to attend by audio or audio visual link**

Where possible, a member will give the Chairperson and the chief executive at least 2 working days' notice when they want to attend a meeting by audio or audio visual link. Should, due to illness or emergency, this is not possible the member may give less notice.

Where such a request is made and the technology is available, the chief executive must take reasonable steps to enable the member to attend by audio or audio-visual link. However, the council has no obligation to make the technology for an audio or audio-visual link available.

If the member's request cannot be accommodated, or there is a technological issue with the link, this will not invalidate any acts or proceedings of the local authority or its committees.

### **12.13 Chairperson may terminate link**

The Chairperson may direct that an electronic link should be terminated where:

- (a) use of the link is increasing, or may unreasonably increase, the length of the meeting;
- (b) the behaviour of the members using the link warrants termination, including the style, degree and extent of interaction between members;
- (c) it is distracting to the members who are physically present at the meeting; and
- (d) the quality of the link is no longer suitable.

### **12.14 Giving or showing a document**

A person attending a meeting by audio or audio visual link may give or show a document by:

- (a) transmitting it electronically;
- (b) using the audio visual link; or
- (c) any other manner that the Chairperson thinks fit.

*cl. 25(A) (6) schedule 7, LGA 2002.*

### **12.15 Link failure**

Where an audio or audio visual link fails, or there are other technological issues that prevent a member who is attending by link from participating in a meeting, that member must be deemed to be no longer attending the meeting.

### **12.16 Confidentiality**

A member who is attending a meeting by audio or audio visual link must ensure that the meeting's proceedings remain confidential during any times that the public are excluded. At such times, the Chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings.

## **13. Chairperson's role in meetings**

### **13.1 Council meetings**

The Mayor or Chairperson of the council or local or community board must preside at meetings of the council or board unless they vacate the chair for a part or all of a meeting. If the Chairperson is absent from a meeting or vacates the chair, the deputy Mayor/chair must act as Chairperson. If the deputy Mayor/chair is also absent the local authority members who are present must elect a member to be Chairperson at that meeting. This person may exercise the meeting responsibilities, duties and powers of the Mayor/Chairperson for that meeting. This provision also applies to committees and subcommittees.

*cl. 26(1), (5) & (6) Schedule 7, LGA 2002.*

### **13.2 Committee meetings**

The appointed Chairperson of a committee must preside at all committee meetings, unless they vacate the chair for a particular meeting or part of a meeting. If the Chairperson is absent from a meeting or vacates the chair, the deputy Chairperson (if any) will act as Chairperson. If the deputy Chairperson is also absent, or has not been appointed, the committee members who are present must elect a member to act as Chairperson at that meeting who may exercise the meeting responsibilities, duties and powers of the Chairperson.

This standing order also applies to subcommittees and subordinate decision-making bodies.

*cl. 26(2), (5) & (6), schedule 7 LGA 2002.*

### **13.3 Addressing the Chairperson**

Members will address the Chairperson in a manner that the Chairperson has determined.

**13.4 Chairperson's rulings**

The Chairperson will decide all procedural questions where insufficient provision is made by these standing orders and with regard to all points of order. Any refusal to obey a Chairperson's ruling or direction constitutes contempt.

**13.5 Chairperson standing**

Whenever the Chairperson stands during a debate members are required to sit down and be silent so that they can hear the Chairperson without interruption.

**13.6 Member's right to speak**

Members are entitled to speak in accordance with these standing orders. Members should address the Chairperson when speaking. They may not leave their place while speaking, unless they have the leave of the Chairperson.

**13.7 Chairperson may prioritise speakers**

When two or more members want to speak the Chairperson will name the member who may speak first. Other members who wish to speak have precedence where they intend to:

- (a) raise a point of order, including a request to obtain a time extension for the previous speaker; and/or
- (b) move a motion to terminate or adjourn the debate; and/or
- (c) make a point of explanation; and/or
- (d) request the chair to permit the member a special request.

**14. Public Forums**

Public forums are a defined period of time, usually at the start of a meeting, which, at the discretion of a meeting, is put aside for the purpose of public input. Public forums are designed to enable members of the public to bring matters to the attention of the local authority.

In the case of a committee, subcommittee, local or community board, any issue, idea or matter raised in a public forum must also fall within the terms of reference of that meeting.

**14.14 Time limits**

A period of up to 30 minutes, or such longer time as the meeting may determine, will be available for the public forum at each scheduled local authority meeting. Requests must be made to the meeting secretary at least one clear day before the meeting; however this requirement may be waived by the Chairperson.

Speakers can speak for up to 5 minutes. No more than two speakers can speak on behalf of an organisation during a public forum. Where the number of speakers presenting in the public forum exceeds 6 in total, the Chairperson has discretion to restrict the speaking time permitted for all presenters.

### **14.15 Restrictions**

The Chairperson has the discretion to decline to hear a speaker or to terminate a presentation at any time where:

- a speaker is repeating views presented by an earlier speaker at the same public forum;
- the speaker is criticising elected members and/or staff;
- the speaker is being repetitious, disrespectful or offensive;
- the speaker has previously spoken on the same issue;
- the matter is subject to legal proceedings;
- the matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

### **14.16 Questions at public forums**

At the conclusion of the presentation, with the permission of the Chairperson, elected members may ask questions of speakers. Questions are to be confined to obtaining information or clarification on matters raised by a speaker.

### **14.17 No resolutions**

Following the public forum no debate or decisions will be made at the meeting on issues raised during the forum unless related to items already on the agenda.

## **15. Deputations**

The purpose of a deputation is to enable a person, group or organisation to make a presentation to a meeting on a matter or matters covered by that meeting's terms of reference. Deputations are approved by the Chairperson or an official with delegated authority.

### **15.1 Time limits**

Speakers can speak for up to 5 minutes. No more than two speakers can speak on behalf of an organisation's deputation.

### **15.2 Restrictions**

The Chairperson has the discretion to decline to hear or terminate a deputation at any time where:

- a speaker is repeating views presented by an earlier speaker at the meeting;
- the speaker is criticising elected members and/or staff;
- the speaker is being repetitious, disrespectful or offensive;
- the speaker has previously spoken on the same issue;
- the matter is subject to legal proceedings;

- the matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

### **15.3 Questions of a deputation**

At the conclusion of the deputation members may, with the permission of the Chairperson, ask questions of speakers. Questions are to be confined to obtaining information or clarification on matters raised by the deputation.

### **15.4 Resolutions**

Any debate on a matter raised in a deputation must occur at the time at which the matter is scheduled to be discussed on the meeting agenda, and once a motion has been moved and seconded.

## **16. Petitions**

### **16.1 Form of petitions**

Petitions may be presented to the local authority or any of its committees, local boards or community boards. Petitions must contain at least 20 signatures and consist of fewer than 150 words (not including signatories). They must be received by the chief executive at least 5 working days before the date of the meeting at which they will be presented.

Petitions must not be disrespectful, use offensive language or include malicious statements (see standing order 19.9 on qualified privilege). They may be written in English or te reo Māori. Petitioners planning to make a petition in te reo Māori or sign language should advise the relevant Chairperson at least two working days before the meeting to enable the petition be translated and reprinted, if necessary.

### **16.2 Petition presented by petitioner**

A petitioner who presents a petition to the local authority or any of its committees and subcommittees, local boards or community boards, may speak for 5 minutes (excluding questions) about the petition, unless the meeting resolves otherwise. The Chairperson must terminate the presentation of the petition if he or she believes the petitioner is being disrespectful, offensive or making malicious statements.

Where a petition is presented as part of a deputation or public forum the speaking time limits relating to deputations or public forums shall apply. The petition must be received by the chief executive at least 5 working days before the date of the meeting concerned.

### **16.3 Petition presented by member**

Members may present petitions on behalf of petitioners. In doing so, members must confine themselves to presenting:

- (a) the petition;
- (b) the petitioners' statement; and



- (c) the number of signatures.

## **17. Exclusion of public**

### **17.1 Motions and resolutions to exclude the public**

Members of a meeting may resolve to exclude the public from a meeting. The grounds for exclusion are those specified in section 48 of LGOIMA (see Appendix 1).

Every motion to exclude the public must be put while the meeting is open to the public, and copies of the motion must be available to any member of the public who is present. If the motion is passed the resolution to exclude the public must be in the form set out in schedule 2A of LGOIMA (see Appendix 2). The resolution must state:

- (a) the general subject of each matter to be excluded;
- (b) the reason for passing the resolution in relation to that matter; and
- (c) the grounds on which the resolution is based.

The resolution will form part of the meeting's minutes.

*s. 48 LGOIMA.*

### **17.2 Specified people may remain**

Where a meeting resolves to exclude the public, the resolution may provide for specified persons to remain if, in the opinion of the meeting, they will assist the meeting to achieve its purpose. Any such resolution must state, in relation to the matter to be discussed, how the knowledge held by the specified people is relevant and be of assistance.

No such resolution is needed for people who are entitled to be at the meeting, such as relevant staff and officials contracted to the council for advice on the matter under consideration.

*s.48 (6) LGOIMA.*

### **17.3 Public excluded items**

The chief executive must place in the public-excluded section of the agenda any items that he or she reasonably expects the meeting to consider with the public excluded. The public excluded section of the agenda must indicate the subject matter of the item and the reason the public are excluded.

*s.46A (8) LGOIMA.*

### **17.4 Non-disclosure of information**

No member or officer may disclose to any person, other than another member, officer or person authorised by the chief executive, any information that has been, or will be, presented to any meeting from which the public is excluded, or proposed to be excluded.

This restriction does not apply where a meeting has resolved to make the information publicly available or where the chief executive has advised, in writing, that one or both of the following apply:

- (a) there are no grounds under LGOIMA for withholding the information;
- (b) the information is no longer confidential.

### **17.5 Release of information from public excluded session**

A local authority may provide for the release to the public of information which has been considered during the public excluded part of a meeting.

Each public excluded meeting must consider and agree by resolution, what, if any, information will be released to the public. In addition the chief executive may release information which has been considered at a meeting from which the public has been excluded where it is determined the grounds to withhold the information no longer exist. The chief executive will inform the subsequent meeting of the nature of the information released.

## **18. Voting**

### **18.1 Decisions by majority vote**

Unless otherwise provided for in the LGA 2002, other legislation or standing orders, the acts of and questions before a local authority (or local and community boards) must be decided at a meeting through a vote exercised by the majority of the members of that meeting voting.

*cl. 24 (1), Schedule 7, LGA 2002.*

### **18.2 Open voting**

An act or question coming before the local authority must be done or decided by open voting.

*cl. 24 (3) Schedule 7, LGA 2002.*

### **18.3 Chairperson has a casting vote**

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, has a casting vote where a statutory decision is required (including but not limited to Annual Plan, Annual Report, Long Term Plan, Regional Land Transport Plan, Bylaws, Tasman Resource Management Plan change for example).

*cl. 24 (4) Schedule 7, LGA 2002.*

### **18.4 Method of voting**

The method of voting must be as follows:

- (a) the Chairperson in putting the motion must call for an expression of opinion on the voices or take a show of hands, the result of either of which, as announced by the Chairperson, must be

conclusive unless such announcement is questioned immediately by any member, in which event the Chairperson will call a division;

- (b) the Chairperson or any member may call for a division instead of or after voting on the voices and/or taking a show of hands; and
- (c) where a suitable electronic voting system is available that system may be used instead of a show of hands, vote by voices or division, and the result displayed notified to the Chairperson who must declare the result.

### **18.5 Calling for a division**

When a division is called, the chief executive must record the names of the members voting for and against the motion and abstentions and provide the names to the Chairperson to declare the result. The result of the division must be entered into the minutes and include members' names and the way in which they voted.

The Chairperson may call a second division where there is confusion or error in the original division.

### **18.6 Request to have votes recorded**

If requested by a member immediately after a vote the minutes must record the member's vote or abstention.

### **18.7 Members may abstain**

Any member may abstain from voting.

## **19. Conduct**

### **19.1 Calling to order**

When the Chairperson calls members to order, they must be seated and stop speaking. If the members fail to do so, the Chairperson may direct that they should leave the meeting immediately for a specified time.

### **19.2 Disrespect**

No member may speak or act in a manner which is disrespectful of other members or inconsistent with the local authority's Code of Conduct at any meeting.

### **19.3 Retractions and apologies**

In the event of a member or speaker who has been disrespectful of another member or contravened the council's Code of Conduct, the Chairperson may call upon that member or speaker to withdraw the offending comments, and may require them to apologise. If the member refuses to do so the Chairperson may direct that they should leave the meeting immediately for a specified time and/or make a complaint under the Code of Conduct.

### **19.4 Disorderly conduct**

Where the conduct of a member is disorderly or is creating a disturbance the Chairperson may require that member to leave the meeting immediately for a specified time.

If the disorder continues the Chairperson may adjourn the meeting for a specified time. At the end of this time the meeting must resume and decide, without debate, whether the meeting should proceed or be adjourned.

The Chairperson may also adjourn the meeting if other people cause disorder or in the event of an emergency.

### **19.5 Contempt**

Where a member is subject to repeated cautions by the Chairperson for disorderly conduct the meeting may, should it so decide, resolve that the member is in contempt. Any such resolution must be recorded in the meeting's minutes.

### **19.6 Removal from meeting**

A member of the police or authorised security personnel may, at the Chairperson's request, remove or exclude a member from a meeting.

This standing order will apply where the Chairperson has ruled that the member should leave the meeting and the member has refused or failed to do so; or has left the meeting and attempted to re-enter it without the Chairperson's permission.

## 19.7 Financial conflicts of interests

Every member present at a meeting must declare any direct or indirect financial interest that they hold in any matter being discussed at the meeting, other than an interest that they hold in common with the public.

No member may vote on, or take part in, a discussion about any matter in which they have a direct or indirect financial interest unless an exception set out in s.6 LAMIA applies to them, or the Auditor-General has granted them an exemption or declaration under s.6.

Members with a financial interest should physically withdraw themselves from the table unless the meeting is in public excluded in which case they should leave the room.

Neither the Chairperson nor the meeting may rule on whether a member has a financial interest in the matter being discussed. The minutes must record any declarations of financial interests and the member's abstention from any discussion and voting on the matter.

*s. 6 & 7 LAMIA.*

## 19.8 Non-financial conflicts of interests

Non-financial interests always involve questions of judgement and degree about whether the responsibility of a member of a local authority (or local or community board) could be affected by some other separate interest or duty of that member in relation to a particular matter. If a member considers that they have a non-financial conflict of interest in a matter they must not take part in the discussions about that matter or any subsequent vote.

The member must leave the table when the matter is considered, but does not need to leave the room. The minutes must record the declaration and member's subsequent abstention from discussion and voting.

Neither the Chairperson nor the meeting may rule on whether a member has a non-financial interest in the matter being discussed.

## 19.9 Qualified privilege for meeting proceedings

Any oral statement made at any meeting of the local authority in accordance with the rules adopted by the local authority for guiding its proceedings is privileged, unless the statement is proved to have been made with ill will or took improper advantage of the occasion of publication.

*s. 53, LGOIMA.*

## 19.10 Qualified privilege additional to any other provisions

The privilege referred to above is in addition to any other privilege, whether absolute or qualified, that applies as a result of any other enactment or rule of law applying to any meeting of the local authority.

*s. 53, LGOIMA.*

### **19.11 Electronic devices at meetings**

Electronic devices and phones can only be used to advance the business of a meeting.

Personal use may only occur at the discretion of the chair. A Chairperson may require that an electronic device is switched off if its use is likely to distract a meeting from achieving its business or a member is found to be receiving information or advice from sources not present at the meeting which may affect the integrity of the proceedings.

## **20. General rules of debate**

### **20.1 Chairperson may exercise discretion**

The application of any procedural matters in this section of the standing orders, such as the number of times a member may speak, is subject to the discretion of the Chairperson.

### **20.2 Time limits on speakers**

The following time limits apply to members speaking at meetings:

- (a) movers of motions when speaking to the motion – not more than 10 minutes;
- (b) movers of motions when exercising their right of reply – not more than 5 minutes;
- (c) other members – not more than 5 minutes.

Time limits can be extended if a motion to that effect is moved, seconded and supported by a majority of members present.

### **20.3 Questions to staff**

During a debate members can ask staff questions about the matters being discussed. Questions must be asked through the Chairperson and how the question should be dealt with is at the Chairperson's discretion.

### **20.4 Questions of clarification**

At any point of a debate a member may ask the Chairperson for clarification about the nature and content of the motion which is the subject of the debate and the particular stage the debate has reached.

### **20.5 Members may speak only once**

A member may not speak more than once to a motion at a meeting of a local authority or any local or community board except with permission of the Chairperson.

## **20.6 Limits on number of speakers**

If three speakers have spoken consecutively in support of, or in opposition to, a motion, the Chairperson may call for a speaker to the contrary. If there is no speaker to the contrary, the Chairperson must put the motion after the mover's right of reply.

Members speaking must, if requested by the Chairperson, announce whether they are speaking in support of or opposition to a motion.

## **20.7 Secunder may reserve speech**

A member may second a motion or amendment without speaking to it, reserving the right to speak later in the debate.

## **20.8 Speaking only to relevant matters**

Members may speak to any matter before the meeting; a motion or amendment which they propose; and to raise a point of order arising out of debate, but not otherwise. Members must confine their remarks strictly to the motion or amendment they are speaking to.

The Chairperson's rulings on any matters arising under this standing order are final and not open to challenge.

## **20.9 Restating motions**

At any time during a debate a member may ask, for their information, that the Chairperson restate a motion and any amendments; but not in a manner that interrupts a speaker.

## **20.10 Criticism of resolutions**

A member speaking in a debate may not unduly criticise the validity of any resolution except by a notice of motion to amend or revoke the resolution.

## **20.11 Objecting to words**

When a member objects to any words used by another member in a speech and wants the minutes to record their objection, they must object at the time when the words are used and before any other member has spoken. The Chairperson must order the minutes to record the objection.

## **20.12 Right of reply**

The mover of an original motion has a right of reply. A mover of an amendment to the original motion does not. In their reply, the mover must confine themselves to answering previous speakers and not introduce any new matters.

A mover's right of reply can only be used once. It can be exercised either at the end of the debate on the original, substantive or substituted motion or at the end of the debate on a proposed amendment.

However, the original mover may reserve their right of reply and speak once to the principal motion and once to each amendment without losing that right of reply. If a closure motion is carried the mover of the motion has the right of reply before the motion or amendment is put to the vote.

### **20.13 No other member may speak**

In exercising a right of reply, no other member may speak:

- (a) after the mover has started their reply;
- (b) after the mover has indicated that they want to forego this right;
- (c) where the mover has spoken to an amendment to the original motion and the Chairperson has indicated that he or she intends to put the motion.

### **20.14 Adjournment motions**

The carrying of any motion to adjourn a meeting must supersede other business still remaining to be disposed of. Any such business must be considered at the next meeting. Business referred to, or referred back to, a specified committee or local or community board, is to be considered at the next ordinary meeting of that committee or board, unless otherwise specified.

### **20.15 Chairperson's acceptance of closure motions**

The Chairperson may only accept a closure motion where there have been at least two speakers for and two speakers against the motion that is proposed to be closed, or the Chairperson considers it reasonable to do so.

However, the Chairperson must put a closure motion if there are no further speakers in the debate. When the meeting is debating an amendment, the closure motion relates to the amendment. If a closure motion is carried, the mover of the motion under debate has the right of reply after which the Chairperson puts the motion or amendment to the vote.

## **21. General procedures for speaking and moving motions**

### **21.1 Options for speaking and moving**

This subsection provides three options for speaking and moving motions and amendments at a meeting of a local authority, its committees and subcommittees, and any local or community boards.

**Option B** applies unless, on the recommendation of the chairperson at the beginning of a meeting, the meeting resolves [by simple majority] to adopt either Option A or Option C for the meeting generally, or for any specified items on the agenda.



## 21.2 Option A

- The mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- Only members who have not spoken to the original or substituted motion may move or second an amendment to it.
- The mover or seconder of an amendment whether it is carried or lost cannot move or second a subsequent amendment.
- Members can speak to any amendment and, provided they have not spoken to the motion or moved or seconded an amendment, they can move or second further amendments.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

## 21.3 Option B

- The mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- Any members, regardless of whether they have spoken to the original or substituted motion, may move or second an amendment to it.
- The mover or seconder of an amendment that is carried can move or second a subsequent amendment. A mover or seconder of an amendment which is lost cannot move or second a subsequent amendment.
- Members can speak to any amendment.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

## 21.4 Option C

- The mover and seconder of a motion can move or second an amendment
- Any members, regardless of whether they have spoken to the original or substituted motion, may move or second an amendment to it.
- The mover or seconder of an amendment whether it is carried or lost can move or second further amendments.
- Members can speak to any amendment.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

## **21.5 Procedure if no resolution reached**

If no resolution is reached the Chairperson may accept a new motion to progress the matter under discussion.

## **22. Motions and amendments**

### **22.1 Proposing and seconding motions**

All motions and amendments moved during a debate must be seconded (including notices of motion). The Chairperson may then state the motion and propose it for discussion.

Amendments and motions that are not seconded are not in order and are not entered in the minutes.

### **22.2 Motions in writing**

The Chairperson may require movers of motions and amendments to provide them in writing, signed by the mover.

### **22.3 Motions expressed in parts**

The Chairperson, or any member, can require a motion that has been expressed in parts to be decided part by part.

### **22.4 Substituted motion**

Where a motion is subject to an amendment the meeting may substitute the motion with the amendment, provided the mover and seconder of the original motion agree to its withdrawal. All members may speak to the substituted motion.

### **22.5 Amendments to be relevant and not direct negatives**

Every proposed amendment must be relevant to the motion under discussion. Proposed amendments cannot be similar to an amendment that has already been lost. Any amendment which, if carried, would have the effect of defeating a previous motion that was carried is a direct negative and is therefore not allowed.

### **22.6 Foreshadowed amendments**

The meeting must dispose of an existing amendment before a new amendment can be foreshadowed. However, members may notify the Chairperson that they intend to move further amendments and the nature of their content.

### **22.7 Lost amendments**

Where an amendment is lost, the meeting will resume the debate on the original or substituted motion. Any member who has not spoken to that motion may speak to it, and may move or second a further amendment.

## **22.8 Carried amendments**

Where an amendment is carried the meeting will resume the debate on the original motion as amended. This will now be referred to as the substantive motion. Members who have not spoken to the original motion may speak to the substantive motion, and may move or second a further amendment to it.

## **22.9 Where a motion is lost**

In a situation where a motion that recommends a course of action is lost a new motion, with the consent of the Chairperson, may be proposed to provide direction.

## **22.10 Withdrawal of motions and amendments**

Once a motion or amendment which has been seconded has been put to the meeting by the Chairperson the mover cannot withdraw it without the consent of the majority of the members who are present and voting.

The mover of an original motion, which has been subject to an amendment that has been moved and seconded, cannot withdraw the original motion until the amendment has either been lost or withdrawn by agreement, as above.

## **22.11 No speakers after reply or motion has been put**

A member may not speak to any motion once:

- (a) the mover has started their right of reply in relation to the motion; and
- (b) the Chairperson has started putting the motion.

## **23. Revocation or alteration of resolutions**

### **23.1 Member may move revocation of a decision**

A member may give the chief executive a notice of motion for the revocation or alteration of all or part of a previous resolution of the council, subordinate body, local or community board. The notice must set out:

- (a) The resolution or part of the resolution which the member proposes to revoke or alter;
- (b) The meeting date when the resolution was passed;
- (c) The motion, if any, which the member proposes to replace it with; and
- (d) Sufficient information to satisfy the decision-making provisions of sections 77-82 of the LGA 2002.

If the mover of the notice of motion is unable to provide this information, or the decision is likely to be deemed a significant decision, the notice of motion should provide that the proposal is referred to the chief executive for consideration and report.

### **23.2 Revocation must be made by the body responsible for the decision**

If a resolution is made under delegated authority by a committee, subcommittee or subordinate decision-making body, or a local or community board, only that body may revoke or amend the resolution, assuming the resolution is legally made.

This provision does not prevent the body that made the delegation from removing or amending a delegation given to a subordinate body or local board or community board.

*cl. 32 (2)4 Schedule 7, LGA 2002.*

### **23.3 Requirement to give notice**

A member must give notice to the chief executive at least 5 working days before the meeting at which it is proposed to consider the motion. The notice is to be signed by not less than one third of the members of the local authority, including vacancies. Notice can be sent via email and include the scanned electronic signatures of members. If the notice of motion is lost, no similar notice of motion which is substantially the same in purpose and effect may be accepted within the next twelve months.

### **23.4 Restrictions on actions under the affected resolution**

Once a notice of motion to revoke or alter a previous resolution has been received no irreversible action may be taken under the resolution in question until the proposed notice of motion has been dealt with. Exceptions apply where, in the opinion of the Chairperson:

- (a) the practical effect of delaying actions under the resolution would be the same as if the resolution had been revoked;
- (b) by reason of repetitive notices, the effect of the notice is an attempt by a minority to frustrate the will of the local authority or the committee that made the previous resolution.

In either of these situations, action may be taken under the resolution as though no notice of motion had been given to the chief executive.

### **23.5 Revocation or alteration by resolution at same meeting**

A meeting may revoke or alter a previous resolution made at the same meeting where, during the course of the meeting, it receives fresh facts or information concerning the resolution. In this situation 75 per cent of the members present and voting must agree to the revocation or alteration.

### **23.6 Revocation or alteration by recommendation in report**

The local authority, on a recommendation in a report by the Chairperson, chief executive, or any committee or subcommittee, local or community board, may revoke or alter all or part of a resolution passed by a previous meeting. The chief executive must give at least two clear working days' notice of any meeting that will consider a revocation or alteration recommendation.

*cl. 30 (6) Schedule 7, LGA 2002.*

## **24. Procedural motions**

### **24.1 Procedural motions must be taken immediately**

A procedural motion to close or adjourn a debate will take precedence over other business, except points of order and rights of reply. If the procedural motion is seconded the Chairperson must put it to the vote immediately, without discussion or debate.

### **24.2 Procedural motions to close or adjourn a debate**

Any member who has not spoken on the matter under debate may move any one of the following procedural motions to close or adjourn a debate:

- (a) that the meeting be adjourned to the next ordinary meeting (unless the member states an alternative time and place);
- (b) that the motion under debate should now be put (a closure motion);
- (c) that the item being discussed should be adjourned to a specified time and place and not be further discussed at the meeting;
- (d) that the item of business being discussed should lie on the table and not be further discussed at this meeting;
- (e) that the item being discussed should be referred (or referred back) to the relevant committee or local or community board.

A member seeking to move a procedural motion must not interrupt another member who is already speaking.

### **24.3 Voting on procedural motions**

Procedural motions to close or adjourn a debate must be decided by a majority of all members who are present and voting. If the motion is lost no member may move a further procedural motion to close or adjourn the debate within the next 15 minutes.

### **24.4 Debate on adjourned items**

When debate resumes on items of business that have been previously adjourned all members are entitled to speak on the items.

### **24.5 Remaining business at adjourned meetings**

Where a resolution is made to adjourn a meeting, the remaining business will be considered at the next meeting.

### **24.6 Business referred to the council, committee or local or community board**

Where an item of business is referred (or referred back) to a committee or a local or community board, the committee or board will consider the item at its next meeting unless the meeting resolves otherwise.

## **24.7 Other types of procedural motions**

The Chairperson has discretion about whether to allow any other procedural motion that is not contained in these standing orders.

## **25. Points of order**

### **25.1 Members may raise points of order**

Any member may raise a point of order when they believe these standing orders have been breached. When a point of order is raised, the member who was previously speaking must stop speaking and sit down (if standing).

### **25.2 Subjects for points of order**

A member who is raising a point of order must state precisely what its subject is. Points of order may be raised for the following subjects:

- (a) disorder – bringing disorder to the attention of the Chairperson;
- (b) language – use of disrespectful, offensive or malicious language;
- (c) irrelevance – the topic being discussed is not the matter currently before the meeting;
- (d) misrepresentation – misrepresentation of any statement made by a member or by an officer or council employee;
- (e) breach of standing order – the breach of any standing order while also specifying which standing order is subject to the breach;
- (f) request the recording of words, such as a request that the minutes record words that have been the subject of an objection.

### **25.3 Contradictions**

Expressing a difference of opinion or contradicting a statement by a previous speaker does not constitute a point of order.

### **25.4 Point of order during division**

A member may not raise a point of order during a division, except with the permission of the Chairperson.

### **25.5 Chairperson's decision on points of order**

The Chairperson may decide a point of order immediately after it has been raised, or may choose to hear further argument about the point before deciding. The Chairperson's ruling on any point of order, and any explanation of that ruling, is not open to any discussion and is final.

## **26. Notices of motion**

## 26.1 Notice of intended motion to be in writing

Notice of intended motions must be in writing signed by the mover, stating the meeting at which it is proposed that the intended motion be considered, and must be delivered to the chief executive at least 5 clear working days before such meeting. [Notice of an intended motion can be sent via email and include the scanned electronic signature of the mover.]

Once the motion is received the chief executive must give members notice in writing of the intended motion at least 2 clear working days' notice of the date of the meeting at which it will be considered.

## 26.2 Refusal of notice of motion

The Chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) is disrespectful or which contains offensive language or statements made with malice; or
- (b) is not related to the role or functions of the local authority or meeting concerned; or
- (c) contains an ambiguity or a statement of fact or opinion which cannot properly form part of an effective resolution, and where the mover has declined to comply with such requirements as the chief executive officer may make; or
- (d) is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned; or
- (e) fails to include sufficient information as to satisfy the decision-making provisions of s.77-82 LGA 2002; or
- (f) concerns a matter where decision-making authority has been delegated to a subordinate body or a local or community board.

Reasons for refusing a notice of motion should be provided to the mover. Where the refusal is due to (f) the notice of motion may be referred to the appropriate committee or board.

## 26.3 Mover of notice of motion

Notices of motion may not proceed in the absence of the mover unless moved by another member authorised to do so, in writing, by the mover.

## 26.4 Alteration of notice of motion

Only the mover, at the time the notice of motion is moved and with the agreement of a majority of those present at the meeting, may alter a proposed notice of motion. Once moved and seconded no amendments may be made to a notice of motion.

## 26.5 When notices of motion lapse

Notices of motion that are not put when called by the Chairperson must lapse.

## **26.6 Referral of notices of motion**

Any notice of motion received that refers to a matter ordinarily dealt with by a committee of the local authority or a local or community board must be referred to that committee or board by the chief executive.

Where notices are referred the proposer of the intended motion, if not a member of that committee, must have the right to move that motion and have the right of reply, as if a committee member.

## **26.7 Repeat notices of motion**

When a motion has been considered and rejected by the local authority or a committee, no similar notice of motion which, in the opinion of the Chairperson, may be accepted within the next 12 months, unless signed by not less than one third of all members, including vacancies.

Where a notice of motion has been adopted by the local authority no other notice of motion which, in the opinion of the Chairperson has the same effect, may be put while the original motion stands.

## **27. Minutes**

### **27.1 Minutes to be evidence of proceedings**

The local authority, its committees, subcommittees and any local and community boards must keep minutes of their proceedings. These minutes must be kept in hard copy, signed and included in the council's minute book and, when confirmed by resolution at a subsequent meeting and signed by the Chairperson, will be prima facie evidence of the proceedings they relate to.

*cl. 28 Schedule 7, LGA 2002.*



## 27.2 Matters recorded in minutes

The chief executive must keep the minutes of meetings. The minutes must record:

- (a) the date, time and venue of the meeting;
- (b) the names of the members present;
- (c) the Chairperson;
- (d) any apologies or leaves of absences;
- (e) the arrival and departure times of members;
- (f) any failure of a quorum;
- (g) a list of any external speakers and the topics they addressed;
- (h) a list of the items considered;
- (i) the resolutions and amendments related to those items including those that were lost, provided they had been moved and seconded in accordance with these standing orders;
- (j) the names of all movers, and seconders;
- (k) any objections made to words used;
- (l) all divisions taken and, if taken, a record of each members' vote;
- (m) the names of any members requesting that votes or abstentions be recorded;
- (n) any declarations of financial or non-financial conflicts of interest;
- (o) the contempt, censure and removal of any members;
- (p) any resolutions to exclude members of the public;
- (q) the time at which the meeting concludes or adjourns;
- (r) the names of people permitted to stay in public excluded.

**Please Note:** hearings under the RMA, Dog Control Act 1996 and Sale and Supply of Alcohol Act 2012 may have special requirements for minute taking.

## 27.3 No discussion on minutes

The only topic that may be discussed at a subsequent meeting, with respect to the minutes, is their correctness.

## 27.4 Minutes of last meeting before election

The chief executive and the relevant Chairpersons must sign the minutes of the last meeting of the local authority and its local and community boards before the next election of members.

## **28. Minute books**

### **28.1 Inspection**

A hard copy of the local authority's minute books must be kept by the chief executive and be open for inspection by the public. This does not preclude the complementary use of electronic minutes in accordance with the Electronics Transactions Act.

*s. 51 LGOIMA.*

### **28.2 Inspection of public excluded matters**

The chief executive must consider any request for the minutes of a meeting or part of a meeting from which the public was excluded as a request for official information in terms of the Local Government Official Information and Meetings Act 1987.

## **Referenced documents**

- Commissions of Inquiry Act 1908
- Sale of Alcohol Act 2012
- Crimes Act 1961
- Financial Markets Conduct Act 2013
- Local Authorities (Members' Interests) Act 1968 (LAMIA)
- Local Electoral Act 2001 (LEA)
- Local Government Act 1974 and 2002 (LGA)
- Local Government Official Information and Meetings Act 1987 (LGOIMA)
- Marine Farming Act 1971
- Resource Management Act 1991 (RMA)
- Secret Commissions Act 1910
- Securities Act 1978

## Appendix 1: Grounds to exclude the public

A local authority may, by resolution, exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:

- A1** That good reason exists for excluding the public from the whole or any part of the proceedings of any meeting as the public disclosure of information would be likely:
- (a) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
  - (b) to endanger the safety of any person.
- A2** 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 where the withholding of the information is necessary to:
- (a) Protect the privacy of natural persons, including that of deceased natural persons; or
  - (b) Protect information where the making available of the information would:
    - i. disclose a trade secret; or
    - ii. be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or,
  - (c) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori i, or to avoid the disclosure of the location of waahi tapu; or
  - (d) 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:
    - i. 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; or
    - ii. be likely otherwise to damage the public interest; or
  - (e) Avoid prejudice to measures protecting the health or safety of members of the public; or
  - (f) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
  - (g) Maintain the effective conduct of public affairs through –the protection of such members, officers, employees, and persons from improper pressure or harassment; or
  - (h) Maintain legal professional privilege; or
  - (i) Enable any Council holding the information to carry out, without prejudice or disadvantage, commercial activities; or
  - (j) Enable any Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
  - (k) Prevent the disclosure or use of official information for improper gain or improper advantage.

**Item 8.2**

Provided that where A2 of this Appendix applies the public may be excluded unless, in the circumstances of the particular case, the exclusion of the public is outweighed by other considerations which render it desirable, in the public interest, that the public not be excluded.

**Attachment 1**

- A3** 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, the public disclosure of which would:
- (a) Be contrary to the provisions of a specified enactment; or
  - (b) Constitute contempt of Court or of the House of Representatives.
- A4** That the purpose of the whole or the relevant part of the proceedings of the meeting is to consider a recommendation made to that Council by an Ombudsman under section 30(1) or section 38(3) of this Act (in the case of a Council named or specified in Schedule 1 to this Act).
- A5** That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council to deliberate in private on its decision or recommendation in:
- (a) Any proceedings before a Council where
    - i. A right of appeal lies to any Court or tribunal against the final decision of the Council in those proceedings; or
    - ii. The Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings; and

## Appendix 2: Sample resolution to exclude the public

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

- *Name of report(s)* .....

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
1 <i>Put in name of report</i>	Good reason to withhold exists under Section 7.	That the public conduct of 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 exists. Section 48(1)(a)
2	Good reason to withhold exists under Section 7.	That the public conduct of 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 exists. Section 48(1)(a)
3	Good reason to withhold exists under Section 7.	That the public conduct of 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 exists. Section 48(1)(a)

<p>4 <i>Hearings Committee</i></p>	<p>To enable the Committee to consider the application and submissions.  OR To enable the Committee to consider the objection to fees and charges.  OR To enable the Committee to.</p>	<p>That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council/Committee to deliberate in private on its decision or recommendation in any proceedings where :</p> <ul style="list-style-type: none"> <li>i) a right of appeal lies to any Court or tribunal against the final decision of the Council/Committee in those proceedings; or</li> <li>ii) the local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.</li> </ul> <p>Use (i) for the RMA hearings and (ii) for hearings under LGA such as objections to Development Contributions or hearings under the Dog Control Act s. 48(1)(d).</p>
--	--	---

This resolution is made in reliance on sections 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 7 of that Act, which would be prejudiced by the holding of the relevant part of the proceedings of the meeting in public are as follows:

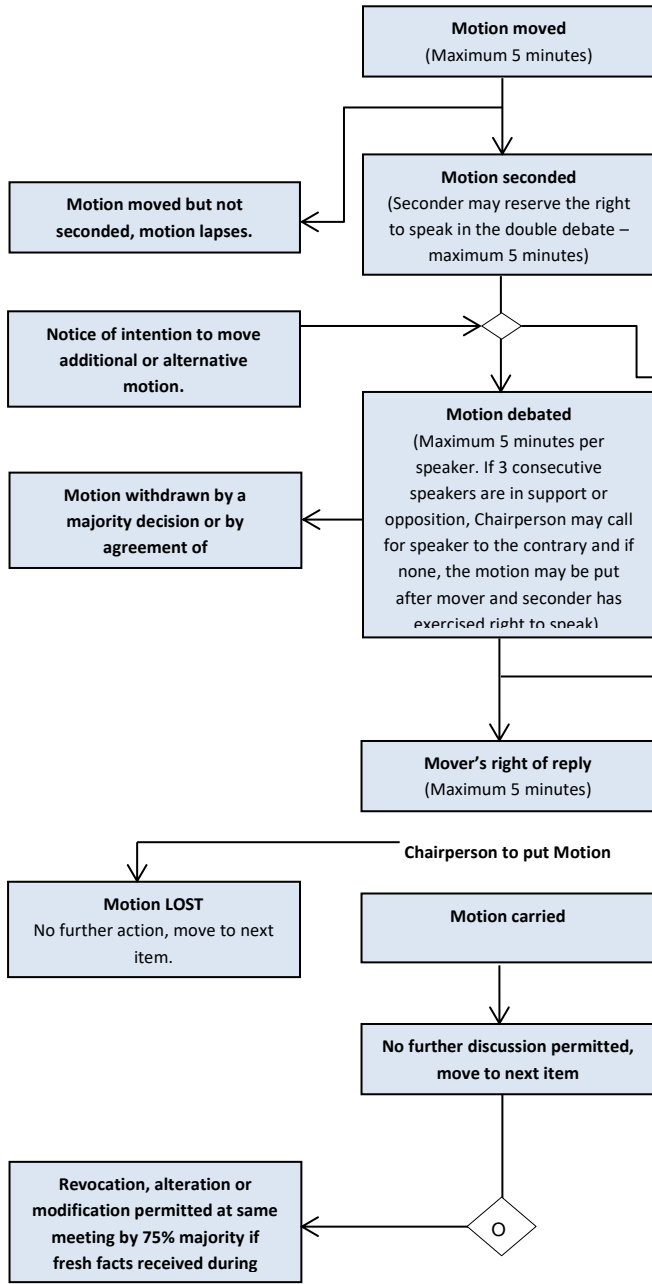
Item No	Interest
	Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (Schedule 7(2)(i))
	Protect the privacy of natural persons, including that of deceased natural persons (Schedule 7(2)(a))
	Maintain legal professional privilege (Schedule 7(2)(g))
	Prevent the disclosure or use of official information for improper gain or improper advantage (Schedule 7(2)(j))

Item No	Interest
	Protect information where the making available of the information (i) would disclose a trade secret; or (ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information (Schedule 7(2)(b))
	In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to Tikanga Māori , or to avoid the disclosure of the location of waahi tapu (Schedule 7(2)(ba))
	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 - (i) 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; or (ii) would be likely otherwise to damage the public interest (Schedule 7(2)(c))
	Avoid prejudice to measures protecting the health or safety of members of the public (Schedule 7(2)(d))
	Avoid prejudice to measures that prevent or mitigate material loss to members of the public (Schedule 7(2)(e))
	Maintain the effective conduct of public affairs through the protection of members or officers or employees of the Council, and persons to whom Section 2(5) of the Local Government Official Information and Meetings Act 1987 applies in the course of their duty, from improper pressure or harassment (Schedule 7(2)(f)(ii)).
	Enable any local authority holding the information to carry out, without prejudice or disadvantage, commercial activities (Schedule 7(2)(h))

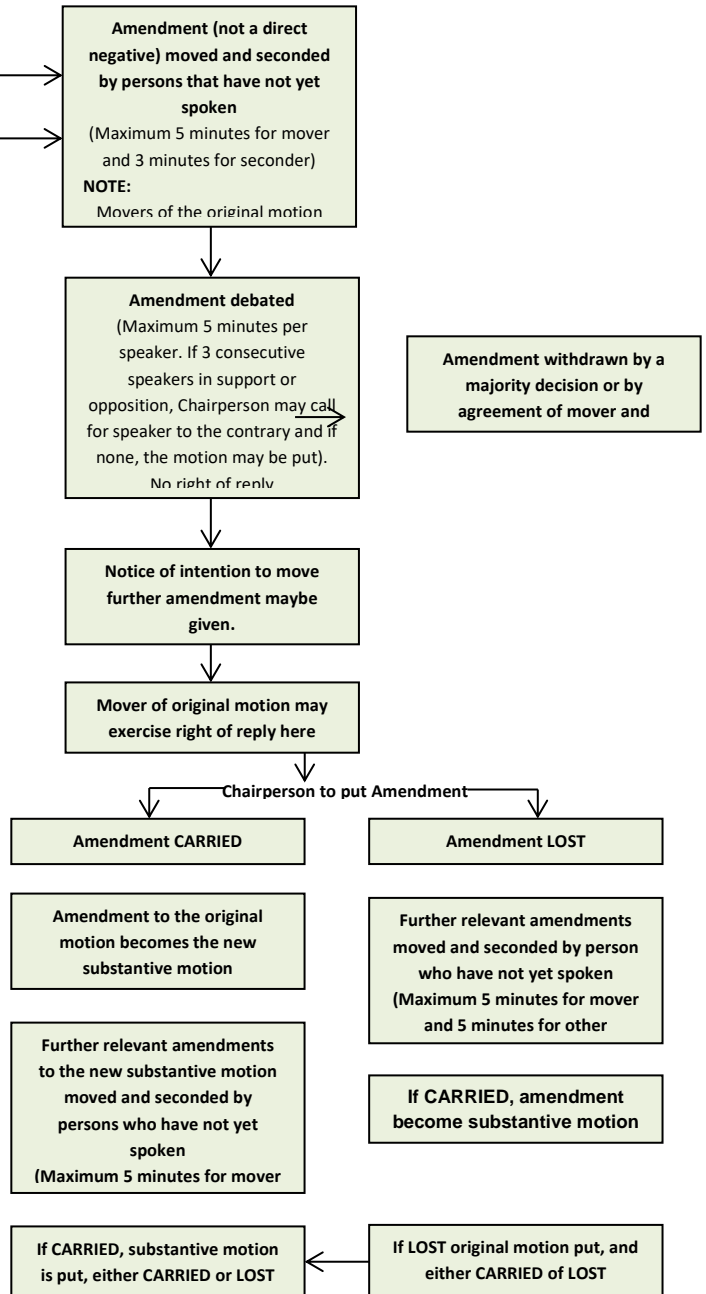
**THAT** XXXX be permitted to remain at this meeting, after the public has been excluded, because of their knowledge of XXXX. This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because XXXX.

# Appendix 3: Motions and amendments (option A)

## Motions without amendments



## Motions with amendments





### Appendix 4: Table of procedural motions

Motion	Has the Chair discretion to refuse this Motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled to reply?	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
(a) "That the meeting be adjourned to the next ordinary meeting, or to a stated time and place"	No	Yes	No	As to time and date only	No	No	No	Yes – 15 minutes	If carried, debate on the original motion and amendment are adjourned	If carried, debate on the original motion and procedural motion are adjourned	On resumption of debate, the mover of the adjournment speaks first. Members who have spoken in the debate may not speak again
(b) "That the motion under debate be now put (closure motion)"	No	Yes	No	No	No	No	No	Yes – 15 Minutes	If carried, only the amendment is put	If carried, only the procedural motion is put	The mover of the motion under debate is entitled to exercise a right of reply before the motion or amendment under debate is put
(c) "That the item of business being discussed be adjourned to a stated time and place"	No	Yes	No	As to time and date only	No	No	NO	Yes – 15 minutes	If carried, debate on the original motion and amendment are adjourned	If carried, debate on the original motion and procedural motion are adjourned	

Item 8.2  
Attachment 1

**Item 8.2**

**Attachment 1**

Motion	Has the Chair discretion to refuse this Motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled to reply?	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
(d) "That the item of business being discussed does lie on the table and not be discussed at this meeting"	No	Yes	No	No	No	No	No	Yes – 15 minutes	If carried, the original motion and amendment are both laid on the table	Motion not in order	
(e) "That the item of business being discussed be referred (or referred back) to the local authority or to the relevant committee"	No	Yes	No	As to committee, time for reporting back etc only	No	No	No	Yes – 15 minutes	If carried, the original motion and all amendments are referred to the committee	If carried, the procedural motion is deemed disposed of	
(f) "Points of order"	No – but may rule against	No	Yes – at discretion of Chairperson	No	No	Yes	Yes	No	Point of order takes precedence	Point of order takes precedence	See standing order 3.14

## Appendix 5: Webcasting protocols

The provisions are intended as a good practice guide to local authorities that are webcasting meetings or planning to do so.

1. The default shot will be on the Chairperson or a wide-angle shot of the meeting room.
2. Cameras will cover a member who is addressing the meeting. Cameras will also cover other key participants in a meeting, including staff when giving advice and members of the public when addressing the meeting during the public input time.
3. Generally interjections from other members or the public are not covered. However if the Chairperson engages with the interjector, the interjector's reaction can be filmed.
4. PowerPoint presentations, recording of votes by division and other matters displayed by overhead projector may be shown.
5. Shots unrelated to the proceedings, or not in the public interest, are not permitted.
6. If there is general disorder or a disturbance from the public gallery, coverage will revert to the Chairperson.
7. Appropriate signage will be displayed both in and outside the meeting room alerting people that the proceedings are being web cast.

## **Appendix 6: Powers of a Chairperson**

This Appendix sets out the specific powers given to the Chairperson contained in various parts of these Standing Orders.

### **Chairperson to decide all questions**

The Chairperson is to decide all questions where these standing orders make no provision or insufficient provision. The Chairperson's ruling is final and not open to debate.

### **Chairperson to decide points of order**

The Chairperson is to decide any point of order and may do so immediately after it has been raised or may first hear further argument before deciding. The ruling of the Chairperson upon any point of order is not open to any discussion and is final. No point of order may be raised during a division except by permission of the Chairperson.

### **Items not on the agenda**

Major items not on the agenda may be dealt with at that meeting if so resolved by the local authority and the Chairperson explains at the meeting at a time when it is open to the public the reason why the item was not listed on the agenda and the reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor matters not on the agenda relating to the general business of the local authority may be discussed if the Chairperson explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at that meeting, but no resolution, decision or recommendation may be made in respect of that item except to refer it to a subsequent meeting.

### **Chairperson's report**

The Chairperson, by report, has the right to direct the attention of the local authority to any matter or subject within the role or function of the local authority.

### **Chairperson's recommendation**

The Chairperson of any meeting may include on the agenda for that meeting a Chairperson's recommendation regarding any item brought before the meeting. The purpose of such a recommendation is to focus debate on a suggested motion.

### **Chairperson's voting**

The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, has a casting vote where standing orders make such provision.

### **Motion in writing**

The Chairperson may require the mover of any motion or amendment to submit it in writing signed by the mover.

### **Motion in parts**

The Chairperson may require any motion expressed in parts to be decided part by part.

### **Notice of motion**

The Chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) Is disrespectful or which contains offensive language or statements made with malice; or
- (b) Is not within the scope of the role or functions of the local authority; or
- (c) Contains an ambiguity or statement of fact or opinion which cannot properly form part of an effective resolution, and the mover has declined to comply with such requirements as the chief executive may have made; or
- (d) Is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned.

Reasons for refusing a notice of motion should be provided to the proposer.

Where a notice of motion has been considered and agreed by the local authority, no notice of any other motion which is, in the opinion of the Chairperson, to the same effect may be put again whilst such original motion stands.

### **Action on previous resolutions**

If, in the opinion of the Chairperson the practical effect of a delay in taking action on a resolution which is subject to a notice of motion, would be equivalent to revocation of the resolution; or if repetitive notices of motion are considered by the Chairperson to be an attempt by a minority to frustrate the will of the meeting, action may be taken as though no such notice of motion had been given.

### **Repeat notice of motion**

If in the opinion of the Chairperson, a notice of motion is substantially the same in purport and effect to any previous notice of motion which has been considered and rejected by the local authority, no such notice of motion may be accepted within six months of consideration of the first notice of motion unless signed by not less than one third of the members of the local authority, including vacancies.

### **Revocation or alteration of previous resolution**

A Chairperson may recommend in a report to the local authority the revocation or alteration of all or part of any resolution previously passed, and the local authority meeting may act on such a recommendation in accordance with the provisions in these standing orders.

**Chairperson may call a meeting**

The Chairperson:

- (a) May call a meeting to dispose of the business to be transacted following the lapsing of a meeting due to failure of a quorum, if such business cannot be delayed until the next meeting;
- (b) May requisition an extra meeting to be held at a specified time and place, in order to conduct specified business.

**Irrelevant matter and needless repetition**

The Chairperson’s ruling preventing members when speaking to any motion or amendment from introducing irrelevant matters or indulging in needless repetition is final and not open to challenge.

**Taking down words**

The Chairperson may order words used and objected to by any member, to be recorded in the minutes, provided such objection is made at the time the words are used and not after any other members have spoken.

**Explanations**

The Chairperson may permit members to make a personal explanation in addition to speaking to a motion, and members who have already spoken, to explain some material part of a previous speech in the same debate.

**Chairperson rising**

Whenever the Chairperson rises during a debate any member then speaking or offering to speak is to be seated and members are to be silent so that the Chairperson may be heard without interruption.

**Members may leave places**

The Chairperson may permit members to leave their place while speaking.

**Priority of speakers**

The Chairperson must determine the order in which members may speak when two or more members indicate their wish to speak.

**Minutes**

The Chairperson is to sign the minutes and proceedings of every meeting once confirmed. The Chairperson and chief executive are responsible for confirming the correctness of the minutes of the last meeting of a local authority prior to the next election of members.

### **Questions of speakers**

The Chairperson may permit members to ask questions of speakers under public forum or deputations/presentations by appointment, for the purpose of obtaining information or clarification on matters raised by the speaker.

### **Withdrawal of offensive or malicious expressions**

The Chairperson may call upon any member to withdraw any offensive or malicious expression and may require the member to apologise for the expression.

Any member who refuses to withdraw the expression or apologise, if required by the Chairperson, can be directed to withdraw from the meeting for a time specified by the Chairperson.

### **Chairperson's rulings**

Any member who refuses to accept a ruling of the Chairperson, may be required by the Chairperson to withdraw from the meeting for a specified time.

### **Disorderly behaviour**

The Chairperson may:

- (a) Require any member or member of the public whose conduct is disorderly or who is creating a disturbance, to withdraw immediately from the meeting for a time specified by the Chairperson.
- (b) Ask the meeting to hold in contempt, any member whose conduct is grossly disorderly and where the meeting resolves to find the member in contempt, that resolution must be recorded in the minutes.

### **Failure to leave meeting**

If a member or member of the public who is required, in accordance with a Chairperson's ruling, to leave the meeting, refuses or fails to do so, or having left the meeting, attempts to re-enter without the permission of the Chairperson, any member of the police or officer or employee of the local authority may, at the Chairperson's request, remove or exclude that person from the meeting.

**Audio or audio visual attendance**

Where the technology is available and a member is attending a meeting by audio or audio-visual link, the Chairperson must ensure that:

- (a) the technology for the link is available and of suitable quality
- (b) procedures for using the technology in the meeting will ensure that:
  - i. everyone participating in the meeting can hear each other
  - ii. the member's attendance by audio or audio-visual link does not reduce their accountability or accessibility in relation to the meeting
  - iii. the requirements of Part 7 of LGOIMA are met
  - iv. the requirements in these standing orders are met.

If the Chairperson is attending by audio or audio visual link then chairing duties will undertaken by the deputy chair or a member who is physically present



## Appendix 7: Mayors' powers to appoint under s.41A

The role of a Mayor is:

- (a) to provide leadership to councillors and the people of the city or district.
- (b) to lead development of the council's plans (including the long-term and annual plans), policies and budgets for consideration by councillors.

The Mayor has authority to:

- (a) Appoint the deputy Mayor.
- (b) Establish Council committees, their terms of reference, appoint the Chairperson of each of those committees and the members.
- (c) Appoint themselves as the Chairperson of a committee.
- (d) Decline to exercise the powers under clause a) and b) above but may not delegate those powers to another person.

The Council retains the ability to:

- (a) Remove a deputy Mayor appointed by the Mayor.
- (b) Discharge or reconstitute a committee established by the Mayor.
- (c) Discharge a committee Chairperson who has been appointed by the Mayor.

The Mayor is a member of each committee of the Council.

## Appendix 8: Process for removing a Chairperson and deputy Mayor from office

1. At a meeting that is in accordance with this clause, a territorial authority or regional council may remove its Chairperson, deputy Chairperson, or deputy Mayor from office.
2. If a Chairperson, deputy Chairperson, or deputy mayor is removed from office at that meeting, the territorial authority or regional council may elect a new Chairperson, deputy Chairperson, or deputy mayor at that meeting.
3. A meeting to remove a Chairperson, deputy Chairperson, or deputy Mayor may be called by:
  - (a) a resolution of the territorial authority or regional council; or
  - (b) a requisition in writing signed by the majority of the total membership of the territorial authority or regional council (excluding vacancies).
4. A resolution or requisition must:
  - (a) specify the day, time, and place at which the meeting is to be held and the business to be considered at the meeting; and
  - (b) indicate whether or not, if the Chairperson, deputy Chairperson, or deputy Mayor is removed from office, a new Chairperson, deputy Chairperson, or deputy Mayor is to be elected at the meeting if a majority of the total membership of the territorial authority or regional council (excluding vacancies) so resolves.
5. A resolution may not be made and a requisition may not be delivered less than 21 days before the day specified in the resolution or requisition for the meeting.
6. The chief executive must give each member notice in writing of the day, time, place, and business of any meeting called under this clause not less than 14 days before the day specified in the resolution or requisition for the meeting.
7. A resolution removing a Chairperson, deputy Chairperson, or deputy Mayor carries if a majority of the total membership of the territorial authority or regional council (excluding vacancies) votes in favour of the resolution.

*cl. 18 Schedule 7, LGA 2002.*

## Appendix 9: Workshops

### Definition of workshop

Workshops, however described, provide opportunities for members to discuss particular matters, receive briefings and provide guidance for officials. Workshops are not meetings and cannot be used to either make decisions or come to agreements that are then confirmed without the opportunity for meaningful debate at a formal meeting.

### Application of standing orders to workshops

Standing orders do not apply to workshops and briefings. The Chairperson or workshop organisers will decide how the workshop, briefing or working party should be conducted.

### Calling a workshop

Workshops, briefings and working parties may be called by:

- (a) a resolution of the local authority or its committees
- (b) the Mayor,
- (c) a committee Chairperson or
- (d) the chief executive.

### Process for calling workshops

The chief executive will give at least 24 hours' notice of the time and place of the workshop and the matters to be discussed at it. Notice may be given by whatever means are reasonable in the circumstances. Any notice given must expressly:

- (a) state that the meeting is a workshop
- (b) advise the date, time and place
- (c) confirm that the meeting is primarily for the provision of information and discussion, and will not make any decisions or pass any resolutions.

Public notice of a workshop is not required and workshops can be either open to the public or public excluded.

## Appendix 10: Sample order of business

### Open section

- (a) Apologies
- (b) Declarations of interest
- (c) Confirmation of minutes
- (d) Leave of absence
- (e) Acknowledgements and tributes
- (f) Petitions
- (g) Public input
- (h) Local and/or community board input
- (i) Extraordinary business
- (j) Notices of motion
- (k) Reports of committees
- (l) Reports of local and/or community boards
- (m) Reports of the chief executive and staff
- (n) Mayor, deputy Mayor and elected members' reports (information)

### Public excluded section

- (o) Reports of committees
- (p) Reports of the chief executive and staff
- (q) Mayor, deputy Mayor and elected members' reports (information)

## **Appendix 11: Process for raising matters for a decision**

Matters requiring a decision may be placed on an agenda of a meeting by a:

- report of chief executive
- report of a Chairperson
- report of a committee
- report of a community and/or local board
- notice of motion from a member.

Where a matter is urgent and has not been placed on an agenda, it may be brought before a meeting as extraordinary business by a:

- report of chief executive
- report of Chairperson

Although out of time for a notice of motion, a member may bring an urgent matter to the attention of the meeting through the meeting chair.



**We are.  
LGNZ.**  
Te Kāhui Kaunihera o Aotearoa.

## The 2019 Guide to Standing Orders



< Good local governance requires us to ensure that the way in which we undertake public decision-making is open, transparent and fair. >



## Preface

### Dave Cull, President, LGNZ

Democracy only really works if people trust it. And trust requires that our public decision-making processes are open, transparent and fair. In other words, citizens must be able to assure themselves that governments, at whatever level, work for the public interest. This is one of the reasons why standing orders are important. They provide a framework of rules for making decisions that gives effect to these principles; principles which are fundamental to a well-functioning democracy.

Whether councils apply their standing orders every time they meet, or refer to them only when faced with a complex or controversial issue, the fact that we have agreed and visible processes for making decisions is essential for public confidence in our decision-making. It is, therefore, important that our standing orders are not only fully compliant with legislation and best practice in the conduct of meetings, but that they are also easy to use.

The purpose of this Guide to Standing Orders is to assist those who are chairing meetings and the officials who advise them to ensure standing orders work well for the circumstances of each community. The Guide is designed to help interpret provisions which may be ambiguous in certain situations, and to address those matters that cannot be covered directly in the standing orders, because they are specific to an area.

This, the second edition of the Guide, has been expanded to include matters identified by practitioners over the last three years. I am sure you will find it helpful.

Dave Cull  
President  
LGNZ





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## Recommended process for adopting standing orders

Local authorities, local boards and community boards must adopt standing orders for the orderly conduct of their meetings. The approval of at least 75 per cent of members present at a meeting is required to adopt (and amend) standing orders.

The 2019 edition of the LGNZ standing orders contains a number of optional provisions and, as part of the adoption process, members need to be given the choice of which options to include prior to being asked to adopt the full set of standing orders. We recommend a process like the following:

### Officer's report to an ordinary meeting of the council

To adopt these standing orders, a report should be prepared for consideration at the first ordinary meeting of the governing body of the local authority (the council meeting).

The report should list the optional clauses in the standing orders template and briefly discuss the advantages and disadvantages of each. The optional clauses are:

- Members' right to attend by audio or audio visual link (clauses 13.11 – 13.16);
- A casting vote for the Chairperson (clauses 19.3); and
- The choice of a default option for speaking and moving motions:
  - A - formal, (cl. 22.2); or
  - B - medium, (cl. 22.3); or
  - C - informal, (cl. 22.4).

### Factors to consider

#### Audio visual link

The LGA 2002 allows members of a local authority to participate in meetings if they are not physically present by audio or audio visual means. This provision was made in response to requests from councils that represent large geographic areas in which it is often difficult for some members to attend meetings at short notice. Its use, however, is not limited by statute and councils can develop policies should they wish to constrain the use of the technology to certain types of meetings or not.

To make use of this option the relevant rules must be incorporated within a council's standing orders. Please note that members attending by audio or audio visual means are not counted as part of a meeting's quorum.

#### Casting vote

The LGA 2002 allows chairpersons to use a casting vote if provision for such a vote is made in a council's standing orders. The vote can be used when there is an equality of votes and, despite some views to the contrary, a casting vote is not limited to supporting the status quo.

The LGNZ standing order template includes the casting vote option which will need to be removed should councils prefer that their chairpersons are unable to exercise such a vote.

A third option, in which a casting vote can only be used for prescribed types of decisions, is available. This option could specify, for example, that a casting vote can only be used for the adoption of statutory plans, such as the annual and long term plan (see p. 12 of this Guide).



#### Speaking and moving options

The LGNZ standing orders template offers councils a choice of three frameworks, Options A, B or C, for speaking to and moving motions and amendments.

- Option A is the most formal of the three and limits the number of times members can speak and move amendments, for example, members who have moved and seconded a motion cannot then move and second an amendment to the same motion and only members who have not spoken to a motion or substituted motion may move or second an amendment to it. (This is the framework used in the Standards New Zealand Model Standing Orders.)
- Option B is less formal than Option A. While limiting the ability of movers and seconders of motions to move amendments it allows any other members, regardless of whether they have spoken to the motion or substituted motion, to move or second an amendment.
- Option C provides substantial flexibility by removing the limitations placed on movers and seconders by the other two options.

The council is asked to agree on a default option which will apply to all meetings unless a chairperson, or meeting, agree to apply one of the other two options at specific meeting. It is recommended that the default option be marked as Default in the adopted standing orders.

#### **Draft resolution**

Once decisions have been made on whether or not to incorporate the discretionary clauses, then a resolution to adopt the original or amended standing orders can be established. A resolution could take the following shape:

That the council adopt the standing orders as tabled with the following amendments:

- i. Provisions for meetings by audio visual link - yes/no.
- ii. A casting vote for chairpersons – yes/no.
- iii. Option A (formal), B (medium), or C (informal) as the default for speaking and moving motions.

The same process is recommended for local and community boards, and joint committees.



## Part 1: General matters

### Mayoral appointments under s.41A Local Government Act 2002

Included in the standing orders are provisions dealing with the ability of mayors to establish committees, appoint deputy mayors, committee chairs and members of committees (see standing orders 5.1 – 5.5).

Where a mayor chooses to use these powers, a council must make provision for ensuring the results of the Mayor's decisions are communicated as soon as practicable to members of the governing body. We recommend that either the Mayor or chief executive provide the information at the first meeting of the governing body that follows the Mayor's appointments.

It is critical that the chief executive of a territorial authority advises their mayor about s. 41A LGA as soon as possible after election results have been confirmed, so as to ascertain whether or not they wish to make use of those powers. Appendix 3 sets out a possible process for this.

#### The Mayor's leadership role

Under s.41A LGA mayors are responsible for the leadership of the "other members of the territorial authority" and the "people in the district of the territorial authority". They are also responsible for leading the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.

Section 41A can have implications for the way these standing orders work, depending on how a mayor wishes to approach their leadership role, particularly in regard to plans, policies and budgets. Some mayors have chosen to put all plans, policies and budgets under their own names so as to give effect to their leadership responsibilities. The standing orders provide for a chairperson to stand down from the chair but still contribute to a debate, should they feel strongly about an issue, in order to ensure the objectivity of the chair.

#### Ensuring decisions meet requirements of Part 6 LGA 2002

The standing orders highlight the importance of recommendations, whether made in a chairperson's report or a Notice of Motion, complying with the decision-making requirements of Part 6 LGA.

Section 76 LGA specifies that every decision made by a local authority must be made in accordance with such provision of sections 77, 78, 80, 81 and 82 (LGA) as are applicable. This requirement applies to all decisions to the degree appropriate.

In some cases the impact of these provisions will require that a decision can only be made after consideration of options and related matters has taken place while in other cases, especially if the decision is a minor decision, no further analysis is required.

What is required is some evidence that consideration has been given to the degree to which a decision is or should be, subject to the matters specified in the relevant sections of Part 6.

These standing orders make provision within SO 26.2 for a chairperson to refuse to accept a Notice of Motion that fails to include sufficient information to satisfy the requirements of sections 77 – 82 of the LGA.



### Appointment of staff to sub-committees

While non-elected members may be appointed to committees and sub-committees, council staff, in the “course of his or her employment” can only be appointed to a sub-committee. When determining to appoint a sub-committee, a council or committee should, through the terms of reference, be clear about the nature of the skills and competencies required. This may involve:

- Requesting that the Chief Executive, or their nominee, determine which member of staff is appropriate to be a member of the sub-committee; or
- Identifying a specific position, such as the chief executive, city planner or economist, to be a member of the sub-committee.

### Policies for leave of absence by members of the governing body

The standing orders provide for a council to delegate the authority to grant leave of absence to a mayor or regional council chair. When deciding whether or not to give a member a leave of absence, a council or their delegate, may wish to consider. The impact of the leave of absence on the capacity of the council to conduct its business with regard to quorum, the number of members available to fulfil the councils’ responsibilities and other requests for leave of absences:

- A request for leave of absence should be made in advance of a meeting and would generally apply to a number of meetings that the member knows that he/she will be unable to attend; and
- Apologies are usually given when a member cannot attend a forthcoming meeting or inadvertently missed a meeting, in which cases the apologies are made retrospectively.

If a member is absent from four consecutive meetings without their leave, or apologies approved, an extraordinary vacancy is created. This occurs at the end of a meeting at which a fourth apology has been declined, or a member had failed to appear without leave of absence.

Councils will need to establish their own policy as to whether or not a person who has a leave of absence for a length of time will continue to receive remuneration as an elected member, for example, a policy may provide for remuneration to continue to be paid for the first three months of a leave of absence.

### Extraordinary and emergency meetings – business

A question that is commonly asked about extraordinary meetings is whether or not business, other than the business for which the extraordinary meeting was called, should also be included on the agenda, or discussed at the meeting. The Standing Orders recommends that extraordinary meetings should only deal with the business for which they are called and should not be concerned with matters that could be considered at an ordinary meeting or have not been included in the grounds for which an extraordinary meeting has been called. Public forums should not be held prior to an extraordinary meeting.

Enacted in 2019, the Local Government Regulatory Matters Act has provided for a new type of meeting referred to as Emergency Meetings. The difference between extraordinary and emergency meetings is the time-frame involved and the process for calling them, see below.



Table 1 Extraordinary and emergency meetings compared

	Extraordinary meetings	Emergency meetings
<b>Called by:</b>	A resolution of the local authority or requisition in writing delivered to the CE and signed by: <ul style="list-style-type: none"> <li>• The mayor or chairperson; or</li> <li>• Not less than one-third of the total membership of the local authority (including vacancies).</li> </ul>	The mayor or chairperson; or if the mayor and chairperson are unavailable, the chief executive
<b>Process</b>	Notice in writing of the time and place and general business given by the CE.	By whatever means is reasonable by the person calling the meeting or someone on their behalf.
<b>Time frame:</b>	At least three days before the meeting unless by resolution and not less than 24 hours before the meeting.	Not less than 24 hours before the meeting.
<b>Notification of resolutions</b>	With two exceptions a local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting.	No similar provision exists for emergency meetings however good practice would suggest adoption of the same process applies to extraordinary meetings.

### Use of extraordinary meetings

Extraordinary meetings are designed to consider specific matters which cannot, due to urgency, be considered at an ordinary meeting. It is for this reason that extraordinary meetings can be held with less public notification than ordinary meetings.

If councils need to hold meetings that are additional to those specified in their meeting schedule, then the appropriate response is to amend their meeting schedule to include additional ordinary meetings, rather than call extraordinary meetings to address what might be the general business of the council. Extraordinary meetings, as the name implies, are for business that cannot wait for an ordinary meeting and where grounds exist for shortening public notice.



## Part 2: Pre-Meeting

### Meeting times

Consideration should be given to choosing a meeting time that is convenient for members and facilitates the participation of the public. One approach would be to use the council induction workshop to seek agreement from members as to the times that will best suit them, their council and their community.

### Giving notice

The Standing Orders have now been updated to include the new definitions of what constitutes a public notice and how working days are defined. The new provisions are set out in the Local Government Regulatory Matters Act 2019. The full provisions are:

**Internet site**, in relation to a local authority, other person or entity, means an internet site that is maintained by, or on behalf of, the local authority, person, or entity and to which the public has free access.

**Public notice**, in relation to a notice given by a local authority, means that:

- (a) It is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority's Internet site; and
- (b) It is published in at least:
  - (i) One daily newspaper circulating in the region or district of the local authority; or
  - (ii) One or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district.

**Working day** means a day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day;
- (b) If Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday;
- (c) The day observed in the appropriate area as the anniversary of the province of which the area forms a part; and
- (d) A day in the period commencing with 20 December in any year and ending with 10 January in the following year.

### Advertising meetings to be held on or after the 21st of the month

Section 46(1) and (2) provide timeframes for the public advertising of meetings. The purpose of these subsections is to ensure sufficient notification to the public regarding when meetings will take place. However, the wording of these subsections can cause some confusion.

- Section 46(1) envisages that an efficient way of advertising meetings is to provide a monthly schedule, published 5-14 days before the end of the month.
- Section 46(2) envisages that meetings in the latter half of the month may not be confirmed sufficiently in advance to form part of a monthly meeting schedule published before the start of the month.





Therefore, Section 46(2) provides a separate mechanism for advertising meetings held after the 21st of the month, which councils can choose to follow. If councils wish to do so, meetings after the 21st of the month can be advertised 5-10 working days prior to the meeting taking place (that being 1-2 standard calendar weeks, unless public holidays fall during that time).

Basically, Councils must utilise the monthly schedule in Section 46(1) for meetings held between the 1st and 21st of the month, however, either method for advertising meetings can be used for meetings held after the 21st

### Re-locating meetings at the last minute

Local authorities must hold meetings at the times and places that it appoints, so if an appointed meeting room becomes unavailable at the last minute (i.e. after the agenda has been published), and an alternative room in the same venue or complex cannot be used, the meeting can be re-located but will become extraordinary and the requirements set out in Standing Orders 8.5 and 8.10 will need to be met.

If a meeting is re-located, we recommend informing the public of the change in as many different ways as possible, for example:

- Customer Services made aware;
- Meeting invitations to elected members changed;
- Relevant notices visible outside both old and new venues;
- A sign on the original meeting room door, and/or; and
- Updates on the Council's website and social media pages.

### Process for putting matters on the agenda

An issue for many elected members, particularly those newly elected, is how to get matters on to the agenda of a meeting in order to achieve a decision. This issue is addressed in Standing Order 9.1 and Appendix 13. The provision applies to councils, subordinate decision-making bodies (these include committees and subcommittees), local and community boards. In short, a matter may be placed on the agenda as a result of any of the following:

- Through a direct request to the chief executive or an officer with the relevant delegated responsibility;
- From the Chairperson through their chairperson's report, although depending on the nature of the item and decision suggested, a staff report may be required;
- Through the report of a committee. Committee meetings are generally less formal than a meeting of the governing body and a committee can make recommendations to the governing body. Please note that any request should fall within the committee's terms of reference;
- Through a report of a local or community board. A councillor could, for example, ask a local or community board to support a matter and even recommend a course of action to the governing body; and
- Members may apply to place an item on the agenda through a notice of motion (see SO 27.1), however, a notice of motion must comply with the decision-making provisions of Part 6 LGA 2002 before it can be considered. If the mover of the notice of motion is unable to provide this information or the decision is likely to be deemed a significant decision, the notice of motion should provide that the proposal be referred to the chief executive for consideration and report.



Though any and all of these may be used it is important to remember that until presented to members (i.e. published), an agenda is ultimately the responsibility of the Chief Executive and the collation of the agenda and its contents must remain under the Chief Executive's control.

Where a matter is urgent and has not been placed on an agenda it may be brought before a meeting as "extraordinary business" as a result of a report by the Chief Executive or a report by the Chairperson. This process gives effect to Section 46A (7) and (7A) of LGOIMA.

Please note: the content or topic of any request must fall within the terms of reference of the specific body or meeting, for example, a request made to a community board should be for an item that falls within the decision-making authority of the board.

### Agendas – good practice

Underpinning open and transparent government is the opportunity for members of the public to know in advance what matters their local governments will be debating and making decisions about ahead of time. Consequently making copies of council and committee agendas available for members of the public is critical. Officials need to be aware of their communities' preferences for accessing information when deciding how access to draft agendas will be facilitated.

### Information tabled at meetings

Any extra information tabled after the reports and agendas have been distributed should be specified and noted in the minutes, with copies made available in all places that the original material was distributed to. A copy must also be filed with the agenda papers for archival purposes (and future research if necessary).



## Part 3 Meeting procedures

### Starting your meeting

Questions are sometimes asked whether or not council meetings should begin with some form of reflection to acknowledge the importance of our democratic processes.

There is no obligation on a local authority to start its meetings with a reflection or ceremony, however if a council wishes to begin its meetings with a formal procedure to recognise the civic importance of council meetings, we have made a few suggestions in this section. Which allow for tangata whenua processes which should alleviate any awkwardness around introducing such processes.

An example of a reflection used at the start of a meeting is the following karakia used by Hutt City Council.

Opening formalities - karakia timatanga	
Whakataka te hau ki te uru	Cease the winds from the west
Whakataka te hau ki te tonga	Cease the winds from the south
Kia mākinakina ki uta	Let the breeze blow over the land
Kia mātaratara ki tai	Let the breeze blow over the ocean
E hī ake ana te atakura	Let the red-tipped dawn come with a sharpened air.
He tio, he huka, he hau hū	A touch of frost, a promise of a glorious day.
Tihei mauri ora.	

### Voting systems

One of the issues that arose during preparation of the new Standing Orders concerned the performance of some of the electronic voting systems that are in use and whether or not the way in which they operate is consistent with what we understand as 'open voting'.

We have taken the view that open voting means that members should be able to see how each other votes 'as they vote' (i.e. simultaneously) as opposed to a system which votes are tallied (in a manner that does not show how individuals voted) and then a result is released.

It is also important to note that under these Standing Orders electronic systems should allow a member to abstain from voting, see Standing Order 19.7.

### The Chairperson's casting vote

Standing Order 19.3 allows the Chairperson to exercise a casting vote where there is an equality of votes. Incorporating a casting vote in a council's Standing Orders is optional under cl. 24 (2) Schedule 7, LGA 2002. The casting vote option has been included in the template to enable a meeting to conduct and conclude important business without the risk that a vote might be tied and as a result a significant statutory timeframe might be exceeded.



There are three options:

1. The casting vote provisions are left as they are in the default standing orders.
2. The casting vote provision, Standing Order 18.3, is removed from the draft standing orders before the standing orders are adopted.
3. The standing orders are amended to provide for a "limited casting vote" that would be limited to a prescribed set of decisions only such as statutory decisions, for example: *where the meeting is required to make a statutory decision e.g. adopt a Long Term Plan, the chair has a casting vote where there is an equality of votes.*

**Chairperson does not have a casting vote except in the case of statutory decisions**

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, does not have a casting vote (and therefore the act or question is defeated and the status quo is preserved) with the exception of statutory decisions such as (but not limited to) the adoption of Annual Plans, Annual Reports and Long Term Plans where a casting vote may be exercised (Western Bay of Plenty District Council Standing Orders 2016).

### Joining meetings by audio and audio visual means

The Local Government Act 2002 Amendment Act 2014 gave local authorities the option to include in their standing orders a provision to enable members to join meetings by audio or audio visual means.

These standing orders include this provision and if a council wishes not to make that option available to its members the specific standing orders should be removed before the standing orders are adopted. The relevant standing orders are 13.7 – 13.16.

A number of members have found the audio and audio visual provisions prescribing quorums and voting confusing. We have worked on the Standing Order to make it as clear as possible that while a member can take part in discussions and vote while joining a meeting electronically, they are not part of the quorum.

### Conduct

Section 20 of the Standing Orders deals with the lected member conduct at meetings. One feature of the LGNZ Standing Orders is the cross reference to each council's Code of Conduct. The Code of Conduct sets standards by which members agree to abide in relations to each other. Clause 5.1 of the LGNZ Code of Conduct template sets out the following standards with regard to relations between members:

Given the importance of relationships to the effective performance of the council, members will conduct their dealings with each other in a manner that:

- Maintains public confidence;
- Is open and honest;
- Is courteous;
- Is focused on issues rather than personalities;
- Avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- Avoids aggressive, offensive or abusive conduct, including the use of disrespectful or malicious language.



At the start of a triennium, councils as well as committees and local and community boards should agree on protocols for how meetings will work, including whether or not members are expected to stand when speaking and any specific dress requirements.

### Public forums: good practice

These standing orders state that a period of up to 30 minutes is set aside for a public forum. Members of the public may attend to address the meeting for up to five minutes on items that fall within the delegations of the meeting, provided the matters are not subject to legal proceedings, or to a process providing for the hearing of submissions. Speakers may be questioned through the Chairperson by members, but questions must be confined to obtaining information or clarification on matters raised by the speaker. The Chairperson has discretion in regard to time extensions.

Such presentations do not form part of the formal business of the meeting i.e. consideration of business items listed on the agenda. We recommend that a brief record be kept of matters raised during any public forum section of the meeting with matters for action to be referred to the Chief Executive or other person as requested by the meeting.

### Revoking a decision made under delegated authority

A council cannot directly revoke a decision made and implemented by a subordinate decision-making body which has the delegation to make the decision, assuming that the subordinate decision-making body, or local or community board, has exercised its decision-making powers in a lawful manner.

Where a decision of a subordinate body or a local or community board has been made under delegated authority but has not been implemented, a council can remove the specific delegation from that body and resolve to implement an alternative course of action.

### Process for release of public excluded information

Councils have different processes for releasing the reports, minutes and decisions from public excluded meetings (material considered confidential under Section 6 or Section 7 of LGOIMA). It is important to be aware that reasons for withholding information from the public does not necessarily endure, for example, information that was confidential due to negotiations may not need to remain confidential when negotiations have concluded. Equally, documents may be released in part, with only parts withheld.

Generally information may only be publicly released by a decision of the meeting, or a decision of the Chief Executive. Each council will have systems and policy for controlling the release of information.

When a report is deemed to be 'In confidence' information can be provided on whether or not it will be publicly released and when. With regard to items under negotiation, such as contracts, land purchase or disposal, resource consents and district plan matters, there is often an end point when confidentiality is no longer necessary. If no release clause is provided a further report may be needed to release the information creating double handling and report writing.

The following clause can be included in report templates to address this issue:

*(If in confidence)* That the report/recommendation be transferred into the open section of the meeting on (state when the report and/or recommendation can be released as an item of open business and include this clause in the recommendation).



### Returning from public excluded to open session

Councils take different approaches to the way in which a meeting moves from public excluded to open status. There are basically two approaches:

1. Meeting resolution - whereby the chair, or a member, moves that since the grounds for going into public excluded no longer exist the public excluded status is hereby lifted.
2. End of the public excluded item – whereby public excluded status is “tagged” to only those items that meet the criteria in the sample resolution set out in Appendix Two of the Standing Orders and is automatically lifted once discussion on that item is concluded.

Generally, moving out of public excluded sessions should follow the approach set out in option two. However, option one might apply where, during a substantive item, it is necessary to go into public excluded for a section of that item. In this case the Chair, or a member, should signal, through a point of order that the grounds for excluding the public no longer apply. Whether a motion to return to open meeting is required or not is a question of style.

### Conflicts of interest

Questions from elected members about when a conflict of interest may exist and how it should be managed are amongst the most common faced by governance staff. The rules are clear that a member of a local authority may not participate in discussion or voting on any matter before an authority in which they have with a financial or non-financial conflict of interest. However, determining whether a conflict exists or not is not always so clear.

#### Financial conflicts of interest:

It is an offence under the Local Authorities Members’ Interests Act 1968 to participate in any matter in which a member has a financial interest. These are defined by the Auditor General as:

*whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member involved (p. 25 Conflicts of Interest OAG 2004).*

The Auditor General can, in certain situations, grant exemptions from the rule which makes it an offence for an elected member with a financial conflict of interest discussing and voting on a matter, for example, where an interest is in common with the public.

In such cases the Auditor General can grant an exemption or a declaration to allow a member to participate. Members should be referred to the Auditor General if there is a possibility that their case would qualify for an exemption or declaration (see OAG’s guide on Conflicts of Interest published in 2004).

#### Non-financial conflicts of interest:

The Auditor General defines a non-financial conflict of interest or ‘bias’ as:

*is there, to a reasonable, fair minded and informed observer, a real danger of bias on the part of a member of the decision-making body, in the sense that he or she might unfairly regard (with favour or disfavour) the case of a party to the issue under consideration.*



Bias involves not just actual bias but also the perception of bias. A claim of bias can be made on the basis of predetermination. A member who believes they may have a non-financial conflict of interest should:

- Declare they have a conflict of interest when the matter comes up at a meeting;
- Ensure that their declaration is recorded in the minutes; and
- Refrain from discussing or voting on the matter.

In such cases the member should leave the table and not take part in any discussion or voting on the matter. In determining the level of conflict, members should discuss the matter with the meeting chairperson and/or chief executive or their nominee, however, the decision whether to participate or not must be made by the members themselves.

The Auditor General cannot provide an exemption or declaration with regard to non-financial conflicts of interest.

### How should confidential information in an agenda be managed?

Occasionally councils have to address the issue of how confidential agenda items should be handled where there is a possibility, should it become public, that the information in the agenda could benefit a member or individuals. Some councils address this risk by tabling confidential papers at the meeting on the day and ensuring those papers are returned before members leave.

### What happens to a quorum when a member is 'not at the table'?

Whether or not members must be 'at the table' to constitute a quorum is a frequently asked question, usually in response to a member standing aside from the table due to a perceived or actual conflict of interest.

Standing Order 10.4 covers this situation when it states "a meeting is constituted where a quorum of members is present, whether or not they are all voting or entitled to vote". "Present" in the context of these standing orders is to be in the room, not necessarily around the table. Please note that if a member is excluded from the meeting room due to a financial conflict of interest they are no longer considered "present" for the purposes of the quorum.

### Members attending meetings of which they are not members

A common question involves the role of elected members who attend meetings of which they are not members and what their status at these meetings should be. The legislation and these standing orders are clear (cf. 19(2) Schedule 7, LGA 2002) that members can attend any meetings unless they are "lawfully excluded" (see definition of lawfully excluded in the Standing Orders).

An elected member who attends the meeting of a committee or which they are not a member may not necessarily be able to claim allowances, such as mileage, for attending that meeting. This question should be addressed in a council's allowances and expenses policy.

Elected members attending a meeting of which they are not a member have the same rights as the public. They may be granted additional speaking rights if permitted by the Chairperson. To remove the possibility of confusion about membership and speaking rights for both the public and the members concerned many councils require non-members to sit away from the meeting table i.e. in the public gallery.



### Attendance at hearings

There is often confusion as to whether or not elected members must be present throughout a hearing or submission process in order to be able to vote on the outcomes of the hearing. This is a case where the rules vary according to the legislation under which the hearing or submission process is occurring.

Hearings under the LGA 2002, such as Annual Plan or Long Term Plan hearings, do not require all elected members to have participated in the submission process in order to take part and vote on the outcomes of that process. Elected members who cannot participate at all or who miss part of a hearing should review all submissions and the analysis provided by officials of the written and oral submissions before taking part in any debate and vote on the plan or policy under consideration.

It is good practice to remove doubt on this matter that there be a record in the minutes stating that the members who have been absent have been provided with, prior to deliberations, all records of submissions made both orally and in written form.

Please note that the Auditor General recommends that members should be present for the whole of a hearing "to show a willingness to consider all points of view" (Conflicts of Interest August 2004 p. 43). The guidance suggests that lengthy periods of nonattendance at a hearing could suggest an element of pre-determination.

### Divisions

Under Standing Order 19.5 a member can call for a 'division' for any reason. If a division is called the standing orders require the Chief Executive to record the names of the members voting for and against the motion, as well as abstentions, and provide the names to the Chairperson to declare the result. It is important to remember to record the names of members in the minutes and the way in which they voted.

There are different approaches taken to ascertaining how people voted. For example:

- When asking each individual member how they voted vary the order in which elected members are asked e.g. alternate between clockwise and anti-clockwise.
- To get a clear picture ask members who voted for or against a motion or amendment to stand to reflect how they voted i.e. "all those in favour please stand" and the committee secretary will record those votes and names, followed by "all those against please stand" again with names recorded, followed (where abstention is provided for) with "all those abstaining, please stand" and again record those names.

### Where a motion is lost

A new provision has been added to make it clear that when a motion is lost it is possible to move an additional motion if it is necessary to provide guidance or direction. For example, if a motion "that the council's social housing stock be sold" was defeated, the organisation might be left without direction with regard to the question of how the stock should be managed in the future.

Standing Order 23.10 enables a meeting to submit a new motion if required to provide direction to management where this might be required following the defeat of a motion.





## What happens to items left on the table

Standing Order 25.2 *Procedural motions to close or adjourn a debate* provides five procedural motions to close or adjourn a debate. In relation to the procedural motion whereby the item of business is left to “lie on the table” we recommend that any such matters should cease to lie on the table and are withdrawn at the end of the triennium.

It is however good practice wherever possible to state (when an item is left to lie on the table) what action is required to finalise it and when it will be reconsidered. For example, “that the report on the sale of the land lie on the table until further information on land values is received and that on receipt of such information the item be reported to the next scheduled meeting of the Property Committee”.

## Options for speaking and moving motions

One of the new features in these standing orders is the ability to use different rules for speaking to and moving motions so as to give greater flexibility when dealing with different situations.

Standing Orders (22.1 – 22.5) provide for three options. Option A repeats the provisions in the Standards New Zealand Model Standing Orders which limit the ability of members to move amendments if they have previously spoken. Option B provides more flexibility by allowing any member, regardless of whether they have spoken before, to move or second an amendment, while Option C allows further flexibility.

When a council, committee or community board adopts their standing orders at the start of the triennium it should decide which of the three options will be the default option. We recommend that the default be the approach which will be used most frequently.

Reasons why a committee may consider using options B or C could be to enable more discussion on items and/or to avoid a meeting choosing to suspend standing orders altogether.

For joint committees the decision could be simplified by agreeing to adopt the settings used by whichever member council is providing the administrative services.

## Keeping minutes - additional guidance

Since the release of the 2016 standing orders a number of requests for further guidance have been raised.

### Hard copy or digital

A common question since the release of the LGNZ standing orders has been to do with whether or not minutes should only be kept in hard copy. Since the 2016 edition Archives New Zealand has released guidance on the storage of records by digital means. In short general approval has been given to public offices to retain electronic records in digital form, except in a few specified cases. The advice is set out below.

### Mandate

This Authority to retain public records in electronic form only (the Authority) is issued by the Chief Archivist under Section 229(2) of the Contract and Commercial Law Act 2017 (CCLA).

### Purpose

The purpose of the Authority is to grant general approval from the Chief Archivist to public offices to retain public records in electronic (digital) form only, subject to the exclusions listed in “4 Exclusions to this Authority” below. This means that the source public records do not need to be retained after digitisation and can be destroyed without further authorisation.

#### Approval to retain in electronic form

The Chief Archivist approves public records not excluded under 4 Exclusions to this Authority below for retention in electronic form only, after these have been digitised.

#### Exclusions to this Authority

The following categories of public records are excluded from the general approval given in "Approval to retain in electronic form" above:

- Unique or rare information, information of importance to national or cultural identity or information of historical significance;
- Unique or rare information of cultural value to Māori (land and people) and their identity; and
- All information created prior to 1946.

For more detail on each of these categories, refer to the guide *Destruction of source information after digitisation 17/G13*. Archives New Zealand will consider applications to retain public records from these categories in electronic form only on a case-by-case basis.

#### Compliance with Section 229(1) of the CCLA

A public office can retain public records in electronic form only, and destroy the source information, only if the public record is covered by the approval given in this Authority (or specific authorisation has otherwise been given by the Chief Archivist); and the conditions of Section 229(1) of the CCLA are met. The two conditions of Section 229(1) are:

- (a) *The electronic form provides a reliable means of assuring that the integrity of the information is maintained*

In accordance with Section 221 of the CCLA, "the integrity of information is maintained only if the information has remained complete and unaltered, except for the addition of any endorsement, or immaterial change that arises in the normal course of communication, storage, or display."

The Chief Archivist considers that if any unique characteristics of the source information, which contribute to the value of that information, would be lost during digital conversion then the integrity of the information would not be maintained. The source information must then be retained.

- (b) *The information is readily accessible so as to be usable for subsequent reference*

Usable information is information that can be located, retrieved, presented and interpreted within a reasonable time period. A usable record should be connected to the business process or transaction that produced it. Linkages between records that document related business transactions should be maintained (sourced from ISO 15489-1:2016 *Information and documentation – Records management – Concepts and principles*).

Note: Public offices should be aware that Section 229 of the CCLA does not apply to those enactments and provisions of enactments listed in Schedule 5 to the CCLA (Enactments and provisions excluded from subpart 3 of Part 4).



For further detail, the Authority should be read in conjunction with the guide *Destruction of source information after digitisation 17/G13*<sup>1</sup>.

#### Chairperson's signature

Where councils capture and store minutes digitally the traditional practice for authorizing minutes of the Chair's signature is not at all practical. For the digital environment one approach would be to include, with the motion to adopt the minutes, a sub-motion to the effect that the Chair's electronic signature be attached/inserted.

#### What to record?

The purpose of taking minutes is to meet legal requirements set out in LGOIMA 1987, "create an audit trail of public decision-making and to provide an impartial record of what has been agreed". But most of all having a clear and precise record of the decisions that our public agencies make strengthens accountability and helps build confidence in our local democracy.

The level of proceedings recorded will vary according to the preferences of different councils and their administrations. What is important is to ensure that the bodies on behalf of which minutes are being taken are fully aware of, and have agreed in advance, to the style of those minutes. One way of doing this is to include, as part of the resolution adopting the minutes, either a stand-alone motion stating the level of detail that will be recorded, or including this within the Standing Orders themselves.

In addition to the items set out in SO 27.2, a further reason why more detailed records might be taken is to record the reasons given for a meeting not accepting an officer's recommendations on a report - this might be important for future audit purposes.

#### Good practice

- Minutes should be a clear audit trail of decision-making.
- Less is best.
- Someone not in attendance will be able to understand what was decided
- Anyone reading the minutes in 20 years' time will understand them (Fleur Sweeney).

#### Taking minutes for hearings held under 'other' statutes

The LGNZ Standing Orders are designed to comply with the LGA 2002 and LGOIMA 1987. Other statutes under which councils may have meetings and hearings can have specific requirements that are different to the general requirements of the LGA 2002. For example:

Minutes of hearings under the RMA, Dog Control Act 1996 and Sale and Supply of Alcohol Act 2012 include additional items, namely:

- Record of oral evidence;
- Questions put by panel members and the speaker's response;
- Reference to tabled written evidence; and
- Right of reply.

<sup>1</sup> See <https://records.archives.govt.nz/assets/Guidance-new-standard/17-Sp7-Authority-to-retain-public-records-in-electronic-form-only.pdf>



Information required in minutes of hearings of submissions under a special consultative procedure, such as Long Term Plan hearings, include:

- Records of oral submission;
- Questions put by elected members and the speaker's response to them; and
- Reference to tabled written submission.

In cases where a council resolves a course of action in response to submissions which is contrary to advice provided by officials, the reasons why the Council chose not to follow official advice should be recorded. In summary:

- For procedural matters a pre-formatted list of statements can be useful for slotting in the minutes as you go.
- Avoid attributing statements to specific politicians as it creates opportunity for debate during the confirmation of minutes.
- Do attribute statements when given as expert advice.
- Be flexible. Minutes are live recordings of real events – the rules won't always help you.

## Preparing for the next triennial election

There is often uncertainty about what, if anything, should be done to prepare for the triennial elections and the interregnum period during which elected members are unable to act.

### Governance hand-overs

To assist new councils get up to speed, councils, i.e. the governing bodies, may like to "prepare a letter to themselves", i.e. for their successors (noting that this may largely be the incumbents).

The purpose of such a letter or report is to provide the new members of the councils with an insight into what the outgoing councils saw as the major challenges and what they learned during their term in office that they might have done differently. In other words, a chance to help the new council avoid the mistakes they may have made.

Whether or not to prepare advice for an incoming council and if so, what advice, is ideally a discussion that a mayor/regional council chair should have with their respective governing body before the last scheduled council meeting. It may be an ideal topic for a facilitated workshop.

### Reviewing decision-making structures

One of the first matters that new councils must address is to adopt a decision-making structure and in the vast majority of cases end up adopting the decision-making body of their predecessors.

We spend too little time looking at whether or not our councils have the right decision-making structure, as there is a very wide menu of options, from governing bodies that choose to make all decisions, to committees which are "committees of the whole" and committees with external appointments. We need to work with our governing bodies to help them identify the right approach for their communities.

One way of doing this is to survey your elected members towards the end of the triennium to identify what worked well about their decision-making structure and what could be improved.



Based on surveys and interviews the incoming councils should be presented with a menu of decision-making options with the strengths and weaknesses of each set out clearly.

### Committees that are not-discharged

Depending on the nature of their responsibilities a council, or a group of councils in the case of a joint committee, can resolve that a committee continues beyond a triennial election. Typically such a committee would be responsible for providing oversight of some form of project that has a long term focus and may also contain appointed members.

Whether or not the committee is to be discharged at an election should be set out in its original terms of reference, adopted by resolution. Following an election the council, or councils by agreement in the event of a joint committee, can discharge and appoint new members to that committee.

### When to schedule the last ordinary meeting

When putting together the schedule of meetings for the last year of a triennium how close to polling day should the last meeting of the governing body be scheduled? Councils do take different approaches, and practice may be affected by the nature of business that a council is facing prior to the coming elections.

Given that the election campaign properly starts four weeks before polling day, common practice would be to schedule the last ordinary council meeting in the week before the campaign period begins.

This allows retiring members to make valedictory speeches away from the political atmosphere of the election and those members seeking re-election may not be fully occupied with their campaigns.

Council business still continues in the four weeks before polling day so expect some council committees/sub-committees to still be meeting to deal with ongoing work, whether it is preparation of a submission or oversight of a local project. Urgent matters can still be addressed through an extraordinary or emergent meeting.

### What about issues emerging in the interregnum?

Between polling day and the first meeting of the new council, at which members are sworn in, issues can arise that require an urgent council decision, who should make any such decisions?

This is a question that is asked frequently and there is only one practical answer, and that is your council's chief executive. Before the elections (and preferably at the first or second council meeting where delegations are agreed) a time-limited delegation should be adopted giving the chief executive broad discretion to act on behalf of the local authority. For example:

*That from the day following the Electoral Officer's declaration, until the new Council is sworn in, the Chief Executive is authorised to make decisions in respect of urgent matters, in consultation with the Mayor elect. All decisions made under this delegation will be reported to the first ordinary meeting of the new Council.*



### Feedback:

The 2019 edition of the Standing orders incorporates all relevant legislative changes made by Parliament since 2016 that we are aware of. If any changes have escaped our attention please let us know.

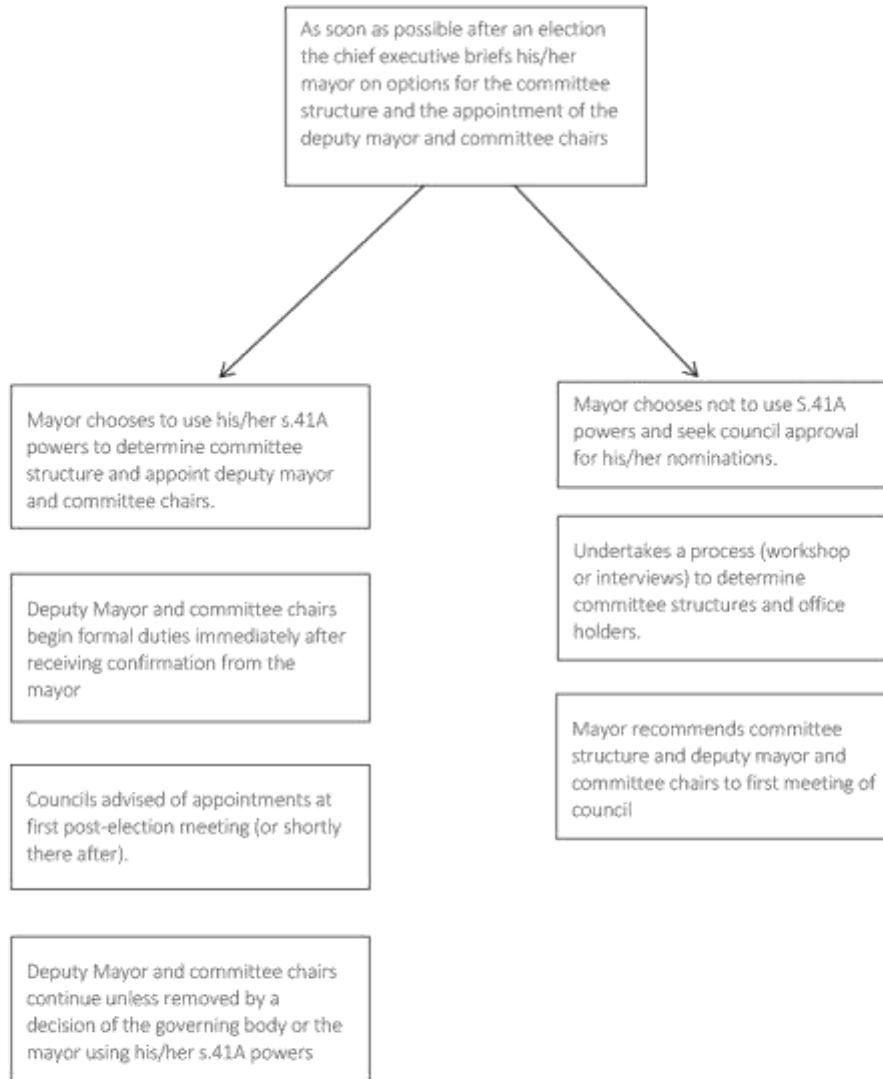
We are also keen to ensure that the Standing Orders continue to help councils run effective meetings so we appreciate any feedback users might like to make. For example, comments on the following would be appreciated:

- The layout and structure of the Standing Orders;
- Standing orders that are ambiguous or simply unclear;
- Jargon that could be replaced;
- Information that is missing; and
- Good practice ideas.

Please forward any comments or suggestions to [admin@lgnz.co.nz](mailto:admin@lgnz.co.nz).



**Appendix: Process for implementing s. 41A**







**8.3 APPOINTMENT OF COUNCILLORS TO COMMUNITY BOARDS****Decision Required**

**Report To:** Full Council

**Meeting Date:** 24 October 2019

**Report Author:** Janine Dowding, Chief Executive Officer

**Report Number:** RCN19-10-9

**Item 8.3****1 Summary**

- 1.1 Under Section 19F of the Local Electoral Act 2001, membership of community boards may include the appointment of Councillors. The appointed Councillors must be members of the territorial authority representing a ward in which the community is situated.
- 1.2 This report seeks the Council's agreement to appoint the Motueka and Golden Bay Ward Councillors to their respective community boards.

**2 Draft Resolution****That the Full Council**

1. **receives the Appointment of Councillors to Community Boards report; and**
2. **appoints Councillors Hutt, Ogilvie and Walker as members of the Motueka Community Board; and**
3. **appoints Councillors Butler and Hill as members of the Golden Bay Community Board.**

### **3 Purpose of the Report**

- 3.1 This report recommends that the Council appoints the respective Ward Councillors as members of the community boards in Motueka and Golden Bay.

### **4 Background and Discussion**

- 4.1 Section 19F of the Local Electoral Act provides that membership of community boards may include the appointment of Councillors. The appointed Councillors must be members of the territorial authority representing a ward in which the community is situated. The appointed members would have speaking and voting rights.
- 4.2 In the previous triennium the Council resolved to appoint the local Ward Councillors as members of their respective community boards.
- 4.3 These appointments were seen as very successful by both the councillors and the community board members. It enables better communication and information flows between Council and the community boards.

### **5 Options**

- 5.1 The Council has two options; either to appoint the Motueka and Golden Bay Ward Councillors to their respective community boards; or to not make these appointments.
- 5.2 The preferred option is to appoint the Motueka and Golden Bay Ward Councillors as members of their respective community boards, as it enables better communication and information flows.

### **6 Strategy and Risks**

- 6.1 Engaging communities and valuing partnerships and relationships are important.
- 6.2 There is a risk that relationship between the Council and Community Boards could be compromised without these appointments and there could be less understanding of the views of the Community Boards and their constituents around the Council Chamber.
- 6.3 Councillors who are also Community Board members may from time to time choose to abstain from voting on a decision at a Community Board meeting, where the matter may become the subject of debate at a Council committee meeting. This is to ensure that they are able to participate in Council decision making without the perception of a pre-determined position.

### **7 Policy / Legal Requirements / Plan**

- 7.1 The appointment of the Ward Councillors to their respective community boards meets the requirements noted in Section 19F of the Local Electoral Act 2001. The appointments are proposed to be made now so that the appointees can contribute from the inaugural meeting of the Community Boards.

**8 Consideration of Financial or Budgetary Implications**

8.1 There are no budgetary implications associated with this recommendation.

**9 Significance and Engagement**

9.1 The appointment of these positions is of very low significance as it does not have financial or level of service implications. The appointments will be publicly notified as part of the Council’s media activities notifying residents and ratepayers of the appointment of committee chairs, deputy chairs and other representatives of the Council.

Issue	Level of Significance	Explanation of Assessment
Is there a high level of public interest, or is decision likely to be controversial?	Low-Moderate	This decision is likely to be of low public interest across the District but of moderate interest within the Community Board areas.
Is there a significant impact arising from duration of the effects from the decision?	Low	The decision can be amended by Council at any time.
Does the decision relate to a strategic asset?	No	
Does the decision create a substantial change in the level of service provided by Council?	No	
Does the proposal or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	No	
Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	No	
Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	No	
Does the decision involve Council exiting from or entering into a group of activities?	No	

**10 Conclusion**

10.1 The Council should appoint the Motueka and Golden Bay Ward Councillors as members of their respective community boards.

**Item 8.3**

**11 Next Steps / Timeline**

11.1 Once the appointments are made, these will be publically notified.

**12 Attachments**

Nil

## 8.4 TASMAN DISTRICT COUNCIL CODE OF CONDUCT

Decision Required

<b>Report To:</b>	Full Council
<b>Meeting Date:</b>	24 October 2019
<b>Report Author:</b>	Janine Dowding, Chief Executive Officer
<b>Report Number:</b>	RCN19-10-10

### 1 Summary

- 1.1 Council is required to have a Code of Conduct for elected members (Clause 15, Schedule 7 of the Local Government Act 2002).
- 1.2 A Code of Conduct provides guidance on the standards of behaviour that are expected from the Mayor and elected members of the Tasman District Council in, among other things, their dealings with each other, staff, and the public.
- 1.3 Officers have updated the existing Code of Conduct (contained in Attachment 1) to align it with the Local Government New Zealand template and to refresh the content in light of recent legal developments. Importantly, it includes a new complaints process for investigating breaches of the Code.

### 2 Draft Resolution

#### That the Full Council

- 1) receives the Tasman District Code of Conduct Tasman District Council Code of Conduct report; and
- 2) adopts the Code of Conduct 2019 contained in Attachment 1; and
- 3) refers the Code of Conduct 2019 to the Motueka and Golden Bay Community Boards for adoption.

### **3 Purpose of the Report**

- 3.1 To outline the proposed changes to the Code of Conduct and recommend Council adopts the amended Code under Clause 15, Schedule 7 of the Local Government Act 2002.

### **4 Background and Discussion**

- 4.1 Clause 15, Schedule 7 of the Local Government Act 2002 (LGA) requires Councils to adopt a Code of Conduct for elected members.
- 4.2 Tasman District Council first adopted a Code of Conduct in 2004 and has had minor amendments over the years. The last review was in 2013. After each triennial election, the new Council is asked to adopt a Code of Conduct.
- 4.3 Officers have now completed a review and refresh of the Code to make it consistent with recent legal changes and to bring it in line with how other councils have approached their Codes. The updated Code is based on the Local Government New Zealand (**LGNZ**) model code; however, it has been tailored to Tasman District Council specifically.
- 4.4 A key change to the Code includes the introduction of a new section for dealing with complaints made under the Code. This clarifies the process and outlines the possible sanctions for breaches that were previously absent from the Code.
- 4.5 Another change is to make it clear that the Code will apply to both the Motueka and Golden Bay Community Boards, after they adopt it (which have both chosen to adopt the same Code as Council since 2007). This will maintain consistency between Council and its community boards.
- 4.6 The Code continues to outline the manner in which members should behave towards each other, the public and staff, as well as how they handle information acquired in their official roles.
- 4.7 The Code sets out the roles and responsibilities of elected members, including appointed members.
- 4.8 Compliance and breaches of the Code are outlined in the Code.
- 4.9 A summary of legislation that has a bearing on the role and conduct of elected members is also appended to the Code.
- 4.10 The Council may amend or replace the Code, but it must always have a Code of Conduct in place. Any amendment of the Code or the adoption of a new Code requires, in every case, a vote in support of not less than 75% of the members present.

### **5 Amendments**

- 5.1 A number of amendments to the previous Code of Conduct 2013 were made while developing the Code of Conduct 2019. These include:

#### **Local Government New Zealand (LGNZ) template**

- 5.2 Officers have based the Code on the LGNZ template which has been updated for the 2019-2022 triennium (subject to some key changes outlined below). The updated Code has a consistent look and feel with the LGNZ template, which makes it easy to follow.

## **Values**

- 5.3 Section 3 of the Code has been refreshed to refer to values rather than principles. This section also makes it clear that the values are intended to provide general guidance and an interpretive aid for the rest of the Code.

## **Relationships**

- 5.4 Section 5 of the Code introduces clearer guidelines on the standards of behaviour expected between members, staff and the public. It has been updated to reflect key legal developments since 2013, which include the introduction of the new Health and Safety at Work Act 2015 and increased awareness of issues around bullying and harassment. A new clause also requires elected members to participate when requested by the Chief Executive in any investigations relating to elected members conduct towards staff. It is now also clear that failure to comply with this section can represent a breach of the Code.

## **Media (including social media)**

- 5.5 Section 6 has been refreshed to bring the Code in line with modern approaches to the use of media including social media (which was previously not addressed by the Code). New Appendix D sets out the Code's Internet and Social Media guidelines to remove ambiguity about what conduct is captured by the Code. The Code must respect the spirit and intent of the New Zealand Bill of Rights Act and ability of members to express different views. However, in doing so, members must act in accordance with the standards set out in the Code.

## **Information**

- 5.6 Section 7 streamlines and clarifies the rules for elected members around the use of information received and held in their official capacity. This section has also been amended to place an obligation on members to disclose information received in their capacity as elected members which is relevant to the ability of a local authority to give effect to its responsibilities. This section now codifies the care required by elected members when dealing with claims (potential, threatened or actual) made against Council to avoid prejudicing Council's position with its insurers.

## **Conflicts of interest**

- 5.7 Section 8 and Appendix C introduce far more comprehensive guidelines for members around conflicts of interest (both financial and non-financial) so members are really clear on what they are expected to do. This helps reduce risk both to members personally and to Council as a whole. The changes bring Council in step with best practice nationally and the latest guidance on conflicts of interest.

## **Register of interests**

- 5.8 Section 9 clarifies the existing requirements for members to declare their interests every 6 months or as required when their circumstances change.

## **Ethical behaviour**

- 5.9 Section 10 is a restatement of this section from the current (2013) Code. It introduces a new section 10.1 to clarify that members who are undischarged bankrupts will notify the Chief Executive as required by the Local Government Act 2002.

## **Creating a supportive and inclusive environment**

5.10 Section 11 is a new addition to the Code based on the LGNZ model code designed to promote a supportive and inclusive governing environment and strengthen relationships at the governance level. These provisions are intended to diminish the risk of conflict between members and between members and the public, and thereby avoid the likelihood of breaches. The intention is to provide councils with leverage to encourage members to do 'their fair share' of the tasks necessary to provide effective governance and representation and take part in exercises designed to improve relationships and teamwork.

### **Dress Code**

5.11 Section 12 modifies the existing section of the Code around expectations that members maintain a reasonable standard of dress. It introduces new guidance that members must not only observe the requirements of the Code, but also any other applicable legal obligations.

### **Breaches of the Code**

5.12 Sections 14, 15 and Appendix B introduce a significantly updated process for determining and investigating complaints around breaches of the Code. One of the ongoing problems with local authority Codes is the way they deal with the process of making, investigating and ruling on complaints. In its report on Codes of Conduct (OAG 2006) the Office of the Auditor General noted that many councils lacked a process for distinguishing between trivial and serious breaches of the Code and consequently spent considerable energy and resources hearing complaints on what are in effect matters of no concern. Many other issues have also arisen, such as:

- Failure to adequately guard against the risk of members with an interest in a complaint taking part in the decision on whether or not to uphold a complaint;
- Examples of members of the public making complaints about the behaviour of individual members for reasons that appear to be more concerned with settling 'political' differences; and
- Lack of preparedness. Many councils discover, when faced with a Code of Conduct complaint, that they have failed to establish in advance the processes for handling the complaint, thus exacerbating the original issue.

5.13 The new sections, while based on the LGNZ model code, include some key differences:

- Rather than referring the complaint to the Mayor, the Code recommends referring complaints to the Chief Executive in the first instance for an initial assessment.
- The Chief Executive will then have discretion to try and resolve the complaint informally or to dismiss complaints that are clearly vexatious/frivolous. The Chief Executive will have the discretion to refer this decision to a Committee consisting of current Chairpersons of Council committees. This inclusion is driven towards promoting early resolution of complaints where possible and minimising cost to Council of referring each case to independent investigators.
- Once the Chief Executive has reached an initial view that the complaint is material, the complaint must be referred to an independent investigator.

5.14 The Code then largely follows the recommendations from LGNZ in terms of assessing materiality, process to follow and penalties for breaches.



## **6 Options**

- 6.1 The Council is required by the Local Government Act 2002 to adopt a Code of Conduct.
- 6.2 The Council has the following options:
- 6.2.1 Adopt the Code of Conduct 2019 — this is the option recommended by officers. The advantage of this option is that the new Code will bring Council into line with other local authorities and best practice as recommended by LGNZ. There are no readily identifiable disadvantages with this option.
- 6.2.2 Amend and adopt the Code of Conduct 2019 — it is open to elected members to seek amendments to the Code. Officers will be available to discuss the advantages and disadvantages of any particular amendments at the meeting.
- 6.2.3 Retain the Code of Conduct 2013 — this option is not recommended by officers. The advantage of this option is that the current Code will be familiar to some councillors. The disadvantages of this option include that:
- 6.2.3.1 the current Code does not include a clear complaints investigation process, so there are no clear consequences for a failure to comply with the Code; and
- 6.2.3.2 the content of the Code does not take into account recent legal and social developments and recommendations for best practice by LGNZ.

## **7 Policy / Legal Requirements / Plan**

- 7.1 Approval and adoption of the Code of Conduct 2019 will fulfil the requirements of Clause 15, Schedule 7 of the Local Government Act 2002.

## **8 Consideration of Financial or Budgetary Implications**

- 8.1 There are no financial or budgetary implications.

## **9 Significance and Engagement**

- 9.1 While there is a clear public interest in ensuring elected members are accountable to the public, the Code is designed to be self-regulating. As a result, complaints can only be made by members themselves and the Chief Executive. For this reason, officers have assessed the significance of the decision about whether to adopt the Code as low.
- 9.2 Officers have not carried out any specific consultation in relation to the Code and do not consider this is necessary given the nature of the Code as a self-regulatory instrument which requires support of 75% of elected members present at the meeting where it is considered to be adopted. The special consultative procedure, as prescribed in the Local Government Act 2002, does not apply to the decision to adopt the Code.

<b>Issue</b>	<b>Level of Significance</b>	<b>Explanation of Assessment</b>
Is there a high level of public interest, or is decision likely to be controversial?	Low	There is unlikely to be much public interest in the decision, as complaints can only be made under the Code by elected members or the Chief Executive.
Is there a significant impact arising from duration of the effects from the decision?	Low	The Council has the ability to amend the Code at any time subject to the support of not less than 75% of elected members.
Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)	No	
Does the decision create a substantial change in the level of service provided by Council?	No	
Does the proposal or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	No	
Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	No	
Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	No	
Does the decision involve Council exiting from or entering into a group of activities?	No	

## **10 Conclusion**

10.1 Officers recommend Council adopts the Code of Conduct 2019.

## **11 Next Steps / Timeline**

11.1 Should Council approve adoption of the Code of Conduct 2019 (by the required 75% majority), officers will make the Code available online and provide a copy to the two community boards for their adoption.

## **12 Attachments**

1. Tasman District Council Code of Conduct 2019



# **Tasman District Council**

## **Code of Conduct**

**Adopted on 24 October 2019**

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## 1. Introduction

This Code of Conduct (the Code) sets out the standards of behaviour expected from elected members in the exercise of their duties. Its purpose is to:

- Enhance the effectiveness of the local authority and the provision of good local government of the community and district;
- Promote effective decision-making and community engagement;
- Enhance the credibility and accountability of the local authority to its communities; and
- Develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviours agreed in the code.

Where referred to in the Code:

- The 'governing body' consists of the Mayor and members elected in accordance with the Local Electoral Act 2001 and responsible, and democratically accountable for, the decision-making of Council.
- A 'community board' consists of the members of each board elected in accordance with the Local Electoral Act 2001, and members of the governing body appointed to that board.

The Code applies to all members of the governing body and community boards, with any modifications necessary to reflect, where appropriate, that a reference to the Council is also a reference to the community board.

## 2. Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members, including the members of any community boards. The Code is designed to deal with the behaviour of members towards:

- Each other (including any appointees to committees and Community Boards);
- The Chief Executive and staff;
- The media; and
- The general public.

It is also concerned with the disclosure of information that members receive in their capacity as elected members and information which impacts on the ability of the Council to give effect to its statutory responsibilities.

Community boards are expected to adopt this Code without amendments to ensure consistency across the organisation.

Once adopted, this Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting of the Council when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

### 3. Values

The Code is designed to give effect to the following values:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.
3. **Ethical behaviour:** members will not place themselves in situations where their honesty and integrity may be questioned, will not behave improperly (including by attempting to advance their own interests or to influence staff to do so) and will avoid the appearance of any such behaviour.
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability. Members will respect the impartiality and integrity of officials.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by the code of Conduct, and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to ensure they fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.

These values are intended to provide general guidance and an interpretative aid for the rest of the Code. They complement, and work in conjunction with, the principles of s14 of the LGA 2002 and the governance principles of s39 of the LGA 2002.

### 4. Role and responsibilities

Good governance requires clarity of roles and respect between those charged with responsibility for the leadership of the Council and those responsible for advice and the implementation of Council decisions. The key roles are:

#### 4.1 Members

The role of the governing body includes:

- representing the interests of the people of the city, district or region;
- developing and adopting plans, policies and budgets;



- monitoring the performance of the Council against stated goals and objectives set out in its long term plan;
- providing prudent stewardship of the Council’s resources;
- employing and monitoring the performance of the Chief Executive; and
- ensuring the Council fulfils its responsibilities to be a ‘good employer’ and meets the requirements of the Health and Safety at Work Act 2015.

## 4.2 Chief Executive

The role of the Chief Executive includes:

- implementing the decisions of the Council;
- ensuring that all responsibilities delegated to the Chief Executive are properly performed or exercised;
- ensuring the effective and efficient management of the activities of the local authority;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- providing leadership for the staff of the Council; and
- employing staff on behalf of the Council (including negotiation of the terms of employment for those staff).

The Chief Executive is the only person *directly* employed by the Council itself (s.42 LGA 2002). All concerns about the performance of an individual member of staff must, in the first instance, be referred to the Chief Executive.

## 5. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

### 5.1 Relationships between members

Given the importance of relationships to the effective performance of the Council, elected members should behave in a professional, respectful, and appropriate way towards one another at all times, including by conducting their dealings with each other in a manner that:

- maintains public confidence;
- is open and honest;
- is courteous;
- is focused on issues rather than personalities;

- avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- avoids aggressive, offensive or abusive conduct, including the use of disrespectful or malicious language.

Please note that nothing in this section of the Code is intended to limit robust debate within the Council as long as it is conducted in a respectful and insightful manner.

## 5.2 Relationships with the Chief Executive and staff

An important element of good governance involves the relationship between the Council, its Chief Executive and Council staff. Elected members should behave in a professional, respectful, and appropriate way towards staff at all times, including:

- Raising any concerns about employees, officers or contracted officials with the Chief Executive (recognising that the Chief Executive is the employer of all Council employees, and as such only the Chief Executive or his or her delegated appointees may hire, dismiss, instruct, or censure an employee);
- Raising any concerns about the performance or behaviour of the Chief Executive with the Mayor/chair or the chairperson of the Chief Executive performance review committee (however described);
- Making themselves aware of the obligations that the Council and the Chief Executive always have as employers and observe those requirements — such as duties to be a good employer and to provide a workplace free from harm including by taking steps to identify and prevent bullying and harassment of any kind;
- Treating all employees with courtesy and respect and avoid publicly criticising any employee;
- Observing any protocols put in place by the Chief Executive concerning contact between members and employees;
- Avoiding doing anything which might compromise, or could be seen as compromising, the impartiality of an employee;
- Participating, when asked, in any investigation by the Chief Executive about complaints made by staff in relation to member conduct.

**Please note:** Elected members should be aware that failure to observe this portion of the Code may compromise the Council's obligations to be a good employer and consequently expose the Council to civil litigation or affect the risk assessment of Council's management and governance control processes undertaken as part of the Council's audit.

## 5.3 Relationship with the public

Given the vital role that democratic local government plays in our communities it is important that Councils have the respect and trust of their citizens. Elected members should behave in a professional, respectful, and appropriate way towards the public at all times, including by:

- Interacting with members of the public in a fair, respectful, equitable and honest manner;
- Being available to listen and respond openly and honestly to community concerns;
- Considering all points of view or interests when participating in debate and making decisions;
- Treating members of the public in a courteous manner; and
- Acting in a way that upholds the reputation of the local authority.

#### 5.4 Complaints from the public

There will times when members are given information or asked to enquire into the behaviour, actions, or decisions of staff. Elected members should listen to these approaches fairly and objectively, seek clarification, and report them to the Chief Executive or relevant second tier manager as appropriate.

### 6. Media (including social media)

The media play an important part in the operation and efficacy of local democracy. In order to fulfil this role, the media needs access to accurate and timely information about the affairs of Council.

From time to time individual members will be approached to comment on a particular issue either on behalf of the Council, or as an elected member in their own right. When responding to requests for comment members must be mindful that operational questions should be referred to the Chief Executive and policy-related questions referred to the Mayor, or the member with the appropriate delegated authority. A members' ability to provide personal views to the media does not override their other obligations in the Code, such as in relation to staff relationships and confidential information.

When speaking to the media more generally members will abide by the following provisions:

#### 6.1 Media contact on behalf of the Council

- The Mayor or chairperson is the first point of contact for an official view on any issue, unless delegations state otherwise. Where the Mayor/chair is absent requests for comment will be referred to the deputy Mayor/chair or relevant committee chairperson or portfolio holder;
- The Mayor/chair may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment; and
- No other member may comment *on behalf of the Council* without having first obtained the approval of the Mayor/chair.

#### 6.2 Media comment on a member's own behalf

Elected members are free to express a *personal view* in the media, at any time, provided the following rules are observed:

- Comments must not state or imply that they represent the views of the Council;

- Comments which are contrary to a Council decision or policy must clearly state that they do not represent the views of the majority of members;
- Comments must be consistent with the other requirements of the Code; for example, comments should not disclose confidential information, criticise, or compromise the impartiality or integrity of staff; and
- Comments must not be misleading and should be accurate within the bounds of reasonableness.

### **6.3 Internet and Social media use**

Appendix D of the Code sets out the Code's Internet and Social Media guidelines. Members must fully acquaint themselves, and adhere strictly to, these guidelines.

Any failure by members to meet any of the standards set out above represents a breach of the code.

## **7. Information**

Access to information is critical to the trust in which a local authority is held and its overall performance. A failure to comply with the provisions below can represent a breach of the Code.

### **7.1 Confidential information**

In the course of their duties members will receive information, whether in reports or through debate, that is confidential. Confidential information includes information that officers have judged there is good reason to withhold under sections 6 and 7 of the Local Government Official Information and Meetings Act 1987 (LGOIMA). This will often be information that is either commercially sensitive or is personal to a particular individual. The Chief Executive is responsible for decisions around the release or withholding of this information under LGOIMA.

Elected members must not disclose confidential information and must not use confidential information for any purpose other than the purpose for which the information was supplied to the members.

### **7.2 Information received and held in capacity as an elected member**

Occasionally members will receive information from external parties which is pertinent to the ability of their Council to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the Chief Executive as soon as practicable.

Members should also be aware that as elected members they are accountable to the public and that all official information held by themselves whether on Council equipment or their own personal equipment is subject to LGOIMA. Official information, if sought as part of a request, must be made available to the Chief Executive (or their nominee) so that it can be assessed in terms of the requirements of LGOIMA for possible release or eligibility to be withheld.

Members who are offered information by external parties on the condition that it remains confidential will inform the provider of the information that it is their duty to disclose the information to the Chief Executive and will decline the offer if that duty is likely to be compromised.

### **7.3 Information about potential (threatened) or actual claims against or by Council**

Members must take particular care where they become aware of information about potential (threatened) or actual claims made either against or by the Council to avoid prejudicing Council's position with its insurers.

For insurance purposes, members are treated the same way as Council staff. This means members must notify the Chief Executive if they become aware of:

- An occurrence which may give rise to a claim;
- Notice, whether written or oral, of an intention to make a claim; and/or
- Any claim made against the Council.

When faced with any of the above situations, members must not:

- admit any liability for, or settle, or make or promise any payment, in respect of any claim which may be the subject of indemnity cover;
- incur any costs or expenses in connection with any such matter without the express written approval of the Chief Executive;
- disclose any information that he or she may have received by way of confidential briefings on any litigation matter.

Failure to observe this protocol could result in personal liability for members and may result in Council's insurer declining to indemnify the Council.

**Please note:** failure to observe these provisions may impede the performance of the Council by inhibiting information flows and undermining public confidence. It may also expose the Council to complaints under the Privacy Act and/or civil litigation.

## **8. Conflicts of Interest**

Elected members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

Schedule C of the Code sets out the Code's conflict of interest requirements. Members must fully acquaint themselves, and adhere strictly to, these requirements.

Ultimately, it is up to each member's own judgement as to whether they have an interest that needs to be disclosed or declared, and what action they take (if any) as a consequence.

The requirements cover two classes of conflict of interest:

- **A financial conflict of interest:** is one where a decision or act of the governing body could reasonably give rise to an expectation of financial gain or loss to an elected member (or their spouse or partner).

A financial conflict of interest need not involve cash changing hands directly. It could, for example, relate to an effect on the value of land or shares that the member owns, or an effect on the turnover of a business that the member is involved in.

There are particularly strict provisions (and penalties) relating to dealing with a financial conflict of interest (see Appendix C).

- **A non-financial conflict of interest** does not have a personal financial component. It may arise, for example, from a personal relationship, or involvement with a non-profit organisation, or from conduct that indicates prejudice or predetermination.

Members are required to complete declarations of interest following their inauguration, and to update their declarations 6-monthly and as their circumstances change.

Any failure by members to adhere to the Code's requirements around conflict of interests represents a breach of the Code.

**Please note:** Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 (LAMIA) could potentially invalidate the decision made, or the action taken, by the Council. Failure to observe these requirements could also leave the elected member open to prosecution (see Appendix C). In the event of a conviction, elected members can be removed from office.

## 9. Register of Interests

Members shall make a declaration of interest every 6 months and as their circumstances change. These declarations are recorded in a Register of Interests maintained by the Council and available for public inspection upon request. The declaration must include information on the nature and extent of any interest, including:

- a) Any employment, trade or profession carried on by the member or the members' spouse for profit or gain;
- b) Any company, trust, partnership etc for which the member or their spouse is a director, partner or trustee;
- c) the address of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) The address of any land owned by the local authority in which the member or their spouse is:
  - A tenant; or
  - The land is tenanted by a firm in which the member or spouse is a partner, a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee:

- e) Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the Chief Executive)

**Please note:** Where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable.

## 10. Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly, members will:

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or families personal or business interests;
- Only use the Council resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of the code.

### 10.1 Undischarged bankrupt

In accordance with clause 15(5) of Schedule 7 (LGA 2002) any member who is an 'undischarged bankrupt' will notify the Chief Executive prior to the inaugural meeting or as soon as practicable after being declared bankrupt. The member will also provide the Chief Executive with a brief explanatory statement of the circumstances surrounding the member's adjudication and the likely outcome of the bankruptcy.

## 11. Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

- Attending post-election induction programmes organised by the Council for the purpose of facilitating agreement on the Council's vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment of the Council's overall performance and operating style during the triennium.

- Taking all reasonable steps to ensure they possess the skills and knowledge to effectively fulfil their Declaration of Office (the Oath) and contribute to the good governance of the city, district or region.

## 12. Dress Code

Elected members must maintain a reasonable standard of dress when attending Civic Functions, Council meetings and committee meetings. In doing so, they must observe the requirements of this code and any other applicable legal obligations (for example, those that apply to electoral advertising).

## 13. Disqualification of Members from Office

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be or lose their status as an elector or convicted of certain breaches of LAMIA.

## 14. Breaches of the Code

Members must comply with the provisions of the Code (LGA 2002, schedule 7, s15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member, may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

### 14.1 Principles:

The following principles will guide any processes for investigating and determining whether or not a breach under the code has occurred:

- That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the breach complained about;
- That the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- That the concepts of natural justice and fairness will apply in the determination of any complaints made under the Code. This requires, conditional on the nature of an alleged breach, that affected parties:
  - Have a right to know that an investigation process is underway;
  - Are given due notice and are provided with an opportunity to be heard;
  - Have confidence that any hearing will be impartial;
  - Have a right to seek appropriate advice and be represented; and



- Have their privacy respected.

## 14.2 Code of conduct complaints

All complaints made under the Code must be made in writing and forwarded to the Chief Executive. On receipt of a complaint the Chief Executive may attempt to resolve the complaint through informal dispute resolution.

A complaint and all information relating to its resolution are strictly confidential up to and including the preliminary investigation stage to promote the early resolution of complaints, where possible.

The Chief Executive has the power to dismiss a complaint prior to the preliminary assessment stage if they are of the view that the complaint is trivial, vexatious and/or does not have a reasonable prospect of being declared substantial or material. The Chief Executive has the discretion to refer this decision to a Committee consisting of current Chairpersons of Council committees.

If the complaint is not resolved or dismissed in light of the above, the Chief Executive must forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to warrant a full investigation.<sup>1</sup>

If the Chief Executive is the complainant, the complaint is to be made in writing and forwarded to the Mayor. The Mayor will then become responsible for carrying out each of the steps identified in this clause and in Appendix B as if they were the Chief Executive.

Only members and the Chief Executive may make a complaint under the Code.

## 14.3 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in Appendix B.

## 14.4 Materiality

An alleged breach under the code is material if, in the opinion of the independent investigator, it would, if proven, bring a member or the Council (including its staff) into disrepute or, if not addressed, reflect adversely on another member of the Council.

An alleged breach under this Code is non-material if, in the opinion of the independent investigator, any adverse effects are minor and no investigation or referral is warranted.

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<sup>1</sup> On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her Council, prepare a list jointly with neighbouring Councils or contract with an agency capable of providing appropriate investigators.

## 15. Penalties and actions

Where a complaint is determined to be material and referred to the Council, or a Committee consisting of current Chairpersons of Council committees, the nature of any penalty or action will depend on the seriousness of the breach.

### 15.1 Material breaches

In the case of material breaches of the code the Council, or a Committee consisting of current Chairpersons of Council committees, may require one of the following:

1. A letter of censure to the member;
2. A private or public apology;
3. A recommendation to Council to consider a vote of no confidence in the member;
4. Removal of certain Council-funded privileges (such as attendance at conferences);
5. Restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. Limitation on any dealings with Council staff so that they are confined to the Chief Executive only;
7. Suspension from committees or other bodies to which the member has been appointed; or
8. An invitation for the member to consider resigning from the Council.

The Council or a Committee consisting of current Chairpersons of Council committees may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in LGOIMA, for not doing so.

### 15.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under the LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s44 LGA 2002 which may result in the member having to make good the loss or damage); or

- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

## **16. Review**

Once adopted, the Code continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Once adopted, amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at a Council meeting where the amendment is considered.

Council may formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be considered by the Council in regard to potential changes for improving the Code.

## Appendix A: Legislation bearing on the role and conduct of elected members

This is a summary of the legislative requirements that have some bearing on the duties and conduct of elected members. The full statutes can be found at [www.legislation.govt.nz](http://www.legislation.govt.nz).

### The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the Council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse or a company in which they have an interest). In relation to pecuniary interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests a person is deemed to be 'concerned or interested' in a contract or interested 'directly or indirectly' in a decision when:

- A person, or spouse or partner, is 'concerned or interested' in the contract or where they have a pecuniary interest in the decision; or
- A person, or their spouse or partner, is involved in a company that is 'concerned or interested' in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially 'concerned or interested' in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected member's family trust and the Council.

### Determining whether a pecuniary interest exists

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

- *'...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned.'* (OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors.

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor/chair or other person to determine if they should discuss or vote on an issue but ultimately it is their own judgement as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention need to be recorded in the meeting minutes. (Further requirements are set out in the Council's Standing Orders.)

### **The contracting rule**

A member is disqualified from office if he or she is 'concerned or interested' in contracts with their Council if the total payments made, or to be made, by or on behalf of the Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the Council (or committee of the Council) while disqualified.

### **Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

*'Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?'*

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members should focus be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a 'closed mind'); and
- Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

### **Local Government Official Information and Meetings Act 1987**

The Local Government Official Information and Meetings Act 1987 provides for members of the public to make requests for any official information. 'Official information' includes any information held by the Council, and any Council-related information held by members. The Council is obliged to provide information on request unless there is a good reason under LGOIMA for refusing. The Ombudsman is able to investigate any complaints made about the Council in relation to decisions made under LGOIMA.

LGOIMA also includes requirements relevant to Council, committee and community board meetings. It requires meetings to be publicly notified, and that agendas and reports be made publicly available. It also provides for meetings to be open to the public and sets out the limited circumstances in which meetings can be held on a public excluded basis.

Of particular importance for the roles and conduct of members is the fact that the chairperson has the responsibility to maintain order at meetings, but all members should accept a personal responsibility to maintain acceptable standards of address and debate. No member should:

- Create a disturbance or a distraction while another Councillor is speaking;
- Be disrespectful when they refer to each other or other people; or
- Use offensive language about the Council, other members, any employee of the Council or any member of the public.

See Standing Orders for more detail.

### **Secret Commissions Act 1910**

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the member from office.

### **Crimes Act 1961**

Under this Act it is unlawful for an elected member (or officer) to:

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council; and
- use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

These offences are punishable by a term of imprisonment not exceeding seven years or more. Elected members convicted of these offences will automatically cease to be members.

### **Financial Markets Conduct Act 2013**

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

### **The Local Government Act 2002**

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles. Provisions directly relevant to the code include:

#### **Personal liability of members**

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s44 LGA 2002, it is found that one of the following applies:

- a) Money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) An asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) A liability has been unlawfully incurred by the local authority; or
- d) A local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- a) Without the member's knowledge;

- b) With the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) Contrary to the manner in which the member voted on the issue; and
- d) In circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situation members will also be responsible for paying the costs of proceedings (s47 LGA 2002).

### **Health and Safety At Work Act 2015**

This Act came into force on 4 April 2016. Its focus is the protection of workers and other people against harm to their health, safety and welfare by eliminating or minimising risks at workplaces.

The Act places obligations on four duty holders - a person conducting a business or undertaking (**PCBU**); officer of a PCBU; workers; and other people at a workplace. Council as a PCBU holds the primary duty of care under Act i.e. to ensure so far as is reasonably practicable the health and safety of its workers and of other workers whose activities Council influences or directs.

Each elected member is an 'officer' (being a person occupying a position in a body corporate that is comparable with that of a director of a company), responsible under the Act for exercising due diligence to ensure that the Council is meeting its health and safety responsibilities under the Act. The Chief Executive is also an officer.

The due diligence duty of officer supports the primary duty of care owed by a PCBU – placing duties on individuals whose decisions significantly influence the activities of a PCBU, therefore influencing whether the PCBU meets its statutory duties.

Unlike the Chief Executive and leadership team, members are not required to be directly involved in the day-to-day management of health and safety. They are, however, still required to take reasonable steps to understand Council's operations and health and safety risks, and to ensure that they are managed so that the organisation meets its legal obligations under the Act.

This duty does not extend to ensuring that a council controlled organisation complies with the Act, unless the member is also an officer of that CCO.

Taking 'reasonable steps' requires each member to exercise the care, diligence and skill a reasonable officer would exercise in the same circumstances, taking into account matters including the nature of Council's business, and the member's position and nature of his/her responsibilities.

Most officers can be convicted of an offence for failing to meet their due diligence obligations whether or not a PCBU is convicted of an offence. However, when members acting in the capacity of an elected member of the Council they are expressly exempted from prosecution for a failure to comply with the duty imposed by section 44 of the Act (duties of officers).



## Protected Disclosures Act 2000

Under this Act, the definition of an employee of a public sector organisation (**PSO**) includes elected members of a local authority. Members who disclose information about a serious wrongdoing by the Council are protected from civil or criminal liability that might arise from such a disclosure and from retaliatory action against the member.

Serious wrongdoing under the Act includes unlawful or irregular use of funds or resources; conduct that risks public health and safety; conduct that risks the maintenance of law; conduct that constitutes an offence oppressive, improper discriminatory conduct; and gross negligence or gross mismanagement by a public official.

Protection under this Act applies where the employee has information about a serious wrongdoing; a reasonable belief that the information is true or likely to be true; the employee wishes to have the matter investigated and that employee desires protection under the Act.

For members, the default position requires a disclosure to be made to the Chief Executive. If the member considers the Chief Executive may be involved in serious wrongdoing, the matter can be escalated to an 'appropriate authority' — including the Commissioner of Police, the Controller and Auditor-General and the Parliamentary Ombudsman.

## Appendix B: Process for the determination and investigation of complaints

### Step 1: Chief Executive receives complaint

On receipt of a complaint under the code, the Chief Executive may attempt to resolve the complaint through informal dispute resolution within a reasonable time.

A complaint and all information relating to its resolution are strictly confidential up to and including the preliminary investigation stage to promote the early resolution of complaints, where possible.

The Chief Executive has the power to dismiss a complaint prior to the preliminary assessment stage if they are of the view that the complaint is trivial, vexatious and/or does not have a reasonable prospect of being declared substantial or material. The Chief Executive has the discretion to refer this decision to a Committee consisting of current Chairpersons of Council committees.

The Chief Executive must refer the complaint to an investigator selected from a panel agreed at the start of the triennium if the complaint is not resolved or dismissed in light of the above.

In addition, the complainant has a right to require the complaint to be referred to an independent investigator for a preliminary investigation if the complainant:

- Is not satisfied with the proposed resolution; or
- The complainant considers the complaint has not been resolved within a reasonable time.

The Chief Executive's brief to the investigator will make the following clear:

1. The onus is on the complainant and subject of the complaint to provide all the information and evidence relied on, as part of their initial complaint or defence.
2. The expectation is that telephone calls may be made to clarify the information or evidence, but that face-to-face interviews or further investigation of the issues will only be undertaken if the complaint is of a particularly serious nature.
3. The investigation should be proportionate to the potential harm that might result if the breach is proven.

The Chief Executive will also:

- Inform the complainant that the complaint has been referred to the independent investigator and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- Inform the respondent that a complaint has been made against them, the name of the investigator and refer them to the process for dealing with complaints as set out in the Code.

**Step 2: Investigator makes preliminary assessment**

On receipt of a complaint the investigator will assess whether:

1. The complaint is frivolous or without substance and should be dismissed;
2. the complaint is outside the scope of the Code and should be redirected to another agency or process;
3. The complaint is non-material; and
4. the complaint is material and a full investigation is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine their recommendations, including interviewing relevant parties, which are then forwarded to the Chief Executive. The investigator has full discretion to dismiss any complaint which, in their view, fails to meet the test of materiality.

On receiving the investigator's preliminary assessment, the Chief Executive will:

1. Where an investigator determines that a complaint is frivolous or without substance, inform the complainant and respondent directly and inform other members (if there are no grounds for confidentiality) of the investigator's decision;
2. In cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency (if applicable) and inform both the complainant and respondent of the action.

### **Step 3: Actions where a breach is found to be non-material**

If the subject of a complaint is found to be non-material the investigator will inform the Chief Executive and, if they choose, recommend a course of action appropriate to the breach, such as;

- That the respondent seeks guidance from the Mayor;
- That the respondent attends appropriate courses or programmes to increase their knowledge and understanding of the matters leading to the complaint.

The Chief Executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the Council.

### **Step 4: Actions where a breach is found to be material**

If the subject of a complaint is found to be material the investigator will inform the Chief Executive, who will inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach.

In preparing that report the investigator may:

- Consult with the complainant, respondent and any affected parties;
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

On receipt of the investigator's report the Chief Executive will prepare a report for the Council or committee with delegated authority, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The Chief Executive's report will include the full report prepared by the investigator.

### **Step 5: Process for considering the investigator's report**

Depending upon the nature of the complaint and alleged breach the investigator's report may be considered by the full Council, excluding the complainant, respondent and any other 'interested' members, or a committee established for that purpose.

In order to avoid any suggestion of bias, a Committee consisting of current Chairpersons of Council committees may often be the best mechanism for considering and ruling on complaints.

The Council or a Committee consisting of current Chairpersons of Council committees will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify the exclusion

of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s48 of the LGOIMA, in which case it will be a closed meeting.

Before making any decision in respect of the investigator's report the Council or committee will give the member against whom the complaint has been made an opportunity to appear and speak in their own defence. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 15 of the Code.

In accordance with the Code, the Council will agree to implement the recommendations of a Code of Conduct Committee without debate.

## Appendix C: Conflicts of Interest

### General

Elected Members are expected to approach decision making with an open mind- ‘faithfully and impartially’ and in ‘the best interests of Tasman District’. Members must therefore be careful that they maintain a clear separation between their personal interests and their duties as a member of Council (as governing body, and as a member of a Council committee or other Council body). They must exercise care to avoid situations where they have, or appear to have, a conflict of interest.

Members must carry out their duties free from bias (whether actual or perceived). Bias is the common factor in all conflict of interest situations. The rule about bias applies to both financial and non-financial conflicts of interest and is summed up in the saying ‘no one may be judge in their own cause’.

In the local government context, financial conflicts of interest are governed primarily by the Local Authorities’ (Members’ Interests) Act 1968 (‘LAMIA’) and non-financial conflicts of interest are governed by the common law rules about bias.

Broadly speaking, a conflict of interest exists when a member could use, or uses, their position to further their own interests or those of their partner, or spouse. The various types of conflict of interest include:

- Direct financial interest- where a decision or act of the Council could reasonably give rise to an expectation of financial gain or loss to a member.
- Indirect financial interest- where cash doesn’t change hands directly but, for example, may influence the value of land or shares that the member owns, or an effect on the turnover of a business that the member is involved in;
- Non-financial interest- where a member’s responsibilities as a member of Council could be affected by some other separate interest or duty that he/she may have in relation to a matter as a result of, for example, a personal relationship, or involvement with an external organisation, or from conduct that indicates prejudice or predetermination.

### Conflicts of interest can be:

- Actual: where the conflict of interest already exists;
- Potential: where the conflict is about to happen, or reasonably could happen; or
- Perceived: where other people might reasonably think a member is not being objective or his/her position as a member has been compromised.

## Financial conflicts of interest

Members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

'...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned.' (OAG, 2001)

Members should consider the following factors in considering whether they have a financial interest.

- What is the nature of the decision being made?
- Do I have a financial interest in that decision- do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor or another person to determine if they should discuss or vote on an issue but ultimately it is their own judgement as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek independent legal advice. Where uncertainty exists, members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

The two specific rules in the LAMIA relate to:

### Contracts

An elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts and subcontracts (either directly or indirectly) under which payments made by or on behalf of Council exceed \$25,000 in any financial year (unless there is an exemption granted by the Office of the Controller and Auditor-General ('OAG')).

The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which a member is interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by the member.

It is an offence under LAMIA for a person to act as a member of the Council (or Council committee) while disqualified.

### **Participation in decision-making**

Members must not participate in any Council discussion or vote on any matter in which they have a financial interest (either directly or indirectly), other than an interest in common with the public.

Both rules apply in the case of an interest or concern through an member's spouse or partner, or through a company or trust.

#### **How is bias determined?**

It is natural to expect that members will bring their own experience and knowledge to the decision-making process; that members may already have views – even strong or publicly stated views – about the matter; and that political considerations may play a part in the decision.

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members should focus on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a 'closed mind'); and/or
- members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether they might be perceived as biased, members must also consider the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

#### **Declarations of interest**

To help identify possible conflicts of interest the Council operates a Register of Members' Interests.

Members must make full and complete declarations of interests following the Inaugural Meeting of Council (after local government elections or by-election, as appropriate), and then every six months, using the Register of Members' Interests Declaration Form. These declarations of interests are a key individual responsibility of all members. They must notify the Council of the nature and extent of any interest as further detailed in the declaration form.

The Register does not remove the requirement to disclose conflicts of interest as they arise. Members must therefore advise the Council's Governance Manager, as soon as practicable during the year, if any new interests arise; complete a declaration of interests form every six months and update the Register whenever a member's interest has changed. Members must also declare their interests at meetings where matters in which they have a conflict of interest arise. The member must:



- declare the existence of a conflict to the meeting (the member does not have to disclose the nature of the interest concerned, though he or she is required if the interest is a financial one);
- abstain from discussion and voting (take no part in the consideration of the matter). Depending on the issue, the member may consider it best to leave the meeting room itself.

### **General awareness and support**

There is no simple binding rule that covers all conflict of interest situations – each situation must be evaluated on its individual merits. If a member is in any doubt as to whether he/ she should declare an interest and stand aside from decision- making (including a decision to take no action), then he/she should seek guidance from the Mayor immediately; seek advice from the OAG (as to whether there is a financial interest) or from his/her own lawyer.

In some situations of pecuniary interest, a member may be able to obtain an exemption from the OAG to allow him/her to participate or vote on a particular issue. Any exemptions must be obtained before the discussion or vote takes place.

In a case of doubt, a member should refrain from discussing or voting on the matter in question and preferably physically withdraw from the meeting. The minutes of the meeting will record the member's declaration of interest and absence from voting.

Relevant guidelines include:

- 'Guidance for Members of Local Authorities about the Local Authorities' (Members' Interests) Act 1968' – Office of the Auditor General 2010; and
- 'Managing Conflicting Interests in Local Government: The Local Authorities (Members' Interests) Act 1968 and Associated Issues' – Department of Internal Affairs August 2011.

Declarations will be recorded in a Register of Members' Interests maintained by Council's Governance Administrator.

The Register (or a fair and accurate summary of its contents) will be available for public inspection. A summary will be published on the Council's website.

### **Consequences of bias and/or breach of the LAMIA**

A member will be automatically disqualified from office if he/she is concerned or interested in contracts and subcontracts (either directly or indirectly) under which payments made by or on behalf of Council exceed \$25,000 in any financial year.

If a member has a financial interest in a matter and participates in discussion and voting on it, he/she will have committed an offence under the LAMIA. In the event of a conviction, an Elected Member can be removed from office.

**Item 8.4**

A member's bias (whether actual or perceived) has the potential to invalidate the particular decision made, or the action taken, by Council (if successfully challenged by way of judicial review).

If a member's conduct has contributed to Council incurring a loss; that conduct could also result in personal financial liability under section 46 of the LGA (refer to Schedule A).

**Attachment 1**

## Appendix D: Elected Member Internet and Social Media Guidelines

### Guidelines for work related use

As with traditional media, we have an opportunity and a responsibility to effectively manage the Council's reputation online. The following guidelines will help you decide when to engage and participate in the many online conversations that mention Tasman District Council every day.

### When to use social media

Unlike traditional media, social media provides tools for two-way conversations that others are able to see and join in if they wish. This provides an opportunity to build relationships and rapport with not just the person you're talking with, but potentially a whole community of people. This provides both potential benefits and risks that need to be managed.

### Other key differences to consider are:

- Social media operates in a 24/7 world — it requires resourcing and time that must be considered before you engage. For example, responses and comments to your postings should be actioned as soon as practical.
- Tone tends to be more personal, less corporate and less formal.
- You have little control over the use of your content once it's been posted – regardless of whether you edit it or delete it. Your contributions may be accessible and traceable forever, and by anybody in the world, so a little bit of extra care is needed.
- You often need to agree to a social media provider's terms of service when using their product or platform.

### Consider the benefits of engaging with social media

Social media tools enable us to:

- Take advantage of the large audiences already using social media networks
- Reach new audiences
- Demonstrate an open culture and provide a personal face to the organisation online
- Communicate faster and be more flexible
- Use the power of video and images to tell stories about the issues we are involved in
- Make our key messages visible in existing social networks

- Get feedback, opinions and ideas from a different segment of our community

### **Consider the risks and implications of engaging with social media**

There are many types of social media tools, from video and photo sharing tools, to literally millions of blogs, wikis, discussion forums and platforms such as Twitter.

There are also risks associated with engaging with social media, from resourcing issues and time commitment, to potentially provoking a contentious issue.

### **Ask yourself a couple of questions**

Here are some tests to apply in making decisions about whether you should engage:

- What is the effort?
- What is the ongoing commitment likely to be? Once you post one comment, you might become engaged in a lengthy online conversation or debate. Social media etiquette means that you shouldn't post a comment then hide under a rock - this could impact negatively on the Council's reputation as an organisation.
- Will it enable you to target a priority audience for your programme/project?

If you wish to discuss this issue in more detail for your area of the Council, please contact Community Relations Manager.

### **Engaging online**

It is important that you are aware of the implications of engaging in social media and online conversations that reference the Council and your relationship with the Council.

The following 7 principles guide how online spokespeople should represent the Council in an online, official capacity when they are speaking 'on behalf of Tasman District Council'.

1. Be an authorised spokesperson. Only elected members authorised to speak to the media on Council's behalf should engage in social media on Council's initiated sites.
2. Follow all Council policies. As a representative of the Council you must act with honesty and integrity in all matters. This commitment is true for all forms of social media. In addition, several other policies govern your behaviour as a Council spokesperson in the social media space, including the Code of Conduct.

3. Be mindful that you are representing Council. As a Council representative, it is important that you be professional and honest in all your communications. Be respectful of all individuals, races, religions and cultures; how you conduct yourself in the online social media space not only reflects on you – it is a direct reflection on the Council.
4. Fully disclose you are an elected member of Tasman District Council. The Council requires all representatives who are communicating on behalf of the Council to always make it clear they are doing so. State your relationship with the Council from the outset, e.g., 'Hi, I'm [name] and I am a Tasman District Councillor....' Remember to be honest and be smart. It takes a long time to earn trust online but only takes a moment to destroy it. This disclosure is equally important for any vendor/partner/third party who is representing the Council online. They must disclose that they work with the Council.
5. When in doubt, do not post. You are personally responsible for your words and actions, wherever they are. As an online spokesperson, you must ensure that your posts are completely accurate and not misleading, and that they do not reveal sensitive or confidential information about the Council, our citizens or staff. Use sound judgement and common sense, and if there is any doubt, do not post it. If you ever feel unsure about how to respond to a post, send the link to Community Relations Manager.
6. Be responsible. We understand that representatives engage in social media activities for legitimate purposes and that these activities may be helpful for Council business. However, we encourage everyone to exercise sound judgement and common sense.
7. Know that the internet is permanent. Once information is published online, it is essentially a permanent record, even if you 'remove/delete' it later or attempt to make it anonymous.

### **Personal use of social media**

There's a big difference in speaking 'on behalf of Council' and speaking 'about' the Council. While Council respects your free speech rights, please remember that customers and colleagues have access to what you post. These 7 principles refer to personal or unofficial online activities where you might refer to Council.

1. Adhere to the Code of Conduct and other applicable policies. All elected members are subject to the relevant Council policies in every public setting. In addition, legislation such as the Privacy Act and LGOIMA govern the disclosure of any information online.
2. You are responsible for your actions. Anything you post that can potentially damage the Council's image will ultimately be your responsibility. We do encourage you to participate in the social media space, but urge you to do so properly, exercising sound judgement and common sense. Stop and think first. Think

about it this way – would you be prepared to defend and prove a negative post about a person on Facebook or Twitter in Court? Would you like your name and our Council associated with your posting in the newspaper?

3. Be an 'advocate' for compliments and criticism. Even if you are not an official online spokesperson for the Council, you are one of our most important advocates for monitoring the social media landscape. If you come across positive or negative remarks about the Council or its activities online that you believe are important, consider sharing them by forwarding them to Community Relations Manager.
4. Let the subject matter experts respond to negative posts. You may come across negative or critical posts about the Council or its activities or see third parties trying to spark negative conversations. Unless you are an authorised spokesperson, avoid the temptation to react yourself.
5. Take care mixing your business and personal lives. Elected members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum - particularly if your opinion is at odds with what Council is doing puts Council's reputation at risk.
6. Never disclose sensitive and confidential information from Council (including confidential, public excluded reports and/or commercially sensitive information) and be aware that taking public positions online that are contrary Council's interests and the Code of Conduct might lead to disciplinary actions.
7. Members' social media pages should be open and transparent (if you choose to have one in your capacity as a member). No members should represent themselves falsely via aliases or differing account names. Members should not block any post or any person on any form of social media that they have an association with unless there is clear evidence they are being actively abused, or that abusive or inflammatory content is being posted. Members who block the comments and opinions of others may be acting contrary to the values of free speech and democracy. Such behaviour can bring the whole Council into disrepute.

## 8.5 EXPLANATION OF THE LAWS AFFECTING ELECTED MEMBERS AND THEIR CONDUCT

Decision Required

<b>Report To:</b>	Full Council
<b>Meeting Date:</b>	24 October 2019
<b>Report Author:</b>	Janine Dowding, Chief Executive Officer
<b>Report Number:</b>	RCN19-10-11

Item 8.5

### 1 Summary

- 1.1 The business that must be conducted at the first meeting of the local authority following the triennial local government election is set out in Clause 21, Schedule 7 of the Local Government Act 2002.
- 1.2 I am required by that clause to give you a general explanation of the Local Government Official Information and Meetings Act 1987 and the other laws affecting members. This information is provided to you in order to support you to meet your statutory obligations while you serve as a Councillor for this District.
- 1.3 My explanation is contained within this report.
- 1.4 The other specific laws affecting members that I am required to explain to you are:
  - (a) the appropriate provisions of the Local Authorities (Members' Interests) Act 1968;
  - (b) sections 99, 105, and 105A of the Crimes Act 1961,
  - (c) the Secret Commissions Act 1910; and
  - (d) Financial Markets Conduct Act 2013.

### 2 Draft Resolution

**That the Full Council receives the report outlining the Local Government Official Information and Meetings Act 1987, and other laws affecting members and their conduct.**

**3 Purpose of the Report**

- 3.1 To inform the incoming members of the Tasman District Council about the relevant provisions of the Local Government Official Information and Meetings Act 1987 and other laws affecting members, to meet the requirements of Clause 21, Schedule 7 of the Local Government Act 2002 (LGA).

**4 Background and Discussion****Introduction**

- 4.1 The LGA requires the following laws to be explained at the first meeting of a local authority after each triennial general election:
- The Local Government Official Information & Meetings Act 1987 (LGOIMA);
  - The Local Authorities (Members' Interests) Act 1968;
  - sections 99, 105 and 105A of the Crimes Act 1965;
  - The Secret Commissions Act 1910; and
  - The Financial Markets Conduct Act 2013.
- 4.2 This report provides an overview of these laws and is intended to inform you of the type of legislation that may directly affect your actions. The conduct of meetings and members' relationships with each other and with Council employees is also covered by Standing Orders, the Code of Conduct and the Delegations Manual. The review and adoption of the first two of those documents will be dealt with at the inaugural Full Council meeting. The Delegations Manual will be dealt with in future meetings.
- 4.3 The conduct of the Council's business is subject to the law. Despite the empowering nature of the LGA, at least compared to the Acts that predate it, councils are still statutory bodies. Most of Council's powers, duties and responsibilities are set out in the law. Where Council has discretion in its decision making there are prescribed processes to follow, including to consult and consider the views and preferences of communities before making key decisions.
- 4.4 This report meets the statutory requirements under the LGA. However, we will also be providing elected members more details over the coming weeks on these and other statutory requirements and their implications.

**Local Government Official Information & Meetings Act 1987**

- 4.5 The Local Government Official Information & Meetings Act (LGOIMA) deals with the:
- disclosure or otherwise of information by a local authority; and
  - conduct of meetings including giving notice, public attendance, reasons for excluding the public and availability of agendas and reports.
- 4.6 The Standing Orders that have been circulated contain the provisions of LGOIMA which affect meetings. The disclosure of information arising from formal information requests is not something that elected members generally get involved in. Requests for information are



dealt with by staff within the parameters laid down under the Act and any delegations given by Council. Where Councillors are affected by a request for information they are consulted about the decision whether or not to release it. There may be occasions on which I request elected members to use LGOIMA to obtain official information, during elections for instance. This is to ensure your protection and that of Council staff.

- 4.7 The fundamental principle underpinning LGOIMA is that all information held by a local authority should be publicly accessible unless there is good reason for withholding it. While the existence or otherwise of a good reason to withhold will ultimately depend on the facts, the two most relevant reasons are those relating to the conduct of negotiations – primarily commercial negotiations – and the privacy of natural persons.
- 4.8 The part of LGOIMA dealing with meetings applies the same principles of openness and availability. Agendas are to be available to members and to the public at least two working days prior to meetings. We aim for five clear days for members and will try to meet this commitment wherever possible. This is to enable members the opportunity to read agendas prior to receiving any enquiries from the public.
- 4.9 A meeting must be open to the public unless there are good reasons for excluding the public. These reasons are to be stated by resolution at the time the decision is taken to exclude the public. The reasons for excluding the public are generally the same as those applying to the withholding of official information except that you cannot exclude the public to have a ‘free and frank’ discussion.
- 4.10 Decisions taken by local authorities under LGOIMA are able to be referred to the Ombudsman for review. Should either party not accept the Ombudsman’s decision the matter may finally be dealt with in the High Court.

#### **Local Authorities (Members’ Interests) Act 1968**

- 4.11 A handbook on the Local Authorities (Members’ Interests) Act and the law on conflicts of interest will be provided in your induction pack. The key presumption to adopt is that any formal business dealings that members have with the Council may fall within the scope of the Act. These can be discussed with the Chief Executive to ensure that no breach of the Act occurs. We use a Register of Interests as a useful risk management approach, especially relating to pecuniary interests.
- 4.12 You can be disqualified from office if you are ‘concerned or interested’ in contracts with the Council if the total payments made or to be made exceed \$25,000 in any year. A pecuniary interest still exists below that threshold.
- 4.13 As a rule, Councillors may take part in a debate and may vote on any issue in which their interest is no greater than that of a member of the general public. If their personal interest is greater than that of the general public, they should ‘declare an interest’ at the beginning of the debate (and this will be recorded by the Committee Advisor) and they should take no further part in the debate and not vote.
- 4.14 Section 6(1) of the Act prohibits members of a local authority from discussing or voting on a matter if they have a financial (or “pecuniary”) interest in it. Section 6(4) enables the Auditor-General to give a declaration that this prohibition will not apply if its application impedes the business of the local authority or is against the interests of electors.
- 4.15 Managing conflicts of interest is a member’s individual responsibility and while staff will assist, a member cannot rely upon staff to advise them of a possible breach. The induction information you will receive provides further information on nonpecuniary conflicts and bias.

**Crimes Act 1961**

4.16 Sections 99, 105 and 105A of the Crimes Act deal with corruption and bribery of and by officials and the corrupt use of official information by 'officials' which includes members of local authorities. Section 105 indicates that the misuse of any official's power in these respects can result in the imprisonment of the official for up to seven years. Section 105A indicates that similar penalties are possible for the corrupt use of official information.

**Secret Commissions Act 1910**

4.17 The Secret Commissions Act defines an officer or member of a local authority as an agent of that local authority. It then indicates that the corrupt giving of gifts or other consideration to an agent for favours, or acts being done or not being done, is an offence. Reasonably enough, the acceptance of gifts or other consideration in such circumstances is also an offence. An offence is committed even if the reward is obtained for another person. An agent who makes a contract on behalf of the principal (the Council) and fails to disclose a financial interest the agent has in the making of the contract, commits an offence.

4.18 The giving of false or misleading receipts, invoices or accounts to an agent with intent to deceive the principal is an offence. So too is the delivery or presentation of such documents to the principal by the agent. The receiving of secret rewards for procuring contracts is an offence.

**The Financial Markets Conduct Act 2013**

4.19 Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

4.20 Should any of you require any further information on any of these issues please do not hesitate to ask for assistance.

<b>5 Attachments</b>
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Nil

**8.6 DATE OF FIRST ORDINARY FULL COUNCIL MEETING****Decision Required**

<b>Report To:</b>	Full Council
<b>Meeting Date:</b>	24 October 2019
<b>Report Author:</b>	Janine Dowding, Chief Executive Officer
<b>Report Number:</b>	RCN19-10-12

**Item 8.6****1 Summary**

- 1.1 The Council is required under the Local Government Act 2002 to conduct certain business at the first meeting of the local authority after the election. This is outlined in Clause 21(5), Schedule 7 of the Act.
- 1.2 One of the requirements is “the fixing of the date and time of the first meeting of the local authority or the adoption of a schedule of meetings”.
- 1.3 The Council is requested to set aside Thursday 31 October 2019 at 9.30am as the date and time of the first ordinary meeting of Council after the election. The meeting will be held in the Council Chambers at the Council’s office in Richmond.
- 1.4 The remaining meetings for the 2019 calendar year have already been set by the previous Council, including ordinary Full Council meetings on 7 November and 12 December 2019. A schedule of meetings and other Council commitments for 2020 and 2021 will be brought to Council at the 12 December 2019 Full Council meeting.

**2 Draft Resolution****That the Full Council**

- 1) receives the Date of First Ordinary Full Council Meeting report RCN19-10-12; and**
- 2) sets the date and time of the first ordinary Full Council meeting as Thursday 31 October 2019, at 9.30am.**

<b>3 Attachments</b>
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Nil