

**Council Members**

Chair Allan Birchfield  
Cr Peter Haddock (Deputy)  
Cr Andy Campbell  
Cr Brett Cummings

Cr Frank Dooley  
Cr Peter Ewen  
Cr Mark McIntyre



**PUBLIC COPY**

**Meeting of Council**  
*(Te Huinga Tu)*

**Tuesday, 13 December 2022**

**Following the completion of the Resource Management Committee Meeting**

**West Coast Regional Council Chambers, 388 Main South Road, Greymouth**  
**and**

**Live Streamed via Council's Facebook Page:**

**<https://www.facebook.com/WestCoastRegionalCouncil>**

# **COUNCIL MEETING**

# Council Meeting

*(Te Huinga Tu)*

## **AGENDA** *(Rarangi Take)*

1. Welcome (*Haere mai*)
2. Apologies (*Ngā Pa Pouri*)
3. Declarations of Interest
4. Public Forum, Petitions and Deputations (*He Huinga tuku korero*)
5. Confirmation of Minutes (*Whakau korero*)
  - 5.1 Council Meeting 8 November 2022

**Matters Arising**
6. **Chair's Report**
7. **Chief Executive's Reports**
  - 7.1 Monthly Report
  - 7.2 RSHL Resolution
  - 7.3 Pecuniary Interests Register
8. **Reports**
  - 8.1 Operations Group Report
  - 8.2 Quarry Report
  - 8.3 Westport Rating District Joint Committee
  - 8.4 Franz Josef Joint Committee
  - 8.5 Standing Orders
  - 8.6 Code of Conduct
  - 8.7 Policy on Breaches of Code of Conduct
9. **General Business**
10. Recommended resolution to move into Public Excluded
11. **Public Excluded Items**
12. Confirmation of Minutes (*Whakau korero*)
  - 12.1 Confirmation of Confidential Minutes (*Whakau korero*) – Council Meeting 8 November 2022
13. Contractual Matters

H. Mabin

**Chief Executive**

**Purpose of Local Government**

The reports contained in this agenda address the requirements of the Local Government Act 2002 in relation to decision making. Unless otherwise stated, the recommended option promotes the social, economic, environmental and cultural well-being of communities in the present and for the future.

**Health and Safety Emergency Procedure**

In the event of an emergency, please exit through the emergency door in the Council Chambers.

If you require assistance to exit, please see a staff member. Once you reach the bottom of the stairs make your way to the assembly point at the grassed area at the front of the building. Staff will guide you to an alternative route if necessary.

**THE WEST COAST REGIONAL COUNCIL**

**MINUTES OF THE COUNCIL MEETING HELD ON 8 NOVEMBER 2022 AT THE OFFICES  
OF THE WEST COAST REGIONAL COUNCIL 388 MAIN SOUTH ROAD, GREYMOUTH COMMENCING  
AT 11.41AM**

**PRESENT:**

P. Haddock, A. Birchfield, P. Ewen, B. Cummings, A. Campbell, M. McIntyre, F. Dooley

**IN ATTENDANCE:**

H. Mabin (Chief Executive), R. Vaughan (Acting Planning & Resource Science Manager), C. Helem (Consents & Compliance Manager), M. Ferguson (Acting Corporate Services Manager), N. Costley (Strategy and Communications Manager).

Also present: B. McMahon (Grey Star)

**1. WELCOME**

Cr Birchfield opened the meeting with a prayer.

**2. APOLOGIES**

There were no apologies.

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**4. PUBLIC FORUM, PETITIONS AND DECLARATIONS**

There were none of the above.

**5. CONFIRMATION OF MINUTES OF INAUGURAL COUNCIL MEETING 25<sup>TH</sup> OCTOBER, 2022**

The Chair asked for confirmation of the minutes of the Inaugural Council meeting 25<sup>th</sup> October.

**Moved** (Haddock/McIntyre) *That the minutes of the Inaugural Council meeting dated 25<sup>th</sup> October 2022 be accepted as correct.*

*Carried*

**6. MATTERS ARISING**

Cr Ewen said that Council needed a Farmers liaison representative, and noted there was a Civil Defence matter to discuss. Cr Birchfield said the Civil Defence matter was on the agenda for discussion. Cr Ewen asked Cr Campbell if he was interested in being the Farming representative, which he agreed to.

**Moved** (Ewen/Cummings) *that Cr Campbell be Council's Farming liaison representative*

*Carried*

Cr Haddock noted that the end of the CEO's report's closing comments (page 5) she gave an outline of what the Regional Council's costs were, noting it had no assets that earned money and that Council's income was from grants and rates. Cr Haddock had a concern because he thought that Vector Control Services (VCS) was a Council income stream, that earned over \$500,000 a year. He asked that Council be provided with a VCS report on the income stream over the last 3 years and the predicted income over the next couple of years. He also asked for the income that was generated from the Council owned quarries, noting that if these businesses cease to generate income the ratepayers had to be aware that they may have to foot the bill.

H. Mabin responded that she had talked about "hard infrastructure" as opposed to "soft infrastructure". She confirmed that the matter of VCS income will be brought to the next Risk and Assurance meeting where the financials are tabled. She noted that, the VCS business unit had not previously been allocated overheads in the same manner as the rest of Council, and it was one of the requests from the previous Council that the overhead allocation model be reviewed. This should enlighten as to viability. Mabin advised that there have been preliminary discussions, but the review had yet to be triggered, it is likely that will impact VCS, Mabin will provide information on historical amounts, noting they will have to be understood in the context that they were provided.

Ms Mabin agreed that she overlooked adding the Quarries in her previous comments, which historically Council had earned some money from, however there was a quarry review commissioned earlier this year at the request of Council and as a result of that Quarries were tendered separately. Council has re-visited whether actual sales of rock are made to external parties but hasn't yet actually set the limits of what they will sell to external parties - it had moved more to the fact that the quarries are available to supply rock to Council's rating districts. Cr Haddock replied that he was concerned about the effect on the ratepayers especially with the TTPP coming up and comments of rates going up, he felt Council needed to be aware of potential losses.

Cr Dooley asked Ms Mabin to provide a background paper for the upcoming Risk and Assurance Meeting on 25<sup>th</sup> November, 2022, covering the following:

1. Income Streams
2. Overhead Allocations
3. The revenues from Quarries, including the internal treatment of rock

Cr Dooley would like to understand how the Quarries worked noting that if Council are using rock for floodwalls and protection internally then the value of that rock should be built into the capex programme, and there must be revenue that comes in to the quarries from capex operations.

Ms Mabin replied that it was one of the matters identified in the review of a Council internal process around those types of transactions, and confirmed she would provide a background paper on this for the 25<sup>th</sup>. In a response to a question from Cr Dooley, H Mabin confirmed that the rock is capitalised.

Cr Cumming noted that on the rates demand some of his ratepayers have asked him why are they subsidising the Polytech, as they didn't realise it was the Tai Poutini Plan (TPP), not the Tai Poutini Polytech. Ms Mabin said that when they were at Ag Fest there were at least 3 or 4 people who thought the same and went to talk to staff about courses.

Cr Ewen reiterated what Cr Dooley had said earlier and thought there should also be a paper regarding PCR and the Rolleston factory, and the way forward. H Mabin undertook to provide detail on the revenue stream.

## **CHAIRMANS REPORT**

Chair Birchfield took his report as read. Cr Ewen commented that he thought it was a good letter sent on the Spring Creek issue.

**Moved** (Haddock/Ewen) *that the report be received.*

*Carried*

## **CEO REPORT**

Ms Mabin spoke to the report and took it read. For those who were new to Council stating that this report was started when she became Acting CEO, because she realised there was no over-view to this Council as to the actual activities that Ms Mabin undertook. She was happy to continue to furnish this report as it showed people that have been appointed, contracts signed, and anything that Ms Mabin attends. She noted this was especially given that the Chief Executives of the four Councils, their remuneration their travel, and any form of compensation is annually published in a media article, so the report was her way of being transparent. Cr Dooley asked for a copy of the debenture trustee report referred to. There was some discussion around the documentation, and the process to date. Cr Dooley wished to review the deed and the documentation.

**Moved** (Cummings/McIntyre) *that the report be received.*

*Carried*

## **ELECTED MEMBERS' REMUNERATION REPORT**

Chair Birchfield took the report as read and noted that there was an email sent with a suggestion it remained in line with previous remuneration, and invited discussion. Cr Ewen thought that the remuneration should be kept in line that was similar to the last term and acknowledged that the Chair of the Risk and Assurance was in a position that deserved recompense for the extra travel. There was allocation of extra duties and looked in line of what Council did last term, and they were only marginally behind in their tasks. Cr Haddock endorsed what Cr Ewen said, and thought it was a fair statement.

**Moved** (Dooley/Haddock), *that the Remuneration recommendation from Cr Ewen be adopted.*

*Carried*

## **APPOINTMENT OF MEMBERS TO CIVIL DEFENCE JOINT COMMITTEE**

Cr Birchfield stated that to be consistent as the Mayors and Chairs usually headed up Civil Defence he should do it again, as it lined up with Mayors, Chairs and Iwi meetings, but he also wanted some alternative people to lend a hand as he felt Civil Defence needed a bit of a shake up and needed fresh ideas.

Cr Dooley sought clarification on how Civil Defence worked in the districts asking whether the constituent Councillors worked in those areas when there was an event in their district. Cr Ewen said that it was a regional not district focussed entity. R. Vaughan explained the structure and roles, noting that the Joint Committee is a different structure to the Activation in an emergency. Cr Dooley asked who deals with the question of priorities, e.g one of the priorities in Westport was having a Dedicated Evacuation Centre. He asked who decided that. Ms Vaughan replied that the pre-determined matters is what the Joint Committee (JC) dealt with, advising that there would be a Plan each year for the workstreams. Cr Dooley asked how would he as a Councillor have input into that Plan and

workstreams. N. Costley explained the co-ordinating executive group structure and role, saying that Cr Dooley would need to make contact with the executive group to have input. She recommended that Cr Dooley to have a look at the Civil Defence Emergency Plan. H. Mabin advised that feedback on what CDEM does should go back to the Joint Committee through the Operational Steering Committee (OSC) and explained the partnership and rating arrangements for CDEM. She referred Cr Dooley to Budget processes on Page 124. Cr Haddock understood that this was a high level appointment and what he thought Cr Dooley meant is that they should all be part of the operational sub-committee, so they represent their different areas and make decisions at the next level down. H. Mabin confirmed to Cr Dooley there was an OSC and their terms of reference on Page 135 and it should have the make up of that sub committee on it. The only person that was employed by Council was the Group Manager West Coast Emergency Management, the rest being made up from other organisations and that makes up the OSC. It sits at operational level, not a strategic or governance level.

Cr Cummings felt that the Council was falling behind in Civil Defence matters. He outlined that there used to be Civil Defence headquarters in each district, and that had fallen by the wayside. He felt there should be a lot more done. H. Mabin said that she had been to a meeting to meet the new CEO of FENZ (Fire & Emergency NZ) there seemed to be a coordination group of them, St. Johns and the Police that had been co-ordinating and involved Claire Brown with the issues right through to who has generators, where they meet, what will happen.

Cr McIntyre agreed with Cr Cummings and Cr Dooley as after 3 or 4 Civil Defence events he felt that things happened halfway through an event and even the evacuation centres got flooded in Westport, but everything including generators etc is all a bit late. He thought that all these things should be sorted out before an event and there should be time put aside to have the plan put in place, including having designated premises where everyone knows what the plan is, on site fuel if there is a loss of power, and generators that have been fuelled up and ready to go.,. Cr Campbell thought if there was an event now – people would be running around not achieving anything. He thought the district fire brigades could possibly be that co-ordinator, given their local knowledge. H. Mabin will come back to council with a report of exactly what happened out there it looks like FENZ and the Police are working together especially with aerial stuff and what their plans are moving forward.

She also understood that DOC were responsible for all visitors to the region, and they have to be integrated into the committee. She advised it was a myriad of inter-connected organisations, and she will provide a report back to the Council. There was some further discussion with regards to the issues relating to civil defence arrangements and structure.

Cr Birchfield suggested Cr Haddock be bought into the Civil Defence role as an alternate to himself.

**Moved** (Ewen/Cummings) *Appoint Cr Birchfield as Chair of the West Coast Civil Defence Emergency Management Group and Cr Haddock as alternate to the West Coast Civil Defence Emergency Management Group.*

*Carried*

#### **GREYMOUTH FLOODWALL JOINT COMMITTEE**

Cr Birchfield said that normally the three elected members of the area take that position, being himself Cr Ewen and Cr Cummings.

**Moved** (Dooley/McIntyre) *that Cr Birchfield, Ewen and Cummings take the position on the Greymouth Floodwall Joint Committee*



*Carried*

#### **WESTPORT RATING DISTRICT JOINT COMMITTEE**

Cr Birchfield said that he noted that Cr Dooley and Cr McIntyre were down for this committee and one other, to which H. Mabin replied it was himself.

**Moved** (Haddock/Campbell) *that Cr Dooley, Cr McIntyre and Cr Birchfield be on the Westport Floodwall committee*

*Carried*

#### **HOKITIKA SEAWALLS JOINT COMMITTEE**

Cr Campbell and Cr Haddock as the elected representatives plus Cr Birchfield are on this committee.

**Moved** (Haddock/Ewen) *that the above three councillors serve on the Hokitika Seawall committee*

*Carried*

#### **FRANZ JOSEF RATING DISTRICT JOINT COMMITTEE**

**Moved** (Dooley/Cummings) *that the above three councillors serve on the Franz Josef Emergency committee*

*Carried*

#### **DWC REPRESENTATIVE**

Cr Birchfield noted that Cr Cummings was the representative last time.

**Moved** (Dooley/McIntyre) *that Cr Cummings serve on the appointments council for the DWC*

*Carried*

#### **OPERATIONS GROUP REPORT**

R. Vaughan took the report as read and stated that in October there were no flooding events which was good. She outlined the monthly works report and provided an update on NEMA and the IRG projects, and noted that inspections had been undertaken on all the rating districts assets and reports had been prepared for the rating districts meetings.

Cr Dooley brought up the Little Wanganui river, asking for an update on what actions the Council had taken. R Vaughan replied that there had been an engineers report prepared and they were waiting to see the outcome of the claim to NEMA. If that was unsuccessful that will influence the budget for works going forward, there had been some repair work undertaken but if that claim is unsuccessful then that would have to come out of the budget.

Cr Dooley asked for an update on Granite Creek. R Vaughan replied it was being investigated and the area engineer had talked with BDC and NZTA and looked at possible solutions. She advised that it wasn't going to be a simple fix, as there were a number of agencies involved. Cr Dooley noted he has had a few people bring up Granite Creek with him who are frustrated at a perceived lack of action, and he would like to see it resolved. R Vaughan said that because it was still under investigation.

In response to a question from Cr Campbell, R Vaughan said that the Wanganui was under investigation for a whole scheme fix rather than ad-hoc rock protection, which was never going to be a long term fix. Modelling is currently being done looking at the whole scheme and what would be the best outcome, because they needed to balance the economics as well as what was going to give the best protection. Cr Campbell said that it is the maintenance that is the issue, not being reactive once an event has occurred. Ms Vaughan agreed and said it was not sustainable just pouring rock into the one point where there might be other actions to prevent this from occurring.

There was some discussion on funding for river works. Cr Dooley asked about insurance claims for these works. R Vaughan provided an explanation of the assessment process for whether to claim from NEMA and/or insurance. H Mabin explained that the \$500,000 was the excess when making a claim. Cr Dooley said he wanted to understand the insurance arrangements better. M Ferguson suggested a paper could go to Risk and Assurance Committee on the matter.

Cr Campbell felt that funding was inequitable as to what rivers got funding and what missed out. There was general agreement that this was an issue.

Cr Haddock asked for an update regarding the list of potential projects that could be submitted to Kānoa. R Vaughan responded that she had met with the SI River managers and the next step is for staff to refine that list into what they could actually deliver under the shovel-ready programme. Ms Mabin said that would be addressed at the Infrastructure Governance Committee meeting. Cr Ewen outlined some historical events regarding funding, describing previous applications to PGF funding for stage 1 and 2 Franz Josef.

Cr Dooley noted that 86% of the region is crown land, yet central government does not pay any rates. This is why the government had an obligation to co-invest, to protect its own assets, rather than leaving it up to the ratepayer. He felt that the Councils needed to do some thinking around this, and asked that the Executive team come back to the Council with some recommendations. R Vaughan replied that it was something that had been taken up by the Regional Council Representative group and they are progressing with seeking permanent government funding at present. There was further discussion on the list of applications on page 165. and around funding for river management.

**Moved** (McIntyre/Campbell) *that the Operations Group report be accepted*

*Carried*

## **QUARRIES**

M Ferguson took the report as read. He noted that production had commenced at Inchbonnie, and there should be extractions through by the end of the month. Insurance certificates needed updating for compliance regulations. The plan is to extract 15,000 tonnes of rock with 10,000 tonnes earmarked for internal use and 5,000 tonnes for sales, Council is yet to determine the internal rate of costs. There was discussion with Cr Campbell and M Ferguson with regard to blasting. Cr Dooley questioned M Ferguson if there was a mechanism in place for the internal transfer of pricing. M Ferguson replied that there will be a review done over the next 4 or 5 weeks.

**Moved** (McIntyre/Ewen) *that the Quarries report be accepted*

*Carried*

## **LGFA DEBT**

Cr Dooley asked what the current rate of interest was. M Ferguson advised he did not have the exact figure at present but he thought it was between 3 – 5%. The interest rates were reviewed on a monthly basis. Cr Dooley referred to the two deeds, dated 7 December 2011 and February 2019.

**Moved** (Dooley/Ewen) *that Council:*

1. *approve the renewal of a \$3,750,000 zero-coupon debt security to LGFA on 25 November 2022 (or such other date as agreed between the Council and LGFA) for five years, effectively rolling over the Council's existing 26 May 2022 \$3,750,000 (exclusive of interest) zero coupon debt security so that the new maturity will be 25 November 2027; and*
2. *delegate authority to any two of the Chief Executive, Chair Allan Birchfield, and Cr Frank Dooley (Chair of Council's Risk and Assurance Committee) to execute the following documents (subject to minor changes), to give effect to recommendation 1. above:*
  - *Security Stock Certificate (in relation to the security stock to be issued to LGFA);*
  - *Stock Issuance Certificate (in relation to the above Security Stock Certificate); and*
  - *Chief Executive Certificate; and*
3. *delegate authority to any two of the Chief Executive, Chair Allan Birchfield and Cr Frank Dooley (Chair of Council's Risk and Assurance Committee) to execute the Final Terms for the debt securities issued by the Council to LGFA on 26 May 2022, to give effect to recommendation 1. above; and*
4. *delegate authority to any two of the Chief Executive, Chair Allan Birchfield and Cr Frank Dooley (Chair of Council's Risk and Assurance Committee) to execute such other documents and take such other steps on behalf of Council as the Chief Executive considers is necessary or desirable to execute or take to give effect to recommendation 1. above.*

*Carried*

## **GENERAL BUSINESS**

The Chair called for any general business. Cr Ewen said that when the Cobden rating district was amalgamated with the Greymouth floodwall rating district Council had given an undertaking in good faith that the parties would be reimbursed their funding. He said it was now coming up 12 months and he would like to see that happen expeditiously without further delay. M Ferguson advised that he had had a discussion with Mr R Jones to update him on the matter, and was developing a project plan for Council to consider, in terms of the credits owing. He noted that there were also Franz Josef and Westport rating districts to consider. Cr Ewen reiterated that this was the undertaking they had given in order to get the amalgamation agreed to. R Vaughan asked M Ferguson to keep working with engineering staff on this.

Cr Campbell raised the matter of river work at the Wanganui. H Mabin replied that this would be covered at the Infrastructure Governance Committee meeting, as S Hoare had been working on this and will provide an update. A budget had been signed off to start work. The Chair suggested S Hoare talk directly with Crs Haddock and Campbell as the district representatives.

Cr Cummings raised the issue of the budgets for both rating districts prior to the amalgamation, and the south side works. H Mabin responded that she understood the south side had some budget available for works.

Cr Ewen said he had been contacted by a Buller constituent regarding the Fox River cutting in at Punakaiki, and provided some photographs of the issue. He passed this matter on to staff, and

suggested they work with NZTA on it. R Vaughan said they have regular monthly updates with NZTA so she would pass that on.

The Chair adjourned the meeting for lunch at 12:51 pm.

The meeting resumed at 1:20 pm.

**PUBLIC EXCLUDED BUSINESS**

**Moved** (Birchfield/McIntyre ) *that the public be excluded from the following parts of the proceedings of this meeting, namely,-*

- *Items 10.1 – 10.2 inclusive*

<b>Item No.</b>	<b>General Subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 7 of LGOIMA for the passing of this resolution</b>
10.1	Land Tenure matters	The item contains information relating to commercial matters	To protect commercial information (s 7(2)(b)).
10.2	Contractual matters	The item contains information relating to commercial matters	To protect commercial information (s 7(2)(b)).

and that:

- *Heather Mabin, Marc Ferguson, Rachel Vaughan, Colin Munn, and Scott Hoare be permitted to remain at this meeting after the public has been excluded, because of their knowledge on these subjects. This knowledge will be of assistance in relation to the matters to be discussed.*

*Carried*

The meeting continued in a public-excluded session at 1:20pm.

.....  
Chair

.....  
Date

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> Chair's Report	
<b>Report by:</b> Chairman Allan Birchfield	
<b>Reviewed by:</b>	
<b>Public excluded?</b> No	

### **Purpose**

For Council to be kept informed of meetings and to provide an overview of current matters.

### **Summary**

This is the Chairman's Report for the period November-December 2022

As Chair, I attended the following meetings:

- Mayors, Chairs & Iwi forum, via Zoom 9<sup>th</sup> November 2022
- Westport Joint Committee Meeting, via Zoom 9<sup>th</sup> November 2022
- Risk and Assurance Committee Meeting, 25 November 2022

### **Recommendation**

**It is recommended that Council resolve to:**

*Receive this report.*

### **Attachments**

None.

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> CEO's report	
<b>Report by:</b> Heather Mabin, Chief Executive	
<b>Reviewed by:</b>	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this paper is to provide Council with a summary of activities undertaken by the Chief Executive.

### Report Summary

This paper details the interactions, appointments, significant contracts executed, and meetings attended by the Chief Executive for the month of November 2022.

### Draft Recommendations

**It is recommended that Council resolve to:**

*Receive this report.*

### Activities Undertaken

Activities undertaken during November 2022 by Heather Mabin were:

- November 1
  - Signed the *RSHL WRITTEN RESOLUTIONS OF THE DIRECTORS OF THE COMPANY* Issue of Class A Shares and Conversion of Ordinary Shares
  - Signed the *RSHL DIRECTORS CERTIFICATE* Issue of Class A Shares
- November 3
  - Appointed Sharon Hornblow as Natural Hazards Analyst
  - Attended via Zoom WC CEO Forum held in Westport.
- November 4
  - Appointed Andrew Eden as Business Support officer, VCS
- November 7
  - Met with OSPRI in Christchurch
- November 9
  - Attended Joint Committee in Westport
  - Attended Mayors, Chair & Iwi in Westport
- November 10
  - Attended RCEO (Regional and Unitary CEOs) group meeting in Wellington
- November 11
  - Met with DIA in Wellington regarding Kawatiri Business Case and Franz Josef Stage 2 funding release.
  - Met with Kanoa in Wellington regarding IRG Projects.
- November 14 & 15
  - Signed a contract with Avery Bros for the Kawatiri scour
  - Attended Zones 5 & 6 LGNZ meeting in Nelson.
- November 16
  - Attended via Zoom South Island CEO forum.
- November 17
  - Attended via Zoom the Regional Sector meeting held in Wellington.

- November 18
  - Signed the submission on *Pricing Agricultural Emissions*
- November 21
  - On leave
- November 22
  - Attended via Zoom the Kotahitanga ki te Uru meeting at DWC.
- November 24
  - Attended RSHL Zoom AGM
  - Attended RSHL Zoom Board meeting
  - Signed the submission on the *proposed Changes to National Direction for Plantation and Exotic Carbon Afforestation*

## Considerations

### Implications/Risks

Transparency around the activities undertaken by the Chief Executive is intended to mitigate risks associated with Council's reputation.

### Significance and Engagement Policy Assessment

There are no issues within this report which trigger matters in this policy.

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> Board Nominee	
<b>Report by:</b> Heather Mabin, Chief Executive	
<b>Reviewed by:</b>	
<b>Public excluded?</b> No	

### **Report Purpose**

The purpose of this paper is for Council to endorse the decision by the Risk & Assurance Committee on 25 November 2022.

### **Report Summary**

On 25 November 2022, Risk & Assurance adopted the resolution that Marc Ferguson be nominated as a Board member of Regional Software Holdings Limited.

### **Draft Recommendations**

**It is recommended that Council resolve to:**

- *As decided by the Risk & Assurance Committee on 25 November 2022, Council nominates Marc Ferguson as a candidate for the Regional Software Holdings Limited Board.*



<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> Pecuniary interests register - Appointment of a registrar and declaration forms	
<b>Report by:</b> Marc Ferguson – Acting Corporate Services Manager	
<b>Reviewed by:</b> Heather Mabin – Chief Executive	
<b>Public excluded?</b> No	

### **Report Purpose**

The purpose of this report is to inform Council of the Local Government requirement to maintain a pecuniary interest register, the need to appoint a registrar to maintain the register and the associated declaration forms required.

### **Report Summary**

This report provides the Council with its requirements associated with the Local Government (Pecuniary Interests Register) Amendment Act 2022.

### **Draft Recommendations**

**It is recommended that Council resolve to:**

1. Receive the report and note the attachments
2. Appoint Marc Ferguson as the registrar for pecuniary interests

### **Issues and Discussion**

#### **Background**

The Local Government (Pecuniary Interests Register) Amendment Act 2022 requires Council to keep a register of member's pecuniary interests.

Clause 54G of the Act further requires Council to appoint a registrar to compile and maintain the register of members' pecuniary interests and for that person to provide advice and guidance to members in connection with their obligations.

Clause 54C requires Councillors to submit an annual return – see attachment 1 as an example. The first return is due by 13 February 2022.

The guidance document for Councils on registers for pecuniary interests as previously circulated, is appended as attachment 2.

#### **Attachments**

Attachment 1: Annual Pecuniary interest return



# Pecuniary Interest Return Form

## Information for members:

Sections 54A to 54I of the Local Government Act 2002 (LGA) requires members to provide annual returns of certain pecuniary interests. You can use this form to provide your return.

You are responsible for complying with your obligations under the LGA relating to this return.

You can, however, seek advice and guidance from the Registrar of the members' pecuniary interests register on how to complete your return. The Registrar is the Corporate Services Manager.

## How to file this return:

You can file your completed return form with the Registrar by:

- Emailing your form to [marc.ferguson@wrc.govt.nz](mailto:marc.ferguson@wrc.govt.nz); or
- Giving your form to the Corporate Services Manager; or
- Posting your form to: West Coast Regional Council, PO Box 66, Greymouth 7840 – Attention: Corporate Services Manager.

The due date for the return is **Monday 13 February 2023**.

## Privacy statement:

Your personal information is being collected so that the Council and the Registrar can comply with their obligations under the LGA, particularly those in sections 54A and 54G.

You are required to provide this information under sections 54C to 54H of the LGA. Failure to do so will constitute an offence under section 235 of the LGA.

Your personal information will be used and disclosed in accordance with the purpose of the register set out in section 54B of the LGA, which is to record members' interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making. The information will be retained for 7 years from the date on which you provide it, and will then be removed from the register.

A summary of your personal information will be made publicly available by the Council, in accordance with section 54A of the LGA. In addition, your personal information will constitute official information, and so is subject to the Local Government Official Information and Meetings Act 1987.

You have the right to access and seek correction of your personal information under the Privacy Act 2020. This can be done by contacting the Corporate Services Manager.

**Return:**

This return is made under section 54C of the Local Government Act 2002, providing information required under sections 54E and 54F of that Act.

**Member's name:**

---

**12 month period covered by this return: 14 January 2022 to 13 January 2023**

1. Are you the director of a company?  
(section 54E(1)(a))

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If yes, please provide the name of the company (or companies) and a description of their main business activities:

---

---

---

---

---

---

2. Do you hold or control more than 10% of the voting rights in a company?  
(section 54E(1)(a))

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If yes, please provide the name of the company (or companies) and a description of their main business activities:

---

---

---

---

---

---

Yes      No

3. Do you have a pecuniary interest in any other company or business entity (except as an investor in a managed investment scheme)?  
(section 54E(1)(b))

--	--

If yes, please provide the name of the company (or companies) or business entity (or entities) and a description of their main business activities:

---

---

---

---

---

---

4. Are you employed?  
(section 54E(1)(c))

Yes	No

If yes, please provide the name of your employer(s) and a description of their main business activities:

---

---

---

---

---

---

5. Do you have a beneficial interest in a trust?  
(section 54E(1)(d))

Yes	No

If yes, please provide the name of the trust(s):

---

---

---

---

---

---

Yes	No

6. Are you a member of an organisation, a member of the governing body of the organisation, or a trustee of the trust **and** that organisation or trust receives, or has applied to receive, funding from the Council, local board or community board to which you are elected?

--	--

(section 54E(1)(e))

If yes, please provide the name of the organisation(s) or trust(s) and a description of their main business activities:

---

---

---

---

---

---

---

7. Are you appointed to any organisation by virtue of being an elected member?

Yes	No

(section 54E(1)(f))

If yes, please provide the title for your appointed role(s), the name of the organisation(s), and a description of them:

---

---

---

---

---

---

---

8. Do you have a legal interest, other than as a trustee, in any real property?

Yes	No

(section 54E(1)(g))

If yes, please provide the location of the real property (eg suburb and city, or town) and a description of the nature of property (eg. family residence, rental property, or commercial property):

---

---

---

---

---

---

---

Yes	No
-----	----

9. Are you the beneficiary of a trust that holds real property (but excluding a trust that is a unit trust you have already disclosed under question 5 or a trust that is a retirement scheme whose membership is open to the public)?  
(section 54E(1)(h))

--	--

If yes, please provide the location of the real property (eg suburb and city, or town) and a description of the nature of property (eg. family residence, rental property, or commercial property):

---

---

---

---

---

---

---

---

10. Have you travelled to any country (other than New Zealand) where your travel and accommodation costs were not paid in full by you and/or a member of your family?  
(section 54F(1)(a))

Yes	No

*(In this question, "family" means the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling.)*

If yes, please provide the name of the country, the purpose of travelling to the country, the name of each person who contributed (in whole or in part) to the costs of travel to or from the country to or any accommodation costs incurred by the member while in the country (if more than one country was travelled to, provide all of this information for each country):

---

---

---

---

---

---

---

---

---

---

Yes	No

11. Have you received any gift (other than a gift from a family member, unless you consider that gift should be disclosed taking into account the purpose of the members' pecuniary interests register) that:

--	--

- has an estimated market value in New Zealand of over \$500; or
- when combined with all other gifts from the same donor, have a total estimated market value in New Zealand of over \$500?

(section 54F(1)(b))

(In this question:

"gift" includes hospitality and donations in cash or kind, but excludes electoral expenses, and

"family" means the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling.)

If yes, please provide a description of the gift(s) and the name of the donor of the gift(s) (if known or reasonably ascertainable by you):

---



---



---



---



---



---

12. Have you received any payment for an activity in which you are involved, excluding:

Yes	No

- any salary or allowance paid to you under the Remuneration Authority Act 1977 or the Local Government Act 2002
- any payment received from an interest that has already been disclosed in this return; or
- any payment made in respect of an activity that you ceased to be involved in before becoming a member?

(section 54F(1)(c))

If yes, please provide a description of the payment(s) received by you:

---



---



---



---

# Guidance for councils on registers of members' pecuniary interests

Prepared by Simpson Grierson for Taituarā

---

July 2022





# Foreword

---

The Local Government (Pecuniary Interests Register) Amendment Act 2022 passed on 20 May 2022, and will come into force on 20 November 2022. It inserts a new set of requirements and obligations into the Local Government Act 2002 (LGA 02), all of which relate to members' pecuniary interests.

The purpose of the new provisions is to increase transparency, trust and confidence in local government by keeping and making publicly available, information about members' pecuniary interests. It is largely modelled on the regime that applies to members of Parliament, but has been tailored to reflect particular aspects of local government.

Moving forward, every council (including all territorial authorities, unitary authorities, and regional councils) will be required to keep a register of its members' pecuniary interests, and to make a summary of it publicly available. Each council must appoint a Registrar to maintain the register, and provide advice and guidance to members.

Members are obliged to provide annual returns, which are to be included on the registers, and to subsequently advise of any errors or omissions in those returns. Any failure to comply with the new obligations amounts to an offence, and so it is important that members understand and comply with these new provisions, and that they are provided with necessary guidance (including from council staff).

The purpose of this guidance is to help councils understand the new requirements and obligations. Given the Registrar's role of providing advice and guidance to members, this guidance also discusses members' obligations. The guidance also discusses the relationship between the new provisions and other legislation, including the Local Authorities (Members' Interests) Act 1968, the Privacy Act 2020, and the Local Government Official Information and Meetings Act 1987. Finally, this guidance provides a checklist designed to help councils identify and satisfy the new requirements and obligations.

This guidance is not intended as legal advice. If and when particular issues arise, councils should consider obtaining specific legal advice that addresses their particular circumstances.



**Mike Wakefield**  
Partner  
mike.wakefield@simpsongrrierson.com



**Kathryn McLean**  
Senior Associate  
kathryn.mclean@simpsongrrierson.com

# Contents

---

<b>Part A: Councils and Registrars' Obligations</b>	<b>04</b>
A1 Summary of councils' obligations	04
A2 Appointment of Registrar	04
A3 Registrars' obligation to compile and maintain the Register	05
A4 Registrars' obligation to provide guidance and advice	05
A5 How to make a summary of the Register publicly available	06
<b>Part B: Members' Obligations</b>	<b>07</b>
B1 New regime applies to elected, not appointed, members	07
B2 Summary of members' obligations	07
B3 Members are responsible for fulfilling their obligations, but can seek advice	07
B4 Due dates for returns	08
B5 The time period that a return must cover	09
B6 Information to be dis-closed in members' re-turns	10
B7 Prosecutions against members and councils' potential role	10
<b>Part C: Relationship with Other Legislation</b>	<b>12</b>
C1 Relationship with LA-MIA and supplementing the new statutory frame-work	12
C2 Privacy compliance needed	13
C3 LGOIMA requests can still be made	13
<b>Part D: Pecuniary Interests Checklist for Councils</b>	<b>15</b>
<b>APPENDIX A: Tables of Interests and Examples</b>	<b>16</b>
<b>APPENDIX B: Flowcharts of Members' Interests</b>	<b>24</b>
Chart 1: Information relating to a member's position	24
Chart 2: Information relating to a members' activities	25
<b>APPENDIX C: Tem-plate Pecuniary Interest Return Form</b>	<b>26</b>

# Part A: Councils and Registrars' Obligations

---

## A1 Summary of councils' obligations

1. There are four main obligations for Councils. They must:
  - (a) keep a register of members' pecuniary interests (the Register);<sup>1</sup>
  - (b) appoint a Registrar, who will compile and maintain the Register for the council<sup>2</sup> – the appointment is discussed at A2, and the Registrar's role is discussed at A3 and A4;
  - (c) make a summary of the information contained in the Register publicly available<sup>3</sup> – discussed at A5; and
  - (d) ensure that information contained in the Register is:
    - (i) only used or disclosed in accordance with the purpose of the Register,<sup>4</sup> and
    - (ii) retained for 7 years after the date on which a member provides the information, and is then removed from the Register.<sup>5</sup>
2. The obligations in paragraph (1)(d) will help guide councils' compliance with the Privacy Act 2020 in terms of handling personal information contained on the Register. They will also be relevant to councils' handling of requests for information included on any Register, which could be made under section 10 of the Local Government Official Information and Meetings Act 1987. The relationship between the new pecuniary interests provisions and these other Acts is discussed at C2 (Privacy Act) and C3 (LGOIMA).

## A2 Appointment of Registrar

3. Each council must appoint a Registrar. The person appointed will need to be suited to engaging directly with members, and be well placed to make judgements about the advice to be given to members.
4. The power to appoint the Registrar sits with the full council, but is capable of being delegated.<sup>6</sup> Councils should check if existing delegations to chief executives are sufficient to capture this power, or if a specific delegation might be required from the full Council (assuming that the chief executive is to make the appointment).
5. The LGA 02 makes clear that the council's chief executive may be appointed as the Registrar.<sup>7</sup> This is not a requirement – some councils might consider it more appropriate for the Registrar to be a general manager or senior governance advisor.
6. Given the Registrar may need be involved in potential offending by members (due to any failure to comply with the new obligations), it may be considered preferable for the members themselves not to be closely involved in that decision, so as to avoid any potential suggestion of the Registrar being seen as favourable to members.

---

1 Section 54A(1) of the LGA 02.

2 Section 54G(1) of the LGA 02.

3 Section 54A(3)(a) of the LGA 02.

4 Section 54A(3)(b)(i) of the LGA 02.

5 Section 54A(3)(b)(ii) of the LGA 02.

6 Under clause 32(1), Schedule 7 of the LGA 02.

7 Section 54G(2) of the LGA 02.

## Part A: Councils and Registrars' Obligations

### A3 Registrars' obligation to compile and maintain the Register

7. Registrars are tasked with the compilation and maintenance of the Register.<sup>8</sup> In practice, Registrars will look after the Register on a day-to-day basis, thereby helping to ensure the council satisfies its obligation to keep a register.
8. The Registrar will need to ensure that a Register is complete. Under the LGA 02, the Register is to be comprise all pecuniary interest returns filed by members **and** any corrections made by members.<sup>9</sup> "Corrections" are the notifications given to the Registrar advising of an error or omission in a return.<sup>10</sup>
9. Registrars are specifically obliged to "correct" the Register when advised of an error or omission.<sup>11</sup> This suggests that any correction received must be somehow linked to the original return in question, so that anyone accessing the original return will be made aware of the correction.
10. In compiling and maintaining the Register, Registrars will need to ensure there is compliance with the Privacy Act 2020 – which is discussed at C2.
11. The LGA 02 provides some boundaries for Registrars when compiling and maintaining the Register. It states that a Registrar is **not** required to:<sup>12</sup>
  - (a) obtain a return from a member;
  - (b) notify a member if they fail to make a return by the due date; or
  - (c) notify a member if there is any error or omission in their return.
12. The lack of any proactive role for the Registrar makes it clear that the intention of these new provisions is that members must take personal responsibility for ensuring that they satisfy their obligations. It is not for the Registrars to make sure they do so.
13. Despite this, it would be good practice for Registrars to remind members, and provide appropriate guidance, about the need to provide a return, the due dates for returns, and the ongoing obligation to notify the Registrar of any error or omission with their returns. Assisting members to understand how to fulfil their obligations will ultimately make Registrars' jobs easier.

### A4 Registrars' obligation to provide guidance and advice

14. Registrars are also tasked with providing advice and guidance to members in connection with their obligations.<sup>13</sup>
15. While Registrars should endeavour to help members who seek advice, but there may be some practical limits to how much a Registrar can help. A Registrar cannot be expected to provide definitive advice on the application of the new provisions for every situation. There will be some areas of uncertainty, although this should lessen over time (likely through auditing processes, and potentially case law).
16. If Registrars are unsure about any compliance related or interpretation issues, legal advice can be sought. If that is not feasible for whatever reason, the Registrar could recommend to the member that they obtain their own legal advice.

---

8 Section 54G(1)(a) of the LGA 02.

9 Section 54A(2) of the LGA 02.

10 Made under section 54D of the LGA 02.

11 Section 54D.

12 Section 54H(2).

13 Section 54G(1)(b) of the LGA 02.

## Part A: Councils and Registrars' Obligations

---

17. Practically, when in doubt, a Registrar would be sensible to always advise a member to err on the side of disclosure – an over-disclosure of interests will not trigger any of the new offences, but an under-disclosure might.

### A5 How to make a summary of the Register publicly available

18. Each council must make “a summary of the information contained in the Register publicly available”.<sup>14</sup>
19. The term “publicly available” is defined in the LGA 02.<sup>15</sup> It requires a council to take reasonable steps to:
- (a) ensure that the summary is accessible to the general public in a manner appropriate to its purpose, including, where practicable, on the council’s Internet site; and
  - (b) publicise, in a manner appropriate to the purpose and significance of the summary, both the fact that the summary is available and the manner in which it may be accessed.
20. Good practice would be for councils to put a copy of the summary on their website (eg on the same page as where elected members bios are available), and to also have a copy (electronic or hard-copy) available at the front counter in appropriate council offices.
21. The LGA 02 does not provide any detail about what should be included in a “summary” of the register. As a result, councils will need to make a judgement call about how much to include. In doing so, they should look to strike an appropriate balance between members’ privacy and the purpose of the Register. The purpose of the Register is described as:<sup>16</sup>
- to record members’ interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making.
22. This statutory purpose suggests that the public should be given enough information about a pecuniary interest so that they can understand how it could impact any Council process or decision-making, and why it ought to have been disclosed, but no more than that.
23. For example, a summary should reference the name of a relevant entity and the general nature of the member’s interest in that entity, such as “XYZ Trust (beneficial interest)”. This should provide sufficient information for people to identify relevant interests, but without providing excessive details about a member’s personal affairs.
24. The pecuniary interests’ regime for members of Parliament (on which the new LGA 02 provisions are largely based) provides a helpful example. That regime also requires that a summary of the MPs’ register be published (both online and in a hardcopy booklet form).<sup>17</sup> While the interests required for disclosure vary somewhat between MPs and council members, the online version of the MPs’ register provides a useful indication of the level of information that should be included in a summary. The current Parliamentary register is available at: <https://www.parliament.nz/en/mps-and-electoralates/members-financial-interests/mps-financial-interests/2022-current-register-of-members-pecuniary-and-other-specified-interests/>
25. In the event of uncertainty as to how much should be disclosed in a summary, it would be good practice for the Registrar to consult the member concerned, but it will ultimately need to be the Registrar (for the Council) that decides how it will satisfy the requirement to publish a summary. Councils could seek legal advice in problematic situations.
26. If a member of the public is unhappy with the level of disclosure in any summary, it will be open to them to request the additional information held on the Register under the Local Government Official Information and Meetings Act 1987. The relationship with that Act is discussed further at C3.
- 

14 Section 54A(3)(a) of the LGA 02.

15 See section 5(3) of the LGA 02.

16 Section 54B.

17 Parliamentary Standing Orders, Appendix B, clauses 18 and 19.

## Part B: Members' Obligations

### B1 New regime applies to elected, not appointed, members

27. The new requirements and obligations will apply to the following members:<sup>18</sup>
- (a) members of the council;
  - (b) members who have been elected under the Local Electoral Act 2011 to a community board that is part of the council; and
  - (c) members who have been elected under the Local Electoral Act 2011 to a local board that is part of the council.
28. Appointed members will **not** be subject to these requirements and obligations. For example, individuals who have been appointed as a member of a council committee due to their skills, attributes, or knowledge will not need to provide annual returns to the Registrar.

### B2 Summary of members' obligations

29. The key obligations for members are to:
- (a) make annual returns that contain information on certain pecuniary interests to the Registrar, within the statutory timeframe;<sup>19</sup>
  - (b) ensure that the information contained in their returns is accurate;<sup>20</sup> and
  - (c) in the event of becoming aware of an error or omission in their returns, advise the Registrar of that as soon as practicable.<sup>21</sup>
30. If a member does not comply with these obligations, they will commit an offence, which is punishable by a fine of up to \$5,000. Offences and prosecutions are discussed at B7.

### B3 Members are responsible for fulfilling their obligations, but can seek advice

31. The LGA 02 explicitly states that it is the responsibility of each member to ensure that they fulfil their obligations.<sup>22</sup>
32. It also makes clear that the Registrar is not required to obtain returns from members, or to notify members about any failure to make a return by the due date or of any error or omission in a return.<sup>23</sup> So while a Registrar might choose to provide helpful notification to members, they are not obliged to do so.
33. It is implicit that members are expected to take personal responsibility for making sure that they satisfy their own obligations.
34. Where members have any questions about making returns, or their obligations more generally, they can seek advice from the Registrar. It will also be open to members to obtain their own legal advice, if they consider that would be helpful.

---

18 Section 54A(1) of the LGA 02.

19 Section 54C of the LGA 02.

20 Section 54D(1) of the LGA 02.

21 Section 54D(2) of the LGA 02.

22 Section 54H(1) of the LGA 02.

23 Section 54H(2) of the LGA 02.

## Part B: Members' Obligations

### B4 Due dates for returns

35. In each triennium, the due dates for a return are:<sup>24</sup>
- (a) **Year 1:** the day that is 120 days after the date on which the member comes into office under section 115 of the Local Electoral Act 2001;
  - (b) **Year 2:** the last day of February in the second year of the triennium; and
  - (c) **Year 3:** the last day of February in the third year of the triennium.
36. Calculating the due date for Years 2 and 3 should be straight-forward – it will typically be 28 February of the relevant year. However, in any leap year, the due date will typically be 29 February.
37. If 28 February (or 29 February in a leap year) falls on a weekend, then the due date will be the next working day.<sup>25</sup> For example, if 28 February (in a non-leap year) is a Saturday, then the due date will be Monday, 2 March.
38. Calculating the Year 1 due date is more complicated. Under section 115 of the LEA, a member comes into office the day after public notice of the final election result is given under section 86 of the LEA. So the 120 day period should be calculated from the date that is one day after the public notice.
39. Note that the date that is one day after the public notice should not be counted in calculating the 120 day period – rather the day that is two days after the public notice is 'day 1' of the 120 days.<sup>26</sup> The date that is 'day 120' should be the due date for members' returns.
40. Weekends and public holidays should be included in the 120 days – but if the 120<sup>th</sup> day falls on a weekend (or public holiday), then the due date will be the next working day.<sup>27</sup>
41. The following example may assist:

Date	Event
8 October 2022	Polling day
15 October 2022	Public notice of the final election result is given, under section 86 of the LEA (note that this date can vary <sup>28</sup> )
16 October 2022	Members come into office
17 October 2022	'Day 1' of the 120 day period
13 February 2023 <sup>29</sup>	Due date for members' returns ('day 120')

42. Due dates will likely vary between councils, as final election results may be publicly notified on different days. Due dates could even vary between members on the same council in some situations. For instance, a member whose election was dependent on a recount, or who is elected in a by-election within the first year of the triennium, could have a significantly later due date for their Year 1 return.

24 Section 54C(2) of the LGA 02.

25 See section 55 of the Legislation Act 2019, and the definition of "working day" in section 13 of that Act.

26 Section 54 of the Legislation Act 2019, see Item 2 in that section.

27 Section 55 of the Legislation Act 2019.

28 Typically, public notice of the final result for the 2022 election will be given perhaps a week or so after polling day. With the change to the "public notice" definition applying to the 2022 triennial elections, it is possible that the public notice might be given even sooner, perhaps just a matter of days after polling day. The change to the "public notice" definition results from the Local Electoral Act 2002 not including any definition for "public notice". As a result, councils have previously relied on the definition of "public notice" that was in the Interpretation Act 1999 (which required publication of notices in local newspapers). However, the Interpretation Act was repealed in late 2021, and replaced by the Legislation Act 2019. The definition of "public notice" in that Act provides for either publication in local newspapers, or simply through a council's website. Obviously, publication through a website can be achieved more quickly than publication through newspapers, meaning that section 86 public notices may potentially be made sooner than the usual one week or so.

29 13 February 2023 happens to be a Monday, thus a working day.

## Part B: Members' Obligations

43. The due date will end at midnight on the relevant day (ie members will have the entire day in which to provide their returns). So, assuming Registrars allow for return via email, members will be able to send in a return after business hours on the due date, but before midnight, and still satisfy the statutory deadline. Returns emailed after midnight on the due date will fall outside the deadline.
44. Although the return obligations are a member's responsibility, it would be good practice for a Registrar to advise members well in advance of the due date for a return (and specify the final return date), and to send a reminder a few weeks beforehand. This will be especially important for Year 1 returns, given the calculation of the due dates in Year 1 is more complicated.

### B5 The time period that a return must cover

45. Returns are made in respect of a 12 month period.<sup>30</sup> This means that any relevant pecuniary interests that existed at any point during this 12 month period must be disclosed in the member's return. It is not necessary for an interest to have existed for the full 12 month period.
46. The exact dates of the 12 month period will depend on the due date for the particular return. Specifically, the period will be the 12 months that ended on the day that is one month before the due date.<sup>31</sup>
47. So the practical steps involved in identifying the 12 month period are:
- What is the due date for the return? This is your starting point for calculating the 12 month period.
  - What is the date that is one calendar month before that due date? That date is the final day in the relevant 12 month period.
  - What is the date that is one calendar year before that 'final day'? The day after that date is the first date in the relevant 12 month period.
48. Taking the upcoming triennium as an example (building on the example given for calculating a Year 1 due date in the section above), the dates are:

Year of triennium	Due date for return	12 month time period covered by return
Year 1 – 2023	13 February 2023 <sup>32</sup>	14 January 2022 to 13 January 2023
Year 2 – 2024 (leap year)	29 February 2024 <sup>33</sup>	30 January 2023 to 29 January 2024
Year 3 – 2025	28 February 2025 <sup>34</sup>	29 January 2024 to 28 January 2025

49. This example illustrates that the 12 month periods for returns will not always align. There is the potential for reporting on some of the same days in two returns, eg both the Year 2 and 3 returns will need to report on 29 January 2024.
50. There is also the potential for some short periods not to be covered by any return, eg no return will report on the period from 14 January 2023 to 29 January 2023. Gifts or payments received during such windows of time will not need to be disclosed in any return made under the LGA 02. Councils may, however, choose to address such potential 'loopholes' through non-statutory reporting. This is further discussed at C1.

---

30 Section 54C(1) of the LGA 02.

31 Section 54C(1) of the LGA 02.

32 This date is based on the example set out in the due date section of this guidance. It assumes the public notice of the final election result (given under section 86 of the Local Electoral Act 2001) was given on 15 October 2023.

33 29 February 2024 will be a Thursday, thus a working day.

34 28 February 2025 will be a Friday, thus a working day.



## Part B: Members' Obligations

---

51. Reporting on the right 12 month period is a member's responsibility. However, as with the due date, it would be good practice for a Registrar to advise members of the 12 month period that a return must cover (specifying the relevant dates).

### B6 Information to be disclosed in members' returns

52. There are two broad categories of information that members need to disclose in their returns:
- (a) information relating to the member's position (covered in section 54E of the LGA 02); and
  - (b) information relating to the members' activities (covered in section 54F of the LGA 02).
53. Within these two broad categories are numerous specific types of interests that need to be disclosed.
54. Appendix A sets out each of the specific types of interests that need to be disclosed, and includes a brief explanation of, and examples for, each type.
55. Appendix B sets out a series of flow charts, which members can work through when completing their returns to ensure they have addressed all relevant interests.
56. Note that it is only the members' interests that need be disclosed – interests of spouses, partners, and other close family members do not need to be disclosed under the LGA 02.<sup>35</sup>

### B7 Prosecutions against members and councils' potential role

57. New offences have been created that will apply where members fail to comply with their obligations. Specifically, a member will commit an offence if they:<sup>36</sup>
- (a) fail to file a return that includes all relevant information by the due date;
  - (b) file an inaccurate return; or
  - (c) do not advise the Registrar of any error or omission in a return as soon as practicable after they become aware of it.
58. Each offence is punishable by a fine of up to \$5,000.<sup>37</sup>
59. Prosecution for these offences will follow the procedure for existing offences under section 235 of the LGA 02, which relate to a member acting while disqualified or unqualified.<sup>38</sup> It will typically be up to the Secretary for Local Government to file a charging document and prosecute members who have committed an offence.<sup>39</sup> The Secretary for Local Government is the Chief Executive of the Department of Internal Affairs. (Note that parties other than the Secretary are not prevented from bringing a private prosecution.<sup>40</sup>)
60. For offences where members have acted while disqualified or unqualified, the Secretary is obliged to bring proceedings.<sup>41</sup> However, no equivalent obligation exists for the offences relating to the members' returns, which

---

35 The fact that the LGA 02 provisions do not capture any interests of a member's whanau creates issues with using the register for helping to ensure compliance with the Local Authorities (Members' Interests) Act 1968. The potential to supplement the register with additional disclosure requirements is discussed at C1.

36 See sections 54C and 54D(1) and (2), and section 235, of the LGA 02.

37 Section 242(2) of the LGA 02.

38 See section 235 of the LGA 02, which has previously provided for offences for acting while disqualified or unqualified, and now also applies to breaches of sections 54C and 54D(1) and (2).

39 It is evident that this is the role of the Secretary from section 235(2) and also from clause 3(1), Schedule 7 of the LGA 02.

40 Clause 3(2), Schedule 7 of the LGA 02.

41 Clause 3(1), Schedule 7 of the LGA 02.

## Part B: Members' Obligations

---

suggests the Secretary for Local Government should have some discretion in deciding whether or not to bring proceedings against members for these offences.

61. The LGA 02 is silent on whether councils are required to report possible offences to the Secretary for Local Government, although it is difficult to see how else the Secretary would identify potential offences. There is the potential for the Secretary to issue guidance or an indication about when and how they would expect to be notified of any potential offences by councils.
62. In the absence of such guidance, it would be good practice for councils to develop their own policies about when they will refer potential offences to the Secretary for Local Government. If a strict approach were adopted, councils may decide to refer every potential offence identified to the Secretary, with members notified of the referral as soon as possible afterwards.
63. Alternatively, councils may decide that discretion is appropriate, eg providing that potential offences will be referred to the Secretary unless there is good reason not to do so. Council policies could provide a disputes process first, and if no resolution is reached, a member will then be notified of an intention to make a referral to the Secretary, and be given a reasonable opportunity to put forward information that would be relevant to there being 'a good reason' not to make the referral.
64. It would be unlawful to adopt a policy that precludes referral of any potential offences to the Secretary.
65. The most likely officers to make referrals would be the Chief Executive and/or the Registrar. The council should ensure that appropriate delegations are in place for any officers who may need to make referrals to the Secretary.
66. It would be good practice for elected members to have some involvement in the development of any internal policy, and for them to formally adopt it via resolution. Copies of the policy should be given to members in advance of returns being due (or form part of a fuller set of guidance material), so that they understand the consequences of failing to meet their obligations.

## Part C: Relationship with Other Legislation

### C1 Relationship with LAMIA and supplementing the new statutory framework

67. The Local Authorities (Members' Interests) Act 1968 (**LAMIA**) governs some conflict of interest issues for members, notably those involving pecuniary interests. In particular:
- (a) the **contracting rule** prohibits members from being interested in any contracts (eg being a director of a company who is party to the contract, being a sub-contractor of an entity who is party to the contract) with the council that have a combined value of more than \$25,000 in a financial year – unless the Auditor-General approves the arrangement; and<sup>42</sup>
  - (b) the **participation rule** prohibits members from participating in any council decision-making in which the member has a pecuniary interest that is not one held in common with the public – unless the Auditor-General has pre-approved such participation.<sup>43</sup>
68. The LGA 02 sets out two specific clarifications about the relationship with LAMIA.<sup>44</sup> It provides:
- (a) a member's obligations under the LGA 02 in relation to the Register are in addition to any obligations under LAMIA, and do not affect the application of LAMIA; and
  - (b) a pecuniary interest that a member has declared under the LGA 02 regime is not necessarily an interest for the purposes of LAMIA.
69. These clarifications suggest that LAMIA and the new LGA 02 provisions will, in practice, need to operate separately from one another.
70. Despite this, there is some potential for overlap between the relevant requirements – in that the Register may help to identify interests that might be relevant to triggering either of the contracting or participation rules under LAMIA. For example, before entering into a contract with a party, it would be sensible for the council to check that that party is not mentioned on the Register.
71. That said, the Register will not provide a comprehensive approach to identifying interests relevant to LAMIA compliance. There are two main reasons for this.
72. First, the pecuniary interests reported under the LGA 02 are unlikely to capture the full range of interests that can sometimes create problems under LAMIA. For instance, LGA 02 returns do not need to cover:
- (a) a member's spouse's or dependents' pecuniary interests;
  - (b) details of a member's debtors and creditors;
  - (c) any contracts with the council in which the member is interested; or
  - (d) any non-financial interests that the member may have.
73. Second, the LGA 02 does not require any ongoing reporting of new interests as they arise between annual returns.
74. The practical result of these differences is that the Register will be of some, but limited, use to councils in managing conflicts of interest under LAMIA.
75. As a result, councils may want to consider if and how they might supplement the LGA 02 in a manner that assists with on-going compliance with LAMIA. For instance, councils could choose to request additional disclosures by

---

42 See section 3 of LAMIA.

43 See section 6 of LAMIA.

44 Section 54H(3) of the LGA 02.

## Part C: Relationship with Other Legislation

---

members, capturing the types of interests listed above. They might also want to impose an ongoing obligation on members to notify interests as they arise (eg 4 or 6 monthly updates to returns), and perhaps extend some or all of this system to their appointed members. Such a supplementary regime could address any periods of time that are not already covered by returns under the LGA 02 (see the 'loophole' issue discussed at B5).

76. Councils who are minded to supplement the statutory regime will need to carefully consider the best way for them to do this (eg will they add questions to the statutory return form, or adopt a separate process). They will also need to consider what, if anything, about these additional interests they will proactively make publicly available.
77. Any supplementary disclosure regime should be incorporated into a council's code of conduct for its elected members. This will allow the regime to be enforced through code of conduct complaints.
78. Many councils already have existing disclosure regimes. These councils will need to consider whether to retain these regimes once the new LGA 02 provisions are engaged and, if so, how they might need to be modified to accommodate the LGA 02 requirements.

### C2 Privacy compliance needed

79. The Register will contain members' personal information.<sup>45</sup> As a result, the information privacy principles (IPPs) in the Privacy Act 2020 will apply to this information.<sup>46</sup>
80. To help ensure compliance with the Privacy Act, a council should consider how it will comply with each of the IPPs in relation to the Register. This could be done by way of a privacy impact assessment.<sup>47</sup>
81. In carrying out a privacy impact assessment, there are some matters the council should bear in mind:
  - (a) IPP 3 requires members to be informed of certain matters at the time of collection of their personal information. For this purpose, a draft privacy statement is included in the template return form set out in Appendix C.
  - (b) The LGA 02 states that council must ensure information contained in the Register is retained for 7 years from when the member provides the information, after which it is to be removed from the Register.<sup>48</sup> This will be relevant to IPP 9, which addresses how long a council may keep personal information for.
  - (c) The LGA 02 also requires councils to ensure that the information in the Register is only used or disclosed in accordance with the purpose of the Register.<sup>49</sup> This will be relevant to compliance with IPPs 10, 11 and 12.

### C3 LGOIMA requests can still be made

82. The Register will constitute "official information" in terms of the Local Government Official Information and Meetings Act 1987 (LGOIMA).<sup>50</sup> As a result, members of the public will be able to request information held on the Register. Practically, the publication of the summary of the Register should significantly reduce the likelihood of such LGOIMA requests being made, but they remain a possibility if someone considers that the summary does not provide sufficient detail.

---

45 See the definition of "personal information" in section 7 of the Privacy Act 2020.

46 The information privacy principles are set out in section 22 of the Privacy Act 2020.

47 Information about privacy impact assessments is available on the Privacy Commissioner's website, here: <https://www.privacy.org.nz/publications/guidance-resources/privacy-impact-assessment/>

48 Section 54A(3)(b)(ii) of the LGA 02.

49 Section 54A(3)(b)(i) of the LGA 02.

50 "Official information" is defined in section 2 of LGOIMA as meaning "any information held by a local authority", which would clearly capture the Register.

## Part C: Relationship with Other Legislation

---

83. Any LGOIMA requests for information relating to the Register (which is not already available in the summary of the Register) will need to be considered on a case-by-case basis.
84. The LGA 02 states that councils are required to ensure the information in the Register is only disclosed in accordance with the purpose of the Register.<sup>51</sup> The purpose of the Register is described in the LGA 02 as:<sup>52</sup>
- to record members' interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making.
85. Accordingly, if a LGOIMA request were to be made that was not in accordance with the purpose of the Register, it would be open to the council to refuse the request on the basis that making the information available would be contrary to the LGA 02.<sup>53</sup> It seems very unlikely, however, that this will occur in practice, given the very wide scope of the purpose of the Register.
86. Another possible withholding ground that a council would need to consider is protection of privacy.<sup>54</sup> Almost all the information in the Register will be personal information, so this ground is likely to be relevant.
87. Members' privacy will, however, need to be balanced against public interest considerations favouring disclosure.<sup>55</sup> Whether such public interest considerations exist, and the weight that should be afforded to them, is likely to depend on the circumstances of the particular LGOIMA request (eg who has made the request? Why do they want the information? What is the information in question? Is there a particular council process or decision that the information requested is relevant to?).
88. Depending on the particular request, there might possibly be other potential withholding grounds to consider. For example, a possible ground is where withholding the information is necessary to protect people (including members) from improper pressure or harassment, so that the effective conduct of public affairs can be maintained.<sup>56</sup>

---

51 Section 54A(3)(b)(i) of the LGA 02.

52 Section 54B of the LGA 02.

53 See section 17(c)(i) of LGOIMA.

54 See section 7(2)(a) of LGOIMA.

55 See section 7(1) of LGOIMA.

56 Section 7(2)(f)(ii) of LGOIMA.

## Part D: Pecuniary Interests Checklist for Councils

---

Being ready for the new LGA 02 provisions will require:

- ✓ Officers to prepare advisory materials to be given to members following the 2022 elections, which provide practical guidance on how to file a return, the due dates for the triennium and the applicable 12 month periods for the returns
- ✓ Officers to prepare a return form (hard-copy and/or electronic), which members can use to complete their annual returns (a template form is included in Appendix C)
- ✓ Officers to undertake some form of privacy impact assessment in relation to the personal information to be held on the Register, to ensure compliance with the information privacy principles in the Privacy Act 2020
- ✓ Council (or anyone with the requisite delegated authority) must appoint a Registrar (this can be done before 20 November 2022 if necessary, due to section 43(1)(c) of the Legislation Act 2019)
- ✓ Council to consider whether to adopt policies that address and clarify when referrals of potential prosecutions should be made to the Secretary for Local Government
- ✓ Council to determine whether to supplement the LGA 02 with additional disclosure requirements and, if so, what that supplementary regime will involve, plus ensure the code of conduct provides for this regime

It would be good practice to inform members before the 2022 elections about these new requirements and obligations, and the preparatory work that is being undertaken.

It is up to councils to determine how to package these matters. But one approach could be to develop a 'one-stop-shop' guidance document for members, which captures their obligations under the LGA 02, information about due dates and 12 month periods, and also the council's approach to dealing with the referral of potential offences to the Secretary for Local Government or any potential disagreements between members and the council or Registrar.

## APPENDIX A: Table of Interests and Examples

Interests relating to the Member's position		
Section reference	Explanation of interest and required disclosure	Example
<b>Section 54E(1)(a)</b>	<p>Members must disclose the name of any company in which they are a director, or in which they hold or control more than 10% of the voting rights.</p> <p>Members are required to provide a description of the main business activities of the company. This could be relatively brief, but must accurately represent what activities or services the company undertakes or provides.</p>	<p>Matthew is a director of his family business, being a company that owns and leases commercial property. He is also elected to the local council. Matthew will need to declare his directorship, by providing both the name of the company and a description of its main business activities in his return. He describes the business activities as “developer and landlord of commercial properties”.</p> <p>Caitlin is a shareholder in her sister's ice cream company. She holds 10 voting shares out of the total 80 voting shares the company has issued. As a result she owns 12.5% of the voting shares in the company and will need to declare her shareholding by providing both the name of the company and its main business activities in her return. She describes the business activities as “sells ice-cream through retail shops in Auckland and Wellington”.</p>
<b>Section 54E(1)(b)</b>	<p>Members must disclose the name, and describe the main business activities, of any other company or business entity in which they hold a pecuniary interest.</p> <p>‘Business entities’ mean any separate body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacturing, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor, but does not include any blind trust. Such entities can include joint ventures, partnerships, sole proprietors or other arrangements that are not companies.</p> <p>There is a clear exception for any managed investment scheme, such as Kiwisaver or an index fund, which do not need to be disclosed. A</p>	<p>Emiria is a partner at a law firm. She must disclose the name of the law firm and give a description of its main activities (eg “provider of legal services”).</p>

## APPENDIX A: Table of Interests and Examples

Interests relating to the Member's position		
Section reference	Explanation of interest and required disclosure	Example
	<p>"managed investment scheme" has the same meaning as in section 9(1), (2) and (4) of the Financial Markets Conduct Act 2013.</p> <p>A member will <b>not</b> have a pecuniary interest in a company merely because they have an interest in that company's 'parent' company or its subsidiary.</p>	
<b>Section 54E(1)(c)</b>	<p>Members must disclose the name of any employer, and describe the main business activities of that employer(s). This could include permanent, fixed term or casual employment under an employment agreement (or contract of service).</p> <p>It will <b>not</b> include services provided as a freelancer or contractor under a contract for service (which is likely to be captured by section 54E(1)(ca) or (b) if the member is acting through some form of business entity, or perhaps through section 54F(1)(c) if acting personally). It will also not include holding the position of elected member of a council, local board, or community board, or any other position for which the member concerned would not be qualified unless he or she held their role as an elected member.</p>	Meilin has a part time job as a lecturer in environmental studies at City University. She must disclose that she is employed at City University and that their main activities are providing higher education and research.
<b>Section 54E(1)(d)</b>	Members must disclose any beneficial interest they have in a trust and the name of the trust. Having a beneficial interest means that they are a "beneficiary" of the trust (and are typically listed as such in the trust deed). There is no cap or requirement on the amount or type of beneficial interest, so members will need to disclose any beneficiary interest that they have in a trust.	Melanie is a beneficiary of her parents' family trust: the Jack and Jill trust. She is also aware that she is an uri (descendant) of a local iwi. The iwi's settlement assets are held in a trust and the trust's beneficiaries are all uri (descendants) of the iwi's tupuna (ancestors). Melanie will need to disclose the name of both trusts.
<b>Section 54E(1)(e)</b>	Members must disclose if:	Frank is on the board of a charitable cycling organisation Bikes4U. Bikes4U applied for a council grant to run cycle repair workshops, as



## APPENDIX A: Table of Interests and Examples

Interests relating to the Member's position		
Section reference	Explanation of interest and required disclosure	Example
	<p>(a) they are a member of an organisation, or a member of the governing body of an organisation, or a trustee of a trust; <b>and</b></p> <p>(b) that organisation or trust receives funding from, or has applied to receive funding from, the local authority, local board, or community board to which the member has been elected.<sup>57</sup></p> <p>For this interest, the member must disclose the organisation or trust's name and a description of its main activities.</p> <p>If the organisation concerned is a council-controlled organisation (CCO), then the member does not need to provide a description of the CCO's main activities. The member could instead simply give the CCO's name and note it is a CCO.</p>	<p>part of encouraging active transport. Frank will therefore need to disclose that he is on the board of Bikes4U and provide a description of Bikes4U's main activities.</p>
<b>Section 54E(1)(f)</b>	<p>Members must disclose the title and description of any organisation to which they are appointed by virtue of being an elected member.</p> <p>The statutory language used is somewhat confusing. All other interests in section 54E require disclosure of the "name" of a company/entity/employer etc. It is arguable that the reference to "title" is meant to require a member to disclose the title of the role they hold.</p>	<p>Emily is the mayor of a large city council, and as part of that role serves as the chair of a network of Mayors that is called the Council Employment Advocacy Group (CEAD). Emily should disclose that she is the chair of CEAD, and that CEAD aims to encourage youth employment in council jobs.</p>

<sup>57</sup> If a member has an interest to disclose under section 54E(1)(e), this is an interest that is likely to constitute a pecuniary interest under section 6 of the Local Authorities (Members' Interests) Act 1968, and possibly prevent them participating in any decision-making relevant to the organisation concerned.

## APPENDIX A: Table of Interests and Examples

Interests relating to the Member's position		
Section reference	Explanation of interest and required disclosure	Example
	<p>Given this uncertainty (and in light of the purpose of the new provisions), it will be prudent to disclose the title of the role that the member has been appointed to <b>and</b> the name of the organisation concerned, as well as providing a description of that organisation's activities.</p>	
<b>Section 54E(1)(g)</b>	<p>Members must disclose the location of any real property that they have any legal interest in, outside of an interest as a trustee. "Real property" is property that consists of land and/or buildings.</p> <p>A member will have a legal interest in land if they own or lease it.</p> <p>A licence to occupy, or having a caveat or encumbrance, will <b>not</b> constitute having a legal interest in property. Also, being a director or shareholder in a company that owns land will <b>not</b> constitute having a legal interest in that land.</p> <p>Members are required to disclose the location of the property. This requires disclosure of the general location (eg suburb and city), but does not require disclosure of the street address.</p> <p>Members must also provide a description of the nature of the property. For instance, it might be "family home", "holiday home", "investment property", or "commercial property".</p>	<p>Mariama leases her family home, jointly with her husband, at 123 Main Road in a small town called Fairtown. Her disclosure is: "Family home – Fairtown (leasehold interest)". Miriama is not obliged to disclose that her interest in the property is a leasehold one, but chooses to provide this for clarity.</p>

## APPENDIX A: Table of Interests and Examples

Interests relating to the Member's position		
Section reference	Explanation of interest and required disclosure	Example
Section 54E(1)(h)	<p>If a member is a beneficiary of a trust (and they ought reasonably to know that they are a beneficiary), they must disclose the location and description of any real property held by the trust. "Real property" is property that consists of land and/or buildings.</p> <p>There are two exceptions. A member does <b>not</b> need to make any disclosure if the trust is:</p> <ul style="list-style-type: none"> <li>• a unit trust for which the member has already made a disclosure under section 54E(1)(d); or</li> <li>• a retirement scheme whose membership is open to the public.</li> </ul> <p>Members are required to disclose the location of the property. This requires disclosure of the general location (eg suburb and city), but does not require disclosure of the street address.</p> <p>Members must also provide a description of the nature of the property. For instance, it might be "residential property", "investment property", or "commercial property".</p>	<p>James is a beneficiary of a trust established by his aunt and uncle. The home James lives in, which is in Karori in Wellington, is owned by the trust. James leases the house from the trust. James' disclosure in relation to this trust will be "Residential property – Karori, Wellington". (James will already have disclosed the name of the trust under section 54E(1)(d) of the LGA 02, and disclosed his leasehold interest in the property as a "family home" under section 54E(1)(g) of the LGA 02.)</p> <p>Evan is a longstanding member of his local Church in Small Town. The Church runs a charitable trust to provide financial support to Church members for living costs or education costs. All members of the Church are beneficiaries. The Church building is held by the trust. Evan will need to disclose in relation to the trust: "Church property and building – Small Town". (Evan will have already disclosed the name of the trust under section 54E(1)(d) of the LGA 02.)</p>

Interests relating to the Member's activities		
Section Reference	Explanation of interest and required disclosure	Example

## APPENDIX A: Table of Interests and Examples

<p><b>Section 54F(1)(a) and section 54F(2)</b></p>	<p>Members must disclose if:</p> <ul style="list-style-type: none"><li>(a) they have travelled to a country other than New Zealand; and</li><li>(b) their travel costs and/or accommodation costs were not paid in full by the member and/or a member of their family.</li></ul> <p>“Member of their family” includes only the member’s spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild or sibling. It does not include a member’s wider family or whānau.</p> <p>In particular, the member must disclose:</p> <ul style="list-style-type: none"><li>(a) the name of the country;</li><li>(b) the purpose of travelling to the country; and</li><li>(c) the name of each person who contributed fully or partially to travel costs to/from the country; and</li><li>(d) the name of each person who contributed fully or partially to the member’s accommodation costs while in the country.</li></ul>	<p>Hemi was sponsored by the Rotary Club to go on a trip to Japan to promote New Zealand as a great place to study and work. The Rotary Club paid for his flights and half of his accommodation. Hemi will therefore need to disclose that he went to Japan, that the purpose of the trip was to promote New Zealand as a location for business and study, and that the Rotary Club contributed to both his travel and accommodation costs.</p>
--	---	---

## APPENDIX A: Table of Interests and Examples

<b>Section 54F(1)(b) and section 54F(3)</b>	<p>Members must disclose gifts received if a gift is worth more than \$500, or if all gifts from one donor have a combined value of more than \$500.</p> <p>The value of gifts is the “estimated market value in New Zealand”.</p> <p>Gifts will include hospitality and donations of cash or in kind.</p> <p>There are two exceptions. No disclosure is needed if:</p> <ul style="list-style-type: none"><li>• the gift is a donation made to cover expenses in an electoral campaign;<sup>58</sup> or</li><li>• the gift was from a member of the member’s family and the member does not consider that information about the gift should be included in the return taking the purpose of the register into account.</li></ul> <p>In terms of the second exception, “family” includes only the member’s spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild or sibling. It does not include a member’s wider family or whānau.</p> <p>Also, according to section 54B of the LGA 02, the purpose of the register “is to record members’ interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making”.</p> <p>Where disclosure is required, the member must provide:</p>	<p>Claire’s cousin Alfred is a hairdresser. He gifts her a \$600 voucher to his salon to celebrate her being elected to the council. Claire must disclose the gift, and includes the following in her return: “Hair salon voucher – Alfred Smith”.</p> <p>Claire also receives a congratulatory gift from her brother Antoni. Antoni is a wine-seller and gives Claire seven boxes of wine. The wine would be worth \$800 if bought from a retail shop. Antoni lives in the council’s district, and is likely to be significantly impacted by some proposed changes to the council’s district plan. While Antoni is her brother (and so comes within the definition of “family”), Claire decides that it is prudent to disclose the gift and Antoni’s identity, taking the purpose of the register into account.</p>
---	---	--

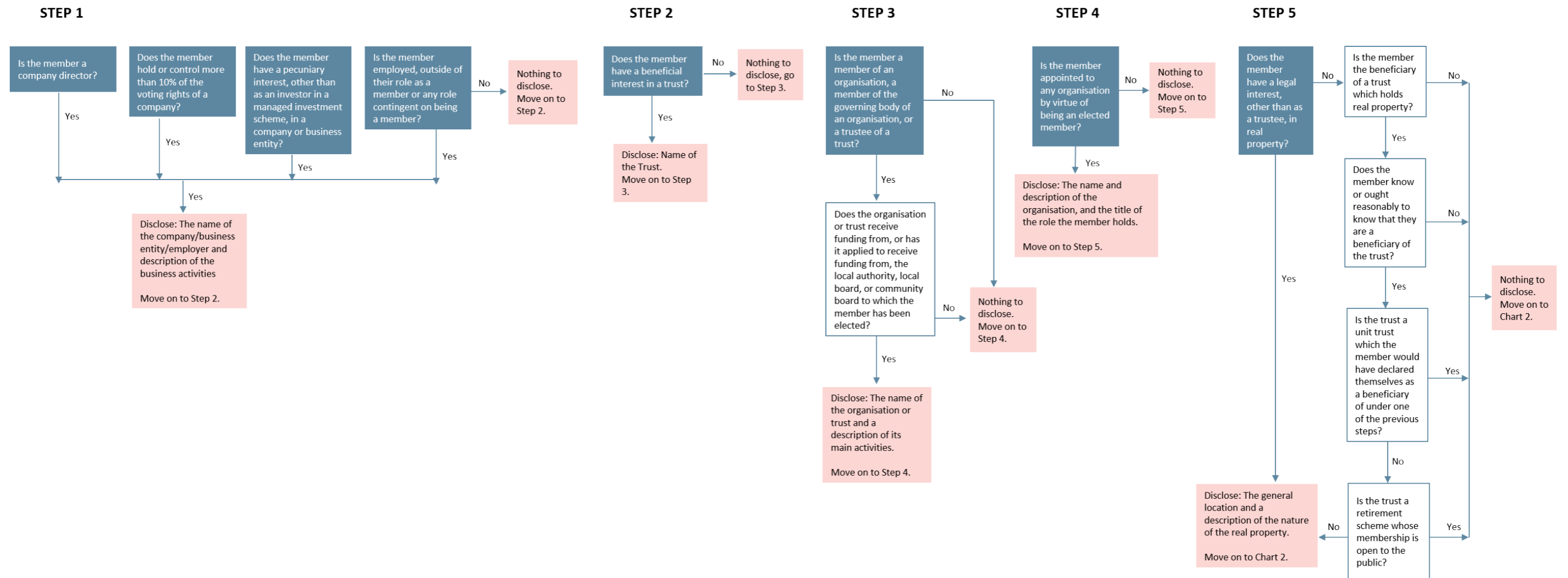
58 Members will of course need to make appropriate disclosures about their election donations as part of returns that they submit under the Local Electoral Act 2001.

## APPENDIX A: Table of Interests and Examples

	<ul style="list-style-type: none"> <li>• a description of each gift; and</li> <li>• the name of the donor of each gift, if known or reasonably ascertainable by the member.</li> </ul>	
<p><b>Section 54F(1)(c)</b></p>	<p>Members must describe each payment they have received for activities in which the member is involved.</p> <p>There are several important exceptions to this. No disclosure is needed for:</p> <ul style="list-style-type: none"> <li>• salary or allowances paid to the member under the Remuneration Authority Act 1977 or the LGA 02;</li> <li>• payment received from an interest already required to be disclosed under section 54E of the LGA 02; or</li> <li>• payment in respect of any activity that the member ceased to be involved in before becoming a member.</li> </ul>	<p>Chantelle occasionally gives speeches at conferences about her life experiences, and usually receives a speaker’s fee for doing so. Her speaking roles are on a freelance one-off basis. Chantelle does this in her own name, without using any business entity or company. Chantelle will need to disclose the payment, and includes the following in her return: “\$300 fee for speaking at <i>Life 2022 Conference</i>.”</p> <p>Amy is a member of the city council and also a novelist. She recently wrote a popular book. Amy receives annual royalties under her contract with the book’s publisher, which she entered into in her own name, without using any business entity or company. Amy will need to include the following in her return: “\$1,234 annual royalties for novel <i>Flying to the Moon</i>”.</p>

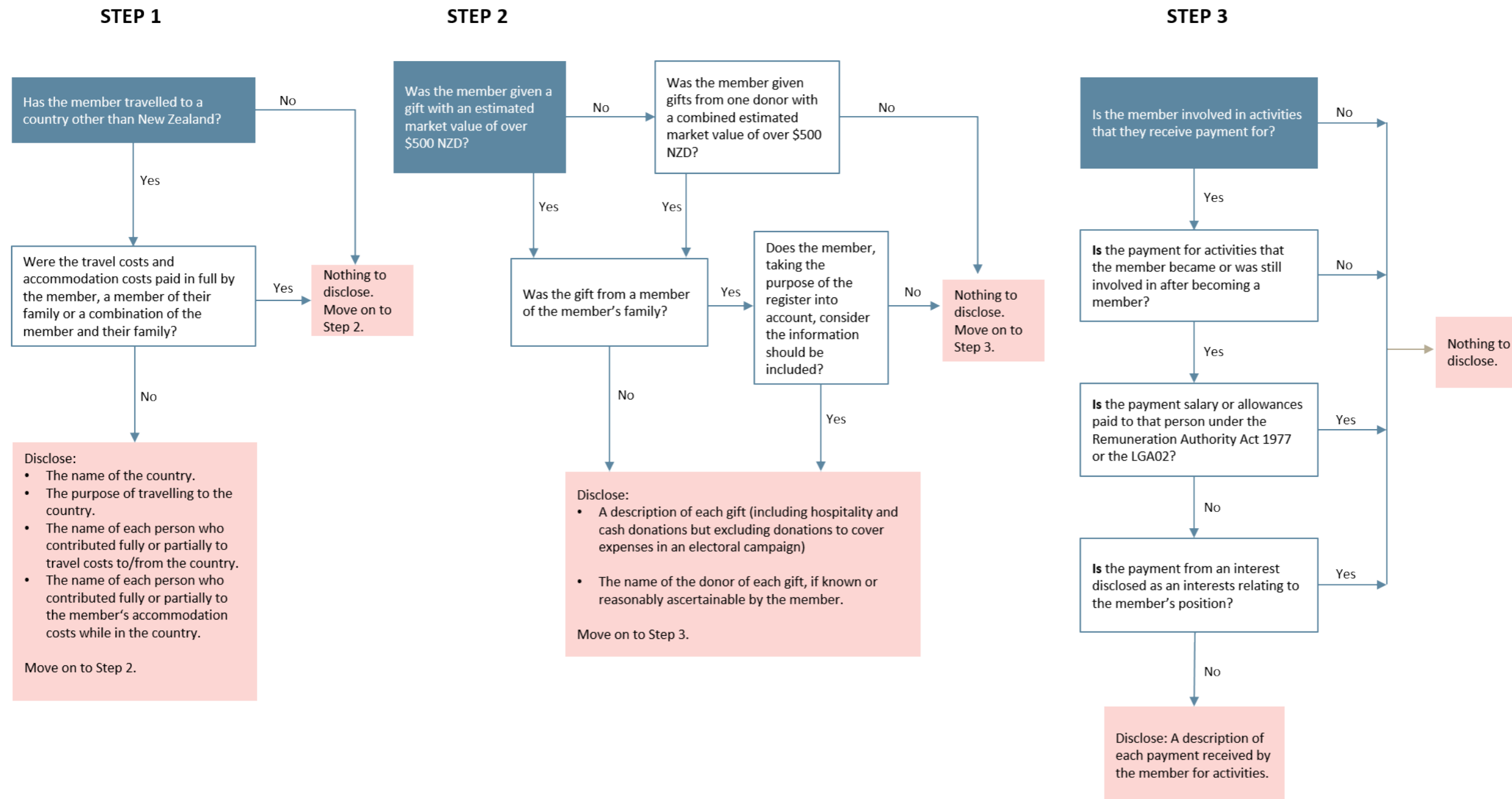
# APPENDIX B: Flowcharts of Members' Interests

Chart 1: Information relating to a member's position



## APPENDIX B: Flowcharts of Members' Interests

Chart 2: Information relating to a members' activities





# APPENDIX C: Template Pecuniary Interest Return Form

---

## Pecuniary Interests Return Form

### Information for members:

Sections 54A to 54I of the Local Government Act 2002 (**LGA**) requires members to provide annual returns of certain pecuniary interests. You can use this form to provide your return.

You are responsible for complying with your obligations under the LGA relating to this return.

You can, however, seek advice and guidance from the Registrar of the members' pecuniary interests register on how to complete your return.

### How to file this return:

You can file your completed return form with the Registrar by *[insert details of possible means for filing that are available, eg give email address, online portal information, postal, or information about how to file in person]*.

The due date for the return is *[insert date]*.

### Privacy statement:

Your personal information is being collected so that the Council and the Registrar can comply with their obligations under the LGA, particularly those in sections 54A and 54G.

You are required to provide this information under sections 54C to 54H of the LGA. Failure to do so will constitute an offence under section 235 of the LGA.

Your personal information will be used and disclosed in accordance with the purpose of the register set out in section 54B of the LGA, which is to record members' interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making. The information will be retained for 7 years from the date on which you provide it, and will then be removed from the register.

A summary of your personal information will be made publicly available by the Council, in accordance with section 54A of the LGA. In addition, your personal information will constitute official information, and so is subject to the Local Government Official Information and Meetings Act 1987.

You have the right to access and seek correction of your personal information under the Privacy Act 2020. This can be done by contacting *[insert contact details]*.

# APPENDIX C: Template Pecuniary Interest Return Form

## Return:

This return is made under section 54C of the Local Government Act 2002, providing information required under sections 54E and 54F of that Act.

## Member's name:

---

## 12 month period covered by this return:

---

1. Are you the director of a company?  
(section 54E(1)(a))

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If yes, please provide the name of the company (or companies) and a description of their main business activities:

---

---

---

---

---

---

---

2. Do you hold or control more than 10% of the voting rights in a company?  
(section 54E(1)(a))

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>

If yes, please provide the name of the company (or companies) and a description of their main business activities:

---

---

---

---

---

---

---

# APPENDIX C: Template Pecuniary Interest Return Form

3. Do you have a pecuniary interest in any other company or business entity (except as an investor in a managed investment scheme)?  
(section 54E(1)(b))

Yes	No

If yes, please provide the name of the company (or companies) or business entity (or entities) and a description of their main business activities:

---

---

---

---

---

---

---

4. Are you employed?  
(section 54E(1)(c))

Yes	No

If yes, please provide the name of your employer(s) and a description of their main business activities:

---

---

---

---

---

---

---

5. Do you have a beneficial interest in a trust?  
(section 54E(1)(d))

Yes	No

If yes, please provide the name of the trust(s):

---

---

---

---

---

---

---

# APPENDIX C: Template Pecuniary Interest Return Form

6. Are you a member of an organisation, a member of the governing body of the organisation, or a trustee of the trust **and** that organisation or trust receives, or has applied to receive, funding from the Council, local board or community board to which you are elected?  
*(section 54E(1)(e))*

Yes No

--	--

If yes, please provide the name of the organisation(s) or trust(s) and a description of their main business activities:

---

---

---

---

---

---

---

---

7. Are you appointed to any organisation by virtue of being an elected member?  
*(section 54E(1)(f))*

Yes No

--	--

If yes, please provide the title for your appointed role(s), the name of the organisation(s), and a description of them:

---

---

---

---

---

---

---

---

8. Do you have a legal interest, other than as a trustee, in any real property?  
*(section 54E(1)(g))*

Yes No

--	--

If yes, please provide the location of the real property (eg suburb and city, or town) and a description of the nature of property (eg. family residence, rental property, or commercial property):

---

---

---

---

---

---

---

---

# APPENDIX C: Template Pecuniary Interest Return Form

9. Are you the beneficiary of a trust that holds real property (but excluding a trust that is a unit trust you have already disclosed under question 5 or a trust that is a retirement scheme whose membership is open to the public)?  
*(section 54E(1)(h))*

Yes	No

If yes, please provide the location of the real property (eg suburb and city, or town) and a description of the nature of property (eg. family residence, rental property, or commercial property):

---

---

---

---

---

---

---

---

10. Have you travelled to any country (other than New Zealand) where your travel and accommodation costs were not paid in full by you and/or a member of your family?  
*(section 54F(1)(a))*

Yes	No

*(In this question, "family" means the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling.)*

If yes, please provide the name of the country, the purpose of travelling to the country, the name of each person who contributed (in whole or in part) to the costs of travel to or from the country to or any accommodation costs incurred by the member while in the country (if more than one country was travelled to, provide all of this information for each country):

---

---

---

---

---

---

---

---

---

---

## APPENDIX C: Template Pecuniary Interest Return Form

11. Have you received any gift (other than a gift from a family member, unless you consider that gift should be disclosed taking into account the purpose of the members' pecuniary interests register) that:

Yes      No

--	--

- has an estimated market value in New Zealand of over \$500; or
- when combined with all other gifts from the same donor, have a total estimated market value in New Zealand of over \$500?

*(section 54F(1)(b))*

*(In this question:*

*"gift" includes hospitality and donations in cash or kind, but excludes electoral expenses, and*

*"family" means the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling.)*

If yes, please provide a description of the gift(s) and the name of the donor of the gift(s) (if known or reasonably ascertainable by you):

---

---

---

---

---

---

---

---

12. Have you received any payment for an activity in which you are involved, excluding:

Yes      No

--	--

- any salary or allowance paid to you under the Remuneration Authority Act 1977 or the Local Government Act 2002
- any payment received from an interest that has already been disclosed in this return; or
- any payment made in respect of an activity that you ceased to be involved in before becoming a member?

*(section 54F(1)(c))*

If yes, please provide a description of the payment(s) received by you:

---

---

---

---

---

**AUCKLAND**

Level 27, 88 Shortland Street,  
Private Bag 92518,  
Auckland 1141, New Zealand  
+64 9 358 2222

**WELLINGTON**

Level 24, HSBC Tower,  
195 Lambton Quay, PO Box 2402,  
Wellington 6140, New Zealand  
+64 4 499 4599

**CHRISTCHURCH**

Level 1, 151 Cambridge Terrace,  
West End, PO Box 874,  
Christchurch 8140, New Zealand  
+64 3 365 9914

This document is strictly private, confidential  
and personal to its recipients. It should not be  
copied, distributed or reproduced in whole or in  
part, nor passed to any third party.

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 <sup>th</sup> December 2022
<b>Title of Item:</b> Operations Monthly Report	
<b>Report by:</b> : James Bell – Engineering Officer, Paulette Birchfield – Area Engineer, Lillian Crozier - BSO	
<b>Reviewed by:</b> Colin Munn, Acting Infrastructure Manager	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this report is to provide Council with an overview of the activities undertaken during the month of November 2022.

### Report Summary

This report details the investigations and physical works undertaken by Regional Council Engineers on behalf of the Karamea and Inchbonnie Rating Districts and an assessment of damage that occurred during the weather event on the 1<sup>st</sup> – 4<sup>th</sup> of November.

### Draft Recommendations

It is recommended that Council resolve to:

1. *Receive this report.*

### Current situation

#### Inchbonnie Rating District

Rosco Contracting Ltd has undertaken works to armour a section of stopbank using rock from a stockpile on site, this works has been estimated to cost \$3,412.00 GST exclusive.

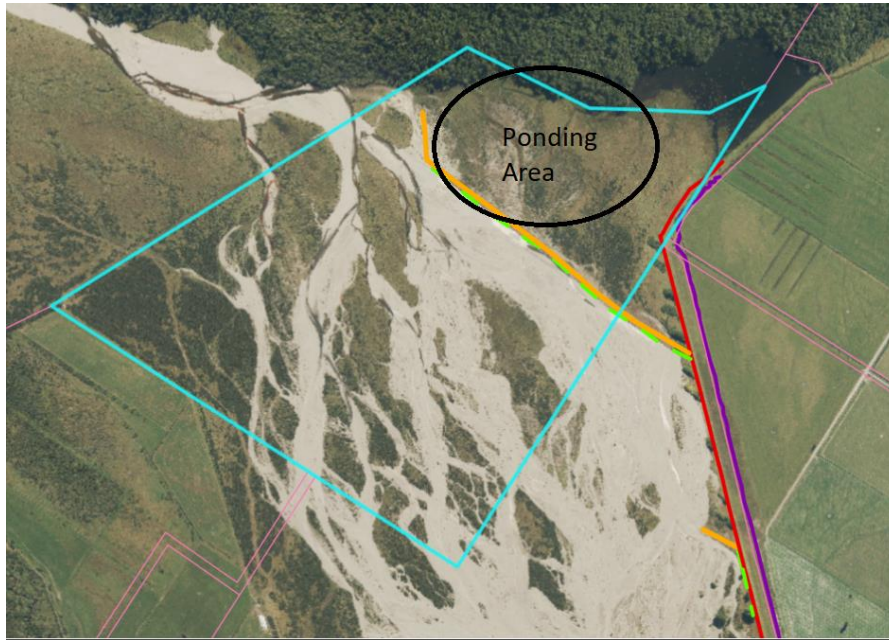


Image from the riverbed showing riprap protection works in the Inchbonnie Rating District.



### Waitangi-Taona Rating District

WCRC are investigating the extension of one of the groynes in the Waitangi-Taona scheme. During high flows water is flowing around the groyne and ponding behind it (see images below). It is thought the build up of the delta in Lake Wahapo may be a cause of the issue.



The groyne in the Waitangi-Taona Rating District is indicated by the yellow line.



Photo showing the gap between the groyne and the hillside where water has been flowing around.

### Karamea Rating District

The contract for repair of February 2022 flood damage on four sites on the Little Wanganui River was let to SM Lowe Contracting Ltd for \$85,170. An open tender process took place and two

tenders were received. If weather permits, works are due to start early December 2022. The works will be funded from the Karamea Rating District accounts and there is an expectation that up to 60% recovery will be obtained from NEMA.

### **Weather Event Report –November 2022**

A weather event occurred between Wednesday 2<sup>nd</sup> November and Friday 4<sup>th</sup> November.

Damage occurred in a number of catchments and affected a number of scheme assets including

- Waiho River
- Wanganui River
- Hokitika River at the Milk Factory culvert outlet
- Taramakau River

#### **Waiho River**



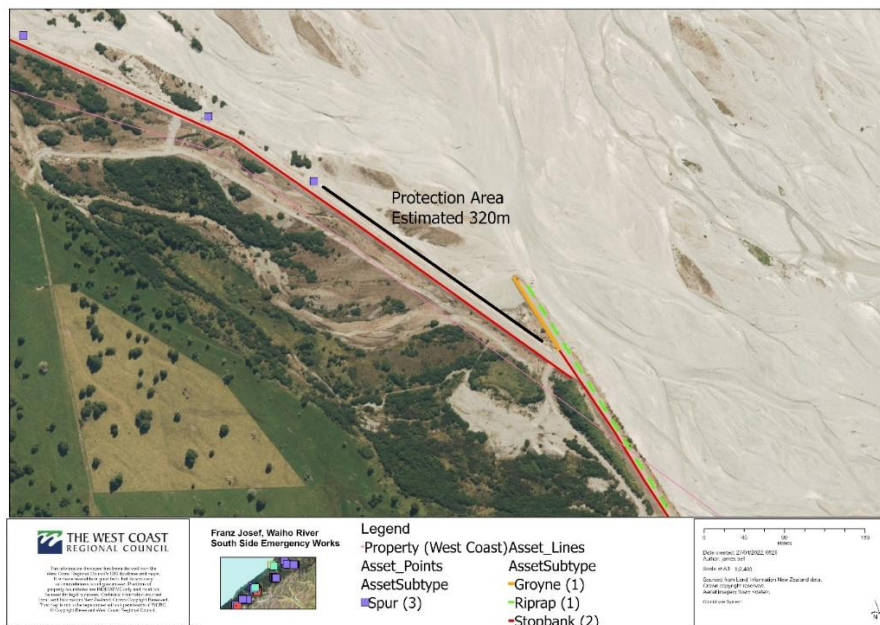
**Looking upstream at the State Highway Waiho River bridge piers**





Location 3: A temporary rockwork repair has been undertaken at a cost of \$21,250 until Franz Josef Project Stage 2 works are confirmed. If Stage 2 does not go ahead, further maintenance works will need to be considered. These include remediation of scour along the bank and constructing a 320m rock riprap extension with ties into the first spur on the stopbank (see map plan below). The estimated cost of this work is \$150,000.00, if rock is scavenged from the riverbed. The price will increase if quarried rock is required.

**Location 3: End of Milton and Others Stopbank**



Locations 4, 5, 6 and 7: These areas on the true right bank will continued to be monitored. The stopbank in these locations is being raised as part of the Stage 1 Project.

Location 8: The toe of the works that were constructed between Milton and others to Rata Knoll will need to be investigated and monitored. Investigation will need to be conducted at low flows to identify if any maintenance is required.

## Wanganui River

The Wanganui River is the Council's largest scheme in terms of asset value. However, there is currently no monitoring site at the bridge to provide information on how the river is responding. A monitoring device is to be installed in the near future. The closest rain gauge is at the Whataroa River State Highway Bridge.



**Wanganui River Location Map**

Overall, this event caused minor damage to WCRC flood protection assets on the Wanganui River, with moderate damage occurring to the stopbank at location 6. Visual inspections, carried out by landowners and contractors, is the only data that we have that is specific to the river. It has been reported that the river was bank to bank at some stages of the event, with as little as 300mm of freeboard in areas along the true left stopbank. Modelling being compiled by Land River Sea Consulting will aid in defining the level of service that these stopbanks currently provide, and the radars that will be installed in the near future at the State Highway Bridge will be a good start in gathering data specific to this river.

Location 1: Continue monitoring the groyne to see how it handles fresh floods and events, replenish the stockpile with the amount of rock used (180T) when the next maintenance job that requires rock to be carted in takes place.

Location 2: Continue monitoring this area to see if more slumping occurs. Top up riprap with an estimated 200T when the next maintenance job takes place.

Location 3: This area requires urgent attention. This site has been subject to erosion during the events over the last year and will continue to get worse if no action takes place. The stopbank is rather thin and steep in this area. An estimated 1000 tonne of armour grade rock is required to riprap this area.

Location 4: Continue to monitor this area, the modelling that is being provided by Land River Sea Consulting will be used to determine how much the stopbanks need to be raised.

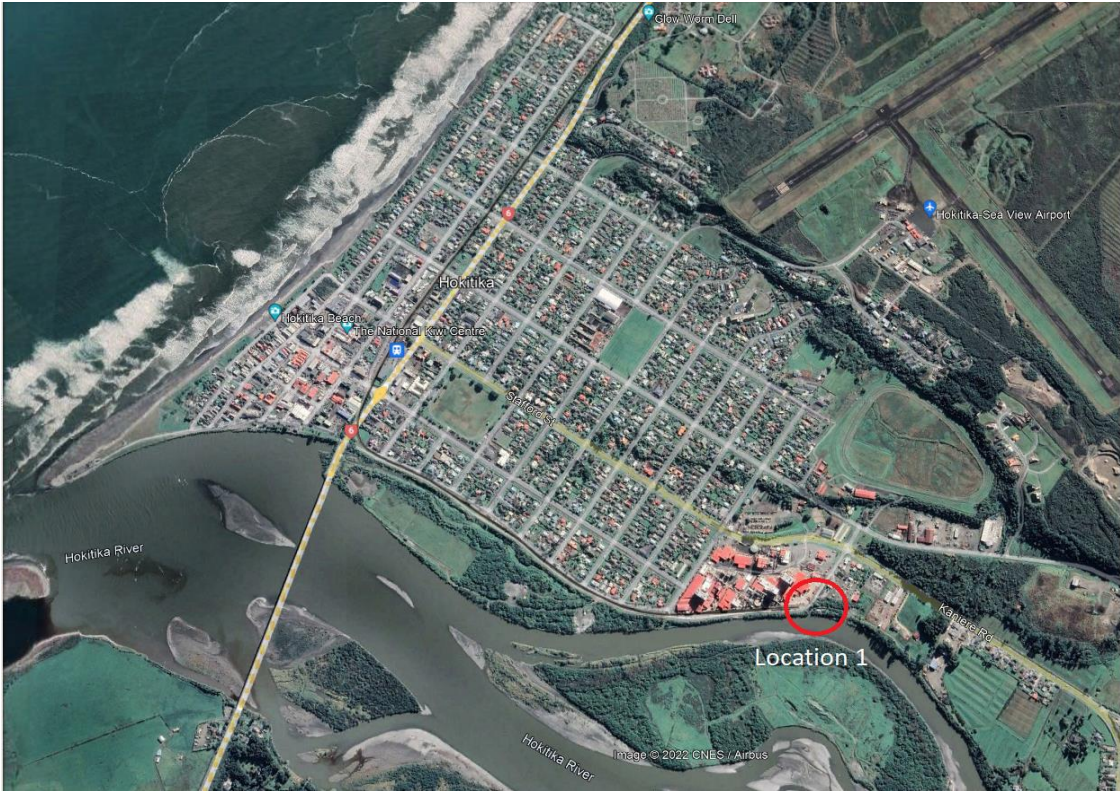
Location 5: This area requires attention. Slumping of the stronghead has caused some large holes to form within the structure. It is recommended to retrieve the rock that has fallen into the riverbed and cart in an estimated 500-800T of rock to repair the stronghead.

Location 6: A solution to this area is being investigated by Inovo on behalf of WCRC, and designs are being sought from multiple design teams. The spurs that were sitting out in the flow of the river have been retrieved and the rock has been repurposed. This was done at the cost of one of the landowners. Monitoring of this area will continue in the meantime.

Location 7: This area will continue to be monitored. WCRC have no assets on the upstream side of the State Highway Bridge. If left unattended the erosion may continue to get worse, leaving the bridge and downstream assets at risk of being compromised.

The estimated cost to complete these damage repair works is \$65,400 (exclusive GST) and require approximately 2,180 tonnes of rock.

**Hokitika River**



**Location 1: Culvert Directly upstream of Westland Milk Products**



**Looking upstream at the true left bank 04/11/2022**



**Looking downstream, slumping of rock and vegetation undermining visible 04/11/2022**

Location 1: A solution to this problem is currently being investigated and will involve WCRC, WDC and Westland Milk Products. In the meantime, the slumped rockwork needs to be repaired and works undertaken to increase the freeboard in this area. The damaged floodgate on the culvert has already been repaired.



## Taramakau River

WCRC Staff met with Taramakau Rating District members and Henry Adams Contracting (HAC) on the 16<sup>th</sup> of November 2022. These 4 sites were damaged during the 1<sup>st</sup> – 4<sup>th</sup> November event and require urgent repair. The works are being carried out under the maintenance contract for the scheme. This work is estimated to cost \$111,375.00 GST exclusive; and are proposed to be completed by mid-December. The Rating District has agreed to fund these works separate to the annual maintenance budget for the scheme, and invoices will be raised for individual landowners based on agreed percentages.



### Taramakau River Location Map

Site 1: Estimated 500T required @ \$27.50/T = \$13,750 to repair slumped rockwork

Site 2: Estimated 2000T required @ \$27.50/T = \$55,000 to repair slumped rockwork on a deflector groyne



Site 3: Estimated 1000T required @ \$27.50 /T = \$27,500 to repair slump spur and continue rockwork upstream

Site 4: Estimated 5 dumper loads of rubble to repair deflector groyne, estimated cost \$4,200

## **Considerations**

### **Implications/Risks**

There are no unexpected implementations or risks.

### **Significance and Engagement Policy Assessment**

There are no issues within this report which trigger matters in this policy.

### **Tangata whenua views**

Tangata whenua have not been consulted on these matters.

### **Views of affected parties**

Members of the Taramakau River Scheme have been consulted and support the works within their scheme. The flood damage that has occurred will be discussed at the next meeting of the various scheme rating districts.

### **Financial implications**

Works will be funded from Annual Plan budgets.

### **Legal implications**

There are no legal implications.

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> Quarry Operations and Management Monthly Works Report	
<b>Report by:</b> Keri Harrison, Quarry Manager	
<b>Reviewed by:</b> Colin Munn, Acting Infrastructure Manager	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this report is to provide Council with an overview of the works undertaken during the month of November 2022.

### Report Summary

This monthly Quarry Operations and Management Works Report details the works undertaken during the previous month, including any rock sales at the quarry sites.

### Draft Recommendations

It is recommended that Council resolve to:

1. *Receive this report.*

### Issues and Discussion

#### Inchbonnie Operation and Management Contract 2022/5 and Camelback Operation and Management Contract 2022/6

A meeting with Rosco Contractors Ltd (RCL) was held on site at Inchbonnie Quarry on Monday 14 November 2022. The purpose of this meeting was to discuss the waste disposal concerns that have occurred during this recent campaign. The quarry footprint has significant limitations for waste disposal. A large amount of waste is generated during a campaign.

A surveyor has been engaged to conduct a boundary and internal survey to verify where waste can be deposited, to eliminate any double handling of waste in the future. Waste disposal off site to provide for river protection is an option being considered and is being explored by the Operations Team.

#### Camelback Quarry

A meeting was held on 15 November 2022 with Inger Perkins, Regional Field Advisor from Aotearoa Outdoor Access Commission regarding the public access to the track above the quarry. The purpose of this meeting was to gauge the requirements of the access track reflecting the future rock campaigns that will be conducted at Camelback Quarry.

A powerline and transmitting tower are also close to the quarry face. The writer has been in contact with Westpower to verify ownership of the lines and to confirm whether an easement is in place. This will provide for planning future quarry campaigns. A response to this request has not yet been received.

#### Okuru Quarry

Work is progressing to provide the required documentation for the Department of Conservation to progress the access arrangement.

#### Blackball Quarry

The writer will meet with John Ewen, a Worksafe Inspector, in the next month to confirm that the safety scope of works proposed will satisfy closure of this quarry.

#### Kiwi Quarry

The WorkSafe prohibition notice is still in force. TerraFirma Engineering Ltd were approached to provide a geotechnical assessment. The geotechnical assessment and site meeting with TerraFirma Engineering, WCRC staff, Kiwi Rail and GDC was conducted on Monday 14 November 2022. This meeting highlighted

GDC, and KiwiRail access road concerns and the works required within the quarry to provide for closure. There are several limitations that need to be considered prior to any works occurring, some of which will require financial consideration by all parties.

Prior to the geotechnical assessment report being provided, WCRC are required to drone survey the site. This will occur in the next few weeks at which time the report can be finalised.

### Quarry Rock Movement November 2022

The Inchbonnie campaign commenced in mid-October 2022, with completion proposed in mid-December 2022. Approximately 11,000 tonne has been produced of the 15,000 tonne. Camelback and Okuru Quarries have stockpiled rock with no movement in rock during November 2022.

Table 1 November 2022

Quarry	Opening Balance at 25 Oct 2022	Rock Produced 25 Oct – 30 Nov (tonnes)		Rock Sold 25 Oct – 30 Nov (tonnes)		Closing Balance at 30 Nov 2022
		Council related	Private Sales	Council related	Private Sales	
Inchbonnie	0	10000	1000	0	0	11000
Camelback	18998.58	0	0	0	0	18998.58
Okuru	450	0	0	0	0	450
Miedema Rock Deposit	0	0	0	0	0	0
Oparara	0	0	0	0	0	0
<b>Total</b>	19448.58	10000	1000	0	0	30,448.58

The writer is yet to conduct site visits to Miedema Rock Deposit or Oparara but has been informed that there are no stockpiles at these sites.

### Financial Quarry Budgets and Forecasting

At the request of the Corporate Services Manager, work has commenced on the forecasting of the quarry revenue and expenditure.

Expenditure at the quarry sites is expected to increase. Environmental monitoring, survey works, geotechnical assessments, and rehabilitation are several of the expenditure items under consideration.

The projected revenue at the quarry sites is obtained from rock sales that include both sales to any rating district or project works and private sales.

Historically, a production cost (being the cost to produce the rock) was applied to sales to any rating district or project works. There was no limit on the private sales that could be undertaken. Rubble was charged at a per tonne rate. A royalty rate applied on occasion, but this approach was inconsistent.

From August 2022, a new production cost, being a per tonne rate to produce armour rock, has been applied as part of the contract requirements for both sites.

A review of the charge out rates for rock, including royalty and a loading out charge, is necessary to align with the market requirements.

Research is being undertaken to determine the expected demand for rock. Unfortunately, this has been difficult to quantify as many of the work programmes are not under the Council's control, however working through these work programmes will assist with determining what production is required over the next 12 months so that we can better estimate the revenue.

Work will continue to clearly identify the quarry revenue and expenditure requirements with a further report provided at the next Council meeting.

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> Westport Joint Committee – Confirmation of Independent Chair and Community Member appointments for next triennium	
<b>Report by:</b> Nichola Costley – Manager Strategy and Comms	
<b>Reviewed by:</b> Heather Mabin, Chief Executive	
<b>Public excluded?</b> No	

### Report Purpose

To confirm the Independent Chair and Community Member appointments for the next triennium.

### Report Summary

The Westport Rating District Joint Committee membership includes two community members and an independent chair. These appointments were confirmed by the West Coast Regional Council and Buller District Council in February 2022.

The Joint Agreement states that these positions were to match the local government constituent's appointments (as per the local government election cycle).

Due to the relatively recent confirmation of these appointments, staff are recommending that the current community members and independent chair are reappointed for the next triennium period.

### Draft Recommendations

**It is recommended that Council resolve to:**

- *Receive the report; and*
- *Reconfirm Hugh McMillan as Chair of the Westport Rating District Joint Committee; and*
- *Reconfirm Jodi Murray and Dan Moloney as the Community Members of the Westport Rating District Joint Committee.*

### Issues and Discussion

#### Background

Clause 30A of Schedule 7 of the Local Government Act 2002 requires Councils, where they wish to form a joint committee, to first have an agreement with every other local authority or public body who will have members on the committee. The Joint Agreement sets out the length of appointments for various members of the Committee.

The Joint Agreement was adopted in February 2022, see attachment 1.

#### Current situation

Under Clause F – Structure and Role of Committee, the Joint Agreement states:

*F. Two community members will be appointed to the Joint Committee by the WCRC and BDC, following a call for nominations. The initial community members shall be from the Westport 2100 group. New community members will be appointed as vacancies arise and the term of the appointments will match the local government constituents' appointments. The nomination process shall be administered by the WCRC, in consultation with BDC.*

Under Clause 1 – Deed/Agreement, the Joint Agreement states:

- 1. An Independent Chair shall be appointed by agreement between BDC and WCRC immediately following the triennial election, for a period of three years. The Chair must have relevant expertise, technical knowledge, or experience, and an ability to lead the work of the Committee in a*

*collaborative and consensus-seeking manner. The appointment process shall be administered by the WCRC, in consultation with BDC.*

Given that the Joint Committee was established this year, Staff are recommending that the appointment of the Chair and Community Members is reconfirmed as opposed to undertaking this process again. The appointment of the Chair in February was a result of a process involving a call for expressions of interest and then interviews by both the Buller District Mayor and West Coast Regional Council Chair plus the two Chief Executives. The appointment of the Community Representatives involved seeking expressions of interest from those on the Westport 2100 Working Group. Two expressions were received.

These clauses will be enacted for the next triennium period.

Unofficially BDC have confirmed that they will table the same recommendations at their December 2022 meeting.

## **Considerations**

### **Significance and Engagement Policy Assessment**

The matters addressed in this report are not considered to trigger the matters within this Policy.

### **Tangata whenua views**

The views of Te Rūnanga o Ngāti Waewae were sought in the drafting of this paper.

### **Financial implications**

There is no financial implication as a result of these recommendations being made.

### **Legal implications**

The process for the appointments was carried out in accordance with the Joint Committee Agreement and requirements under the Local Government Act 2002. Reconfirming these appointments is a procedural process.

## **Attachments**

1. Westport Rating District Joint Committee Agreement, February 2022



# **Westport Rating District Joint Committee Agreement**

February 2022



## DOCUMENT CONTROL

Reason for Submission	Revision Number	Revision Date	Approved By
New Document	1	1 July, 2021	West Coast Regional Council Buller District Council
Version 1 - draft	2	September 1, 2021	Initial review by West Coast Regional Council and Buller District Council
Version 2 - draft	3	September 22 2021	Final review by West Coast Regional Council and Buller District Council
Final		September 29 2021	Endorsed by Buller District Council

This Deed is made this 10<sup>th</sup> day of February 2022

## **PARTIES**

THE BULLER DISTRICT COUNCIL (“BDC”)

THE WEST COAST REGIONAL COUNCIL (“WCRC”)

TE RŪNANGA O NGĀTI WAEWAE (“NGĀTI WAEWAE”)

NEW ZEALAND TRANSPORT AGENCY (“WAKA KOTAHĪ”)

## **BACKGROUND**

- A. The BDC is empowered by Sections 12 and 130 of the Local Government Act 2002 to manage stormwater and amenity issues within its district; and
- B. The WCRC is empowered by Section 126 of the Soil Conservation and Rivers Control Act 1941 to take such steps as are necessary for the prevention of damage by floods; and
- C. Both Councils are empowered by the Local Government (Rating) Act 2002 to raise the funds necessary to carry out their respective functions; and
- D. Both Councils are empowered by Sections 12 and 137 and clauses 30 and 30A of Schedule 7 of the Local Government Act 2002 to enter into joint agreements and form a joint committee to co-ordinate the management of overlapping functions; and
- E. Any Westport flood protection structure built as a result of this agreement will be owned by the WCRC. The land the floodwalls are on is under various ownership; and
- F. Both Councils wish to record their agreement to jointly manage the maintenance of the Westport Floodwalls, via a Joint Committee of the two Councils, Te Rūnanga O Ngāti Waewae, Waka Kotahi and community members.
- G. A map of the Westport Rating District area is attached as Appendix I to this Agreement.

## **STRUCTURE AND ROLE OF COMMITTEE**

- A. The Joint Committee shall be formed initially, with its membership reappointed at or after the first meeting of WCRC and BDC following each triennial general election.
- B. WCRC shall appoint three elected Councillors to the Joint Committee, being two Councillors from the Buller constituency and the Chair of WCRC. If the Chair of WCRC is from the Buller constituency, then the third Councillor will be appointed from another constituency.
- C. BDC shall appoint the Mayor for Buller, plus two elected Councillors, to the Joint Committee.
- D. Te Rūnanga O Ngāti Waewae shall be represented on the Joint Committee by the Chair of Te

Rūnanga O Ngāti Waewae or a representative delegated by the Chair.

- E. Waka Kotahi will appoint a member to the Joint Committee.
- F. Two community members will be appointed to the Joint Committee by the WCRC and BDC, following a call for nominations. The initial community members shall be from the Westport 2100 group. New community members will be appointed as vacancies arise and the term of the appointments will match the local government constituents' appointments. The nomination process shall be administered by the WCRC, in consultation with BDC.
- G. The Committee shall not have any funding or rate setting authority.
- H. WCRC as the Rating Body for the Westport Rating District is the final decision maker on the annual work plan and setting the appropriate rate to fund the agreed works.
- I. The Joint Committee's role is to review the annual work plan provided to it by the WCRC, receive and consider any independent expert advice, and make informed recommendations to WCRC for the final decision. The Committee may also make recommendations to the WCRC regarding:
- Commissioning independent expert reports; and
  - Undertaking public consultation on boundary changes, major capital works and other areas of significant public interest.
- WCRC will consider any recommendations of the Committee in making any decisions on the above.
- J. Where Committee recommendations relate to the functions of the BDC, BDC shall consider and make decisions on any recommendations accordingly.
- K. A quorum of the Committee shall be not less than five members, and must include one or more members from each of the two Councils (one or more from WCRC and one or more from BDC).
- L. Minutes of all Joint Committee meetings shall be provided to the next meeting of the respective Councils.
- M. Meetings shall be held annually or as otherwise agreed by the Joint Committee.

#### **DEED/AGREEMENT**

1. An Independent Chair shall be appointed by agreement between BDC and WCRC immediately following the triennial election, for a period of three years. The Chair must have relevant expertise, technical knowledge, or experience, and an ability to lead the work of the Committee in a collaborative and consensus-seeking manner. The appointment process shall be administered by the WCRC, in consultation with BDC.
2. WCRC shall act as secretariat.
3. Unless otherwise specified in this Agreement, the Committee shall use the current

standing orders of the WCRC, noting that the committee wishes to achieve consensus decisions wherever possible.

4. This agreement may be amended at any time, at the request of either Council, but such amendment will only take effect once both parent Councils have formally received and adopted those changes sought.
5. Each year the Joint Committee shall consider any staff and/or expert reports, ascertain what work and budget requirements will be for the coming year and make a recommendation to each parent Council for annual planning and action.
6. Without limiting the ability of the Joint Committee to recommend the most appropriate arrangements for works and funding, in relation to the Westport floodwalls the BDC shall be responsible for all works and funding relating to:
  - 6.1 Amenity management, including grass mowing, gardening, beautification, and public access management; and
  - 6.2 Stormwater management, including any pump station operation and maintenance and floodgates on drainpipes and their operation and maintenance.
7. Without limiting the ability of the Joint Committee to recommend the most appropriate arrangements for works and funding, in relation to the Westport floodwalls the WCRC shall be responsible for all works and funding relating to:
  - 7.1 The maintenance and repair of the structural integrity of the floodwalls;
  - 7.2 The provision of flood warning advice to BDC for the Buller River; and
  - 7.3 Ownership of the floodwalls, including ownership of all infrastructural assets comprised by the floodwalls and their associated structures.
8. The WCRC has constituted a "Westport Rating District" and reserves the right to raise such funds as it may need to carry out its functions under clause 7 above from this source.
9. The BDC will fund the performance of its functions under clause 6 above from such sources that are available that it may determine.

## SIGNATURES


SIGNED by

**THE BULLER DISTRICT COUNCIL**



by its authorised signatory

In the presence of:



Witness signature

**Kirstin McKee**

Witness name

**Executive Assistant**

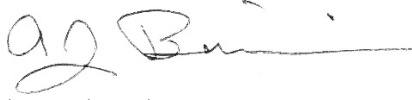
Witness Occupation

**Westport**

Witness Town of Residence

SIGNED by

**THE WEST COAST REGIONAL COUNCIL**



by its authorised signatory

In the presence of:



Witness signature

Toni Morrison

Witness name

Policy Consultant

Witness Occupation

Geraldine

Witness Town of Residence

SIGNED by

**TE RŪNANGA O NGĀTI WAEWAE**



by its authorised signatory

In the presence of:



Witness signature

Toni Morrison

Witness name

Policy Consultant

Witness Occupation

Geraldine

Witness Town of Residence

SIGNED by

**WAKA KOTAHI NZ TRANSPORT AGENCY**



by its authorised signatory

In the presence of:

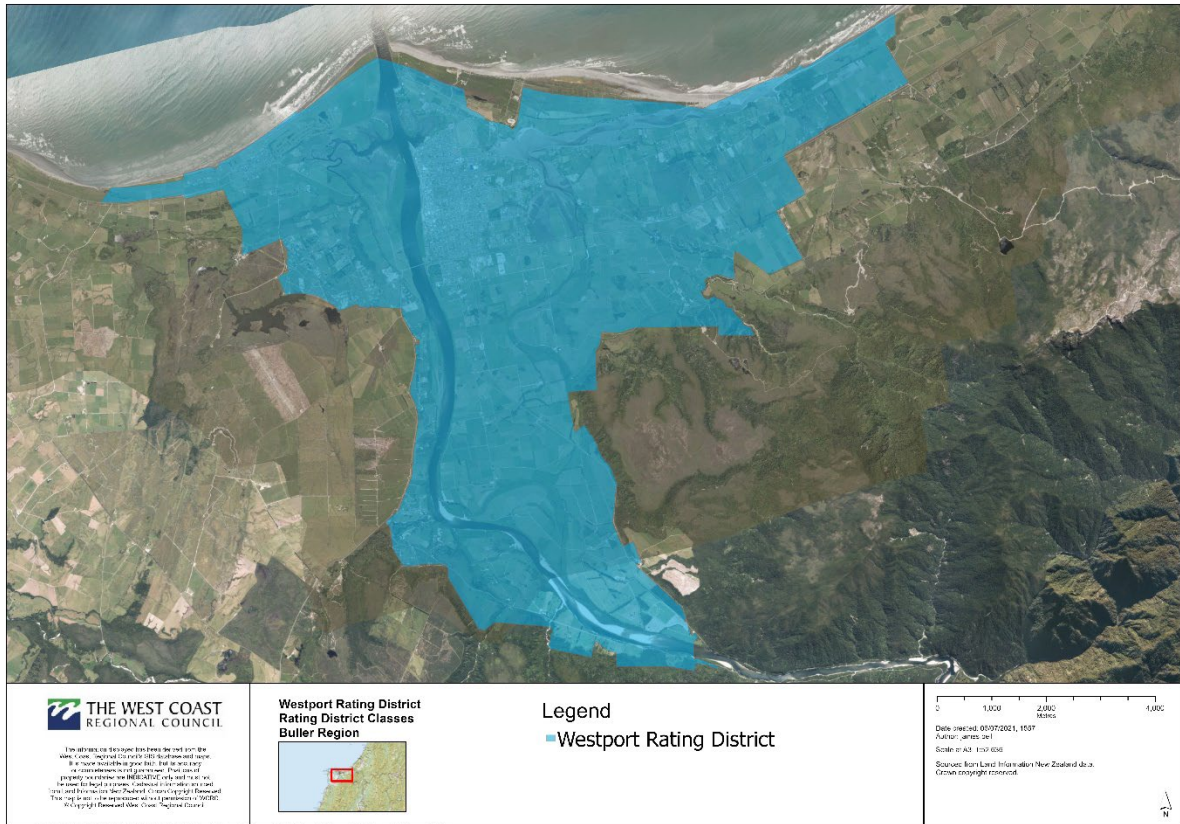
*Chrystal Orr*  
\_\_\_\_\_  
Witness signature

Chrystal Orr  
\_\_\_\_\_  
Witness name

Executive Assistant  
\_\_\_\_\_  
Witness Occupation

Auckland  
\_\_\_\_\_  
Witness Town of Residence

## APPENDIX I – WESTPORT RATING DISTRICT AREA



<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> Franz Josef Rating District Joint Committee – appointment of Chair	
<b>Report by:</b> Toni Morrison, WCRC Policy Consultant	
<b>Reviewed by:</b> Heather Mabin, Chief Executive	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this report is to seek that the Council appoint a Chair of the Franz Josef Rating District Joint Committee.

### Report Summary

The Joint Agreement reached between the parties to establish and operate this Joint Committee provides as follows:

*9. The Chair shall alternate one year to the next being a WDC elected representative one year and a WCRC elected representative the next, with the term of the chairpersonship being 12 months from 31 October each year except in years where the triennial election is held, where the term ends at the date of the election. The appointment of the Chair shall be made by the relevant Council who has responsibility for the Chair.*

*11. The Council not exercising the role of Chair in any year shall appoint a Deputy Chair. The term of the deputy chairpersonship shall be 12 months from 31 October each year except in years where the triennial election is held, where the term ends at the date of the election.*

Following liaison with the Chief Executive of Westland District Council, staff understand that the District Council's preference is that WCRC chairs the joint committee for the initial period. Staff therefore now seek that Council appoint an eligible member to chair the joint committee until 31 October 2023. The District Council will make a similar appointment from its members for the position of Deputy Chair.

### Recommendations

**It is recommended that Council resolve:**

1. *To receive this report; and*
2. *To appoint \_\_\_\_\_ as Chair of the Franz Josef Rating District Joint Committee.*

### Issues and Discussion

Over 2021- 2022 the Council worked with Westland District Council and other parties on the establishment of the Franz Josef Rating District Joint Committee. The Franz Josef Joint Agreement was signed by all parties in June/July 2022. Given the importance of upcoming work planned for Franz Josef, staff are presently making arrangements to stand up the Joint Committee, with a view to an inaugural meeting in early 2023.

### Membership of the Committee

In terms of membership of the joint committee by Regional Council elected members, the Agreement provides as follows:

2. *WCRC shall appoint three elected Councillors to the Joint Committee, being two Councillors from the Westland constituency and the Chair of WCRC. If the Chair of WCRC is from the Westland constituency, then the third Councillor will be appointed from another constituency.*

The members of this Joint Committee are therefore Councillors Haddock and Campbell, and Chair Birchfield. All are eligible for appointment to the role of Chair of the joint committee.

The other parties have nominated the following members to represent them on the joint committee:



- Te Rūnanga o Makaawhio - Paul Madgwick
- Department of Conservation - Mark Davies
- Waka Kotahi - James Caygill

The joint committee also includes two community members. These members are yet to be identified.

## **Considerations**

### **Implications/Risks**

There are no risks associated with this decision.

### **Significance and Engagement Policy Assessment**

There are no issues within this report which trigger matters in this policy.

### **Tangata whenua views**

The Rūnanga is a party to the Joint Agreement and have nominated a member.

### **Financial implications**

There are no financial implications. The committees' activities are provided for in existing budgets.

### **Legal implications**

N/a.

### **Attachments**

Attachment 1: Franz Josef Rating District Joint Agreement, June 2022



# **Franz Josef Rating District Joint Committee Agreement**

June 2022



THE WEST COAST  
REGIONAL COUNCIL

## DOCUMENT CONTROL



Reason for Submission	Revision Number	Revision Date	Approval
New Document	1	1 July 2021	
Version 1 - draft		November 2021	Initial review by West Coast Regional Council and Westland District Council
		December 2021	Review by Department of Conservation and Waka Kotahi
	Final	14 December 2021	Adoption by West Coast Regional Council
	Final	24 March 2022	Adoption by Westland District Council

This Deed is made this **26th** day of **July 2022**

## **PARTIES**

WESTLAND DISTRICT COUNCIL (“WDC”)

WEST COAST REGIONAL COUNCIL (“WCRC”)

TE RŪNANGA O MAKAAWHIO (“MAKAAWHIO”)

NEW ZEALAND TRANSPORT AGENCY (“WAKA KOTAHĪ”)

DIRECTOR-GENERAL OF CONSERVATION (“DOC”)

## **AGREEMENT**

### **BACKGROUND**

- A. The WDC is empowered by Sections 12 and 130 of the Local Government Act 2002 to manage stormwater and amenity issues within its district; and
- B. The WCRC is empowered by Section 126 of the Soil Conservation and Rivers Control Act 1941 to take such steps as are necessary for the prevention of damage by floods; and
- C. Both Councils are empowered by the Local Government (Rating) Act 2002 to raise the funds necessary to carry out their respective functions; and
- D. Both Councils are empowered by Sections 12 and 137 and clauses 30 and 30A of Schedule 7 of the Local Government Act 2002 to enter into joint agreements and form a joint committee to co-ordinate the management of overlapping functions; and
- E. Any Franz Josef flood protection structure built as a result of this agreement will be owned by the WCRC. The land the floodwalls are on is under various ownership; and
- F. Both Councils wish to record their agreement to jointly manage the maintenance of the Franz Josef Floodwalls, via a Joint Committee of the two Councils, Makaawhio, Waka Kotahi, DOC and community members.

### **STRUCTURE AND OPERATION OF THE COMMITTEE**

1. The Joint Committee shall be formed initially, with its membership reappointed at or after the first meeting of WCRC and WDC following each triennial general election.
2. WCRC shall appoint three elected Councillors to the Joint Committee, being two Councillors from the Westland constituency and the Chair of WCRC. If the Chair of WCRC is from the Westland constituency, then the third Councillor will be appointed from another constituency.

3. WDC shall appoint the Mayor for Westland, plus the two elected South Westland Councillors to the Joint Committee.
4. Makaawhio shall be represented on the Joint Committee by the Chair of Te Rūnanga O Makaawhio or a representative delegated by the Chair.
5. Waka Kotahi will appoint a member to the Joint Committee.
6. The Director-General of Conservation will appoint a member to the Joint Committee.
7. Two community members will be appointed to the Joint Committee by the WCRC and WDC, following a call for nominations. The initial community members shall be the spokespersons from the previous rating districts. New community members will be appointed as vacancies arise and the term of the appointments will match the local government constituent's appointments. The nomination process shall be administered by the WCRC, in consultation with WDC.
8. In relation to DOC, membership of the Joint Committee does not:
  - affect any of its rights, powers or duties, in particular as they relate to river and flood management at Franz Josef (such as under the Resource Management Act 1991); or
  - bind it to any funding commitments or decisions relating to transfer of assets.
9. The Chair shall alternate one year to the next being a WDC elected representative one year and a WCRC elected representative the next, with the term of the chairpersonship being 12 months from 31 October each year except in years where the triennial election is held, where the term ends at the date of the election. The appointment of the Chair shall be made by the relevant Council who has responsibility for the Chair.
10. The function of the secretariat will alternate as per the term of chairpersonship.
11. The Council not exercising the role of Chair in any year shall appoint a Deputy Chair. The term of the deputy chairpersonship shall be 12 months from 31 October each year except in years where the triennial election is held, where the term ends at the date of the election.
12. Unless otherwise specified in this Agreement, the Committee shall use the current standing orders of the WCRC, noting that the committee wishes to achieve consensus decisions wherever possible.
13. A quorum of the Committee shall be not less than five members, and must include one or more members from each of the two Councils (one or more from WCRC and one or more from WDC).
14. Meetings shall be held annually or as otherwise agreed by the Joint Committee.
15. Notification of meetings and the publication of agendas and reports shall be conducted in accordance with the requirements of Part 7 of the Local Government Official Information and Meetings Act 1987, and will be undertaken by the secretariat.
16. Minutes of all Joint Committee meetings shall be provided to the next meeting of the respective Councils.

## TERMS OF REFERENCE & DELEGATIONS

17. Each year the Joint Committee shall consider any staff and/or expert reports, ascertain what work and budget requirements will be for the coming year and make a recommendation to each parent Council for annual planning and action.
18. The Committee shall not have any funding or rate setting authority.
19. WCRC as the Rating Body for the Franz Josef Rating District is the final decision maker on the annual work plan and setting the appropriate rate to fund the agreed works.
20. The Joint Committee's role is to review the annual work plan provided to it by the WCRC, receive and consider any independent expert advice, and make informed recommendations to WCRC for the final decision. The Committee may also make recommendations to the WCRC regarding:
  - Commissioning independent expert reports; and
  - Undertaking public consultation on boundary changes, major capital works and other areas of significant public interest.

WCRC will consider any recommendations of the Committee in making any decisions on the above.

21. Where Committee recommendations relate to the functions of the WDC, WDC shall consider and make decisions on any recommendations accordingly.
22. Without limiting the ability of the Joint Committee to recommend the most appropriate arrangements for works and funding, in relation to the Franz Josef floodwalls the WDC shall be responsible for all works and funding relating to:
  - Stormwater management, including any pump station operation and maintenance and floodgates on drainpipes and their operation and maintenance.
23. Without limiting the ability of the Joint Committee to recommend the most appropriate arrangements for works and funding, in relation to the Franz Josef floodwalls the WCRC shall be responsible for all works and funding relating to:
  - The maintenance and repair of the structural integrity of the floodwalls managed under WCRC Asset Management Plans;
  - The provision of flood warning advice to WDC for the Waiho River; and
  - Ownership of the floodwalls as identified in WCRC Asset Management Plans.
24. The WCRC has constituted a "Franz Josef Rating District" and reserves the right to raise such funds as it may need to carry out its functions under clause 8 above from this source.
25. The WDC will fund the performance of its functions under clause 22 above from such sources that are available that it may determine.

### Variation of this Agreement

26. This agreement may be amended at any time, at the request of either Council, but such amendment will only take effect once both parent Councils have formally received and adopted those changes sought.

**SIGNATURES**

SIGNED by

**WESTLAND DISTRICT COUNCIL**



by its authorised signatory

Acting Mayor David Carruthers



Witness signature

Diane Maitland

Witness name

Executive Assistant

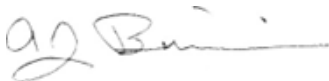
Witness Occupation

Hokitika

Witness Town of Residence

SIGNED by

**WEST COAST REGIONAL COUNCIL**



by its authorised signatory

In the presence of:



Witness signature

Toni Morrison

Witness name

Policy Consultant

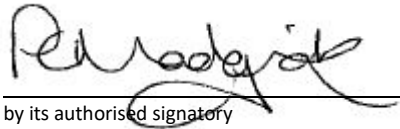
Witness Occupation

Geraldine

Witness Town of Residence

SIGNED by

**TE RŪNANGA O MAKAAWHIO**



---

by its authorised signatory

In the presence of:



---

Witness signature

Nichola Costley

---

Witness name

Strategy and Communications Manager

---

Witness Occupation

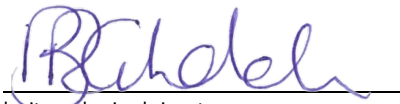
Greymouth

---

Witness Town of Residence

SIGNED by

**NEW ZEALAND TRANSPORT AGENCY**



---

by its authorised signatory

In the presence of:



---

Witness signature

Chrystal Orr

---

Witness name

Executive Assistant

---

Witness Occupation

Auckland

---

Witness Town of Residence

SIGNED by

**DIRECTOR-GENERAL OF CONSERVATION**



---

by its authorised signatory

In the presence of:



---

Witness signature

Diane Molloy

---

Witness name

Personal Assistant

---

Witness Occupation

Greymouth

---

Witness Town of Residence



<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item:</b> Franz Josef Rating District Joint Committee – appointment of Chair	
<b>Report by:</b> Toni Morrison, WCRC Policy Consultant	
<b>Reviewed by:</b> Heather Mabin, Chief Executive	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this report is to seek that the Council appoint a Chair of the Franz Josef Rating District Joint Committee.

### Report Summary

The Joint Agreement reached between the parties to establish and operate this Joint Committee provides as follows:

*9. The Chair shall alternate one year to the next being a WDC elected representative one year and a WCRC elected representative the next, with the term of the chairpersonship being 12 months from 31 October each year except in years where the triennial election is held, where the term ends at the date of the election. The appointment of the Chair shall be made by the relevant Council who has responsibility for the Chair.*

*11. The Council not exercising the role of Chair in any year shall appoint a Deputy Chair. The term of the deputy chairpersonship shall be 12 months from 31 October each year except in years where the triennial election is held, where the term ends at the date of the election.*

Following liaison with the Chief Executive of Westland District Council, staff understand that the District Council's preference is that WCRC chairs the joint committee for the initial period. Staff therefore now seek that Council appoint an eligible member to chair the joint committee until 31 October 2023. The District Council will make a similar appointment from its members for the position of Deputy Chair.

### Recommendations

**It is recommended that Council resolve:**

1. *To receive this report; and*
2. *To appoint \_\_\_\_\_ as Chair of the Franz Josef Rating District Joint Committee.*

### Issues and Discussion

Over 2021- 2022 the Council worked with Westland District Council and other parties on the establishment of the Franz Josef Rating District Joint Committee. The Franz Josef Joint Agreement was signed by all parties in June/July 2022. Given the importance of upcoming work planned for Franz Josef, staff are presently making arrangements to stand up the Joint Committee, with a view to an inaugural meeting in early 2023.

### Membership of the Committee

In terms of membership of the joint committee by Regional Council elected members, the Agreement provides as follows:

2. *WCRC shall appoint three elected Councillors to the Joint Committee, being two Councillors from the Westland constituency and the Chair of WCRC. If the Chair of WCRC is from the Westland constituency, then the third Councillor will be appointed from another constituency.*

The members of this Joint Committee are therefore Councillors Haddock and Campbell, and Chair Birchfield. All are eligible for appointment to the role of Chair of the joint committee.

The other parties have nominated the following members to represent them on the joint committee:

- Te Rūnanga o Makaawhio - Paul Madgwick
- Department of Conservation - Mark Davies
- Waka Kotahi - James Caygill

The joint committee also includes two community members. These members are yet to be identified.

## **Considerations**

### **Implications/Risks**

There are no risks associated with this decision.

### **Significance and Engagement Policy Assessment**

There are no issues within this report which trigger matters in this policy.

### **Tangata whenua views**

The Rūnanga is a party to the Joint Agreement and have nominated a member.

### **Financial implications**

There are no financial implications. The committees' activities are provided for in existing budgets.

### **Legal implications**

N/a.

### **Attachments**

Attachment 1: Franz Josef Rating District Joint Agreement, June 2022

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item: Standing Orders</b>	
<b>Report by:</b> Toni Morrison, WCRC Policy Consultant	
<b>Reviewed by:</b> Heather Mabin, Chief Executive	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this report is to seek that the Council adopt an updated set of Standing Orders for the conduct of its Council and committee meetings.

### Report Summary

Under the Local Government Act 2022 (LGA) Council is required to operate under a set of Standing Orders. The Council is currently operating under Standing Orders adopted in October 2019. These were based on a template provided by LGNZ. LGNZ has since updated the template, and Council is now asked to consider and adopt the updated Standing Orders.

### Recommendations

**It is recommended that Council resolves to:**

1. *Receive this report; and*
2. *Determine whether clause 19.3 regarding the Chair having a casting vote be deleted or included.*
3. *Confirm as its preference either*
  - *Option A, or*
  - *Option B, or*
  - *Option C*

*as for the default option for speaking and moving motions; and*
4. *Adopt the West Coast Regional Council Standing Orders 2022.*

### Issues and Discussion

Councils are required to operate under a set of Standing Orders which provides a framework and set of rules for good governance decision making. This supports local democracy and decision making to be open, transparent and fair. Much of what is included in the Standing Orders is based on legislative requirements under the LGA and the Local Government Official Information and Meetings Act 1987 (LGOIMA).

LGNZ has recently updated its template standing orders, which are appended for the Council's review. This offers an improved, updated, more user-friendly and plain English document. A number of changes have been made in the latest iteration of these Standing Orders to reflect current legislation and good meeting practice.

Standing Orders cannot contravene the Local Government Act, Local Government Official Information and Meetings Act 1987 or any other Act.

The approval of at least 75 per cent of members present at a meeting is required to adopt and/or amend Standing Orders.

It is proposed these Standing Orders will apply to Council, its Committees and any subcommittees. It should also be noted that the terms of reference for some of Council's Joint Committees provide that the WCRC's Standing Orders apply.

## **Casting Vote**

The proposed Standing Orders provide for the chairperson or any other person presiding at a meeting to have a deliberative vote and a casting vote in the case of an equality of votes (clause 19.3). Previous Councils have chosen not to allow the Chair a casting vote in the event of a tied vote. Should Council prefer, this option can be removed or the use of a casting vote can be prescribed for a particular situation (e.g. adoption of statutory plans). It is noted that the purpose of a casting vote is to avoid a deadlock and no clear decision being made.

If the current Council wishes to continue this approach, it will be necessary to exclude clause 19.3 from the Standing Orders adopted by Council.

## **Speaking and Moving Options**

The LGNZ standing orders' model offers councils a choice of three frameworks (Option A, Option B or Option C) for speaking to and moving motions and amendments, to give greater flexibility when dealing with different situations. These are outlined in section 22 of Attachment 1. Option A is the default option, but offers the least flexibility. Option C offers the most flexibility.

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 (NB this is the framework used in the Standards New Zealand Model Standing Orders and current WCRC 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 (the most flexible) provides substantial flexibility by removing the limitations placed on movers and seconders by the other two options. Council may wish to adopt this less formal approach.

## **Considerations**

### **Implications/Risks**

There are no risks associated with this decision.

### **Significance and Engagement Policy Assessment**

There are no issues within this report which trigger matters in this policy.

### **Tangata whenua views**

N/a.

### **Financial implications**

There are no financial implications of adopting the Standing Orders.

### **Legal implications**

Any changes to the Standing Orders must comply with the requirements of the Local Government Act 2002 and LGOIMA.

## **Attachments**

Attachment 1: West Coast Regional Council Standing Orders 2022 (Draft)



West Coast Regional Council

# Standing Orders

LGNZ Template

**DRAFT**

*[Date of adoption]*

## **Preface**

Standing orders contain rules for the conduct of the proceedings of local authorities, committees, subcommittees and subordinate decision-making bodies. 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. They fulfil, with regard to the conduct of meetings, the requirements of the Local Government Act 2002(LGA 2002) and the Local Government Official Information and Meetings Act 1987 (LGOIMA).

Although it is mandatory that local authorities adopt standing order for the conduct of their meetings, it is not necessary that they are adopted every triennium. However, LGNZ recommends that every council, committee and subordinate body review their standing orders within at least their first six months following an election, to ensure that they fully meet the need for effective and inclusive meetings (see LGA 2002, cl. 27, Schedule 7).

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.

# Contents

<b>1. Introduction</b>	<b>10</b>
1.1 Principles	10
1.2 Statutory references	11
1.3 Acronyms	11
1.4 Application	11
<b>2. Definitions</b>	<b>11</b>
<b>General matters</b>	<b>17</b>
<b>3. Standing orders</b>	<b>17</b>
3.1 Obligation to adopt standing orders	17
3.2 Process for adoption and alteration of standing orders	17
3.3 Members must obey standing orders	17
3.4 Application of standing orders	17
3.5 Temporary suspension of standing orders	17
3.6 Quasi-judicial proceedings	18
3.7 Physical address of members	18
<b>4. Meetings</b>	<b>18</b>
4.1 Legal requirement to hold meetings	18
4.2 Meeting duration	18
4.3 Language	18
4.4 Webcasting meetings	19
4.5 First meeting (inaugural)	19
4.6 Requirements for the first meeting	19
<b>5. Appointments and elections</b>	<b>20</b>
5.1 Voting system for chairs, deputies, and committee chairs	20
<b>6. Delegations</b>	<b>20</b>
6.1 Limits on delegations	20
6.2 Committees may delegate	21
6.3 Use of delegated powers	21
6.4 Decisions made under delegated authority cannot be rescinded or amended	21
6.5 Committees and sub committees subject to the direction of the local authority	22
<b>7. Committees</b>	<b>22</b>
7.1 Appointment of committees and subcommittees	22
7.2 Discharge or reconstitution of committees and subcommittees	22
7.3 Appointment or discharge of committee members and subcommittee members	22
7.4 Elected members on committees and subcommittees	23
7.5 Local authority may replace members if committee not discharged	23

7.6	Decision not invalid despite irregularity in membership	23
7.7	Appointment of joint committees	23
7.8	Status of joint committees	24
7.9	Power to appoint or discharge individual members of a joint committee	24
<b>Pre-meeting</b>		<b>25</b>
<b>8.</b>	<b>Giving notice</b>	<b>25</b>
8.1	Public notice – ordinary meetings	25
8.2	Notice to members - ordinary meetings	25
8.3	Extraordinary meeting may be called	25
8.4	Notice to members - extraordinary meetings	25
8.5	Emergency meetings may be called	26
8.6	Process for calling an emergency meeting	26
8.7	Public notice – emergency and extraordinary meetings	26
8.8	Meetings not invalid	26
8.9	Resolutions passed at an extraordinary meeting	27
8.10	Meeting schedules	27
8.11	Non-receipt of notice to members	27
8.12	Meeting cancellations	27
<b>9.</b>	<b>Meeting agenda</b>	<b>28</b>
9.1	Preparation of the agenda	28
9.2	Process for raising matters for a decision	28
9.3	Chief executive may delay or refuse request	28
9.4	Order of business	28
9.5	Chairperson’s recommendation	28
9.6	Chairperson may prepare report	29
9.7	Public availability of the agenda	29
9.8	Public inspection of agenda	29
9.9	Withdrawal of agenda items	29
9.10	Distribution of the agenda	29
9.11	Status of agenda	29
9.12	Items of business not on the agenda which cannot be delayed	30
9.13	Discussion of minor matters not on the agenda	30
9.14	Public excluded business on the agenda	30
9.15	Qualified privilege relating to agenda and minutes	30
<b>Meeting Procedures</b>		<b>32</b>
<b>10.</b>	<b>Opening and closing</b>	<b>32</b>
<b>11.</b>	<b>Quorum</b>	<b>32</b>



11.1	Council meetings	32
11.2	Committees and subcommittee meetings	32
11.3	Joint Committees	32
11.4	Requirement for a quorum	33
11.5	Meeting lapses where no quorum	33
11.6	Business from lapsed meetings	33
<b>12.</b>	<b>Public access and recording</b>	<b>33</b>
12.1	Meetings open to the public	33
12.2	Grounds for removing the public	33
12.3	Local authority may record meetings	34
12.4	Public may record meetings	34
<b>13.</b>	<b>Attendance</b>	<b>34</b>
13.1	Members right to attend meetings	34
13.2	Attendance when a committee is performing judicial or quasi-judicial functions	34
13.3	Leave of absence	34
13.4	Apologies	35
13.5	Recording apologies	35
13.6	Absent without leave	35
13.7	Right to attend by audio or audiovisual link	35
13.8	Member's status: quorum	35
13.9	Member's status: voting	35
13.10	Chairperson's duties	36
13.11	Conditions for attending by audio or audiovisual link	36
13.12	Request to attend by audio or audiovisual link	36
13.13	Chairperson may terminate link	36
13.14	Giving or showing a document	37
13.15	Link failure	37
13.16	Confidentiality	37
<b>14.</b>	<b>Chairperson's role in meetings</b>	<b>37</b>
14.1	Council meetings	37
14.2	Other meetings	37
14.3	Addressing the chairperson	38
14.4	Chairperson's rulings	38
14.5	Chairperson standing	38
14.6	Member's right to speak	38
14.7	Chairperson may prioritise speakers	38
<b>15.</b>	<b>Public Forums</b>	<b>38</b>
15.1	Time limits	39

15.2	Restrictions	39
15.3	Questions at public forums	39
15.4	No resolutions	39
<b>16.</b>	<b>Deputations</b>	<b>39</b>
16.1	Time limits	40
16.2	Restrictions	40
16.3	Questions of a deputation	40
16.4	Resolutions	40
<b>17.</b>	<b>Petitions</b>	<b>40</b>
17.1	Form of petitions	40
17.2	Petition presented by petitioner	41
17.3	Petition presented by member	41
<b>18.</b>	<b>Exclusion of public</b>	<b>41</b>
18.1	Motions and resolutions to exclude the public	41
18.2	Specified people may remain	42
18.3	Public excluded items	42
18.4	Non-disclosure of information	42
18.5	Release of information from public excluded session	42
<b>19.</b>	<b>Voting</b>	<b>42</b>
19.1	Decisions by majority vote	43
19.2	Open voting	43
19.3	Chairperson has a casting vote	43
19.4	Method of voting	43
19.5	Calling for a division	43
19.6	Request to have votes recorded	43
19.7	Members may abstain	44
<b>20.</b>	<b>Conduct</b>	<b>44</b>
20.1	Calling to order	44
20.2	Behaviour consistent with Code of Conduct	44
20.3	Retractions and apologies	44
20.4	Disorderly conduct	44
20.5	Contempt	44
20.6	Removal from meeting	45
20.7	Financial conflicts of interests	45
20.8	Non-financial conflicts of interests	45
20.9	Qualified privilege for meeting proceedings	45
20.10	Qualified privilege additional to any other provisions	46
20.11	Electronic devices at meetings	46

<b>21. General rules of debate</b>	<b>46</b>
21.1 Chairperson may exercise discretion	46
21.2 Time limits on speakers	46
21.3 Questions to staff	46
21.4 Questions of clarification	47
21.5 Members may speak only once	47
21.6 Limits on number of speakers	47
21.7 Secunder may reserve speech	47
21.8 Speaking only to relevant matters	47
21.9 Restating motions	47
21.10 Criticism of resolutions	48
21.11 Objecting to words	48
21.12 Right of reply	48
21.13 No other member may speak	48
21.14 Adjournment motions	48
21.15 Chairperson's acceptance of closure motions	49
<b>22. General procedures for speaking and moving motions</b>	<b>49</b>
22.1 Options for speaking and moving	49
22.2 Option A	49
22.3 Option B	49
22.4 Option C	50
<b>23. Motions and amendments</b>	<b>50</b>
23.1 Proposing and seconding motions	50
23.2 Motions in writing	50
23.3 Motions expressed in parts	51
23.4 Substituted motion	51
23.5 Amendments to be relevant and not direct negatives	51
23.6 Foreshadowed amendments	51
23.7 Carried amendments	51
23.8 Lost amendments	51
23.9 Where a motion is lost	52
23.10 Withdrawal of motions and amendments	52
23.11 No speakers after reply or motion has been put	52
<b>24. Revocation or alteration of resolutions</b>	<b>52</b>
24.1 Member may move revocation of a decision	52
24.2 Revocation must be made by the body responsible for the decision	52
24.3 Requirement to give notice	53
24.4 Restrictions on actions under the affected resolution	53

24.5	Revocation or alteration by resolution at same meeting	53
24.6	Revocation or alteration by recommendation in report	53
<b>25.</b>	<b>Procedural motions</b>	<b>53</b>
25.1	Procedural motions must be taken immediately	54
25.2	Procedural motions to close or adjourn a debate	54
25.3	Voting on procedural motions	54
25.4	Debate on adjourned items	54
25.5	Remaining business at adjourned meetings	54
25.6	Business referred to the council or committee	54
25.7	Other types of procedural motions	55
<b>26.</b>	<b>Points of order</b>	<b>55</b>
26.1	Members may raise points of order	55
26.2	Subjects for points of order	55
26.3	Contradictions	55
26.4	Point of order during division	55
26.5	Chairperson's decision on points of order	55
<b>27.</b>	<b>Notices of motion</b>	<b>56</b>
27.1	Notice of intended motion to be in writing	56
27.2	Refusal of notice of motion	56
27.3	Mover of notice of motion	56
27.4	Alteration of notice of motion	57
27.5	When notices of motion lapse	57
27.6	Referral of notices of motion	57
27.7	Repeat notices of motion	57
<b>28.</b>	<b>Minutes</b>	<b>57</b>
28.1	Minutes to be evidence of proceedings	57
28.2	Matters recorded in minutes	57
28.3	No discussion on minutes	58
28.4	Minutes of last meeting before election	58
<b>29.</b>	<b>Keeping a record</b>	<b>58</b>
29.1	Maintaining accurate records	58
29.2	Method for maintaining records	59
29.3	Inspection	59
29.4	Inspection of public excluded matters	59
	<b>Referenced documents</b>	<b>60</b>
	<b>Appendix 1: Grounds to exclude the public</b>	<b>61</b>
	<b>Appendix 2: Sample resolution to exclude the public</b>	<b>63</b>
	<b>Appendix 3: Motions and amendments (Option A)</b>	<b>66</b>

<b>Appendix 4: Motions and amendments (Option B)</b>	<b>67</b>
<b>Appendix 5: Motions and amendments (Option C)</b>	<b>68</b>
<b>Appendix 6: Table of procedural motions</b>	<b>69</b>
<b>Appendix 7: Webcasting protocols</b>	<b>71</b>
<b>Appendix 8: Powers of a Chairperson</b>	<b>72</b>
<b>Appendix 9: Process for removing a regional chairperson from office</b>	<b>77</b>
<b>Appendix 10: Sample order of business</b>	<b>78</b>
<b>Appendix 11: Process for raising matters for a decision</b>	<b>79</b>

# 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.

The Appendices, which follows Part 3, provides 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 on the application of the standing orders and is 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 principles 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 consist of statutory provisions about meetings along with guidance on how those provisions should be applied in practice. 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 statutory references in the standing orders apply throughout the period of a 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 and Meetings Act 1987

LAMIA      Local Authorities (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 unless specifically included in their terms of reference.

## 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.

**Appointed member** means a member of a committee, or subsidiary organisation of a council, who is not elected.

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

**Audiovisual 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 in a position of authority in a meeting or other gathering, also known as the presiding member.

**Chief executive** means the chief executive of a 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 chief executive.

**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.

**Conflict of Interest** means any pecuniary interest and any interest arising because of that person's position as a trustee, director, officer, employee or member of another body or because of any personal non-pecuniary interest, such as pre-determination or bias.

**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.

**Debate** means discussion by members that occurs once a motion has been moved/seconded

**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.

**Division** means a formal vote at a Council, committee or subcommittee meeting whereby the names of those members present, including the mayor/chair, are formally recorded as voting either for or against. This includes a vote where the names and votes are recorded electronically.

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

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

**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.



**Internet site** means, in relation to a local authority or other person or entity, 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.

**Item** means a substantive matter for discussion at a meeting.

**Leave of the meeting** means agreement without a single member present dissenting.

**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.

**Leave of absence** means a pre-approved absence for a specified period of time consistent with the council policy should one be in place.

**Local authority** means in the context of these standing orders a regional council, 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.

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

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

**Member of the Police** means a Constable of the New Zealand Police within the definition of s.4 of the Policing Act 2008.

**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.

**Officer** means any person employed by the council either full or part time, on a permanent or casual or contract basis.

**Pecuniary Interest** includes any interest described in sections 3 and 6 of the Local Authorities (Members Interests) Act 1968.

**Open voting** means voting that is conducted openly and in a transparent manner (i.e. enables an observer to identify how a member has voted on an issue) 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.

**Present at the meeting to constitute quorum** means the member is to be physically present in the room.

**Presiding member** means the chairperson.

**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; and
- 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.

**Public notice** means one that is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority's website. And in addition, is published in at least one daily newspaper circulating in the region or district of the local authority, or one or more other newspapers that have a combined circulation in that region or district which is at least equivalent to that of a daily newspaper circulating in that region or district.

**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 reply to those who have spoken to the motion. (The right does not apply to an amendment).

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

**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 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. See definition of "Committee".

**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, Matariki, and Waitangi Day. If Waitangi Day or Anzac Day falls on a Saturday or a Sunday, then the following Monday;

- (b) The day observed in the appropriate area as the anniversary of the province of which the area forms a part; and
- (c) A day in the period commencing with 20 December in any year and ending with 10 January in the following year.

Should a local authority wish to meet between the 20<sup>th</sup> of December and the 10<sup>th</sup> of January of 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 will not apply, unless required by the local authority. Workshops may include non-elected members. Workshops may also be 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. 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.

*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.

*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. 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 may move a motion to suspend specified 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 be taken before or during a debate. The motion to suspend Standing Orders must also identify the specific Standing Orders to be suspended. Please Note: 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 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 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. Public access to those addresses is subject to the Privacy Act.

## **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. 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, then 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 two 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 7.

#### **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 members under cl.14, Schedule7, (LGA 2002);
- (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);
- (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 chairperson in accordance with cl.17 Schedule7, (LGA 2002).

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

Note: Councils must adopt standing orders, however they do not need to be adopted every three years. Councils are encouraged to review their existing standing orders early in their term to ensure that the settings are appropriate for their needs.

## 5. Appointments and elections

### 5.1 Voting system for chairs, deputies, and committee chairs

When electing a regional council chair, a deputy chair 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

**Please note:** Councils are advised to ensure that their chief executive is given sufficient delegated decision-making powers to cover the period from the day following the Electoral Office's declaration after an election until the new council is sworn in. See the LGNZ Guide to Standing Orders for further information.

### 6.1 Limits on delegations

Unless clearly stated in the LGA 2002 or any other Act, a council may, for the purposes of efficiency and effectiveness, delegate to a committee, subcommittee, subordinate decision-making body, 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*; and
- (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, 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, 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.

*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.*

## **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. The same is true for District Licensing Committees (see the LGNZ Guide to Standing Orders).

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

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

1. There is a vacancy in the membership of the local authority or committee 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.*

## **7.7 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;
- (b) How the chairperson and deputy chairperson are to be appointed;
- (c) The terms of reference of the committee;
- (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.

## **7.8 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.*

## **7.9 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

#### 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 the current month, together with the dates, the times and places on and 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 may be given not more than 10 nor less than 5 working days before the day on which the meeting is to be held. (See the LGNZ Guide to Standing Orders for more information).

*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 date, 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 Chairperson; or
  - ii. Not 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

The chief executive must give notice, in writing, of the time and place of an extraordinary meeting called under the standing order 8.3, as well as the general nature of business to be considered, 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 Emergency meetings may be called**

If the business a council needs to deal with requires a meeting to be held at a time earlier than is allowed by the notice requirements for holding an extraordinary meeting and it is not practicable to call the meeting by resolution, an emergency meeting may be called by:

- (a) The Chairperson; or
- (b) If the Chairperson is unavailable, the chief executive.

*cl. 22A(1), Schedule7 LGA 2002.*

## **8.6 Process for calling an emergency meeting**

The notice of the time and place of an emergency meeting, and of the matters in respect of which the emergency meeting is being called, must be given by the person calling the meeting or by another person on that person's behalf.

The notice must be given, by whatever means is reasonable in the circumstances, to each member of the local authority, and to the chief executive, at least 24 hours before the time appointed for the meeting.

*cl. 22A (2), Schedule7 LGA 2002.*

## **8.7 Public notice – emergency and extraordinary meetings**

Where an emergency or extraordinary meeting of a local authority is called but the notice of the meeting is inconsistent with these standing orders, due to the manner in which it was called, the local authority must cause that meeting and the general nature of business to be transacted at that meeting:

- (a) To be publicly notified as soon as practicable before the meeting is to be held; or
- (b) If it is not practicable to publish a notice in newspapers before the meeting, to be notified as soon as practicable on the local authority's website and in any other manner that is reasonable in the circumstances.

*s. 46 (3) LGOIMA.*

## **8.8 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.*

## **8.9 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.*

## **8.10 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.*

## **8.11 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 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.*

## **8.12 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, on behalf of the chairperson, 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 must consult, unless impracticable, such as in the case of the inaugural meeting, the chairperson, or the person acting as chairperson for the coming meeting.

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

Requests for reports may be made by a resolution of the council, committee, subcommittee or subordinate decision-making body, in the case of all decision-making bodies other than the council, must also fall within the scope of their specific delegations.

### **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.

Where a chief executive refuses a member's request to prepare a report, an explanation for that refusal 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. A recommendation that differs significantly from the officer's recommendation must comply with the decision-making requirements of Part 6, LGA 2002.



## **9.6 Chairperson may prepare report**

The chairperson of a meeting has the right to prepare a report to be included in the agenda on any matter which falls within the responsibilities of that meeting, as described in its terms of reference.

For clarity, any recommendation must comply with the decision-making requirements of Part 6, LGA 2002.

## **9.7 Public availability of the agenda**

All information provided to members at a local authority 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 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 or an emergency meeting (see Standing Orders 8.4 and 8.10).

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 a 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, including 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

### 10. Opening and closing

Local authorities 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.

### 11. Quorum

#### 11.1 Council meetings

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.*

#### 11.2 Committees and subcommittee meetings

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. (See also 7.4).

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.

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

#### 11.3 Joint Committees

The quorum at a meeting of a joint committee must be consistent with Standing Order 11.1. 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.*

## **11.4 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.*

## **11.5 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.

Should a quorum be lost the meeting will lapse if the quorum is not present within 15 minutes.

## **11.6 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.

## **12. Public access and recording**

### **12.1 Meetings open to the public**

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

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

### **12.2 Grounds for removing the public**

The chairperson may require any member of the public to be removed from the meeting if they believe that person's behaviour is likely to prejudice the orderly conduct of the meeting.

*s.50(1), LGOIMA*

### **12.3 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.

### **12.4 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 should 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 direct the recording to stop for a period of time.

## **13. Attendance**

### **13.1 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 a member of the local authority is not an appointed member of the meeting which they are attending, 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 then 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.

### **13.2 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.

### **13.3 Leave of absence**

A council may grant a member leave of absence following an application from that member. The council may delegate the power to grant a leave of absence to the Chairperson in order to protect a members' privacy and the Council may approve an application from the Chairperson. The

Chairperson will advise all members of the council 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.

### **13.4 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 (or acting chair) must invite apologies at the beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apologies. Members may be recorded as absent on council business where their absence is a result of a commitment made on behalf of the council.

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

### **13.5 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.

### **13.6 Absent without leave**

Where a member is absent from four consecutive meetings of the council without leave of absence, or an apology being accepted (not including extraordinary or emergency 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.*

### **13.7 Right to attend by audio or audiovisual link**

Provided the conditions in standing orders 13.11 and 13.12 are met, members of the local authority and its committees (and members of the public for the purpose of a deputation approved by the chairperson), have the right to attend meetings by means of an electronic link, unless they have been lawfully excluded.

### **13.8 Member's status: quorum**

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

*cl. 25A (4), Schedule 7, LGA 2002.*

### **13.9 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.

### **13.10 Chairperson's duties**

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

- (a) The technology for the link is available and of suitable quality; and
- (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.

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

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.

### **13.11 Conditions for attending by audio or audiovisual link**

Noting standing order 13.7, 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.

### **13.12 Request to attend by audio or audiovisual 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 audiovisual 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 audiovisual 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.

### **13.13 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;
- (d) The quality of the link is no longer suitable;
- (e) Information classified as confidential may be compromised (see also SO 13.16).

### **13.14 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.*

### **13.15 Link failure**

Where an audio or audiovisual 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.

### **13.16 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 time that the public is excluded. At such a time, the chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings. If the chairperson is not satisfied by the explanation they may terminate the link.

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

### **14.1 Council meetings**

The Chairperson must preside at meetings of the council 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 Chairperson must act as chairperson. If the deputy Chairperson is also absent the local authority members who are present must elect a member to be the chairperson at that meeting. This person may exercise the meeting responsibilities, duties, and powers of the Chairperson for that meeting.

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

### **14.2 Other meetings**

In the case of committees, subcommittees and subordinate decision-making bodies, the appointed chairperson must preside at each meeting unless they vacate the chair for all 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. This person may exercise the meeting responsibilities, duties and powers of the chairperson.

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

### **14.3 Addressing the chairperson**

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

### **14.4 Chairperson's rulings**

The chairperson will decide all procedural questions, including points of order, where insufficient provision is made by these standing orders (except in cases where appoint of order questions the chairperson's ruling). Any refusal to obey a Chairperson's ruling or direction constitutes contempt (see SO 20.5).

### **14.5 Chairperson standing**

Whenever the chairperson stands during a debate members are required to sit down (if required to stand to address the meeting) and be silent so that they can hear the chairperson without interruption.

### **14.6 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.

### **14.7 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.

## **15. Public Forums**

Public forums are a defined period of time, usually at the start of an ordinary 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 of their choice, not necessarily on the meeting's agenda, to the attention of the local authority.

In the case of a committee and subcommittee, any issue, idea, or matter raised in a public forum, must fall within the terms of reference of that body.

### **15.1 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 chief executive (or their delegate) at least one clear day before the meeting; however this requirement may be waived by the chairperson. Requests should also outline the matters that will be addressed by the speaker(s).

Speakers can speak for up to 5 minutes. 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.

### **15.2 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; and
- 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 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.

### **15.4 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. (See the LGNZ Guide to Standing Orders for suggestions of good practice in dealing with issues raised during a forum).

## **16. 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 should be approved by the chairperson, or an official with delegated authority, five working days before the meeting; however this requirement may be waived by the chairperson. Deputations may be heard at the commencement of the meeting or at the time that the relevant agenda item is being considered.

### **16.1 Time limits**

Speakers can speak for up to 5 minutes, or longer at the discretion of the chairperson. No more than two speakers can speak on behalf of an organisation's deputation.

### **16.2 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; and
- The matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

### **16.3 Questions of a deputation**

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

### **16.4 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.

## **17. Petitions**

### **17.1 Form of petitions**

Petitions may be presented to the local authority or any of its committees, as long as the subject matter falls within the terms of reference of the intended meeting.

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 five working days before the

meeting at which they will be presented; however this requirement may be waived by the chairperson.

Petitions must not be disrespectful, use offensive language or include malicious, inaccurate, or misleading statements (see standing order 20.9 on qualified privilege). They may be written in English or te reo Māori. Petitioners planning to present their petition in te reo or sign language should advise the chief executive in time to allow translation services to be arranged.

## **17.2 Petition presented by petitioner**

A petitioner who presents a petition to the local authority or any of its committees and subcommittees, 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.

## **17.3 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.

## **18. Exclusion of public**

### **18.1 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.*

## **18.2 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.*

## **18.3 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.*

## **18.4 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; and
- (b) The information is no longer confidential.

## **18.5 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.

## **19. Voting**

## **19.1 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 must be decided at a meeting through a vote exercised by the majority of the members that are present and voting.

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

## **19.2 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.*

## **19.3 Chairperson has a casting vote**

The 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.

*cl. 24 (2) Schedule 7, LGA 2002.*

## **19.4 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 publicly displayed and notified to the chairperson who must declare the result.

## **19.5 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.

## **19.6 Request to have votes recorded**

If requested by a member, immediately after a vote the minutes must record the member's vote or abstention. Recording any other matters, such as a members' reason for their vote or abstention, is not permitted.

## **19.7 Members may abstain**

Any member may abstain from voting.

## **20. Conduct**

### **20.1 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 immediately leave the meeting for a specified time.

### **20.2 Behaviour consistent with Code of Conduct**

At a meeting no member may act inconsistently with their Code of Conduct, or speak or act in a manner which is disrespectful of other members, staff or the public.

### **20.3 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.

### **20.4 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.

### **20.5 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.

A member who has been found to be in contempt, and continues to be cautioned by the Chairperson for disorderly conduct, may be subject to standing order 20.6.



## **20.6 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.

## **20.7 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.*

## **20.8 Non-financial conflicts of interests**

Non-financial interests involve questions about whether the judgement of a member of a local authority could be affected by a separate interest, or duty, which that member may have 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.

## **20.9 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.*

## **20.10 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.*

## **20.11 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:

- I. its use is likely to distract a meeting from achieving its business, or,
- II. a member is found to be receiving information or advice from sources not present at the meeting that may affect the integrity of the proceedings.

## **21. General rules of debate**

### **21.1 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 or when a chair can accept a procedural motion to close or adjourn a debate, is subject to the discretion of the chairperson.

### **21.2 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 5 minutes;
- (b) Movers of motions when exercising their right of reply – not more than 5 minutes; and
- (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.

### **21.3 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 is to be dealt with is at the chairperson's discretion.

## **21.4 Questions of clarification**

At any point in 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/or the particular stage the debate has reached.

## **21.5 Members may speak only once**

A member, depending on the choice of options for speaking and moving set out in Cl. 22.2 -22.4, may not speak more than once to a motion at a meeting of the council, except with permission of the chairperson. Members can speak more than once to a motion at a committee or subcommittee meeting with the chairperson's permission.

## **21.6 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.

## **21.7 Secunder may reserve speech**

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

## **21.8 Speaking only to relevant matters**

Members may only speak to;

- I. any matter before the meeting
- II. a motion or amendment which they propose, and
- III. to raise a point of order arising out of debate,

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.

## **21.9 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.

## **21.10 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.

## **21.11 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.

**Note:** This provision does not preclude a member from making a complaint at any time during, or after, a meeting about the use of inappropriate or offensive language.

## **21.12 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.

The original mover may 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 may use their right of reply before the motion or amendment is put to the vote. The mover of the original motion may choose to indicate that they wish to reserve their right of reply until the closure motion.

## **21.13 No other member may speak**

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

- I. After the mover has started their reply;
- II. After the mover has indicated that they want to forego this right; and
- III. 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.

## **21.14 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, is to be considered at the next ordinary meeting of that committee, unless otherwise specified.

## **21.15 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.

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

### **22.1 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.

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

### **22.2 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 (in which case it becomes the substantive motion) 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.

### **22.3 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.

## **22.4 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.

## **23. Motions and amendments**

### **23.1 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. A motion should be moved and seconded before debate but after questions.

Amendments and motions that are not seconded are not valid and should not be entered in the minutes.

Note: Members who move or second a motion are not required to be present for the entirety of the debate.

### **23.2 Motions in writing**

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

### **23.3 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.

### **23.4 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.

### **23.5 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. An amendment cannot be a direct negative to the motion or the amended motion. Reasons for not accepting an amendment can include:

- a) Not directly relevant
- b) In conflict with a carried amendment
- c) Similar to a lost amendment
- d) Would negate a committee decision if made under delegated authority
- e) In conflict with a motion referred to the governing body by that meeting
- f) Direct negative.

Please note that amendments that are significantly different must comply with the decision-making provisions of the Part 6, LGA 2002.

### **23.6 Foreshadowed amendments**

The meeting must dispose of an existing amendment before a new amendment can be moved. However, members may foreshadow to the chairperson that they intend to move further amendments as well as the nature of the content of those amendments.

### **23.7 Carried 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, depending on the choice of options for speaking and moving set out in clauses 22.2 – 22.4, speak to it, and may move or second a further amendment.

### **23.8 Lost 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, depending on the choice of options for speaking and moving set out in clauses 22.2 – 22.4, speak to the substantive motion, and may move or second a further amendment to it.

### **23.9 Where a motion is lost**

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

### **23.10 Withdrawal of motions and amendments**

Once a motion or amendment has been seconded the mover cannot withdraw it without the agreement 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.

### **23.11 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 chair has started putting the motion.

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

### **24.1 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. 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 Part 6, 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.

### **24.2 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, 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.

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

### **24.3 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.

### **24.4 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.

### **24.5 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.

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

The local authority, on a recommendation in a report by the chairperson, chief executive, or any committee, 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.*

## **25. Procedural motions**

## **25.1 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. A procedural motion to close or adjourn debate can be taken after two speakers have spoken for the motion and two against or, in the chairperson's opinion, it is reasonable to accept the closure motion.

## **25.2 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; (items lying on the table at the end of the triennium will be deemed to have expired); and
- (e) That the item being discussed should be referred (or referred back) to the relevant committee.

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

## **25.3 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.

## **25.4 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.

## **25.5 Remaining business at adjourned meetings**

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

## **25.6 Business referred to the council or committee**

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

## **25.7 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.

## **26. Points of order**

### **26.1 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).

### **26.2 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 – to bring disorder to the attention of the chairperson;
- (b) Language – to highlight use of disrespectful, offensive or malicious language;
- (c) Irrelevance – to inform the chair that the topic being discussed is not the matter currently before the meeting;
- (d) Misrepresentation – to alert the chair of a misrepresentation in a statement made by a member, an officer or a council employee;
- (e) Breach of standing order – to highlight a possible breach of a standing order while also specifying which standing order is subject to the breach; and
- (f) Recording of words – to request that the minutes record any words that have been the subject of an objection.

### **26.3 Contradictions**

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

### **26.4 Point of order during division**

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

### **26.5 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.

Should a point of order concern the performance of the chair, then the chair will refer the point of order to the deputy chair or, if there is no deputy, another member to hear arguments and make a ruling.

## **27. Notices of motion**

### **27.1 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.

### **27.2 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. 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; or
- (f) Concerns a matter where decision-making authority has been delegated to a committee or subordinate body.

Note: 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.

### **27.3 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.

## **27.4 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.

## **27.5 When notices of motion lapse**

Notices of motion that are not moved when called for by the chairperson must lapse.

## **27.6 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 must be referred to that committee 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.

## **27.7 Repeat notices of motion**

When a motion has been considered and rejected by the local authority or a committee, no similar notice of motion 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.

## **28. Minutes**

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

The local authority, its committees and subcommittees must keep minutes of their proceedings. These minutes must be kept in hard or electronic copy, authorised by a chairperson's manual or electronic signature once confirmed by resolution at a subsequent meeting. Once authorised the minutes are the *prima facie* evidence of the proceedings they relate to.

*cl. 28 Schedule 7, LGA 2002.*

### **28.2 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) Member absent without apology or leave of absence;
- (f) Member absent on council business;
- (g) arrival and departure times of members;
- (h) Any failure of a quorum;
- (i) A list of any external speakers and the topics they addressed;
- (j) A list of the items considered;
- (k) Items tabled at the meeting;
- (l) 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;
- (m) The names of all movers, and seconders;
- (n) Any objections made to words used;
- (o) All divisions taken and, if taken, a record of each members' vote;
- (p) the names of any members requesting that their vote or abstention be recorded;
- (q) Any declarations of financial or non-financial conflicts of interest;
- (r) The contempt, censure and removal of any members;
- (s) Any resolutions to exclude members of the public;
- (t) The time at which the meeting concludes or adjourns; and
- (u) 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.

### **28.3 No discussion on minutes**

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

### **28.4 Minutes of last meeting before election**

The chief executive and the relevant chairpersons must sign, or agree to have their digital signature inserted, the minutes of the last meeting of the local authority before the next election of members.

## **29. Keeping a record**

### **29.1 Maintaining accurate records**

A local authority must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice, including the records of any matter that is contracted out to an independent contractor.

All public records that are in its control must be maintained in an accessible form, so as to be able to be used for subsequent reference.

*s. 17 Public Records Act 2005.*

## **29.2 Method for maintaining records**

Records of minutes may be kept in hard copy (Minute Books) and/or in electronic form. If minutes are stored electronically the repository in which they are kept must meet the following requirements:

- (a) The provision of a reliable means of assuring the integrity of the information is maintained; and
- (b) The information is readily accessible so as to be usable for subsequent reference.

*s. 229(1) of the Contract and Commercial Law Act 2017.*

## **29.3 Inspection**

Whether held in hard copy or in electronic form minutes must be available for inspection by the public.

*s. 51 LGOIMA.*

## **29.4 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 if it is a request for official information in terms of the Local Government Official Information and Meetings Act 1987.

## Referenced documents

- Commissions of Inquiry Act 1908
- Crimes Act 1961
- Contract and Law Act 2017
- 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
- Public Records Act 2005
- Resource Management Act 1991 (RMA)
- Sale and Supply of Alcohol Act 2012
- 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.
  - (ba) 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; or
  - (c) 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.
  - (d) Avoid prejudice to measures protecting the health or safety of members of the public; or
  - (e) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
  - (f) Maintain the effective conduct of public affairs through the protection of such members, officers, employees, and persons from improper pressure or harassment; or
  - (g) Maintain legal professional privilege; or
  - (h) Enable any council holding the information to carry out, without prejudice or disadvantage, commercial activities; or
  - (i) Enable any council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or

- (j) Prevent the disclosure or use of official information for improper gain or improper advantage.

*s.7 LGOIMA 1987.*

*Under A2 (above) the public may be excluded unless, in the circumstances of a particular case, the exclusion of the public is outweighed by other considerations which render it desirable and in the public interest that the public not be excluded.*

- 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;
    - 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
    - iii. Proceedings of a local authority exist in relation to any application or objection under the Marine Farming Act 1971.

*s. 48 LGOIMA.*

## Appendix 2: Sample resolution to exclude the public

In accordance with section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act (or sections 6, 7 or 9 of the Official Information Act 1982, as the case may be), it is **moved**:

**1** that the public is excluded from:

- The whole of the proceedings of this meeting; *(deleted if not applicable)*
- The following parts of the proceedings of this meeting, namely; *(delete if not applicable)*

The general subject of the matters to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds for excluding the public, as specified by s 48(1) of the Local Government Official Information and Meetings Act 1987, are set out below:

Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To prevent the disclosure of information which would— <ul style="list-style-type: none"> <li>i. be contrary to the provisions of a specified enactment; or</li> <li>ii. constitute contempt of court or of the House of Representatives (s.48(1)(b)).</li> </ul>
		To consider a recommendation made by an Ombudsman (s. 48(1)(c)).
		To deliberate on matters relating to proceedings where: <ul style="list-style-type: none"> <li>i. a right of appeal lies to a court or tribunal against the final decision of the councils in those proceedings; or</li> <li>ii. the council is required, by an enactment, to make a recommendation in respect of the matter that is the subject of those proceedings (s.48(1)(d)).</li> </ul>
		To deliberate on proceedings in relation to an application or objection under the Marine Farming Act 1971 (s.48(1)(d)).
		To carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (s 7(2)(i)).

Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To protect the privacy of natural persons, including that of deceased natural persons (s 7(2)(a)).
		To maintain legal professional privilege (s 7(2)(g)).
		To prevent the disclosure or use of official information for improper gain or advantage (s. 7(2)(j)).
		To protect information which if public would; <ul style="list-style-type: none"> <li>i. disclose a trade secret; or</li> <li>ii. unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information (s 7(2)(b)).</li> </ul>
		To avoid serious offence to Tikanga Māori, or the disclosure of the location of waahi tapu in relation to an application under the RMA 1991 for; <ul style="list-style-type: none"> <li>• a resource consent, or</li> <li>• a water conservation order, or</li> <li>• a requirement for a designation or</li> <li>• an heritage order,</li> </ul> (s 7(2)(ba)).
		To protect information which is subject to an obligation of confidence where the making available of the information would be likely to: <ul style="list-style-type: none"> <li>i. prejudice the supply of similar information, or information from the same source, where it is in the public interest that such information should continue to be supplied; or</li> <li>ii. would be likely otherwise to damage the public interest (s 7(2)(c)).</li> </ul>
		To avoid prejudice to measures protecting the health or safety of members of the public (s 7(2)(d)).
		To avoid prejudice to measures that prevent or mitigate material loss to members of the public (s 7(2)(e)).

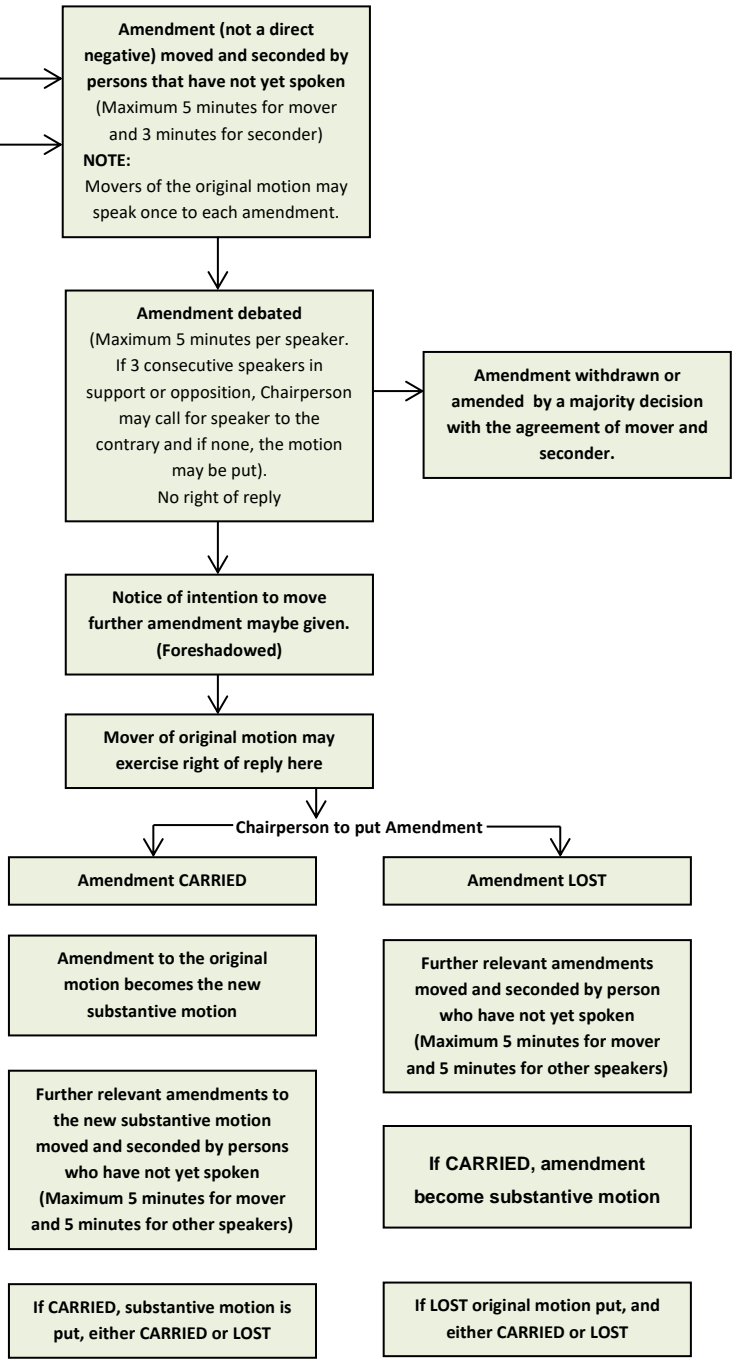
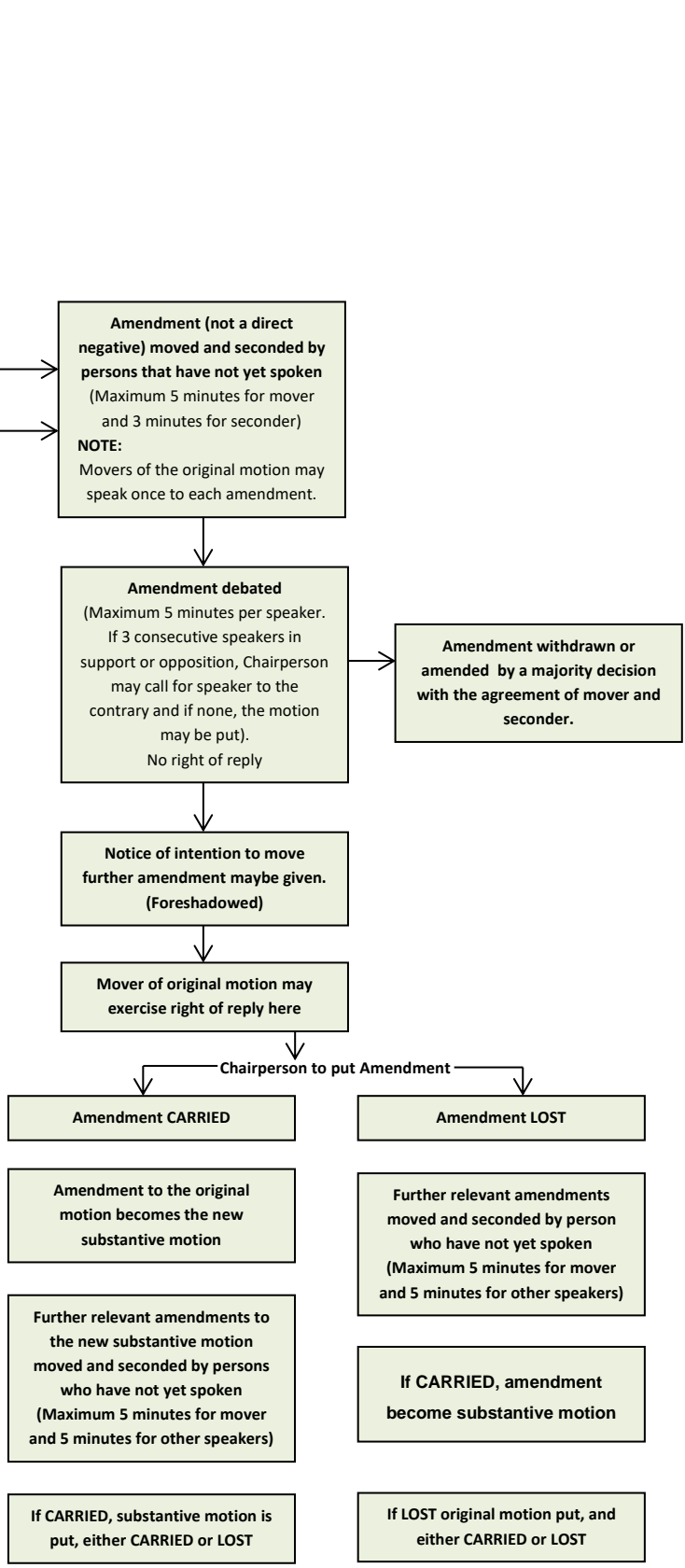
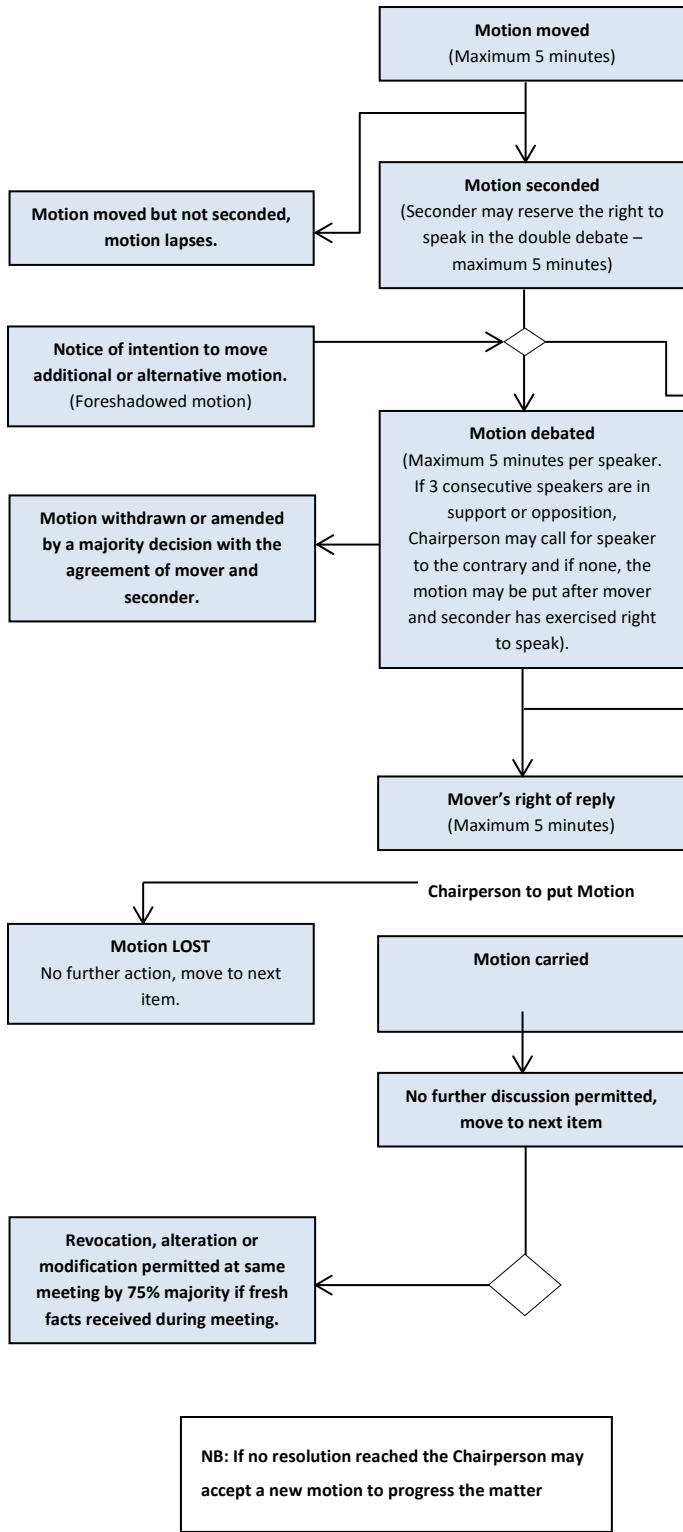
Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To maintain the effective conduct of public affairs by protecting members or employees of the Council in the course of their duty, from improper pressure or harassment (s 7(2)(f)(ii)).
		To enable the council to carry out, without prejudice or disadvantage, commercial activities (s 7(2)(h)).

2. That *(name of person(s))* is permitted to remain at this meeting after the public has been excluded because of their knowledge of *(specify topic under discussion)*. This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because *(specify)*. *(Delete if inapplicable.)*

# Appendix 3: Motions and amendments (Option A)

## Motions without amendments

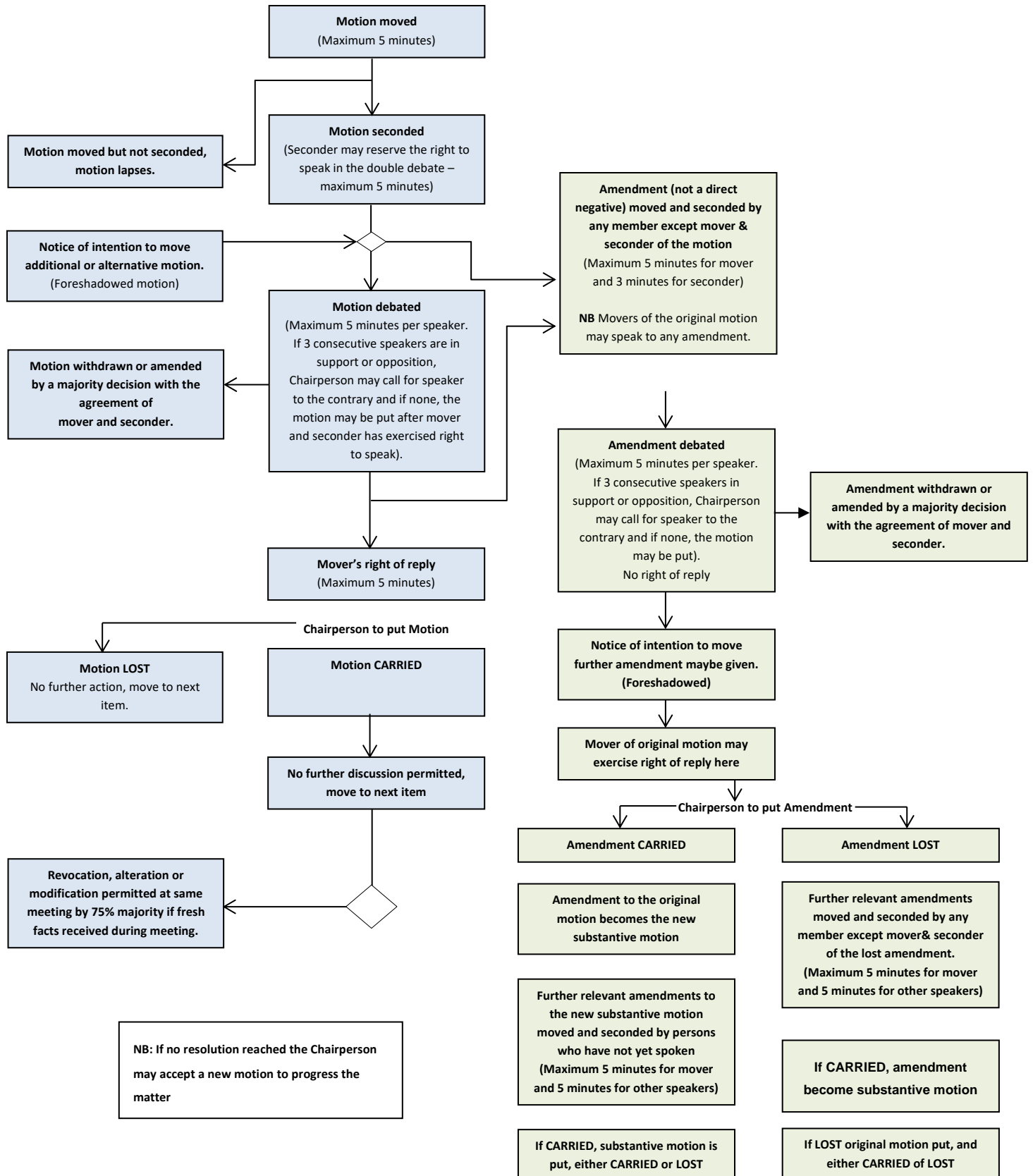
## Motions with amendments



# Appendix 4: Motions and amendments (Option B)

## Motions without amendments

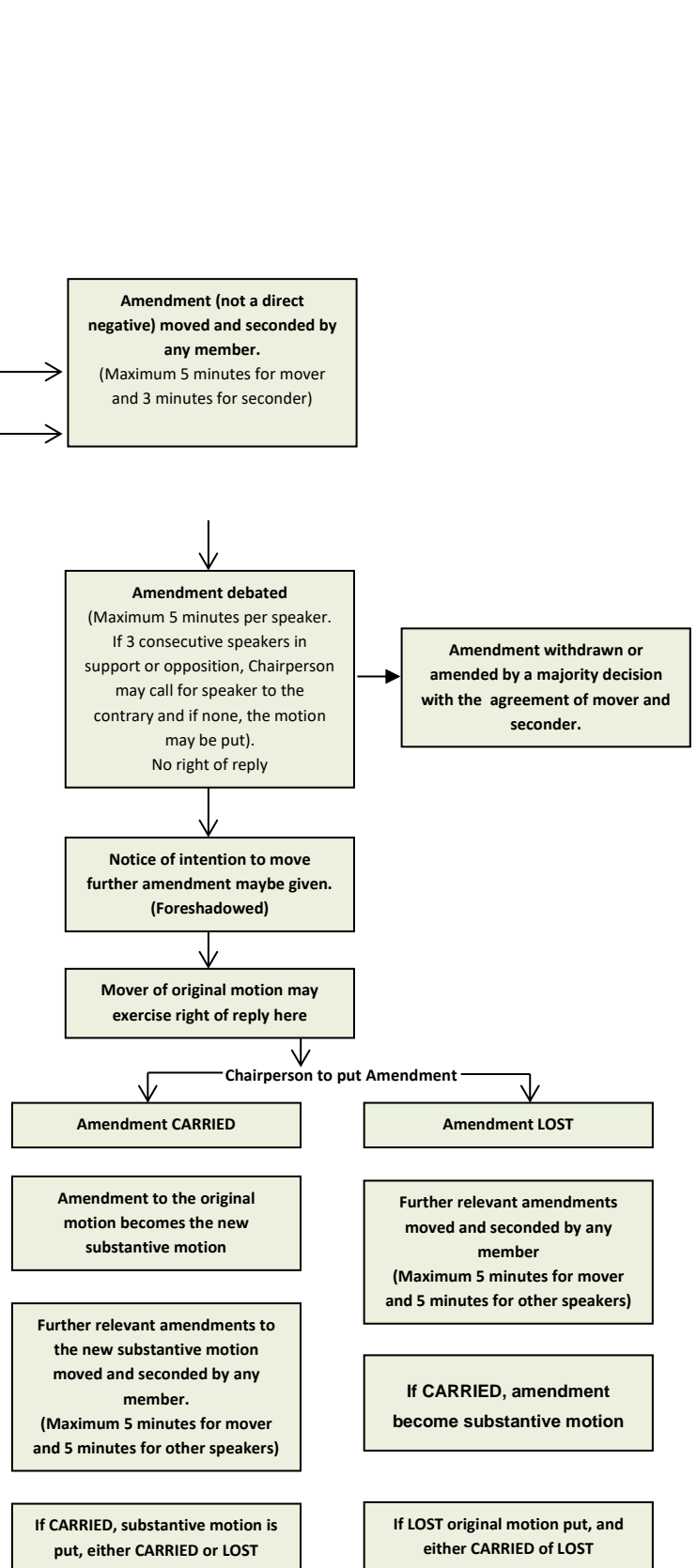
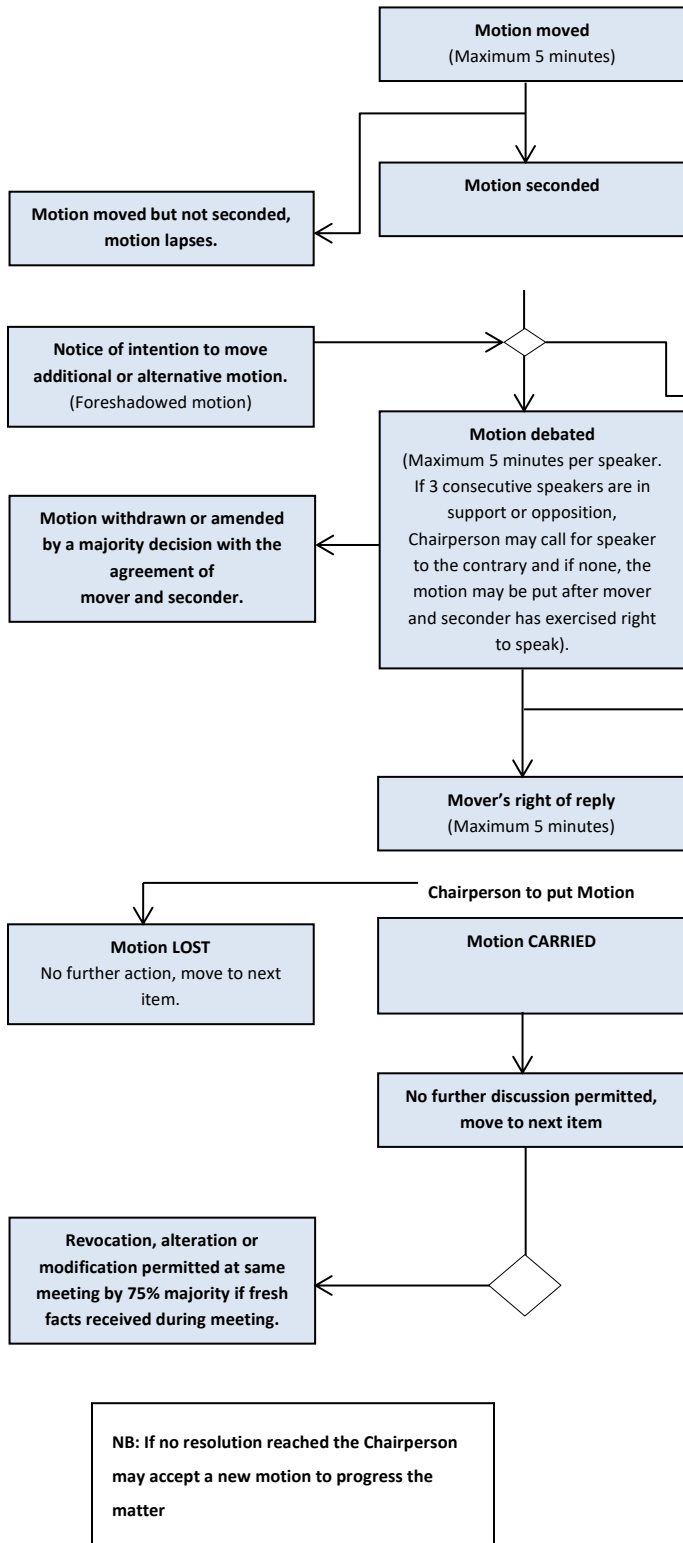
## Motions with amendments



# Appendix 5: Motions and amendments (Option C)

## Motions without amendments

## Motions with amendments





## Appendix 6: 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	

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 7: 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 8: 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 (SO. 26.5)**

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 (SO.9.12)**

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 (SO.9.6)**

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 (SO.9.5)**

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 (SO19.3)**

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 (SO.23.2)**

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

### **Motion in parts (SO.23.3)**

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

### **Notice of motion (SO.27.2)**

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 (SO.**

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 (SO.27.7)**

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 scheduled meeting; and
- (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 (SO.21.8)**

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 (SO.21.11)**

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 (SO.14.5)**

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 (SO.14.6)**

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

### **Priority of speakers (SO.14.7)**

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

### **Minutes (SO.28.1)**

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 (SO.16.3)**

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 (SO.20.3)**

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 (SO.14.4)**

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 (SO.20.4)**

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 (SO.20.6)**

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 (SO.13.10)**

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; and
- (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; 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.



## **Appendix 9: Process for removing a regional chairperson from office**

1. At a meeting that is in accordance with this clause, a regional council may remove its chairperson or deputy chairperson from office.
2. If a chairperson or deputy chairperson is removed from office at that meeting, the regional council may elect a new chairperson or deputy chairperson, at that meeting.
3. A meeting to remove a chairperson or deputy chairperson, may be called by:
  - (a) A resolution of the regional council; or
  - (b) A requisition in writing signed by the majority of the total membership of the 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 or deputy chairperson, is removed from office, a new chairperson or deputy chairperson is to be elected at the meeting if a majority of the total membership of the 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 or deputy chairperson carries if a majority of the total membership of the regional council (excluding vacancies) votes in favour of the resolution.

*cl. 18 Schedule 7, LGA 2002.*

## **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) Extraordinary business
- (i) Notices of motion
- (j) Reports of committees
- (k) Reports of the chief executive and staff
- (l) Chairperson, deputy Chairperson and elected members' reports (information)

### **Public excluded section**

- (m) Reports of committees
- (n) Reports of the chief executive and staff
- (o) Chairperson, deputy Chairperson and elected members' reports (information)

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

Matters requiring a decision at a meeting, may be placed on the meeting's agenda by a:

- Report of the chief executive;
- Report of the chairperson;
- Report of a committee; or
- 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 the chief executive; or
- Report of the 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 chairperson.

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item: Code of Conduct</b>	
<b>Report by:</b> Toni Morrison, WCRC Policy Consultant	
<b>Reviewed by:</b> Heather Mabin, Chief Executive	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this report is to present for approval a draft Code of Conduct for all elected members that will set the expected behaviours towards each other, the Chief Executive, Officers, the Media, and general public during the current term of Council.

### Report Summary

Under the Local Government Act 2022 (LGA) Council is required to adopt and maintain a code of conduct.

The Council's current operative Code of Conduct was approved and adopted by Council on 11 February 2020 (refer Attachment 3).

Council may amend or replace its code of conduct but may not revoke it without a replacement.

### Recommendations

**It is recommended that Council resolves to:**

1. *Receive this report; and*
2. *Adopt the West Coast Regional Council Code of Conduct 2022 (Part 1 of Attachment 4); or*
3. *Advise Staff of any changes, to be brought back to the next meeting for confirmation;*

### Issues and Discussion

The current Code of Conduct was based on a pre-2015 Local Government New Zealand template and updated in 2020 with legislative changes. However, new legislation and model templates have been released to assist elected members with more relevant approaches and standards to address issues (such as use of social media) that have arisen within the local government sector.

Attached to this report are:

- The new LGNZ template for Codes of Conduct (attachment 1);
- The Guide document to the new template (attachment 2);

The main changes in the LGNZ 2022 template from Council's current Code of Conduct are:

- (i) Updated structure and format;
- (ii) Inclusion of requirement for the maintenance of an annually updated Elected Members' Register of Pecuniary Interests to align with the Local Government (Pecuniary Interests Register) Amendment Act 2022 (which amends the LGA) and which came into effect in November 2022;.
- (iii) A focus on managing specific types of behaviours such as bullying or harassment, regardless of the place or platform on which the member is engaging, such as social media, in meetings, or interactions between members;
- (iv) An acknowledgement of Te Tiriti o Waitangi as the foundational document for Aotearoa New Zealand and a description of Te Tiriti principles and how they apply to Councils;
- (v) An acknowledgement of the principles of good governance (the Nolan principles);
- (vi) An amended approach to investigating and assessing alleged breaches designed to ensure the process is independent and focused on serious rather than minor or trivial

complaints.

The new LGNZ template (and Attachment 4, the draft WCRC Code of Conduct which is based on this LGNZ template) is made up of two sections: – Part 1 is the draft Code of Conduct and Part 2 contains a draft policy and processes for dealing with alleged breaches of the code.

LGNZ recommends that, following the adoption of a code of conduct, Council should consider adopting a policy for dealing with alleged breaches of the code. Alternatively the Code of Conduct may be adopted without a policy for dealing with breaches, which may be left for further discussion at a later date.

## Options

Option 1 is that Council adopts the draft Code of Conduct 2022 (Part 1 of Attachment 4) as proposed, either with or without further amendment. The proposed Code has been modernised to reflect the changing environment (such as social media) and more recent legislative amendments (such as the Local Government (Pecuniary Interests) Amendment Act 2022) which affect elected members in the exercise of their duties. The proposed Code presented is better able to provide guidance and direction than the existing Code of Conduct.

Option 2 - In the alternative, Council can continue to rely on its existing Code of Conduct. However, the existing Code of Conduct would require some modernisation and would need to be updated.

It is noted that it is not open to Council to revoke the existing Code of Conduct without resolving on a replacement Code of Conduct, ie Council must have a Code of Conduct at all times.

## Considerations

### Implications/Risks

There are no risks associated with this decision.

### Significance and Engagement Policy Assessment

There are no issues within this report which trigger matters in this policy.

### Tangata whenua views

N/a.

### Financial implications

There are no financial implications of adopting the Code of Conduct.

### Legal implications

The code of conduct, its requirements and reviews of the code are set out in clause 15 schedule 7 of the LGA which provides as follows:

- (1) *A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.*
- (2) *The code of conduct must set out—*
  - (a) *understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—*
    - (i) *behaviour toward one another, staff, and the public; and*
    - (ii) *disclosure of information, including (but not limited to) the provision of any document, to elected*

*members that—*

- (A) is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and*
- (B) relates to the ability of the local authority to give effect to any provision of this Act; and*

*(b) a general explanation of—*

- (i) the Local Government Official Information and Meetings Act 1987; and*
- (ii) any other enactment or rule of law applicable to members.*

- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.*
- (4) A member of a local authority must comply with the code of conduct of that local authority.*
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.*
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.*
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.*

## **Attachments**

Attachment 1: West Coast Regional Council current Code of Conduct (February 2020)

Attachment 2: West Coast Regional Council draft Code of Conduct 2022 (based on Attachment 1)



**THE WEST COAST  
REGIONAL COUNCIL**

**West Coast Regional Council**

**Code of Conduct**

**Adopted on the 11<sup>th</sup> February 2020**

## Contents

1.	Introduction .....	3
2.	Scope .....	3
3.	Values .....	4
4.	Role and responsibilities.....	4
4.1	Members .....	4
4.2	Chief Executive .....	5
5.	Relationships.....	5
5.1	Relationships between members.....	5
5.2	Relationships with staff .....	6
5.3	Relationship with the public.....	6
6.	Media and social media .....	7
7.	Information.....	7
7.1	Confidential information .....	7
7.2	Information received in capacity as an elected member .....	7
8.	Conflicts of Interest .....	8
9.	Register of Interests.....	8
10.	Ethical behaviour .....	9
11.	Creating a supportive and inclusive environment.....	9
12.	Breaches of the Code.....	9
12.1	Principles .....	10
12.2	Complaints .....	10
12.3	Materiality.....	11
13.	Penalties and actions.....	11
13.1	Material breaches .....	11
13.2	Statutory breaches.....	13
14.	Review .....	13
	Appendix A: Guidelines on the personal use of social media.....	14
	Appendix B: Legislation bearing on the role and conduct of elected members.....	15
	The Local Authorities (Members' Interests) Act 1968.....	15
	Local Government Official Information and Meetings Act 1987.....	17
	Secret Commissions Act 1910.....	17
	Crimes Act 1961.....	18
	Financial Markets Conduct Act 2013.....	18
	The Local Government Act 2002 .....	18
	Appendix C: Process where a complaint is referred to an independent investigator .....	19



## 1. Introduction

The Code of Conduct (the Code) sets out the standards of behavior 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 region;
- 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 behaviors agreed in the code.

## 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. The Code is designed to deal with the behaviour of members towards:

- Each other;
- 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 local authority to give effect to its statutory responsibilities.

The 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 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 in an accountable and transparent manner;
3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
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.
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 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.<sup>1</sup>

These values 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

The Code of Conduct is designed to strengthen the good governance of your city, district or region. Good governance requires that the complementary roles of the governing body and the administration are understood and respected. These roles involve:

#### 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;

---

<sup>1</sup> See Code of Conduct Guide for examples.

- 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, on behalf of the Council, the staff of the local authority, (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, members will conduct their dealings with each other in a manner that:

- Maintains public confidence;
- Is open, honest and 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, bullying or offensive conduct, including the use of disrespectful or malicious language.

Please note, nothing in this section of the Code is intended to limit robust debate.

## **5.2 Relationships with staff**

An important element of good governance involves the relationship between a Council, its chief executive and its staff. Members will respect arrangements put in place to facilitate this relationship, and:

- Raise any concerns about employees, officers or contracted officials with the Chief Executive;
- Raise any concerns about the performance or behaviour of the Chief Executive with the Chair;
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe these requirements at all times, such as the duty to be a good employer;
- Treat all employees with courtesy and respect and not publicly criticise any employee; and
- Observe any protocols put in place by the Chief Executive concerning contact between members and employees.

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 annual 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. To facilitate trust and respect in their Council members will:

- Ensure their interactions with citizens are fair, honest and respectful;
- Be available to listen and respond openly and honestly to citizens' concerns;
- Represent the views of citizens and organisations accurately, regardless of the member's own opinions of the matters raised; and
- Ensure their interactions with citizens and communities uphold the reputation of the local authority.

## **6. Media and social media**

The media play an important role in the operation and efficacy of our local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of Council. Any failure by member to comply with the provisions of this section can represent a breach of the Code.

1. In dealing with the media elected members must clarify whether they are communicating a view endorsed by their Council, committee or community board, or are expressing a personal view.
2. Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:
  - Comments shall be consistent with the Code;
  - Comments must not purposefully misrepresent the views of the Council or the views of other members;
  - Social media pages controlled by members and used for making observations relevant to their role as an elected members should be open and transparent, except where abusive or inflammatory content is being posted; and
  - Social media posts about other members, council staff or the public must be consistent with section five of this Code. (See **Appendix A** for guidelines on the personal use of social media).

## **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. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

### **7.2 Information received 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.

## 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).

Members will not participate in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. This rule also applies where the member's spouse/partner has a pecuniary interest, such as through a contract with the Council. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive *immediately*. Members may also contact the Office of the Auditor-General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote.

**Please note:** Failure to observe the requirements of LAMIA could potentially invalidate a 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 B**). In the event of a conviction elected members can be ousted from office.

## 9. Register of Interests

Members shall, at least annually, make a declaration of interest. These declarations are recorded in a public Register of Interests maintained by the Council. 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/partner for profit or gain;
- b) Any company, trust, partnership etc for which the member or their spouse/partner is a director, business partner or trustee;
- c) A description of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) A description of any land owned by the local authority in which the member or their spouse/partner is:
  - A tenant; or
  - The land is tenanted by a firm in which the member or spouse/partner is a business partner; a company of which the member or spouse/partner is a director; or a trust of which the member or spouse/partner 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's 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 a publicly available register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of the code.

## **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 or evaluation of the Council's performance and operating style during the triennium.<sup>2</sup>
- Taking all reasonable steps to acquire the required skills and knowledge to effectively fulfill their Declaration of Office (the Oath) and contribute to the good governance of the region.

## **12. Breaches of the Code**

---

<sup>2</sup> A self-assessment template is provided in the Guidance to the code.

Members must comply with the provisions of the code (LGA 2002, schedule 7, cl. 15(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.

### **12.1 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 alleged breach;
- That the processes 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 includes, conditional on the nature of an alleged breach, directly 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.

### **12.2 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 must forward the complaint to the Chair or, where the Chair is a party to the complaint, an independent investigator, drawn from a pool of names or agency agreed in advance.

Please note, only members and the Chief Executive may make a complaint under the code.

#### **Complaint referred to Chair**

On receipt of a complaint made under the provisions of the Council's Code of Conduct the Chair will, as the situation allows:

- Interview the complainant to assess the full extent of the complaint.
- Interview the member(s) subject to the complaint.
- Assess the complaint to determine materiality.
- Where a complaint is assessed by the Chair to be trivial, frivolous or minor, either dismiss the complaint, require an apology or other course of action, or assist the relevant parties to find a mutually agreeable solution.



- Where a complaint is found to be material, or no mutually agreed solution can be reached, the Chair will refer the complaint back to the Chief Executive who will forward it, along with any recommendations made by the Chair, to the Council or an adjudicative body established by the Council to assess and rule on complaints made under the Code.<sup>3</sup>

If the Chair chooses they may, instead of undertaking an initial assessment, immediately refer the complaint to the independent investigator, via the Chief Executive.

### **Complaint referred to Independent Investigator**

On receipt of a complaint from a member which concerns the Chair, or from the Chair after initial consideration, the Chief Executive will forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to be referred, with recommendations if necessary, to the Council or an adjudicative body for assessing and ruling on complaints. The process, following receipt of a complaint, will follow the steps outlined in **Appendix C**.

### **12.3 Materiality**

An alleged breach under the Code is material if, in the opinion of the Chair or independent investigator, it would bring the Council into disrepute or, if not addressed, adversely affect the reputation of a member.

An alleged breach under this Code is non-material if, in the opinion of the Chair or independent investigator, any adverse effects are minor and no investigation or referral is warranted.

## **13. Penalties and actions**

Where a complaint is determined to be material and referred to the Council or an adjudicative body established to consider complaints, the nature of any penalty or action will depend on the seriousness of the breach.

### **13.1 Material breaches**

In the case of material breaches of the Code, the Council, or the adjudicative body with delegated authority, may require one of the following:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. Removal of certain Council-funded privileges (such as attendance at conferences);
4. Removal of responsibilities, such as committee chair, deputy committee chair or portfolio holder;
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 other than the Chief Executive or identified senior manager;

---

<sup>3</sup> Advice on establishing adjudication bodies can be found in the Guide to the Code of Conduct.

7. A vote of no confidence in the member;
8. Suspension from committees or other bodies to which the member has been appointed; or
9. Invitation to the member to consider resigning from the Council.

A Council or adjudicative body with delegated authority may decide that instead of a penalty, one or more of the following may be required:

- 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 the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

## **13.2 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 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 s.44 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).

## **14. 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. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered.

Councils are encouraged to formally review their existing Code and either amend or re-adopt it as soon as practicable after the beginning of each triennium in order to ensure that all members have the opportunity to provide their views on the Code's provisions.

## Appendix A: Guidelines on the personal use of social media

There's a big difference in speaking "on behalf of Council" and speaking "about" the Council. While your rights to free speech are respected, please remember that citizens and colleagues have access to what you post. The following principles are designed to help you when engaging in **personal or unofficial online** communications that may also refer to your Council.

1. **Adhere to the Code of Conduct and other applicable policies.** Council policies and legislation, such as LGOIMA and the Privacy Act 1993, apply in any public setting where you may be making reference to the Council or its activities, including 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. You are encouraged to participate in the social media but in so doing you must exercise sound judgment and common sense.
3. **Be an "advocate" for compliments and criticism.** Even if you are not an official online spokesperson for the Council, you are one of its 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 you are encouraged to share them with the governing body.
4. **Let the subject matter experts respond to negative posts.** Should you come across negative or critical posts about the Council or its activities you should consider referring the posts to the Council's authorised spokesperson, unless that is a role you hold, in which case consider liaising with your communications staff before responding.
5. **Take care mixing your political (Council) 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, can bring you into conflict with the Code should it not be clear that they are your personal views.
6. **Never post sensitive and confidential information** provided by the Council, such as confidential items, public excluded reports and/or commercially sensitive information. Such disclosure will contravene the requirements of the Code.
7. **Elected Members' social media pages should be open and transparent.** When commenting on matters related to the local authority no members should represent themselves falsely via aliases or differing account names or block. Neither should they block any post on any form of social media that they have control over unless there is clear evidence that the posts are actively abusive. Blocking constructive debate or feedback can be seen as bringing the whole Council into disrepute.

## **Appendix B: 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/partner 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/partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- A person, or their spouse/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 members' 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 Chair or other person, to determine if they should discuss or vote on an issue, but ultimately it is their own judgment 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 needs 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 focus should 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 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of elected members is the fact that the chairperson has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected 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.

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 elected 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, and details the 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.<sup>890</sup>

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).



## **Appendix C: Process where a complaint is referred to an independent investigator**

*The following process is a guide only and Councils are encouraged to adapt this to their own specific circumstances.*

### **Step 1: Chief Executive receives complaint**

On receipt of a complaint under the Code, whether from a member (because the complaint involves the Chair) or from the Chair after an initial assessment, the Chief Executive will refer the complaint to an investigator selected from a list agreed at the start of the triennium. 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 remind them of 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 trivial or frivolous and should be dismissed;
2. The complaint is outside the scope of the Code and should be re-directed to another agency or institutional process;
3. The complaint is minor or non-material; or
4. The complaint is material and a full assessment 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 Council's Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive will:

1. Where an investigator determines that a complaint is trivial or frivolous, inform the complainant, respondent and 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 and inform the Chief Executive who will then inform the complainant, the respondent and members.

### **Step 3: Actions where a breach is found to be non-material**

If the subject of a complaint is found to be non-material, but more than trivial or frivolous, 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 is referred to the Chair for guidance; and/or
- That the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in 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 directly affected parties; and/or
- 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 relevant Council body charged with assessing and ruling on material complaints, 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 investigator's full report.

### **Step 5: Process for considering the investigator's report**

The investigator's report will be considered by the Council or adjudicative body established for considering reports on Code of Conduct complaints, or any other body that the Council may resolve, noting that the process will meet the principles set out in section 12.1 of the Code.

The Council, or adjudicative body, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body will give the respondent an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.

The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 13.1 of the Code.

The report, including recommendations from the adjudicative body, should that body have no formal delegations, will be heard and accepted by the Council in open session, unless grounds for excluding the public exist, without debate.

**Attachment 2**



West Coast Regional Council

# **Code of Conduct**

**DRAFT**

*[Date of adoption]*

---

DRAFT



# Contents

Introduction Kupu whakataki .....	5
Part One: Code of Conduct Wāhanga Tuatahi: Anga Tikanga Whanonga .....	6
Members' commitment Ngā herenga a ngā mema.....	6
Appendix 1: The Code of Conduct explained He whakamārama mō te Tikanga Whanonga .....	7
1. Definitions.....	7
2. Te Tiriti o Waitangi.....	7
3. Principles of good governance.....	7
4. Behaviours .....	8
Respect.....	8
Bullying, harassment, and discrimination.....	9
Sharing information .....	10
Expressing personal views publicly.....	10
Provide equitable contribution.....	10
Disrepute.....	11
Use of position for personal advantage.....	11
Impartiality.....	11
Maintaining confidentiality.....	12
Appendix 2: Requirement for a code of conduct Te herenga kia whai tikanga whanonga.....	13
Part 2: Policy for dealing with alleged breaches of the Code Te kaupapahere hei whakahaere i ngā whakapae i takahia te Tikanga.....	14
Introduction .....	14
Public Interest .....	14
The West Coast Regional Council policy for investigating and ruling on alleged breaches of the Code of Conduct Te kaupapahere o te Kaunihera o West Coast hei tiro tiro me te whakatau i ngā whakapae kua takahia te Tikanga Whanonga .....	16
Principles.....	16
Who can make a complaint?.....	16
Role of the initial assessor .....	16
Role of the independent investigator.....	17
Costs and support .....	18

---

2.1: Process for determining and investigating complaints Te tukanga whakatau me te tiroiro i ngā amuamu .....	19
Step 1: Chief executive receives complaint .....	19
Step 2: Initial assessor makes an assessment and arranges mediation .....	19
Step 3: Independent investigator to inquire and conclude on the matter.....	19
Step 4: Process for considering the investigator's report.....	20
2.2: Selecting the initial assessor and independent investigator Te kōwhiri i te tangata motuhake me te kaitiroiro motuhake.....	22
Selecting an initial assessor.....	22
Selecting an independent investigator .....	22
2.3: Actions that may be applied when a breach has been confirmed Ngā mahi ka whāia pea ina whakatauhia tētahi takahanga .....	23
Responses to statutory breaches.....	24
2.4: Legislation which sets standards for ethical behaviour Ngā ture e whakatakoto ana i ngā paerewa mō ngā whanonga matatika .....	25
The Local Government Act 2002.....	25
The Local Government Official Information and Meetings act 1987 .....	25
The Local Authorities (Members' Interests) Act 1968 .....	27
Protected Disclosures (Protection of Whistleblowers) Act 2022.....	29
The Serious Fraud Office Act 1990.....	29
The Local Government (Pecuniary Interests Register) Act 2022 .....	30
The Health and Safety Act at Work Act 2015.....	31
The Harmful Digital Communications Act 2015.....	31
2.5: Case studies for assessing potential breaches: Ngā rangahau whakapūaho mō te aromatawai i ngā tūpono takahanga .....	33
Example one: staff accused of improper motives .....	33
Example two: leak of confidential information .....	33
Example three: member purports to speak on behalf of kaunihera .....	34
Example four: member criticises staff performance in media .....	34
Example five: member accused of using sexist language and humour .....	35
Example six: Councillor Facebook page used to disparage others .....	36

---

## Introduction Kupu whakataki

This Code of Conduct (Code) sets out the standards of behaviour expected from elected members in the exercise of their duties. The code complements specific statutes, such as the Local Government Official Information and Meetings Act (LGOIMA), designed to ensure openness and transparency. It is an important part of building community confidence in our systems and processes. Its purpose is to:

- a) enhance the effectiveness of the Council and the provision of good local government of the region;
- b) promote effective decision-making and community engagement;
- c) enhance the credibility and accountability of the Council to its communities; and
- d) develop a culture of mutual trust, respect and tolerance between the members of the Council and between the members and management and employees.

This purpose is given effect through the principles and behaviours agreed in this Code.

The code is part of promoting effective working relationships within the Council and between the Council and the community. It should promote free and frank debate which should in turn result in good decision making.

Codes of conduct are not a means of preventing members from expressing their personal views provided they are clearly signaled as personal views. Rather the code is designed to promote robust debate and the expression of all views by providing a framework to ensure that debate is conducted in a civil and respectful way.

The code of conduct also sets boundaries on standards of behaviour and provides a means of resolving situations when elected members breach those standards.

### Scope

The Code is 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 that have agreed to adopt it. The Code is designed to deal with the behaviours of members towards:

- a) each other;
- b) the chief executive and employees;
- c) the media; and
- d) 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 local authority to give effect to its statutory responsibilities.

The 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 when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

---



## Part One: Code of Conduct Wāhanga Tuatahi: Anga Tikanga Whanonga

The West Coast Regional Council Code of Conduct has been adopted in accordance with the requirements of the Clause 15, Schedule 7 of the Local Government Act 2002 (LGA 2002), which requires every local authority to adopt a code of conduct for members of the local authority.

### **Members' commitment** Ngā herenga a ngā mema

These commitments apply when conducting the business of the local authority as its representative or the representative of an electorate, and communicating with other members, the media, the public, or staff. By adopting the Code of Conduct members agree that they will:

1. treat all people fairly,
2. treat all other members, staff, and members of the public, with respect,
3. share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties,
4. operate in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi,
5. make it clear, when speaking publicly, that statements reflect their personal view, unless otherwise authorised to speak on behalf of the local authority,
6. take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of a member,
7. not bully, harass, or discriminate unlawfully against any person,
8. not bring the local authority into disrepute,
9. not use their position to improperly advantage themselves or anyone else or disadvantage another person,
10. not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority,
11. not disclose information acquired, or given, in confidence, which they believe is of a confidential nature.

**Please note:** a failure to act in accordance with these commitments may result in a complaint being taken against you.

Members of a local authority must comply with the Code of Conduct of that local authority. More detail explaining the Code of Conduct is set out in Appendix 1.

A copy of clause 15 of Schedule 7 of the LGA, which sets out the requirements for a code of conduct, is contained in Appendix 2.

---

# Appendix 1: The Code of Conduct explained He whakamārama mō te Tikanga Whanonga

## 1. Definitions

For the purposes of this Code “member” means an elected or appointed member of:

- the governing body of the local authority,
- any committee or sub-committee of the local authority,
- any local board of the local authority, or
- any community board of the local authority.

Local authority means the kaunihera, local board or community board which has adopted this Code.

## 2. Te Tiriti o Waitangi

The West Coast Regional kaunihera commits to operating in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi and acknowledges the following principles:

1. Tino Rangatiratanga: The principle of self-determination provides for Māori self-determination and mana motuhake. This requires local authorities to be open to working with mana whenua partners in the design and delivery of their work programmes,
2. Partnership: The principle of partnership implies that local authorities will seek to establish a strong and enduring relationship with iwi and Māori, within the context of iwi and Māori expectations. Kaunihera should identify opportunities, and develop and maintain ways, for Māori to contribute to kaunihera decisions, and consider ways kaunihera can help build Māori capacity to contribute to council decision-making,
3. Equity: The principle of equity requires local authorities to commit to achieving the equitable delivery of local public services,
4. Active protection: The principle of active protection requires local authorities to be well informed on the wellbeing of iwi, hapū and whanau within their respective rohe,
5. Options: The principle of options requires local authorities to ensure that its services are provided in a culturally appropriate way that recognises and supports the expression of te ao Māori.

## 3. Principles of good governance

Members recognise the importance of the following principles of good governance.

- **Public interest:** members should act solely in the public interest.
  - **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
-

- **Tāria te wā and kaitiakitanga/stewardship:** members should use long-term perspective when making decisions. Decisions, which impact on past, current and future generations, also affect collective well-being.
- **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
- **Openness:** members should act and take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** members should be truthful and not misleading.
- **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.

#### 4. Behaviours

To promote good governance and build trust between the local authority, its members, and citizens, members **agree** to the following standards of conduct when they are:

- conducting the business of the local authority,
- acting as a representative of the local authority,
- acting as a representative of their electorate,
- communicating with other members, the media, the public and staff, and
- using social media and other communication channels.<sup>1</sup>

Where a member's conduct falls short of these standards, members accept that they may be subject to a complaint made under the council's "Policy for alleged breaches of the Code of Conduct".

#### **Respect**

Members will treat all other members, staff, and members of the public, with respect.

Respect means politeness and courtesy in behaviour, speech, and writing. Debate and differences are all part of a healthy democracy. As a member of a local authority you can challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You must not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Offensive behaviour lowers the public's expectations of, and confidence in, your local authority. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive,

---

<sup>1</sup> Please refer to the Guidelines for the responsible use of social media in the LGNZ Good Governance Guide

intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police.

### ***Bullying, harassment, and discrimination***

Members will treat all people fairly and will not:

- bully any person,
- harass any person, or
- discriminate unlawfully against any person.

For the purpose of the Code of Conduct, bullying is offensive, intimidating, malicious, or insulting behaviour. It represents an abuse of power through means that undermine, humiliate, denigrate, or injure another person. It may be:

- a regular pattern of behaviour, or a one-off incident,
- occur face-to-face, on social media, in emails or phone calls, happen in the workplace, or at work social events, and
- may not always be obvious or noticed by others.

Harassment means conduct that causes alarm or distress, or puts people in fear of violence, and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination occurs when a person is treated unfairly, or less favourably, than another person because of any of the following<sup>2</sup>:

age	skin, hair, or eye colour	race
disability	employment status	ethical belief
ethnic or national origin	family status	marital status
political opinion	religious belief	gender identity
sex	sexual orientation.	

---

<sup>2</sup> See Human Rights Commission <https://www.govt.nz/browse/law-crime-and-justice/human-rights-in-nz/human-rights-and-freedoms/>

## ***Sharing information***

Members will share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties.

Occasionally members will receive information in their capacity as members of the governing body, which is pertinent to the ability of their kaunihera to properly perform its statutory duties. Where this occurs members will disclose any such information to other members and, where appropriate, the chief executive. Members who are offered information on the condition that it remains confidential will inform the person making the offer that they are under a duty to disclose such information, for example, to a governing body meeting in public exclusion.

## ***Expressing personal views publicly***

Members, except when authorised to speak on behalf of the local authority, will make it clear, when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

The media play an important role in the operation and efficacy of our local democracy and need accurate and timely information about the affairs of the local authority to fulfil that role. Members are free to express a personal view to the media and in other public channels at any time, provided the following rules are observed:

- they do not purport to talk on behalf of the local authority, if permission to speak on behalf of the authority has not been given to them
- their comments must not be inconsistent with the Code, for example, they should not disclose confidential information or criticise individual members of staff, and
- their comments must not purposefully misrepresent the views of the local authority or other members.

Members will abide by the social media protocols described in Attachment Two.

## ***Provide equitable contribution***

Members will take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of them.

Being a member is a position of considerable trust, given to you by your community to act on their behalf. To fulfil the expectations of your constituents and contribute to the good governance of your area it is important that you make all reasonable efforts to attend meetings and workshops, prepare for meetings, attend civic events, and participate in relevant training seminars.

The local government workload can be substantial, and it is important that every member contributes appropriately. This requires members to often work as a team and avoid situations where the majority of the work falls on the shoulders of a small number of members.

---

## ***Disrepute***

Members will not bring the local authority into disrepute.

Members are trusted to make decisions on behalf of their communities and as such their actions and behaviours are subject to greater scrutiny than other citizens. Members' actions also reflect on the local authority as well as themselves and can serve to either boost or erode public confidence in both.

Behaviours that might bring a local authority into disrepute, and diminish its ability to fulfil its statutory role, include behaviours that are dishonest and/or deceitful. Adhering to this Code does not in any way limit a member's ability to hold the local authority and fellow members to account or constructively challenge and express concerns about decisions and processes undertaken by their local authority.

## ***Use of position for personal advantage***

Members will not use, or attempt to use, their position to improperly advantage themselves or anyone else, or disadvantage another person.

Being a member of a local authority comes with certain opportunities and privileges, including the power to make choices that can impact on others. Members must not take advantage of such opportunities to further their own or others' private interests or to disadvantage anyone unfairly. A member found to have personally benefited by information gained as an elected member may be subject to the provisions of the Secret Commissions Act 2010.

## ***Impartiality***

Members will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They must not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers to gain understanding of their thinking and decision-making, however, they must not seek to influence officials to change their advice or alter the content of a report, other than in a meeting or workshop, if doing so would prejudice their professional integrity. Members should:

- make themselves aware of the obligations that the local authority and chief executive have as employers and always observe these requirements, such as the obligation to be a good employer, and
- observe any protocols put in place by the chief executive concerning contact between members and employees, and not publicly criticise individual staff.

If you have concerns about the behaviour of an official, whether permanent or contracted, you should raise your concerns with the local authority's chief executive, or, if the concerns are to do with the

---

chief executive, raise them with the mayor, the council chairperson, or chief executive performance committee.

### ***Maintaining confidentiality***

Members will not disclose information acquired, or given, in confidence, which they believe is of a confidential nature, unless.

1. they have the consent of a person authorised to give it,
2. they are required by law to do so,
3. the disclosure is to a third party to obtain professional legal advice, and that the third party agrees not to disclose the information to any other person, or
4. the disclosure is reasonable and in the public interest, is made in good faith, and in compliance with the reasonable requirements of the local authority.

DRAFT

---

## Appendix 2: Requirement for a code of conduct Te herenga kia whai tikanga whanonga

Clause 15, Schedule 7 of the Local Government Act 2002 requires every local authority to adopt a code of conduct for members of the local authority. It states:

### 15 Code of conduct

A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.

The code of conduct must set out –

1. understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including:
    - a. behaviour towards one another, staff, and the public; and
    - b. disclosure of information, including (but not limited to) the provision of any document, to elected members that –
      - i. is received by, or is in possession of, an elected member in his or her capacity as an elected member; and
      - ii. relates to the ability of the local authority to give effect to any provision of this Act; and
    - c. a general explanation of –
      - i. the Local Government Official Information and Meetings Act 1987; and
      - ii. any other enactment or rule of law applicable to members.
  2. A local authority may amend or replace its code of conduct but may not revoke it without replacement.
  3. A member of a local authority must comply with the code of conduct of that local authority.
  4. A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.
  5. After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
  6. To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.
-



## Part 2: Policy for dealing with alleged breaches of the Code

### Te kaupapahere hei whakahaere i ngā whakapae i takahia te Tikanga

#### Introduction

In its 2006 report on codes of conduct, the Office of the Auditor General (OAG) noted that many kaunihera lacked a process for distinguishing between trivial and serious breaches of the code and consequently spent considerable time and resource hearing complaints on inconsequential matters. 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 kaunihera 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.

Processes need to be put in place for investigating and resolving breaches of the code and the principles of natural justice must apply to the investigation, assessment and resolution of complaints made under the code.

#### Public Interest

In their report on codes of conduct, the Local Government Commission noted a lack of consistency in the way in which information about complaints and sanctions is communicated to the public. It stated that “*codes should provide for the proactive release of investigation outcomes in a timely manner and consistent fashion, in line with LGOIMA*” (LGC p.16).<sup>3</sup> Reflecting the Commission’s sentiments, the draft template for dealing with alleged breaches does not require minor breaches, or those that can be resolved through mediation, to be reported to the kaunihera. Maintaining confidentiality should reduce the incentive to use a code of conduct for political purposes.

Where a complaint has been referred to an independent investigator the draft policy recommends that the investigator’s full report should be tabled at a kaunihera meeting and that should be public unless grounds to exclude the public exist. This reflects the likelihood that complaints that have been

---

<sup>3</sup> Local Government Commission, Codes of Conduct: Report to the Minister of Local Government, September 2021 at <https://www.lgc.govt.nz/other-commission-worlk/current-proposals/view/report-to-the-minister-of-local-government-september-2021/?step=main>

found to be material, and which have not been able to be resolved through mediation, or less, will of necessity be of high public interest.

Applying a penalty or sanction under the Code of Conduct should ideally be the last, rather than the first response. Most situations should be able to be resolved without the need for sanctions – frequently an apology is all it will take to resolve an issue.

DRAFT

# The West Coast Regional Council policy for investigating and ruling on alleged breaches of the Code of Conduct Te

kaupapahere o te Kaunihera o West Coast hei tiro tiro me te whakatau i ngā whakapae kua takahia te Tikanga Whanonga

## Principles

The following principles will guide the investigation into, and assessment of, complaints made against a member for breaching the Code of Conduct:

- The complaints process will be independent, impartial, and respect members' privacy.
- Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
- Members will have a right to seek independent advice, be represented, and, if they choose, be accompanied by a support person throughout the process.
- Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- Complainants, and members subject to a complaint, will have access to advice and support for the time it takes to find a resolution<sup>4</sup>.

## Who can make a complaint?

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the chief executive, who can make a complaint on behalf of their staff. On receipt of a complaint, the chief executive must forward the complaint to an independent person, either an independent investigator or an initial assessor, for an assessment.

## Role of the initial assessor

On receipt of a complaint an initial assessor will undertake an assessment to determine the relative merit and seriousness of the complaint, and the nature of the subsequent process that will be followed. The complaint may be dismissed if the initial assessor finds them to be trivial, vexatious, frivolous, or politically motivated.

---

<sup>4</sup> For example, by enabling both parties to access a council's Employee Assistance Programme (EAP) or elected members' equivalent.

If a complaint is not dismissed, the initial assessor (or independent investigator in a one-step process) may initiate one of the following:

### **1 Refer to the Chair**

In the case of a breach that is not serious or amendable to mediation, the initial assessor may refer the person responsible for the alleged breach to the chair for their advice and guidance. These will not be reported to the local authority. A meeting or meetings with the chair will be regarded as sufficient to resolve the complaint. Where a member is referred to the chair, the initial assessor may also recommend, for the chair's consideration:

- That the member attends a relevant training course.
- That the member work with a mentor for a period.
- That the member tenders an apology.

### **2 Mediation**

If the complaint concerns a dispute between two members, or between a member and another party, the initial assessor may recommend mediation. If mediation is agreed by both parties, then its completion will represent the end of the complaints process. The outcomes of any mediation will be confidential and, other than reporting that a complaint has been resolved through mediation, there will be no additional report to the local authority unless the complaint is referred to an independent investigator, usually due to a failure of the mediation.

### **3 Refer to an independent investigator**

Where the initial assessor finds that the complaint is serious or no resolution can be reached and/or mediation is refused, the initial assessor will refer the complaint to an independent investigator. The independent investigator will be selected from the local authority's independent investigators' panel assembled by the chief executive, or an independent investigator service that is contracted to the Council. Complaints that involve a chairperson or chief executive will be referred directly to the independent investigator.

Complaints that are dismissed, referred to a chairperson, or resolved by mediation, will not be reported to the local authority.

## **Role of the independent investigator**

The independent investigator will:

- determine whether a breach has occurred,
  - if so, determine the seriousness of the breach, and
  - determine actions that a local authority should take in response to the breach.
-

Any recommended actions made in response to a complaint that has been upheld are binding on the local authority. This is to ensure the process for investigation is free of any suggestion of bias and reduces the cost of the complaints process, by reducing the time spent on it, by members and officials.

### **Determining the significance of an alleged breach**

The independent investigator may take whatever actions they need to determine the significance of a complaint, within the budgetary constraints set down, including re-assessing the complaint.

The independent investigator will undertake an investigation appropriate to the scale of the breach, which may include interviews with other affected parties, and prepare a report for the chief executive which will set out the rationale for their findings and may include recommendations for resolving the breach and appropriate penalties.

When considering the issue of significance, the independent investigator will need to consider a range of factors before deciding, such as:

- Was the breach intentional or unintentional?
- Did it occur once or is there a pattern of recurring behaviour?
- Does the breach have legal or financial ramifications for the kaunihera?
- What is the impact of the breach on other elected members, on kaimahi (officials) and on the community in general?

### **Independent investigator can make a binding rule**

On completing their investigation, an independent investigator may dismiss a complaint or make a binding ruling which the governing body will implement. The independent investigator's ruling will be contained in a report to the kaunihera chief executive which will form the basis of a consequent report to the governing body to inform them of the decision and the actions that they may be required to take.

**Please note:** All actions taken in the implementation of a policy must be consistent with the Bill of Rights Act 1990. No appeal right is included in the Code of Conduct. Members who are unhappy with an independent investigator's decision have access to judicial review and/or the Ombudsman's Office.

### **Costs and support**

Kaunihera must ensure that members who make a complaint are not left to meet any costs created by doing so. Members, those who make complaints, and those who are subject to a complaint, should be given appropriate and reasonable support.

The costs of assessment and investigatory services will be met by the relevant kaunihera.

---

## **2.1: Process for determining and investigating complaints** Te tukanga whakatau me te tiroiro i ngā amuamu

### ***Step 1: Chief executive receives complaint***

All complaints made under this Code of Conduct must be made in writing and forwarded to the chief executive who will refer the complaint to the initial assessor. The chief executive will also:

- inform the complainant that the complaint has been referred to the independent person (named) and refer them to the process for dealing with complaints as set out in the Code of Conduct; and
- inform the respondent that a complaint has been made against them and the name of the independent investigator overseeing the process and refer them to the policy for dealing with complaints as set out in the Code of Conduct.

### ***Step 2: Initial assessor makes an assessment and arranges mediation***

1. The initial assessor will undertake an assessment of the merits of the complaint. If they consider it is not valid, the complaint will be dismissed. The complainant will have no recourse or appeal. Grounds for concluding that a complaint has no merit include that it is trivial, vexatious, frivolous, or politically motivated.
2. If deemed to have merit, the initial assessor will contact the parties to seek their agreement to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required.
3. If the parties do not agree to mediation, or mediation is unsuccessful in resolving the matter, the initial assessor will refer the complaint to an independent investigator selected from a panel established by the chief executive at the start of the triennium, or service contracted to the local authority. The initial assessor will also inform the complainant and the respondent that the complaint has been referred to the independent investigator and the name of the independent investigator.

### ***Step 3: Independent investigator to inquire and conclude on the matter***

If the complaint is found to be a breach of the Code of Conduct the independent investigator will inform the initial assessor, who will inform the complainant and respondent. The independent investigator will then assess the nature and effect of the breach and prepare a report for the kaunihera on the seriousness of the breach and recommend actions commensurate with that breach. In preparing that report the independent 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.
-

At any stage in their inquiry the independent investigator may find that a breach has not occurred, or the matter should be referred to a relevant agency. If this is the case the independent investigator will inform the initial assessor who will inform the complainant and respondent that the complaint is dismissed or has been referred to a relevant named agency.

On receipt of the independent investigator's report the chief executive, or initial assessor, will prepare a report for the kaunihera, which will meet to consider the findings and implement any recommended actions. The report will include the full report prepared by the investigator.

#### ***Step 4: Process for considering the investigator's report***

The process for responding to the independent investigator's report will vary according to the adopted Policy for determining and investigating complaints.

##### **Process if the independent investigator's recommendations are binding**

Where the council's policy for determining and investigating complaints provides for an independent investigator's recommendations to be binding on the local authority, then:

- the chief executive's report, containing the independent investigator's recommendations and their full report, will be presented to the governing body for its information only.
- The chief executive's report may also outline the plan for the report's public release, for the governing body's information and comment.
- The report will be received in public meeting unless grounds, such as s.48 LGOIMA, exist for the exclusion of the public.

##### **Process if the independent investigator's recommendations are non-binding**

Where the council's Policy for determining and investigating complaints give an independent investigator the power to make recommendations to the local authority, then:

- the chief executive's report, containing the independent investigator's recommendations and report, will be presented to the governing body, or committee/sub-committee with delegated authority to consider code of conduct complaints,
  - The governing body, or local/community board, will ensure that members with an interest in the complaint are not present during the discussion on the independent investigator's recommendations.
  - The report will be received in public meeting unless grounds, such as s.48 LGOIMA, exist for the exclusion of the public.
  - The chief executive's report may also outline the plan for the report's public release, for the governing body's information and comment.
  - The governing body, local/community board, or committee/sub-committee with delegated authority, may accept the investigator's recommendations or, if they believe it is justified, amend the independent investigator's recommendations. As part of these considerations the
-

complainant may be asked to appear before the governing body, board or committee and answer questions from members.

- The penalty or sanction that might be applied will depend on the seriousness of the breach and may include actions set out in 2.3.

DRAFT

---



## 2.2: Selecting the initial assessor and independent investigator Te kōwhiri i te tangata motuhake me te kaitirotiro motuhake

### *Selecting an initial assessor*

The chief executive is responsible for this. In selected the initial assessor, the chief executive will consult with the local authority.

The initial assessor should be a person, or a position, that is independent of a local authority's political governance, while also being easily accessible, as their role is crucial if complaints are to be expedited quickly and without controversy. For example:

- The external appointee on a kaunihera's Audit and Risk Committee.
- A member of staff, such as an internal ombudsman or ethics adviser, as long as they have operational independence from the chief executive (similar to the independence afforded an Electoral Officer).
- A retired local authority chief executive.
- A retired local authority politician.
- A member of the public with relevant experience and competency.

### *Selecting an independent investigator*

The chief executive is responsible for compiling a panel or list of independent investigators.

At the beginning of each triennium the chief executive, in consultation with the kaunihera, will compile a list of independent investigators. In selecting them, a chief executive may consider:

- the council's legal advisers,
- a national service specialising in public sector integrity,
- a national service providing assessment and investigation services, or
- an individual with relevant skills and competencies.

**Please note:** Given the litigious nature of some code of conduct disputes independent investigators should have relevant liability insurance, provide on their own behalf or by the local authority. The chief executive also needs to ensure that investigations are undertaken within budgetary limits negotiated in advance.

---

### 2.3: Actions that may be applied when a breach has been confirmed Ngā mahi ka whāia pea ina whakatauhia tētahi takahanga

Where a complaint that the Code of Conduct was breached has been upheld, any actions taken against the member found to be in breach should be consistent with the following principles.

- Actions should be commensurate with the seriousness of the breach.
- Actions should be applied in a manner that is culturally appropriate and safe for the members involved.
- Actions should, to the degree practical, contribute to an inclusive culture in the local authority by focusing on constructive mediation, learning, and member improvement.

In determining a response to a breach of the Code of Conduct, one or more of the following could be selected:

1. That no action is required.
2. That the member meets with the mayor/chair for advice.
3. That the member attends a relevant training course.
4. That the member agrees to cease the behaviour.
5. That the member work with a mentor for a period.
6. That the member tenders an apology.
7. That the member participates in voluntary mediation (if the complaint involves a conflict between two members).
8. That the local authority sends a letter of censure to the member.
9. That the local authority passes a vote of no confidence in the member.
10. That the member loses certain kaunihera-funded privileges (such as attendance at conferences).
11. That the member loses specific responsibilities, such as committee chair, deputy committee chair or portfolio holder.
12. That the member be subject to restricted entry to kaunihera offices, such as no access to staff areas (where restrictions may not previously have existed).
13. That the member be subject to limitations on their dealings with kaunihera staff, other than the chief executive or identified senior manager.
14. That the member be suspended from committees or other bodies to which the member has been appointed.
15. That the member be invited to consider resigning from the council.

**Please note:** Actions 1-6 will typically not be reported to the local authority. Actions 7-15, which have a high degree of public interest, namely democratic representation, should be considered in an open meeting, unless there are grounds, such as those set out in LGOIMA, for not doing so.

---

### ***Responses to statutory breaches***

In cases where a breach of the Code of Conduct is found to involve regulatory or legislative requirements, the chief executive will refer the complaint to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under 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 section 44 LGA 2002 which may result in the member having to make good the loss or damage).
- 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).

DRAFT

---

## **2.4: Legislation which sets standards for ethical behaviour Ngā ture e whakatakoto ana i ngā paerewa mō ngā whanonga matatika**

Clause 15 of Schedule 7 of the Local Government Act (the Act) 2002, requires that the Code of Conduct provides members with a general explanation of the Local Government Official Information and Meetings Act 1987, and any other enactment or rule of law that affects members.

The key statutes that promote ethical behaviour are the Local Government Act 2002 (LGA), Local Government Official Information Act 1987 (LGOIMA), the Local Authorities (Members' Interests) Act 1968 (LAMIA), the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Serious Fraud Office Act 1990, the Local Government (Pecuniary Interests Register) Act 2022, the Health and Safety at Work Act 2015, and the Harmful Digital Communications Act 2015.

### ***The Local Government Act 2002***

The LGA 2002 is local government's empowering statute. It establishes our system of local government and sets out the rules by which it operates. Those rules include the principles underpinning kaunihera decision-making, governance principles, Te Tiriti obligations as set by the Crown, and the role of the chief executive which is:

1. implementing the decisions of the local authority,
2. providing advice to members of the local authority and to its community boards, if any and
3. ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed, or exercised,
4. ensuring the effective and efficient management of the activities of the local authority,
5. facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001,
6. maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority,
7. providing leadership for the staff of the local authority,
8. employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy), and
9. negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).

### ***The Local Government Official Information and Meetings act 1987***

The LGOIMA sets rules for ensuring the public are able to access official information unless there is a valid reason for withholding it. All information should be considered public and released accordingly unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

---

There are both conclusive and other reasons for withholding information set out in sections 6 and 7 of LGOIMA, which include:

Conclusive reasons for withholding – if making the information available would likely:

- prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- endanger the safety of any person.

Other reasons for withholding – withholding the information is necessary to:

- protect the privacy of natural persons, including that of deceased natural persons;
- protect information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- in the case of an application for resource consents or certain orders under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain the effective conduct of public affairs through free and frank expression of opinions between or to members and local authority employees in the course of their duty or the protection of such people from improper pressure or harassment;
- maintain legal professional privilege;
- enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these 'other' reasons, a public interest balancing test applies. In these cases the kaunihera must consider whether the withholding of that information is outweighed by other considerations that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA need to be made by the appropriately authorised people within each kaunihera, and elected members must work within the rules adopted by each kaunihera.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

### **The role of the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman's primary role under the Ombudsmen Act 1975 is to

---

independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

Anyone who has a complaint of that nature about a local authority may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the chief executive of the local body involved, or any other party. The Ombudsman's decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the local authority takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to the local authority under this Act will, in general, become binding unless the local authority resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

### ***The Local Authorities (Members' Interests) Act 1968***

#### **Pecuniary interests**

The LAMIA provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the council. LAMIA has two main rules, referred to here as the contracting rule (in section 3 of the LAIMA) and the participation rule (in section 6 of the LAIMA).

- The **contracting rule** prevents a member from having interests in contracts with the local authority that are worth more than \$25,000 in any financial year, unless the Auditor-General approves the contracts. Breach of the rule results in automatic disqualification from office.
- The **participation rule** prevents a member from voting or taking part in the discussion of any matter in which they have a financial interest, other than an interest in common with the public. The Auditor-General can approve participation in limited circumstances. Breach of the rule is a criminal offence, and conviction results in automatic disqualification from office.

Both rules have a complex series of subsidiary rules about their scope and exceptions.

The LAMIA does not define when a person is "concerned or interested" in a contract (for the purposes of section 3) or when they are interested "directly or indirectly" in a decision (for the purposes of section 6). However, it does set out two situations where this occurs. These are broadly where:

- a person's 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.
-

However, in some situations outside the two listed in the Act a person can be “concerned or interested” in a contract or have a pecuniary interest in a decision, for example, where a contract is between the members family trust and the kaunihera.

### **Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, which are addressed through the LAMIA, there are also legal rules about conflicts of interest more generally. These are rules that apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine if bias exists, consider this question: 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. This is in line with the principle that justice should not only be done but should be seen to be done. Whether or not you believe that you are not biased is irrelevant. The focus should be on the nature of any 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:

- statements or conduct indicate that a member has predetermined the decision before hearing all relevant information (that is, they have a “closed mind”), or
- a member has close relationship or involvement with an individual or organisation affected by the decision.

### **Seeking exemption from the Auditor-General**

Members who have a financial conflict of interest that is covered by section 6 of the LAMIA, may apply to the Auditor-General for approval to participate. The Auditor-General can approve participation in two ways.

1. Section 6(3)(f) allows the Auditor-General to grant an exemption if, in their opinion, a member’s interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.
2. Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if they are satisfied that:
  - a. the application of the rule would impede the transaction of business by the council;  
or
  - b. it would be in the interests of the electors or residents of the district/region that the rule should not apply.

More information on non-pecuniary conflicts of interest and how to manage them can be found in the Auditor-General’s Guidance for members of local authorities about the law on conflicts of interest.

---

## ***Protected Disclosures (Protection of Whistleblowers) Act 2022***

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:

- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

Kaunihera need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an “appropriate authority” under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

## ***The Serious Fraud Office Act 1990***

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
-



- Risk mitigation to manage risks that can't be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

### ***The Local Government (Pecuniary Interests Register) Act 2022***

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a local authority must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
- the name of each trust in which the member has a beneficial interest,
- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the local authority, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

---

## ***The Health and Safety Act at Work Act 2015***

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are “officers” under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation’s culture, and
- getting your workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members’ role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

## ***The Harmful Digital Communications Act 2015***

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital communications (like text, emails, or social media content) which can include racist, sexist and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual
  - be threatening, intimidating, or menacing
  - be grossly offensive to a reasonable person in the position of the affected individual
  - be indecent or obscene
  - be used to harass an individual
  - make a false allegation
  - contain a matter that is published in breach of confidence
-

- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual
- incite or encourage an individual to commit suicide
- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability

More information about the Act can be found at [Netsafe](#).

DRAFT

---

## **2.5: Case studies for assessing potential breaches: Ngā rangahau whakapūaho mō te aromatawai i ngā tūpono takahanga**

### ***Example one: staff accused of improper motives***

Councillor Smith was elected on a platform of stopping the sale of kaunihera housing. The kaunihera has made a decision to sell the kaunihera housing. Cr Smith makes media comments against the decision after it is made. Those same statements suggested that kaunihera staff advising on the sale “must have owned shares” in the company that proposed to buy the houses.

Cr Smith’s actions in releasing a media statement criticising a decision after it has been made would probably not in and of itself constitute a breach of a reasonable code of conduct. Cr Smith has a right to express a viewpoint and, provided that he makes it clear he is expressing a personal view, then issuing a critical press statement is an action he is entitled to take. If his statements failed to make it clear that he was expressing a personal or minority view then it may be a non-material breach of the Code, probably one where censure would be the appropriate response.

However, this media statement includes an allegation that staff advice was based on improper motives or corruption. This is a breach of most codes of conduct. It is most likely to be a material breach given the potential impact on the kaunihera’s reputation and the reputation of staff.

Also, there is no qualified privilege attached to public statements about employees which are false and damaging. In other words, elected members may be sued for defamatory statements made about employees.

### ***Example two: leak of confidential information***

Cr Jones is on the kaunihera’s Works and Services Committee. The Committee is currently considering tenders for the construction of a new wastewater treatment plant and has received four tenders in commercial confidence. The Committee has recommended to kaunihera that they award the contract to the lowest tenderer. Cr Jones is concerned the lowest tender proposes to treat sewage to a lesser standard than others. She leaks all four tenders to the local media. A subsequent investigation by the kaunihera conclusively traces the leak back to her.

In leaking the tender information to the media, Cr Jones will have breached most codes of conduct. This breach has potentially serious consequences for the kaunihera as a whole. It not only undermines elected members trust of each other, it also undermines the confidence of suppliers in the kaunihera, which may lead to them not dealing with council in future, or even complaints under the Privacy Act 2020.

In circumstances such as these where an elected member fails to respect a commercial confidence censure and removal from the committee is an obvious first step. The kaunihera may be liable for prosecution under the Privacy Act 2020 and even to civil litigation.

---

In the event that the kaunihera suffers financial loss it may elect to ask the Auditor-General to prepare a report on the loss (or the Audit Office may do so on their own initiative), which may result in Cr Jones having to make good the loss from her own pocket.

### ***Example three: member purports to speak on behalf of kaunihera***

Eastland Regional Council is conducting a performance review of the chief executive. It has established a chief executive Performance Management Committee to conduct the review. In the course of that review the committee meets informally with the chief executive to review which performance targets were met and which were not. The meeting notes that the chief executive has been unable to meet two of his twenty targets and resolves to formally report this to the full kaunihera for its consideration. At the conclusion of that meeting Councillor Black leaves to find a local reporter waiting outside and makes the comment that “Jack White won’t be getting a pay increase this year because he didn’t meet all his targets”.

This action will probably constitute a breach of most codes of conduct in that it:

- breached a confidence,
- presumed to speak on behalf of council,
- purported to commit council to a course of action before the council and made a decision (or even met to consider the matter), and
- failed to treat a staff member with respect and/or courtesy.

In addition to the provisions of the Code of Conduct, Cr Black’s actions will severely undermine the relationship between the chief executive and the kaunihera, which may well constitute grounds for litigation against the kaunihera both in terms of employment and privacy law.

### ***Example four: member criticises staff performance in media***

Cr Mary Fogg, concerned about the failure of her kaunihera to respond quickly to resident complaints about flooding in their neighbourhood, expressed her frustration when speaking at a public meeting and, as part of her response to questions stated that kaunihera staff had dropped the ball and failed to take residents’ concerns seriously.

The councillor’s remarks were reported in the local suburban paper and were read by kaunihera staff, some of whom felt that they had been unfairly criticised and raised the matter with their chief executive. The chief executive felt it necessary to lodge a complaint under the council’s Code of Conduct because the member’s comments were disrespectful of staff.

The question for the initial assessor is whether, publicly expressing disappointment in the performance of the staff is a breach of the Code of Conduct. Considerations might include:

- Whether there was a basis of fact for the member’s comments.
  - How the member’s views were expressed, that is, as a form of constructive criticism or not.
-

- The right of an employer (staff are employed by the local authority) to express a view should an organisation fail to live up to expectations.
- Whether a general statement about the performance of staff is in anyway comparable to a public criticism of an individual staff member, which would be a clear breach and might be an example of intimidation or harassment.

In this case the initial assessor concluded that it was not unreasonable for a member to make general statement about the performance of staff as a collective, indeed, one of her pre-election commitments was to improve the responsiveness of kaunihera staff. However, the assessor also concluded that the article lacked sufficient context to explain why she was disappointed, especially when some of the concerns were outside the control of staff and recommended that the member meet with the mayor to get guidance on how to raise such concerns in the future.

### ***Example five: member accused of using sexist language and humour***

Towards the end of the first year of the new triennium, the chief executive received a complaint, signed by four councillors, alleging that Cr Rob Jones regularly used sexist language in meetings, workshops and other official engagements. The councillors who made the complaint alleged that his tendency to call female colleagues 'girls'; interrupt them while speaking or ignore their comments; and that his use of sexist humour was demeaning to women and inconsistent with the behaviours set out in the Code of Conduct; the commitment to treat other members, staff and members of the public with respect. The chief executive forwarded the complaint to the independent investigator.

The investigator, having access to minutes, video recordings and the testimony of other members, was able to easily confirm that the complaint was justified and that both Cr Jones' language and behaviour was inconsistent with the Code. That left the Investigator with the task of determining how serious the breach was and what actions should be taken. Factors that the investigator took into consideration included:

- that the issue had been raised with Cr Jones earlier in the year by a colleague, with no obvious change in behaviour
- that Cr Jones was one of the kaunihera's representatives on its Youth Committee, bringing him into regular contact with young people
- that the kaunihera had adopted a specific policy to be a safe and supportive workplace for both elected members and staff.

Taking these factors into account the Investigator recommended that Cr Jones be removed from his role as a kaunihera representative on the Youth Committee; should be enrolled in a relevant course to better understand offensive behaviour and its impacts; and meet monthly with mayor to monitor his behaviour.

---

### ***Example six: Councillor Facebook page used to disparage others***

Councillors Sarah Smith and William Getty share political views in common and have recently established a Facebook group through which they promote debate and discussion with like-minded people in their district. Some of the participants in that Facebook Group make posts that include explicit criticism of other councillors, sometimes using explicit language, commenting on things like the way they voted, their motivations and personal matters. Some of the councillors targeted by the abuse complained to Cllrs Smith and Getty who, in response, closed the Facebook page to other councillors, preventing them from joining or viewing the content.

Rather than solve the concerns the decision to close the Facebook to others created additional anxiety for some councillors who became concerned that the page may be sharing their personal details and mis-representing their views. A complaint was made to the chief executive that the Code of Conduct had been breached, on the basis that the decision to exclude them from the website, and the fact that it appeared to me unmoderated, was intimidating, potentially exposed them to harm and allowed promoted statements about them and the council that were clearly untrue. The chief executive referred the complaint to the council's independent investigator.

The investigator found that, while Cllrs Smith and Getty were not directly mis-representing the views of their colleagues, they were indirectly encouraging it, which breached the Code. Because this was the first complaint, and because the two councillors believed that by limiting access to the website, they had addressed the initial concerns, the investigator did not regard the breach as material. She recommended that the two councillors remove the block preventing other councillors from joining or accessing the site and install a system for approving posts, such as a moderator, before they are published.

---

<b>Report to:</b> Council	<b>Meeting Date:</b> 13 December 2022
<b>Title of Item: Policy for breaches of the Code of Conduct</b>	
<b>Report by:</b> Toni Morrison, WCRC Policy Consultant	
<b>Reviewed by:</b> Heather Mabin, Chief Executive	
<b>Public excluded?</b> No	

### Report Purpose

The purpose of this report is to present for approval the option to adopt a Policy on dealing with breaches of the Code of Conduct.

### Report Summary

Under the Local Government Act 2022 (LGA) Council is required to adopt and maintain a code of conduct. Council may also adopt a Policy for breaches of the Code of Conduct.

### Recommendations

**It is recommended that Council resolves to:**

1. *Receive this report; and*
2. *Consider whether to adopt a Policy on dealing with alleged breaches of the Code of Conduct as set out in Attachment 3; and if adopting such a Policy:*
  - 2.1. *Confirm whether a single step or two-step process or some other option will be adopted, in assessing complaints under the Policy; and*
  - 2.2. *Confirm whether an investigator's recommendation is to be binding or non-binding; and*
  - 2.3. *Specify any other changes to the draft Policy.*

### Issues and Discussion

LGNZ recommends that, following the adoption of a code of conduct, Council should consider adopting a policy for dealing with alleged breaches of the code, see page 19 of Attachment 1. Alternatively, the Code of Conduct may be adopted without a policy for dealing with breaches, which may be left for further discussion at a later date. Adoption of a revised Code of Conduct is dealt with in a separate agenda paper.

### Draft Policy for Dealing with Alleged Breaches of the Code

If Council wants to consider adopting a policy for dealing with breaches of the code, a suggested draft Policy is set out in Part 2 of the attached LGNZ template (Attachment 2), and in Attachment 3. Some decisions are required should Council wish to do this, as part of adopting the Policy that is set out in the template.

To ensure the policy is appropriate for the different scale and circumstances of Councils, the template provides a range of procedural options that should be considered before the Policy is adopted. The options are:

#### Decision 1 - A single step or two step assessment process?

This option is concerned with the process that should be followed once a complaint is received. Both are independent of the local authority; however the two-step process is designed to quickly address those complaints that have a low level of materiality, and with a minimum expense to the Council.



1. A **single step process**, in which the chief executive refers all complaints to an independent investigator who determines whether the complaint is valid and, if so, recommends an action(s) appropriate to the level of materiality or significance of the breach.
2. A **two-step process**, in which the chief executive refers all complaints to an initial assessor who determines whether the complaint is valid and, if so, can refer the complaint to a chairperson or recommend that the parties undertake mediation. Where the nature of a breach is significant and where mediation is not an option (or not agreed to) then the initial assessor will refer the complaint to an independent investigator, who may also re-assess the complaint.

***Please Note:** The LGNZ template employs the two-step process which will need to be removed if the Council chooses a single step process, or a third option.*

## **Decision 2 – Binding or non-binding recommendations from an investigator?**

A key principle is that the process for investigating an alleged breach must be politically independent and be seen to be so. The proposal for investigating and making recommendations is designed to achieve that independence, however, the perception of independence and objectivity may be lost if it is elected members who decide the nature of the action to be taken when a complaint is upheld, particularly in Councils with small numbers of elected members.

One solution is for a local authority to agree to be bound by an independent investigator's recommendations. A slight variation would be to create an independent committee to consider an independent investigator's recommendations and either endorse or amend them. The local authority would agree to be bound by that external committee's recommendations.

***Please note:** The draft template policy (Attachment 3) makes an investigator's recommendations binding as the default. Before adopting the template, the Council needs to make sure it is comfortable with this option or amend it as appropriate.*

### **Options**

Option 1 is that Council adopts the draft Policy for Dealing with Breaches of the Code (Part 2 of Attachment 2, and as set out in Attachment 3), either with or without amendment.

Option 2 – is that Council retains the status quo of no Policy in place.

### **Considerations**

#### **Implications/Risks**

There are no risks associated with this decision.

#### **Significance and Engagement Policy Assessment**

There are no issues within this report which trigger matters in this policy.

#### **Tangata whenua views**

N/a.

#### **Financial implications**

There are no financial implications of adopting the Code of Conduct.

## Legal implications

The code of conduct, its requirements and reviews of the code are set out in clause 15 schedule 7 of the LGA which provides as follows:

- a. A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.*
- b. The code of conduct must set out—*
  - i. understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—*
    - 1. behaviour toward one another, staff, and the public; and*
    - 2. disclosure of information, including (but not limited to) the provision of any document, to elected members that—*
      - a. is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and*
      - b. relates to the ability of the local authority to give effect to any provision of this Act; and*
  - ii. a general explanation of—*
    - 1. the [Local Government Official Information and Meetings Act 1987](#); and*
    - 2. any other enactment or rule of law applicable to members.*
- c. A local authority may amend or replace its code of conduct, but may not revoke it without replacement.*
- d. A member of a local authority must comply with the code of conduct of that local authority.*
- e. A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.*
- f. After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.*
- g. To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.*

## Attachments

Attachment 1: See *Code of Conduct – Candidate’s Guide 2022*, Attachment to separate Code of Conduct paper

Attachment 2: See *LGNZ Template Code of Conduct 2022*, Attachment to separate Code of Conduct paper

Attachment 3: *West Coast Regional Council draft Policy on Breaches of Code of Conduct 2022*

**THE WEST COAST REGIONAL COUNCIL**

To: Chair, West Coast Regional Council

I move that the public be excluded from the following parts of the proceedings of this meeting, namely,-

- Items 10.1 – 10.5 inclusive

<b>Item No.</b>	<b>General Subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 7 of LGOIMA for the passing of this resolution</b>
<i>10.1-10.4</i>	<i>Confirmation of Minutes</i>	<i>The item contains information relating to commercial matters</i>	<i>To protect commercial information (s 7(2)(b)).</i>
<i>10.5</i>	<i>WC Emergency Management</i>	<i>The item contains information relating to commercial matters</i>	<i>To protect commercial information (s 7(2)(b)).</i>

I also move that:

- Heather Mabin, be permitted to remain at this meeting after the public has been excluded, because of her knowledge on these subjects. This knowledge will be of assistance in relation to the matters to be discussed; and
  
- The Minutes Clerk also be permitted to remain at the meeting.