



INAUGURAL MEETING of Council AGENDA

Time: 2.00pm
Date: Wednesday, 26 October 2022
Venue: Te Rangimarie Marae, Cole Street,
Masterton then
Waiata House, 27 Lincoln Road,
Masterton (from 4.00pm)

MEMBERSHIP

Mayor Gary Caffell (Chairperson)

Councillor Craig Bowyer
Councillor Brent Goodwin
Councillor David Holmes
Councillor Tom Hullena

Councillor Bex Johnson
Councillor Stella Lennox
Councillor Tim Nelson
Councillor Marama Tuuta

Values

1. **Public interest:** members will serve the best interests of the people within the Masterton district and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.
3. **Ethical behaviour:** members will not place themselves in situations where their honesty and integrity may be questioned, will not behave improperly and will avoid the appearance of any such behaviour.
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their ethnicity, age, religion, gender, sexual orientation, or disability. Members will respect the impartiality and integrity of Council staff.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by this Code, and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to ensure they fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which MDC operates, including a regular review and assessment of MDC's collective performance.

These values complement, and work in conjunction with, the principles of section 14 of the LGA 2002; the governance principles of section 39 of the LGA 2002; and our MDC governance principles:

Whakamana Tangata	Respecting the mandate of each member, and ensuring the integrity of the committee as a whole by acknowledging the principle of collective responsibility and decision-making.
Manaakitanga	Recognising and embracing the mana of others.
Rangatiratanga	Demonstrating effective leadership with integrity, humility, honesty and transparency.
Whanaungatanga	Building and sustaining effective and efficient relationships.
Kotahitanga	Working collectively.

Order Of Business

1	PŌhiri.....	5
2	Apologies	5
3	DECLARATIONS	5
3.1	Declaration by the mayor	5
3.2	Declarations by elected members	5
4	Items not on the Agenda	5
5	Reports for Decision.....	6
5.1	Declaration of Final Electoral Results.....	6
5.2	Explanation of Legislation Affecting Elected Members	9
5.3	Committee Structure and Appointments 2022-2025	23
5.4	Elected Member Remuneration (from 14 October 2022)	45
5.5	Date and Time of First Ordinary Meeting of Council and Meetings for 2022	55
5.6	Adoption of Standing Orders 2022	58
5.7	Adoption of Code of Conduct	150

1 PŌHIRI

2 APOLOGIES

The Chair invites apologies, including apologies for lateness and early departure from the meeting

3 DECLARATIONS

3.1 Declaration by the mayor

3.2 Declarations by elected members

The making and attesting of the Mayor and Councillors declarations are in the following terms:

I,, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the Masterton District, the powers, authorities, and duties vested in, or imposed upon, me [as Mayor/as a member] of the Masterton District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

4 ITEMS NOT ON THE AGENDA

The Chairperson will give notice of items not on the agenda as follows:

Matters requiring urgent attention as determined by resolution of the Council

- The reason why the item is not on the agenda; and
- The reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor matters relating to the general business of Council

No resolution, decision or recommendation may be made in respect of the item except to refer it to a subsequent meeting of Masterton District Council for further discussion.

5 REPORTS FOR DECISION

5.1 DECLARATION OF FINAL ELECTORAL RESULTS

File Number:

Author: Karen Yates, Manager Strategy and Governance

Authoriser: David Hopman, Chief Executive

PURPOSE

The purpose of this report is to advise Councillors that the declaration of the final result for the 2022 triennial election has been publicly notified.

EXECUTIVE SUMMARY

In accordance with section 86 of the Local Electoral Act, the declaration of the final results for the Masterton District Council triennial election (see Attachment 1) were publicly notified on the Masterton District Council website on Friday 14 October 2022.

RECOMMENDATION(S)

That Council receives the report advising that the declaration of the final result for the 2022 triennial elections was publicly notified on the Masterton District Council website on Friday 14 October 2022.

ATTACHMENTS

- 1. 2022 Local Election Final Results** [↓](#) 



Masterton District Council
2022 Triennial Elections

DECLARATION OF RESULT

The final result for the Masterton District Council elections held on Saturday 8th October is as follows.

Mayorality		Votes Received
CAFFELL, Gary	Masterton Matters	5,455
BOWYER, Craig	Masterton The Way You Want It	1,335
HAYES, Jo		930
NIXON, Tina	Our District, Our Taxes, Our Decisions	895
IZARD, William	Independent	650
HAKEPA		81
INFORMAL		26
BLANK VOTING PAPERS		213

Gary CAFFELL is declared elected.

Council - At Large (3 vacancies)		Votes Received
HOLMES, David		4,810
LENNOX, Stella	Next Generation Councillor	4,278
GOODWIN, Brent	Reduce staff and Civic Centre costs	4,028
HARRISON, Hewitt	Affordability and Accountability	3,671
GARE, Brent (BG)		3,460
RYAN, Sandy	Community at heart	2,853
HULLAH, Drew	Independent	983
HAKEPA		447
INFORMAL		37
BLANK VOTING PAPERS		240

Brent GOODWIN, David HOLMES and Stella LENNOX are declared elected.

Masterton/Whakaoriori General Ward (4 vacancies)		Votes Received
JOHNSON, Bex	A Voice For Our Community	5,753
* CAFFELL, Gary (Withdrawn)	Masterton Matters	5,585
HULLENA, Tom		4,755
NELSON, Tim	Independent	4,292
BOWYER, Craig	Masterton The Way You Want It	2,881
DICK, Graham	Progress not Procrastination	2,631
PETERSON, Chris		2,417
JAMES, Peter	Independent	1,910
SORIANO, Ryan		1,487
INFORMAL		16
BLANK VOTING PAPERS		82

(* Withdrawn as elected as Mayor)

Craig BOWYER, Tom HULLENA, Bex JOHNSON and Tim NELSON are declared elected.

Masterton Community Trust (6 vacancies)		Votes Received
JOHNSON, Bex	A Voice For Our Community	6,641
GRIFFITHS, Lucy		6,429
SOUTHEY, Leanne		6,427
ANTONIO, Mena	Good Decisions	5,711
TAUCHER, Karl		5,533
BASKERVILLE, Don		4,222
WAITOA, Joanne	For our people, for our planet	3,826
INFORMAL		2
BLANK VOTING PAPERS		501

Mena ANTONIO, Don BASKERVILLE, Lucy GRIFFITHS, Bex JOHNSON, Leanne SOUTHEY and Karl TAUCHER are declared elected.

Masterton Trust Lands Trust (4 vacancies)		Votes Received
JOHNSON, Bex	A Voice For Our Community	4,751
KLOEG, Monique		4,152
BREWSTER, Christine		4,070
MCCLYMONT, Isabella		3,632
GOLLINS, Chris		3,131
INFORMAL		3
BLANK VOTING PAPERS		434

Christine BREWSTER, Bex JOHNSON, Monique KLOEG and Isabella MCCLYMONT are declared elected.

The voter return was 46.68%, being 9,400 votes, excluding special votes.

Elections were not required for the following positions.

Masterton/Whakaoriori Māori Ward (1 Vacancy)

As the number of nominations received did not exceed the number of vacancies, Marama TUUTA, is declared elected.

Montfort Trimble Foundation (2 Vacancies)

As the number of nominations received did not exceed the number of vacancies, Kirsty McCarthy and Grant PERRY are declared elected.

Warwick Lapp
Electoral Officer
Masterton District Council
13 October 2022

5.2 EXPLANATION OF LEGISLATION AFFECTING ELECTED MEMBERS

File Number:

Author: Karen Yates, Manager Strategy and Governance

Authoriser: David Hopman, Chief Executive

PURPOSE

The purpose of this report is to provide the new Council with a general explanation of the Local Government Official Information and Meetings Act 1987 and other key legislation affecting elected members as required by the Local Government Act 2002.

EXECUTIVE SUMMARY

The Local Government Act 2002, Schedule 7 Clause 21 requires that a general explanation of the following legislation affecting elected members be given at the first meeting of the new Council following the triennial election:

- The Local Government Official Information and Meetings Act 1987
- Appropriate provisions of the Local Authorities (Members' Interests) Act 1968
- Sections 99, 105 and 105A of the Crimes Act 1961
- Secret Commissions Act 1910 and the
- Financial Markets Conduct Act 2013

This legislation is important as it relates to the personal conduct of elected members while holding office. It also underpins the integrity and honesty in our system of local government.

In addition to the legislation above, specified in the Local Government Act 2002, brief explanations of the Health and Safety at Work Act 2015, the decision making requirements of the Local Government Act, recent amendments to the Local Government Act 2002 relating to pecuniary interests, and members' personal liability, are also included.

RECOMMENDATION

That Council receives the report from the Chief Executive providing a general explanation of legislation affecting elected members and notes the information provided in the report.

EXPLANATION OF LEGISLATION

1. Local Government Official Information and Meetings Act 1987 (LGOIMA)

The LGOIMA applies to every local authority in New Zealand and has two main aspects. The first concerns 'Official Information', its availability and means of making it available. The second aspect deals with meetings of local authorities and their committees, and in particular the rights of the public to attend such meetings.

- Official information includes virtually all information held by a local authority, its members or staff in their official capacities. The LGOIMA's overriding principle is that this information should be made available unless there is good reason under the Act to withhold it (See Attachment 1). Decisions to withhold information may be reviewed by the Ombudsman. The Manager Strategy and Governance manages all LGOIMA requests received by Masterton District Council.
- Meetings of Council and its committees must be advertised in advance and be open to the public unless the Council resolves to exclude the public for all or part of the meeting for good reason - essentially the same reasons for withholding official information. Agendas and reports, except those to be dealt with in 'public excluded', are to be made available for members of the public. Likewise, the public can inspect the minutes of any open meeting of the Council.

2. Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 deals with two key matters: contracts entered into by members of local authorities and restrictions on members discussing or voting on matters in which they have a pecuniary interest. It also considers Conflicts of Interest. It is important to note that these provisions of the Act also relate to an elected member's spouse or partner. Failure to comply with the Local Authorities (Members' Interests) Act could result in an elected member being prosecuted and disqualified from office.

- The Act provides that no person may be elected or appointed to a local authority if that person is concerned or interested in any contract made by the local authority in excess of \$25,000, unless prior approval has been sought from the Audit office. The Act also applies where a member's interest in a contract arises through an incorporated company and where the member or member's spouse owns 10% or more of the capital of the company. A member can also be disqualified through an interest his/her spouse may have in some other type of business, such as a partnership.
- The Act prohibits elected or appointed members from taking part in discussions or voting on any matter if they have a direct or indirect financial interest. Elected members must declare to the meeting that they have an interest, though they do not have to say why the interest exists.
- Conflicts of interest can arise where an elected member does not have a pecuniary interest but does have an interest greater than the general public, for example as a member of a Club or organisation that could benefit in some way from a Council decision. Conflicts of interest should also be declared.

General public law rule against financial and non-financial conflicts of interest and predetermination

In addition to the requirements of LAMIA referred to above, elected members have additional obligations to carefully manage conflicts of interest and matters of pre-determination. These obligations are reflected in the Code of Conduct and standing orders; and upheld by the High Court.

A conflict of interest is concerned with public perceptions as to impartial decision-making based on the interests (financial or non-financial) or relationships of the decision maker. The test for a conflict of interest is whether a fair-minded observer would reasonably think that a member of the decision-making body might not bring an impartial mind to the decision, in the sense that he or she might unfairly regard or favour or disfavour a particular position due to his or her non-financial or financial interest.

Predetermination is concerned with closed-mind decision-making and is not dependent on the interests or relationships of the decision maker. The test for predetermination is whether the member has an actual closed mind.

3. *Crimes Act 1961*

Sections 99, 105 and 105A of the Crimes Act 1961 relate to Bribery and Corruption and make it a crime for any official (elected member or employee of any Council) to corruptly accept or obtain any bribe (money, valuable consideration, office, employment or any benefit whether direct or indirect) for themselves or another person for doing, or failing to do, an action within their official capacity; or for corruptly using information gained in their official capacity for their own gain. Likewise, anybody who offers a bribe with the intent to influence an official also commits an offence.

4. *Secret Commissions Act 1910*

The Secret Commissions Act 1910 details offences in relation to receiving gifts and rewards for procuring contracts. It is an offence for an elected and/or committee member to accept or attempt to gain for themselves (or any other person) a gift, inducement or reward for doing, or not doing, something. In particular, every person commits an offence who:

- Gives or offers a gift as an inducement or reward for any act.
- Obstructs, diverts or interferes with the affairs of Council with the intent to obtain a gift or other consideration.
- Makes a contract and fails to notify any pecuniary interest (for them or immediate family).
- Advises any person to enter into a contract with a third person and receives a gift or consideration for that advice.

5. *Financial Markets Conduct Act 2013*

The Financial Markets Conduct Act 2013 aims to promote a fair, efficient and transparent financial market. It governs how financial products are created, promoted and sold. It imposes a number of responsibilities on those who offer, deal and trade in financial products (including bonds which may be issued by the council when borrowing money). It relates to the information which must be provided to potential investors when investment offers are made. An elected member may be personally liable when approving council documents relating to offers of securities, if the documents contain false and materially misleading statements and the member knew this, so could be considered reckless in approving any such documents.

The Act places limits on elected members using confidential information relating to certain proposed council transactions. For example, where council debt securities are listed on a registered stock exchange, then elected members cannot use (or benefit from) information that is not generally available to the public. This only applies to the bonds listed on the NZX Debt Market - Masterton District Council does not currently issue bonds using the NZX Debt Market. Elected members must consider the risks of insider trading and the failure to disclose relevant interests in the council's bonds. Failure to comply with the Financial Markets Conduct Act 2013 could lead to a criminal conviction and therefore disqualification from office.

6. Health & Safety at Work Act 2015

The purpose of the Health & Safety at Work Act 2015 is to protect the health and safety of workers at their workplaces. It sets out key health and safety duties for the council and for people in positions of leadership, influence, or responsibility in the workplace, and for workers and other people. The Act sets out some compulsory health and safety requirements, and creates offences and penalties for failing to meet those requirements.

Elected members have a personal and individual duty of due diligence to ensure that the council complies with its obligations under this Act. This is analogous to what might be expected of a company director with a company's financial statements. An elected member cannot delegate the exercise of this duty to anyone else. There are six aspects to the due diligence duty:

- to be familiar and keep up to date with health and safety knowledge and matters for the council;
- understand the council's operations and the associated hazards and risks;
- ensure that the council has appropriate resourcing and processes to eliminate or minimise risks to health and safety;
- ensure the council has appropriate processes for receiving and considering information regarding incidents, hazards and risks, and for responding to the information in a timely way; ensure the council has and implements processes for complying with its duties; and
- verify the provision and use of resources and processes through reviews and audits.

Staff support elected members to comply with their duty of due diligence. Part of that support includes training and regular health and safety information reporting at governing body committee meetings.

7. Local Government Act 2002

The Local Government Act 2002 (Local Government Act) establishes the general legal framework for all local authorities in New Zealand.

In making its decisions, the council must give effect to the statutory purpose of local government, as set out in the Local Government Act:

- to enable democratic local decision-making and action by, and on behalf of, communities; and
- to promote the social, economic, environmental and cultural well-being of communities

in the present and for the future.¹

The role of a local authority is to give effect to the purpose of local government and to perform the duties and exercise the rights, conferred on it by or under the Local Government Act and any other enactment.² When performing its role, the council must act in accordance with the principles set out in section 14 of the Act (see Attachment 2). If any of the principles, or any aspects of well-being, are in conflict in any particular case then the local authority should resolve the conflict in an open, transparent, and democratically accountable manner.

Statutory decision-making requirements

The Local Government Act also sets out the basic procedural decision-making requirements applying to council decision-making. For each decision, council can decide how to give effect to these obligations.³ The more significant a decision is, the stricter the compliance should be.

These requirements are (in summary):

- to identify all reasonably practicable options for achieving the decision's purpose and assess the options in terms of advantages and disadvantages;⁴
- to consider the views and preferences of people likely to be affected by, or have an interest in, the decision (this does not require the council to undertake consultation);⁵
- to conduct any consultation in accordance with the principles outlined in the legislation;⁶
- to identify any significant inconsistency between the decision and any of the council's policies or plans, and to provide reasons for the inconsistency;⁷
- to establish processes to provide opportunities for Māori to contribute to decision-making, including providing relevant information for that purpose.⁸

8. Local Government (Pecuniary Interests Register) Amendment Act 2022

The Local Government (Pecuniary Interests Register) Amendment Act 2022 will come into force on 20 November 2022. The Act inserts a new set of requirements and obligations into the Local Government Act which relate to members' pecuniary interests. The new provisions require members to make an annual return containing information on particular pecuniary interests within a set statutory timeframe, to ensure that the information in the return is accurate and, if they become aware of an error or omission in their return, to advise the Registrar as soon as practicable. If a member doesn't comply with the obligations in the Act they will commit an offence. The relevant provisions of the Act (which comes into force on 20 November 2022) are set out in Attachment 3.

¹ Section 10, Local Government Act

² Section 11, Local Government Act

³ Section 79(1) and 82(3), Local Government Act

⁴ Section 76, Local Government Act

⁵ Section 78, Local Government Act

⁶ Section 79, Local Government Act

⁷ Section 80, Local Government Act

⁸ Section 81, Local Government Act

9. Personal liability of elected members

Members of the council (including members of council committees or other subordinate decision-making bodies) are indemnified by the council for the following:

- costs and damages for any civil liability, as long as the member was acting in good faith and was carrying out responsibilities or powers of the council (or relevant committee or other subordinate decision-making body); and
- costs arising from any successfully defended criminal action relating to acts or omissions in his or her capacity as a member.⁹

Personal liability for losses incurred

Elected members may be liable (jointly and separately) for the losses of the council where the Council has:

- unlawfully spent money;
- unlawfully sold or disposed of an asset;
- unlawfully incurred a liability; and / or
- intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.¹⁰

Members are only liable for these types of losses if the Auditor-General issues a report on the loss to the Minister of Local Government.¹¹ The Auditor-General has not issued a report on losses incurred by a local authority since the Local Government Act was enacted in 2002 (although the possibility has been considered).¹²

An elected member will have a defence (and will not be liable) if they can prove the act (or failure to act) that resulted in the loss occurred:¹³

- without their knowledge;
- with their knowledge but against their protests made at or before the time when the loss occurred;
- contrary to the manner in which they voted on the issue at a meeting; or
- in circumstances where they acted in good faith and relied on reports, information, or professional / expert advice given by a council staff member or a professional adviser or expert on matters that the elected members reasonably believed were within the person's competency.

⁹ Section 43(1) Local Government Act 2002

¹⁰ Sections 44(1) and 46(1) Local Government Act 2002

¹¹ Sections 44(1) and 46(1) Local Government Act 2002

¹² Auditor-General Kaipara District Council: *The Auditor-General's decision on requests to make a report under section 44 of the Local Government Act 2002* (19 August 2015)

¹³ Section 46 Local Government Act 2002

Further Information


In addition to this report, it is recommended that elected members familiarize themselves with the following documents:

- “Guidance for Members of Local Authorities about the Local Authorities (Members’ Interests) Act 1968” available from the Office of the Auditor General’s website.
- “Managing Conflicts of interest: Guidance for public entities” available from the Office of the Auditor General’s website.

All of the Acts noted in this report can be accessed in full online at www.legislation.govt.nz

If any member is in doubt now or in the future regarding any of the matters included in this report, please seek clarification from the Chief Executive.

ATTACHMENTS

1. **Extract from the Local Government Official Information and Meetings Act 1987** [↓](#) 
2. **Section 14 Local Government Act** [↓](#) 
3. **Local Government Act Amendments relating to Pecuniary Interests** [↓](#) 

Extract from the Local Government Official Information and Meetings Act 1987 (LGOIMA)

Purpose of the Act:

The purposes of the Act are:

- To provide for the availability to the public of official information held by local authorities, and to promote the open and public transaction of business at meetings of local authorities, in order:
 - To enable more effective participation by the public in the actions and decisions of local authorities; and
 - To promote the accountability of local authority members and officials.
- To provide for proper access by each person to official information relating to that person.
- To protect official information and the deliberations of local authorities to the extent consistent with the public interest and preservation of personal privacy.

Official Information

Official information includes virtually all information held by a local authority, its members or staff in their official capacities. It does not include the following:

- Information contained in library or museum material made or acquired and preserved solely for reference or exhibition purposes.
- Information which is held by a local authority solely as an agent or for the sole purpose of safe custody and which is so held on behalf of a person other than a local authority; or
- Information contained in any correspondence or communication that has taken place between the Office of the Ombudsman and any local authority and that relates to an investigation conducted by an Ombudsman other than information that came into existence before the commencement of that investigation; and
- Information contained in any correspondence or communication that has taken place between the office of the Privacy Commissioner and any local authority that relates to any investigation conducted by the Privacy Commissioner under the Privacy Act 1993, other than information that came into existence before the commencement of that investigation.

Reasons for Withholding Information

Good reasons for withholding information are outlined in the Act and summarised as follows:

- Providing the information would contravene legal requirements including:
 - Breaching legal privilege;
 - Prejudicing the maintenance of the law; or
 - Endangering the health or safety of any persons;
- The need to protect the privacy of natural persons;
- To prevent material loss to members of the public or improper commercial exploitation of information held, whether related to the authority's activities or those of another party;
- To protect the public interest;
- To enable a local authority to conduct its affairs effectively without improper pressure or harassment;
- The information requested is not available or is trivial;
- Substantial collation or research would be required to provide the information.

Local Government Act Section 14 Principles relating to local authorities

- (1) In performing its role, a local authority must act in accordance with the following principles:
- (a) a local authority should—
 - (i) conduct its business in an open, transparent, and democratically accountable manner; and
 - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:
 - (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
 - (c) when making a decision, a local authority should take account of—
 - (i) the diversity of the community, and the community’s interests, within its district or region; and
 - (ii) the interests of future as well as current communities; and
 - (iii) the likely impact of any decision on each aspect of well-being referred to in [section 10](#):
 - (d) a local authority should provide opportunities for Māori to contribute to its decision-making processes:
 - (e) a local authority should actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes; and
 - (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
 - (fa) a local authority should periodically—
 - (i) assess the expected returns to the authority from investing in, or undertaking, a commercial activity; and
 - (ii) satisfy itself that the expected returns are likely to outweigh the risks inherent in the investment or activity; and
 - (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region, including by planning effectively for the future management of its assets; and
 - (h) in taking a sustainable development approach, a local authority should take into account—
 - (i) the social, economic, and cultural well-being of people and communities; and
 - (ii) the need to maintain and enhance the quality of the environment; and
 - (iii) the reasonably foreseeable needs of future generations.
- (2) If any of these principles, or any aspects of well-being referred to in [section 10](#), are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

Amendments to the Local Government Act 2002 (which will come into force 20 November 2022)

54A Register of members' pecuniary interests

- (1) A local authority must keep a register of the pecuniary interests of—
 - (a) members of the local authority; and
 - (b) members who have been elected under the Local Electoral Act 2001 to a community board that is part of the local authority; and
 - (c) members who have been elected under the Local Electoral Act 2001 to a local board that is part of the local authority.
- (2) The register must comprise the pecuniary interest returns that—
 - (a) are made by members under section 54C; and
 - (b) contain all information in any pecuniary interest return that is required to be disclosed under sections 54E and 54F, and include any notifications made under section 54D of errors or omissions in those returns.
- (3) The local authority must—
 - (a) make a summary of the information contained in the register publicly available; and
 - (b) ensure that information contained in the register—
 - (i) is only used or disclosed in accordance with the purpose of the register; and
 - (ii) is retained for 7 years after the date on which a member provides the information, and is then removed from the register.

54B Purpose of register

The purpose of the register of members' pecuniary interests is to record members' interests so as to provide transparency and to strengthen public trust and confidence in local government processes and decision-making.

54C Members to make pecuniary interest returns

- (1) A member described in section 54A(1)(a), (b), or (c) must make a pecuniary interest return containing the information specified in sections 54E and 54F in respect of the 12-month period that ended on the day that is 1 month before each date specified for the return in subsection (2).
- (2) The member must make the pecuniary interest return by the following dates:
 - (a) 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) the last day of February in each subsequent year.
- (3) The member must make the return by providing it to the Registrar.

54D Accuracy of information included in pecuniary interest return

- (1) When making a pecuniary interest return under section 54C, a member must ensure that the information contained in the return is accurate.
- (2) However, if a member becomes aware of an error or omission in any return that the member has made, the member must advise the Registrar of that error or omission as soon as practicable after becoming aware of it.
- (3) When advised of an error or omission in a pecuniary interest return, the Registrar must correct the register of members' pecuniary interests accordingly.

54E Contents of pecuniary interest return relating to member's position

- (1) Every pecuniary interest return must contain the following information:
 - (a) 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 main business activities of each of those companies:
 - (b) 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:
 - (c) if the member is employed, the name of each employer of the member and a description of the main business activities of each of those employers:
 - (d) the name of each trust in which the member has a beneficial interest:
 - (e) the name of any organisation or trust and a description of the main activities of that organisation or trust if—
 - (i) the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust (as applicable); and
 - (ii) the 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:
 - (f) the title and description of any organisation in which the member holds an appointment by virtue of being an elected member:
 - (g) 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:
 - (h) the location of real property, and a description of the nature of the real property, held by a trust to which the following apply:
 - (i) the member is a beneficiary of the trust; and
 - (ii) the member knows or ought reasonably to know that the member is a beneficiary of the trust; and
 - (iii) it is not a unit trust whose name is disclosed under subclause (1)(d); and

- (iv) it is not a retirement scheme whose membership is open to the public.
- (2) For the purposes of subsection (1)(b), a member does not have a pecuniary interest in a company or business entity (**entity A**) merely because the member has a pecuniary interest in another company or business entity that has a pecuniary interest in entity A.
- (3) For the purposes of subsection (1)(e), a member is not required to disclose the name and a description of the main activities of an organisation that is a council-controlled organisation.
- (4) For the purposes of subsection (1)(g) and (h), a member is not required to disclose the street address of the real property, but must provide the general location (for example, the suburb and city in which it is located).
- (5) For the purposes of this section,—

business entity means any body or organisation, whether incorporated or unincorporated, that carries on any profession, trade, manufacture, or undertaking for pecuniary profit, and includes a business activity carried on by a sole proprietor, but does not include any blind trust

company has the same meaning as in section 2(1) of the Companies Act 1993, and includes—

- (a) a body corporate that is incorporated outside of New Zealand;
- (b) a society incorporated under the Industrial and Provident Societies Act 1908 or any former Industrial and Provident Societies Act

employed—

- (a) means employed under a contract of service; but
- (b) does not include holding—
 - (i) the position of an elected member of a local authority, local board, or community board (as applicable); or
 - (ii) any other position for which the person in question would not be qualified unless he or she had been elected a member of a local authority, local board, or community board (as applicable)

managed investment scheme has the same meaning as in section 9(1), (2), and (4) of the Financial Markets Conduct Act 2013.

54F Contents of pecuniary interest return relating to member’s activities

- (1) Every pecuniary interest return must also contain the following information:
 - (a) for each country (other than New Zealand) that the member travelled to,—
 - (i) the name of the country; and
 - (ii) the purpose of travelling to the country; and
 - (iii) the name of each person who contributed (in whole or in part) to the costs of the travel to and from the country; and

- (iv) the name of each person who contributed (in whole or in part) to the accommodation costs incurred by the member while in the country:
- (b) a description of each gift (including hospitality and donations in cash or kind but excluding any donation made to cover expenses in an electoral campaign) received by the member and the name of the donor of each of those gifts (if known or reasonably ascertainable by the member) if—
 - (i) the gift has an estimated market value in New Zealand of more than \$500; or
 - (ii) the combined estimated market value in New Zealand of all gifts from the donor is more than \$500:
- (c) a description of each payment received by the member for activities in which the member is involved other than—
 - (i) the salary or allowances paid to that person under the Remuneration Authority Act 1977 or this Act; and
 - (ii) any payment the member received from an interest required to be disclosed under section 54E; and
 - (iii) any payment made in respect of any activity the member ceased to be involved in before becoming a member.
- (2) The information referred to in subsection (1)(a) does not have to be included in the pecuniary interest return if the travel costs and accommodation costs were paid in full by the following or any combination of the following:
 - (a) the member;
 - (b) a member of the member's family.
- (3) The information referred to in subsection (1)(b) does not have to be included in the pecuniary interest return if the gift was from a member of the member's family unless the member, taking the purpose of the register into account (*see* section 54B), considers the information should be included.
- (4) For the purposes of this section, **member of the member's family** means the member's spouse, partner, parent, grandparent, child, stepchild, foster child, grandchild, or sibling.

54G Registrar

- (1) A local authority must appoint a Registrar to—
 - (a) compile and maintain the register of members' pecuniary interests; and
 - (b) provide advice and guidance to members in connection with their obligations under this subpart.
- (2) The chief executive of a local authority may be the Registrar under subsection (1).

54H Responsibility of members

- (1) It is the responsibility of each member to ensure that they fulfil the obligations imposed on them under this subpart.
- (2) A Registrar is not required to—
 - (a) notify any member of—
 - (i) that member’s failure to make a pecuniary interest return by the due date; or
 - (ii) any error or omission in that member’s pecuniary interest return; or
 - (b) obtain any pecuniary interest return for a member.
- (3) To avoid doubt,—
 - (a) a member’s obligations under this subpart are in addition to any obligations under, and do not affect the application of, the Local Authorities (Members’ Interests) Act 1968; and
 - (b) a pecuniary interest that a member has declared under this subpart is not necessarily an interest for the purposes of the Local Authorities (Members’ Interests) Act 1968.

5.3 COMMITTEE STRUCTURE AND APPOINTMENTS 2022-2025

File Number:

Author: Karen Yates, Manager Strategy and Governance

Authoriser: David Hopman, Chief Executive

PURPOSE

The purpose of this report is to seek Council endorsement of the appointment of the Deputy Mayor, the committee structure and committee chairs decided by His Worship the Mayor for the 2022-25 triennium in accordance with Section 41A of the Local Government Act (LGA); to confirm membership of these committees, including external appointments; and to approve the Committee Terms of Reference including delegations that will be included in the Delegations Register

EXECUTIVE SUMMARY

The Local Government Act 2002 (LGA) provides for the Mayor to appoint the Deputy Mayor, to establish the committees of Masterton District Council and appoint chairpersons to those committees. The Mayor is seeking the endorsement of Council for those appointments. There is no legal requirement for this.

The committee structure proposed is intended to facilitate quality decision making. The Mayor has consulted incoming Councillors, the Chief Executive and the Senior Leadership Team regarding the proposed committee structure.

The LGA also provides for the Council to appoint members to the confirmed committees, including external appointments where applicable and appropriate; and to delegate responsibilities, duties or powers (noting there are some exceptions – see Attachment 1) to any committees/bodies that are established. The intent of this is to support efficiency and effectiveness in the conduct of Council business.

RECOMMENDATIONS

That Council:

1. endorses His Worship the Mayor's decision, in accordance with Section 41A of the Local Government Act 2002, to:
 - a. appoint Cr Rebecca (Bex) Johnson as the Deputy Mayor
 - b. establish the following committees, and appoint the named individuals as Chairs of these committees, for the 2022-2025 triennium:
 - i) Infrastructure and Services Committee – Cr David Holmes
 - ii) Audit and Risk Committee – Philip Jones (independent)
 - iii) Chief Executive Performance Review Committee – Mayor Gary Caffell
 - iv) Awards and Grants Committee – Cr Tim Nelson
 - v) Hearings Committee – Cr Craig Bowyer

2. Notes that the Wairarapa Combined District Plan Joint Committee, a joint committee established under Clause 30A, Schedule 7 of the Local Government Act 2002 with the Carterton and South Wairarapa District Councils, is a committee that was not discharged at the end of the 2019-2022 triennium, in accordance with Clause 30(7), Schedule 7 of the Local Government Act 2002 and so continues to be appointed for the 2022-2025 triennium.
3. Notes that the District Licensing Committee is a permanent committee appointed by the Council under section 186 the Sale and Supply of Alcohol 2012.
4. Appoints members to the committees as outlined in Attachment 2, noting the Mayor is a member of all committees in accordance with section 41A of the Local Government Act 2002.
5. approves the Committee Terms of Reference, including delegations included in Attachment 3, noting that this content will be incorporated into the Delegations Register, which will come to Council for adoption at the November 2022 meeting.

CONTEXT

Legislative

Under Section 41A (3) of the Local Government Act 2002 the Mayor of a territorial authority has the power to:

- appoint the Deputy Mayor
- establish committees of the territorial authority and
- appoint the chairperson of each committee established
 - the Chair can be appointed before other members of the committee are determined and the Mayor may appoint him/herself

Under Clause 31, Schedule 7 of the LGA 2002 Council has the ability to:

- appoint members of a committee, including non-elected members if, “in the opinion of the local authority, that person has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee”

Under Clause 32, Schedule 7 of the LGA 2002 Council can:

- delegate a range of responsibilities, duties or powers to any committee/body that is established.

See Attachment 1 for further information regarding legislation.

Appointment of the Deputy Mayor

As discussed with incoming Councillors, the Mayor has appointed Cr Rebecca (Bex) Johnson as Deputy Mayor.

Council Committee Structure

In the lead up to the 2022 election, staff undertook a review of the previous committee structure and provided advice to assist the incoming Mayor and Council in considering and deciding the Committee structure for the 2022-2025 triennium.

Having considered staff advice, and following consultation with incoming Councillors, Council's Chief Executive and the Senior Leadership Team, the Mayor has established the following committees for the 2022-25 triennium:

- Infrastructure and Services Committee
- Audit and Risk Committee
- Chief Executive Performance Review Committee
- Awards and Grants Committee
- Hearings Committee

Wairarapa Combined District Plan Joint Committee

In addition to these committees, Council has appointed the Wairarapa Combined District Plan Joint Committee. The Wairarapa Combined District Plan Joint Committee is a joint committee established under Clause 30A, Schedule 7 of the Local Government Act 2002 with the Carterton and South Wairarapa District Councils to review the Wairarapa Combined District Plan. Council resolved on 14 September 2022 to not discharge the Joint Committee at the end of the 2019-2022 triennium, in accordance with Clause 30(7), Schedule 7 of the Local Government Act 2002 and so the Joint Committee continues to be appointed for the 2022-2025 triennium.

District Licensing Committee

Councils are required under section 186 of the Sale and Supply of Alcohol Act 2012 to appoint a District Licensing Committee to manage licensing matters within its district. The District Licensing Committee is a permanent committee and meets as and when required for the purpose of carrying out the functions prescribed by that Act. Its composition is prescribed by that Act.

The committee has an external commissioner as chair. At the Council meeting on 14 September 2022, Council recommended the Chief Executive appoint Frazer Mailman as a commissioner to the District Licensing Committee from the day after the official result of the 2022 Local Election was declared by public notice until 30 June 2023. Members are jointly appointed by the three Wairarapa Councils. List members have been appointed until 30 June 2023. Staff will report to the Council about membership prior to the end of June 2023.

Committee Chairs and Membership

The Mayor has appointed the following Chairs of each Committee:

- Cr David Holmes - Infrastructure and Services Committee
- Philip Jones (external/independent) - Audit and Risk Committee
- His Worship the Mayor, Gary Caffell - Chief Executive Performance Review Committee

- Cr Tim Nelson - Awards and Grants Committee
- Cr Craig Bowyer - Hearings Committee

The proposed membership of each committee is outlined in Attachment 2. Councillors can attend any council committee meeting that they are not appointed to but only have speaking or voting rights where they are appointed to a Committee.

The Mayor is a member of all Council committees by virtue of section 41A of the LGA.

Wairarapa Combined District Plan Joint Committee

The Terms of Reference of the Joint Committee provides that Council can appoint two members of the Joint Committee. The two members appointed last triennium ceased to be members at the end of the last triennium and must now be replaced. Staff recommend that, in order to provide for continuity and to utilise the knowledge and skills built up through the complex District Plan review process, at least one of the appointments should be a previous member appointed to the Joint Committee. Neither of the previous appointees are elected members of the Council this triennium. However, as noted, Council can appoint non-elected members if, "in the opinion of the local authority, that person has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee"

District Licensing Committee – Appointment of Deputy Chair

Council has the option of appointing a Deputy Chair. A deputy can act if or when the Commissioner is unavailable for any reason. If Council chooses not to appoint and the Commissioner becomes unavailable, an appointment would need to be made to enable decisions around licensing matters to proceed. If Council does appoint a Deputy, that person must be an elected member. The previous Deputy Chair is no longer an elected member.

It is recommended that Council appoints an elected member as Deputy Chair of the District Licensing Committee.

External Appointments to Council Committees

The previous Council's decision to appoint an external Chair to Audit & Risk enabled specific skills and expertise in the audit and risk area to be brought to the table, strengthening that Committee. The appointment of Iwi representatives enabled individuals mandated by each local Iwi to join Council at the table and provide an Iwi perspective to Council's decision making, consistent with Section 81 of the Local Government Act.

Chair of Audit & Risk

Since 2015 Council has had an external Chair, Philip Jones, appointed to its Audit and Risk Committee with full speaking and voting rights.

Philip Jones has 26 years local government experience, with 14 years as a Chief Financial Officer where he was a lead member of the Society of Local Government Managers (SOLGM) Financial Working Party. He is the Principal of PJ & Associates Financial and Asset Management Solutions

and has been consulting to a variety of Local Government related organisations for the last 15 years on financial management, policies and strategy, risk and asset management, and financial governance. He currently sits on, as a member or is an advisor to, several Audit & Risk Committees (including Carterton District Council).

Between 1993–2007 Philip was the Chief Financial Officer and Group Manager Revenue and Finance for Western Bay of Plenty District Council (WBOPDC), Tauranga. Prior to joining WBOPDC he was a Business Services & Audit Manager with Coopers & Lybrand (now PricewaterhouseCoopers) in London, Tauranga and Hamilton. Philip brings a wealth of practical experience and knowledge.

The Mayor's decision is that Philip Jones continue as Chair of this committee for the 2022-25 triennium.

Iwi Representatives

Since 2016, Council has had Iwi representatives appointed to nominated committees with full speaking and voting rights. The Iwi representatives are also present at Council meetings with speaking rights only as under current legislation only elected members can vote at Council meetings.

Iwi have confirmed that they would like to appoint representatives for the 2022-25 triennium. The names of the appointees are to be confirmed.

Committee Terms of Reference and Delegations

It is good business practice to ensure that the roles and responsibilities of Council committees are clear and understood by all parties involved.

Delegations to a committee enable a committee to act, supporting more efficient and effective decision making. A lack of delegation can risk re-litigation of recommendations and can result in delayed action given recommendations are not formalised until they have been agreed by Council. There is also the potential for more extraordinary meetings as matters arise that require a decision within the Council meeting cycle. The use of appropriate delegations can support effective use of time at Council meetings and improve the speed of decision-making. The proposed delegations for each committee are included in the draft Terms of Reference included in Attachment 3. Once approved, these Terms of Reference will be included in Council's Delegations Register. The Delegations Register will be brought to Council for adoption at the November 2022 meeting.

Amendments to Mayor's Appointments

Section 41A(4) of the LGA makes it clear that Council retains the ability to remove a deputy mayor appointed by the Mayor, discharge or reconstitute a committee established by the Mayor or discharge a chair appointed by the Mayor, in accordance with the respective provisions in Schedule 7 of the LGA.

OPTIONS CONSIDERED

A summary of the options considered is included in the table below.

Decision 1: Endorsement of Appointments and Committee Structure

Option	Advantages	Disadvantages
<p>1 Endorse His Worship the Mayor’s decisions and approve membership and appointments to committees as outlined in Attachment 2 of this report.</p>	<p>Council will demonstrate support for the Mayor’s decisions regarding the Deputy Mayor, Committee structure and Chairs of Committees.</p> <p>Committees will have appointed external expertise to support them.</p> <p>Mana whenua will be represented at the Council table consistent with Council’s commitment through the Wellbeing Strategy to enhance relationships and partnership opportunities.</p> <p>The decision to appoint iwi representatives also accords with Council’s obligations under the LGA.</p>	<p>No disadvantages have been identified.</p>
<p>2 Endorse His Worship the Mayor’s decisions and approve membership and appointments to Council committees as outlined in Attachment 2 of this report, with amendments.</p>	<p>No advantages have been identified.</p>	<p>Implications would depend on the proposed changes to Council committee membership.</p> <p>Changes in committee structure, membership and/or delegations could reduce the effectiveness and efficiency of Council decision making.</p>
<p>3 Do not endorse His Worship the Mayor’s decisions and do not approve membership and appointments to committees as outlined in Attachment 2 of this report.</p>	<p>No advantages identified.</p> <p>The Mayor has the right to establish committees and appoint chairs to those committees. The Mayor has consulted individual members of Council regarding this proposal.</p>	<p>This would mean a delay in establishing committee structures and/or chairs of committees.</p> <p>Changes in committee structure, membership and/or delegations could reduce the effectiveness and</p>

Option	Advantages	Disadvantages
		efficiency of Council decision making.

Decision 2: Approval of Terms of Reference and Delegations

Option	Advantages	Disadvantages
1 Approve the Terms of Reference and delegations as included in Attachment 3 of this report.	This will support more effective and efficient decision making for Council and our community.	No disadvantages have been identified.
2 Approve the Terms of Reference and delegations as included in Attachment 3 of this report, with amendments.	This would depend on the extent of change.	Implications would depend on the proposed changes. Removing or changing delegations could reduce the effectiveness and efficiency of Council decision making.
3 Do not approve the Terms of Reference and delegations as included in Attachment 3 of this report.	No advantages identified.	This would mean that committees would have no power to act. All decisions would need to go to Council reducing the effectiveness and efficiency of Council's decision making processes.

RECOMMENDED OPTION

Option 1 is recommended for both decisions. This supports the Mayor's decisions regarding the Deputy Mayor, the committee structure and appointed chairs. It also ensures that Council will have appropriate external expertise to support them and ensures mana whenua representation around the Council table.

SUMMARY OF CONSIDERATIONS

Strategic, Policy and Legislative Implications

As outlined in this report, the decisions sought are consistent with the Local Government Act 2002. The Mayor is not required to seek endorsement of the proposed structure and chairs of committees. In addition, Council can remove a deputy mayor appointed by the Mayor, discharge or reconstitute a committee established by the Mayor or discharge a chair appointed by the Mayor, in accordance with the respective provisions in Schedule 7 of the LGA. Council can appoint external members to committees and can delegate a range of responsibilities to committees. Council can also appoint additional committees to those established by the Mayor.

Significance, Engagement and Consultation

The decision to endorse and make appointments has been assessed as not significant against Council's Significance and Engagement Policy. Reasons for this include: the decision is procedural in nature; the Mayor is not required to seek endorsement regarding structure and chairs; external appointments to committees are consistent with previous appointments; and proposed delegations are allowed under the LGA; and Council retains the ability to remove a deputy mayor appointed by the Mayor, discharge or reconstitute a committee established by the Mayor, discharge a chair appointed by the Mayor and appoint additional committees to those established by the Mayor.

Financial Considerations

The Chairs of each Committee are remunerated for the additional responsibilities they hold. Iwi representatives are remunerated for their time commitment. This has been budgeted for.

Implications for Māori

Mana whenua/iwi will be represented at the Council table, supporting and enabling Māori participation in decision making processes.

Communications/Engagement Plan

The community will be advised of the committee structure and those appointed to each of the committees as members and/or Chairs.

Environmental/Climate Change Impact and Considerations

There are no environmental/climate change impacts or considerations arising from the approval of the Committee structure, appointment of chairs and members.

ATTACHMENTS

1. **Extracts from the Local Government Act 2002** [↓](#) 
2. **Committee Structure and Membership 2022-2025** [↓](#) 
3. **Committee Terms of Reference 2022-2025** [↓](#) 

Extracts from the Local Government Act 2002

S.41A Local Government Act - Role and Powers of Mayors

The role of a mayor is to provide leadership to –

- (a) the other members of the territorial authority; and
- (b) the people in the district of the territorial authority.

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

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

- (a) to appoint the deputy mayor
- (b) to establish committees of the territorial authority:
- (c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—
 - (i) may make the appointment before the other members of the committee are determined; and
 - (ii) may appoint himself or herself.

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

- (a) removing, in accordance with clause 18 of Schedule 7, a deputy mayor appointed by the mayor under subsection (3)(a); or
- (b) discharging or reconstituting, in accordance with clause 30 of Schedule 7, a committee established by the mayor under subsection (3)(b); or
- (c) appointing, in accordance with clause 30 of Schedule 7, 1 or more committees in addition to any established by the mayor under subsection (3)(b); or
- (d) discharging, in accordance with clause 31 of Schedule 7, a chairperson appointed by the mayor under subsection (3)(c).

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

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

(7) To avoid doubt,—

- (a) clause 17(1) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority unless the mayor of the territorial authority declines to exercise the power in subsection (3)(a):
- (b) clauses 25 and 26(3) of Schedule 7 do not apply to the appointment of the chairperson of a committee of a territorial authority established under subsection (3)(b) unless the mayor of the territorial authority declines to exercise the power in subsection (3)(c) in respect of that committee.”

Schedule 7 Local Government Act

S.31 Membership of committees and subcommittees

- (1) A local authority may appoint or discharge any member of a committee or a subcommittee.
- (2) Unless directed otherwise by the local authority, a committee may appoint or discharge any member of a subcommittee appointed by the committee.
- (3) The members of a committee or subcommittee may, but need not be, elected members of the local authority, and a local authority or committee may appoint to a committee or subcommittee a person who is not a member of the local authority or committee if, in the opinion of the local authority, that person has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee.
- (4) Despite subclause (3),—
 - (a) at least 1 member of a committee must be an elected member of the local authority; and
 - (b) an employee of a local authority acting in the course of his or her employment may not act as a member of any committee unless that committee is a subcommittee.
- (5) If a local authority resolves that a committee, subcommittee, or other decision-making body is not to be discharged under [clause 30\(7\)](#), the local authority may replace the members of that committee, subcommittee, or other subordinate decision-making body after the next triennial general election of members.
- (6) The minimum number of members—
 - (a) is 3 for a committee; and
 - (b) is 2 for a subcommittee.

Compare: 1974 No 66 [s 114R](#)

S.32 Delegations

- (1) Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except—
 - (a) the power to make a rate; or
 - (b) the power to make a bylaw; or
 - (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
 - (d) the power to adopt a long-term plan, annual plan, or annual report; or
 - (e) the power to appoint a chief executive; or
 - (f) the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement; or
 - (g) *[Repealed]*
 - (h) the power to adopt a remuneration and employment policy.
- (2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in subclause (1).

(3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or to another committee or subordinate decision-making body, community board, or member or officer of the local authority, but, to avoid doubt, if doing so is itself a sub-delegation, the power to so delegate is subject to any conditions, limitations, or prohibitions imposed in connection with the primary delegation.

(4) A committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, or duties are delegated may, without confirmation by the local authority or 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.

(5) A local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters.

(6) A territorial authority must consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role.

(7) To avoid doubt, no delegation relieves the local authority, member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.

(8) The delegation powers in this clause are in addition to any power of delegation a local authority has under any other enactment.

**Wairarapa Combined District Plan
Joint Committee**

Members:

Frazer Mailman (external appointee)
Cr Craig Bowyer

District Licencing Committee

Members:

Frazer Mailman (Commissioner)
One elected member (Deputy Chair)

List Community Members:

Damien Pivac
Gregory Ariell
Jessie Hunt
Catherine Rossiter-Stead
Bruce Farley
Andrew Beck
Donald Adams

Committee Terms of Reference / Committee Delegations

The following content will be included in the Delegations Register, which will be presented to Council for adoption at the November 2022 meeting.

PART A: COMMITTEE TERMS OF REFERENCE AND DELEGATIONS

MDC establishes committees to enable efficient and effective decision-making.

The Mayor appoints the Chairperson for each of these committees. The Chairperson is responsible for presiding over meetings of the committee and ensuring that the committee acts within its powers, as delegated by Council.

All committees will conduct their business in accordance with the following principles:

- **Whakamana Tangata:** Respecting the mandate of each member and ensuring the integrity of the committee by acknowledging the principle of collective responsibility and decision-making.
- **Manaakitanga:** Recognising and embracing the mana of others.
- **Rangatiratanga:** Demonstrating effective leadership with integrity, humility, honesty and transparency.
- **Whanaungatanga:** Building and sustaining effective and efficient relationships.
- **Kotahitanga:** Working collectively.

This section details each current committee, including terms of reference and delegations from Council.

The Mayor is a member of each of Council's Committees

1.1 Infrastructure and Services Committee

Function

To provide governance oversight and monitoring of MDC's programmes, services, and projects against approved levels of service across the following activity areas:

- Community wellbeing
- Roads and footpaths
- Water supply
- Wastewater
- Stormwater
- Solid waste and recycling
- Community facilities (including senior housing, other property, and Hood Aerodrome) and parks
- Regulatory

Key responsibilities include:

- Monitor levels of service and performance of the activities and services.
- Develop and recommend draft policy and strategy for the effective management of MDC infrastructure assets.
- Develop and recommend draft policy and strategy for the effective delivery of MDC services.

	<ul style="list-style-type: none"> • Provide governance input into significant project proposals, including options and budget. • Oversight of projects, including delivery against key milestones, project risks and budget.
Membership and Composition	Committee of the whole (9 members), 1 representative from Ngāti Kahungunu ki Wairarapa and 1 representative from Rāngitane o Wairarapa.
Quorum	Six members
Frequency	Meetings are held every six weeks. Additional meetings can be called as required.
Delegated Authority	<p>Power to Act</p> <ul style="list-style-type: none"> • Approve expenditure variances in excess of 15% of the planned budget, up to a maximum of \$250,000.¹ • Determine parking restrictions. • In respect of land administered by Council under the Reserves Act 1977 and Council owned open space land: <ul style="list-style-type: none"> - approve new leases, licenses and concessions (not within the delegations to staff) - approve easements - review and notify draft reserve management plans • Develop, hear and approve Reserve Management Plans, in accordance with s.41 of the Reserves Act 1977. • Approve commencement of community consultation, excluding the Special Consultative Procedure, on matters within the scope of the committee. • Authorise Council submissions to external bodies, within the scope of the committee where Council is not scheduled to meet prior to the submission closing date. • Establish working groups, within committee scope and existing budgets. <p>Power to Recommend to Council</p> <ul style="list-style-type: none"> • Review and propose changes to levels of service. • Review and propose fees and charges for MDC services. • Changes to bylaws and the adoption of new bylaws (that relate to the Masterton district only and are not part of the Wairarapa Consolidated Bylaw). • Recommend draft policy and strategy for adoption, including a draft Infrastructure Strategy and Asset Management Plans (AMPs) for adoption as part of the Long-Term Plan. • Sale or purchase relating to property and forestry.

¹ This links to the risk register and financial thresholds – a minor consequence rating.

1.2 Audit and Risk Committee

Function	<p>To enhance the governance framework, risk management practices, and the controls MDC uses to monitor achievements.</p> <p>To provide the Council assurance of the integrity and reliability of MDC's internal control framework.</p> <p>Key responsibilities include:</p> <ul style="list-style-type: none"> • Ensure MDC has a current and comprehensive risk management framework for effective identification and management of Council's significant risks. • Monitor key strategic/operational and people risks. • Review the effectiveness of MDC's internal control framework, including: <ul style="list-style-type: none"> - key corporate policies. - processes to report and manage sensitive expenditure, conflict of interest and fraud. • Oversight of MDC's legislative compliance. • Oversight of MDC's health, safety and wellbeing responsibilities. • Oversight of internal audit processes. • Oversight of MDC's business/continuous improvement work programme. • Oversight of Council's Section 17A review programme • Receive reports against Council set Key Performance Indicators (KPIs) from external bodies and monitoring performance against these. • Oversee all external audits, including: <ul style="list-style-type: none"> - confirming the terms of the engagement with the external auditor, including the nature and scope of the audit, timetable and fees. - receiving the external audit report, reviewing action to be taken by management on audit recommendations and monitoring staff progress in response to recommendations. • Financial oversight, including: <ul style="list-style-type: none"> - Long-term planning, including the financial strategy. - Ensuring that debt and investments are correctly managed within appropriate policy limits.
Membership and Composition	Committee of the whole (9 members), independent Chairperson, 1 representative from Ngāti Kahungunu ki Wairarapa and 1 representative from Rangitāne o Wairarapa.
Quorum	Six members.
Frequency	Meetings are held every quarter.
Delegated Authority	<p>Power to Act</p> <ul style="list-style-type: none"> • Approve risk management and internal audit programmes, audit engagement letters and letters of undertaking for audit functions and additional services provided by the external auditor. • Monitoring management responses to audit reports and the extent to which external audit recommendations concerning internal accounting controls and other matters are implemented

- To receive:
 - Building Authority Audit Report
 - NZTA Audit Report
 - (Any) Internal Audit Report
- Approve debt write-offs (other than rates) that exceed the authority delegated to staff.
- Establish working groups, within committee scope.

Power to Recommend to Council

- Draft policies and strategies associated with MDC's risk management, compliance, and internal control functions.
- Any additional audit requirements, outside of the approved audit programme and budget, to seek assurance regarding the completeness and quality of financial and operational information that is provided to the Council e.g. can recommend Council conduct and A&R monitor special investigations in accordance with Council policy, including engaging expert assistance, legal advisors or external auditors, and, where appropriate, recommend action(s) to Council.
- Changes and/or improvements to the Financial Strategy.
- Submissions to external bodies, within the scope of the committee (e.g. changes in Local Government Act or Health and Safety legislation).

The Audit and Risk committee may not delegate any of its responsibilities, duties or powers.

1.3 Awards and Grants Committee

Function	To receive, consider and decide funding applications and civic award nominations.
Membership and Composition	Five members, 1 representative from Ngāti Kahungunu ki Wairarapa and 1 representative from Rangitāne o Wairarapa.
Quorum	Four members.
Frequency	As required
Delegated Authority	<ul style="list-style-type: none"> • Receive and decide applications, within approved budget, to: <ul style="list-style-type: none"> - Community Wellbeing Grants - Community Events Fund • Receive nominations for and decide recipients of: <ul style="list-style-type: none"> - Youth Awards - Civic Awards

1.4 Hearings Committee

Function	To conduct hearings, and make decisions or recommendations related to that hearing, on: <ul style="list-style-type: none"> • matters arising from processes under: <ul style="list-style-type: none"> - the Resource Management Act 1991 (RMA). - the Reserves Act 1977. - the Dog Control Act 1996. - any other statutory rules (excluding the Sale and Supply of Alcohol Act 2012). - an MDC policy or bylaw. • complaints relating to a breach of the Governance Code of Conduct by the Mayor.
Membership and Composition	Three members, 1 representative from Ngāti Kahungunu ki Wairarapa and 1 representative from Rangitāne o Wairarapa.
Quorum	Three members.
Frequency	As required.
Delegated Authority	Power to Act <ul style="list-style-type: none"> • To hear and make decisions on all matters coming before the Hearings Committee. • Appoint hearings commissioner(s) under the RMA including independent commissioners (and the Chair if required)

1.5 Chief Executive's Performance Review Committee

Function	To ensure that Council carries out the responsibilities of a Good Employer, as the employer of the Chief Executive. <p>Key responsibilities include:</p> <ul style="list-style-type: none"> • Completing an annual review of the Chief Executive's performance and reporting the results to the Council. • Managing the provisions of the Chief Executive's employment agreement. • Ensuring the Chief Executive is provided with regular feedback, mentoring and support through informal quarterly meetings. • Ensuring the Chief Executive receives relevant training and development opportunities.
Membership and Composition	Three members.
Quorum	Two members.

Frequency	As required.
Delegated Authority	<ul style="list-style-type: none"> • Recommend to the Council a process for appraising the Chief Executive’s performance and remuneration. • Undertake the annual appraisal of the Chief Executive’s performance and remuneration and make recommendations to Council. • Manage the provisions of the Chief Executive’s Employment Agreement, including negotiating any variation to the Employment Agreement and making recommendations to the Council. • Draft the Chief Executive KPIs for recommendation to Council

1.6 District Licensing Committee

Function	To consider and determine all relevant applications under the Sale and Supply of Alcohol Act 2012.
Membership and Composition	<p>External Commissioner and list members who are jointly appointed by the three Wairarapa Councils. A deputy chair may be appointed. If so, this must be an elected member.</p> <p>Its composition is prescribed by that Act. This committee has an external commissioner as Chair.</p> <p>The Chief Executive is the Secretary for the District Licensing Committee.</p>
Quorum	<p>A minimum of three members.</p> <p>The exception is meetings to consider and determine applications or renewal for a licence or manager’s certificate, where the necessary quorum is one member who must be the Chair.</p>
Frequency	As required.
Delegated Authority	<ul style="list-style-type: none"> • Consider and determine applications for: <ul style="list-style-type: none"> - licences and manager’s certificates. - renewal of licences and manager’s certificates. - temporary authority to carry on the sale and supply of alcohol. - the variation, suspension, or cancellation of special licences. - the variation of licences (other than special licences), except for applications under s.280 of the Sale and Supply of Alcohol Act 2012. • With the leave of the chairperson for the licensing authority, refer applications to the licensing authority. • Conduct inquiries and make reports as may be required of it by the licensing authority under the Sale and Supply of Alcohol Act 2012 (s.175). • Any other functions conferred on licensing committees by or under the Sale and Supply of Alcohol Act 2012 or any other enactment.

1.7 Wairarapa Combined District Plan Joint Committee

Function	<p>To exercise the functions, duties and powers of the Carterton, Masterton and South Wairarapa District Councils under the First Schedule to the Resource Management Act 1991.</p> <p>Responsibilities include: The Committee will act as the governance advisory through the review period of the District Plan project and in preparing a new plan and act as the hearings panel for the submissions to the formal notification process.</p> <p>The scope of the review includes:</p> <ul style="list-style-type: none"> • Giving effect to new or revised national policy statements and the revised Wellington Regional Policy Statement • Aligning the Plan with recent national environmental standards • Giving effect to the proposed national planning standards making any adjustments needed to the structure, definitions and zoning appellations • Giving effect to the proposed national planning standards to make the plan align with requirements for electronic plans and address any consequential amendments required • Rezoning areas to accommodate growth pressures and/or modify existing zones and standards to enable growth and conversely, if needed, to tighten up protection of resources of important values • Aligning the Plan with recent council strategies • Revising objectives and policies in response to any issues arising from their implementation or to respond to any statutory amendments (for example, the two new section 6 matters of national importance since 2009) • Revising any rules and supporting requirements in response to any implementation issues since 2009
Membership	<p>Membership of the Joint Committee includes:</p> <ul style="list-style-type: none"> • 2 members from each of the 3 councils appointed by each Council (with the ability for each council to appoint an alternate member to cover absences) • 2 Iwi representatives (1 member representing Rangitāne o Wairarapa and 1 member representing Ngāti Kahungunu ki Wairarapa) appointed by the four iwi entities (Kahungunu ki Wairarapa, Ngāti Kahungunu ki Wairarapa Tāmaki Nui ā Rua Settlement Trust, Rangitāne o Wairarapa, and Rangitāne Tū Mai Rā Trust) and • an appropriately qualified Commissioner as an independent Chair appointed by the Joint Committee. <p>The Joint Committee will appoint one of its members as the Deputy Chair.</p> <p>The Mayor of each Council is also a member of the joint committee as afforded by Section 41A of the Local Government Act 2002.</p>
Quorum	<p>The quorum of the Joint Committee will be five members and include at least one member of each territorial authority but does not include the Mayors (unless appointed as 1 of the 2 council appointed members or alternate member).</p>

Frequency

The Joint Committee will determine the frequency of its meetings which are likely to change to suit the course of the review.

Delegated authority

The Carterton, Masterton and South Wairarapa District Councils have delegated to the Wairarapa Combined District Plan Joint Committee all its functions, powers and duties under the First Schedule to the Act, in accordance with Section 34 of the Resource Management Act 1991.

The removal of the office of Chair and Deputy Chair is within the powers of the Joint Committee.

5.4 ELECTED MEMBER REMUNERATION (FROM 14 OCTOBER 2022)

File Number:

Author: David Paris, Manager Finance

Authoriser: David Hopman, Chief Executive

PURPOSE

The purpose of this report is to confirm allocation of the Councillors' remuneration pool following the 2022 local government elections and to confirm the Council Elected Members Allowances and Expense Reimbursement Policy.

EXECUTIVE SUMMARY

The Remuneration Authority (RA) is the body designated by central Government to set the remuneration for local government elected members. They have determined the total remuneration (on a per annum basis) that should be applied from the declaration of the election results to 30 June 2023.

The Council is required to pay the Mayor the remuneration the RA sets and is required to fully allocate the pool set by the RA for Councillor remuneration. Council has discretion over how the pool is to be divided up amongst members and can use that discretion to recognise additional responsibilities. The allocations recommended in this paper are based on the proposed committee structure and the Councillor duties which flow from it. That structure is scheduled to be adopted at the inaugural meeting of the Council on 26 October 2022.

RECOMMENDATIONS

That Council

- i. confirms the 2022/2023 (post-election) elected members' remuneration proposal as detailed in this report.
- ii. adopts the Council Elected Members Allowances and Expense Reimbursement Policy for the period from 14 October 2022 to 30 June 2023.

CONTEXT

The detail is as follows:

- The Mayor's salary has been advised as \$133,530 pa
- The Councillor remuneration pool total has been advised as \$456,435 pa
- The minimum remuneration for a Masterton Councillor has been advised as \$34,433 pa until the adoption of the 'pool' allocation.
- Councillors will be paid at the minimum rate until the RA has advised the allocation determination has been gazetted.

- A back-dated adjustment will be applied to start on 14 October 2022 (for members with no additional responsibilities) or 27 October 2022 (for members with additional responsibilities), being the day after the Council formally votes to confirm this report's recommendations.
- The proposed allocation of the pool for additional duties reflects an attempt to compensate those members whose extra duties place a greater workload on them
- The Council's Elected Members Allowances and Expense Reimbursement Policy needs to be adopted by the Council (see Attachment 1).
- Council's decision on remuneration will be provided to the Remuneration Authority for their formal enactment.

The proposed 2022/2023 (post-election) elected members' remuneration is set out below. Further justification for the additional payments are as follows: the Deputy Mayor will be required to deputise for the Mayor as required to chair meetings, lead certain initiatives as requested by the Mayor, attend meetings with community groups or attend official functions as the Mayor and Council's representative and work closely with the Mayor on plans for developing the District.

Committee chairpersons will need to spend additional time working with staff on agendas and familiarising themselves with any issues that arise as part of the business of the committee. They will also be required to report back to full Council on the business of their committees.

Masterton District Council

2022/23 - Members' Remuneration - post LG Elections October 2022

Figures advised by Remuneration Authority (RA)

<u>Total Councillor remuneration pool</u>	\$	456,435
<u>Mayor's remuneration (gross)</u>	\$	133,530

The allocation of the pool is shown below and includes recognition of additional responsibilities:

	Multiplier	Proposed councillor base remuneration (\$)	Proposed additional remuneration (\$)	Proposed annual total remuneration per councillor (\$)
Deputy Mayor	1.45	51,575	23,209	74,783
Committee Chair - Infrastructure & Services	1.2	51,575	10,315	61,890
Committee Chair - Awards & Grants	1.1	51,575	5,157	56,732
Committee Chair - Hearings	1.1	51,575	5,157	56,732
Councillor	1	51,575	0	51,575
Councillor	1	51,575	0	51,575
Councillor	1	51,575	0	51,575
Councillor	1	51,575	0	51,575
	<u>8.85</u>			<u>456,435</u>

Other information to be included in the submission to the RA.

1. Councillors are entitled to claim travel allowances for travel on Council-related business.
Reimbursement can be claimed up to 14,000 km pa, paid at \$0.83/km and over 14,000 km pa claimed at \$0.31/km
2. The Mayor has chosen not to use a Council car for private use, so no financial deduction will be made.
3. In addition to expense claim reimbursements, members shall be paid \$28 or \$43 per fortnight as a reimbursing allowance (tax free) to cover the cost of using their own communications & technology to conduct Council business (\$28 covers own phone, phone plan and home broadband, \$43 includes own laptop/iPad/tablet)

SUMMARY OF CONSIDERATIONS

Strategic, Policy and Legislative Implications

Council is required by the Remuneration Authority Act 1977, and subsequent amendments, to follow the determinations of the Remuneration Authority.

Significance, Engagement and Consultation

The decision to adopt the Remuneration Authority's recommendation is a statutory requirement and so is not a significant decision and there is no engagement or consultation required.

Financial Considerations

The sums that are listed above to be paid to elected members have been allowed for in the Governance operating budget of the 2022/23 Annual Plan. The funding of that activity comes from current revenue (principally rates). The RA does not fund the Council, their role is to independently set the remuneration.

Implications for Māori

The adoption of this report does not have any implications for Māori.

Communications/Engagement Plan

No communication or engagement plan is required.

Environmental/Climate Change Impact and Considerations

There are no environmental/climate change impacts or considerations arising from the adoption of this report.

NEXT STEPS

The Remuneration Authority will be notified of Council's decisions in relation to remuneration.

ATTACHMENTS

1. **Elected Members Allowances and Expense Reimbursement Policy 2022-2025** [↓](#) 



Elected Members Allowances and Expense Reimbursement Policy

Applicable to:	Elected Members
Issued by:	Chief Executive
Policy Number:	MDC042
Last Approved:	2019
Review Date:	2022
Contact Person:	David Paris, Manager Finance, davidp@mstn.govt.nz or 06 370 6300

CONTENTS

Purpose.....	1
Scope.....	1
Authentication of Expenses Reimbursements and Allowances.....	1
Vehicle Provided.....	1
Mileage and Travel Allowances	1-2
Travel and Accommodation	2-3
Entertainment and Hospitality.....	3
Communications and Technology.....	3-4
Professional Development, Clubs and Associations.....	3
Childcare Allowance	3
Other Expense Reimbursements and Allowances	4
Taxation of Allowances.....	4
Review of Policy	4
Definitions.....	4
Related Documents	4
References.....	4
Version Control.....	5

Last Approved: 20 November 2019

PURPOSE

The purpose of this policy is to provide a framework for allowances, expenses claimed, and resources available to elected members during their term of office.

SCOPE

This Policy replaces all previous policies, rules and procedures relating to the expenses and allowances payable to elected members.

AUTHENTICATION OF EXPENSES REIMBURSEMENTS AND ALLOWANCES

Set out below are the principals and processes under which this Council ensures that expense reimbursements and allowances payable in lieu of expense reimbursements

- a. *are in line with council policies*
 - b. *have a justified business purpose*
 - c. *are payable under clear rules communicated to all claimants*
 - d. *have senior management oversight*
 - e. *are approved by a person able to exercise independent judgement*
 - f. *are adequately documented*
 - g. *are reasonable and conservative in line with public sector norms*
 - h. *are in respect of allowances, a reasonable approximation of expenses incurred on behalf of the local authority by the elected member*
 - i. *are subject to both external and internal audit oversight*
-
1. Council policy states that elected members should not be 'out-of-pocket' for expenses incurred in the course of their duties as an elected member (i.e. actual and reasonable costs are reimbursed).
 2. Members are required to obtain the approval of the Mayor and CEO prior to incurring costs for any training, conference or travel where they will be seeking reimbursement of costs from the Council. The Mayor and CEO will assess the business need / justification for the expenditure prior to approval.
 3. Members review and approve the policy early in each triennium.
 4. The CEO is involved in the process described in 2 above. The Manager Finance undertakes periodic reviews of expenses reimbursements.
 5. All claims are to be submitted to the Governance Advisor who will check them against meeting attendance records and submit them for payment via the fortnightly payroll process. All claims are to be supported by evidence of meeting attendance and km travelled. For other costs (e.g. train tickets, parking in Wellington) full receipts are required.
 6. Policies set by Council reflect public sector norms of reasonableness and conservatism and are required to be aligned to the Remuneration Authority's guidelines.
 7. Internal audit is incorporated into the Financial Accountant's overview of the payroll process and this includes checking members' expense claims for reasonableness.

VEHICLE PROVIDED

A vehicle is available for the Mayor to use. Full private use may be made, but will incur a deduction from the mayoral salary, as calculated based on the Remuneration Authority's formula for full private use.

For general Council business, Council fleet vehicles are available to members. In the case of trips of more than one night away, a rental vehicle may be used at Council's expense.

MILEAGE AND TRAVEL ALLOWANCES

1. Rates of allowance paid for petrol/diesel/hybrid vehicles per kilometre are:
 - a. \$0.83 per km for the first 14,000 km per annum and
 - b. \$0.31 per km for any distance over 14,000 km per annum (petrol/diesel)
 - c. \$0.18 per km for any distance over 14,000 km per annum (hybrid)

2. Rates of allowances paid for electric vehicles per kilometre are:
 - a. \$0.83 per km for the first 14,000 km per annum and
 - b. \$0.10 per km for any distance over 14,000 km per annum.

The rates are based on the maximum allowed by the Remuneration Authority

A vehicle mileage allowance will be payable, but only if –

- a. A private vehicle is used i.e. there is no Council vehicle practically available
- b. The travel is to other than the Council offices
- c. The purpose of the travel is for Council business
- d. The travel claim is based on the direct route distance
- e. There is no reimbursement of costs that are chargeable to others

Out of town meetings kms are based on a log book record

The vehicle allowance is not subject to withholding tax.

TRAVEL AND ACCOMMODATION

(excluding mileage claims – refer to Mileage & Travel Allowances)

Taxis, train fares and other transport

Car parking, taxis, train fares, buses & shuttles will be reimbursed, only with a receipt and only where they are associated with Council-related meetings, training courses or conferences.

Carparks

Councillors can use the town square car park whenever they are attending to Council business – a ‘free parking’ card will be issued and will need to be displayed.

Use of rental cars

Rental vehicles maybe arranged via the Governance Advisor where time away and distance of travel make them an appropriate option to attend out-of-town meetings.

Air Travel Domestic

The rules for domestic air travel are:

To be booked through the Council so expense is payable by the Council. Only to be used in association with Council-related training/ courses/ conferences.

Air Travel International

No international air travel, funded by the Council, is anticipated under this policy.

Airline Clubs/ Airpoints/ Airdollars

The Council has no subscription to airline clubs (such as the Koru Club). The Council does not accrue airpoints or airdollars earned on travel, accommodation etc. so they are not available for the private use of members.

Accommodation costs while away at conferences, seminars, etc.

Actual and reasonable costs will be reimbursed.

Council would prefer that accommodation is booked and paid for via the Council to enable control over the ‘reasonable’ nature of the accommodation.

Private accommodation paid for by local authority

No private accommodation (such as an apartment) is provided to any member by the Council.

Private accommodation provided by friends/ relatives

No allowances are payable in respect of accommodation provided by friends/ relatives when travelling on Council business.

Last Approved: 20 November 2019

Page 2 of 7

ENTERTAINMENT AND HOSPITALITY

The reasonable costs of hospitality or entertainment, where it relates to a Council function or Council hosting of visiting dignitaries (e.g. from a Sister City) will be reimbursed. No Council credit card is issued to any elected members.

COMMUNICATIONS AND TECHNOLOGY

Equipment and technology provided to elected members

Equipment and technology provided to elected members for use at home and/or on council business?

Laptop/tablet**	YES / NO
Printer	YES / NO
Broadband	YES / NO
Consumables and Stationery (for printers)	YES / NO
Mobile Phone	YES / NO *
Other equipment or technology	YES / NO

**The Mayor's cell phone will be on the Council Plan and a mobile device/tablet is available for use by the Mayor.*

***Technology advances in the area of smart phones and tablets has seen efficiencies in the distribution of documents using these devices. Members have the choice of being supplied with a device to use at Council meetings and to receive Council information. A communications and technology allowance will be paid as per below*

Home telephone rental costs and telephone calls (including mobiles)

No home telephone rental costs or call expenses are reimbursed.

Allowances paid in relation to communication and/or technology provided by elected member

A reimbursing allowance will be paid to recognise the cost members may incur to conduct Council business – including partial use of a personal mobile phone, mobile service and home broadband.

Where Council supplies a device, the allowance is set at \$28 per fortnight per member and is not taxable.

Where members have chosen to not be provided with a Council device the allowance is set at \$43 per fortnight.

PROFESSIONAL DEVELOPMENT, CLUBS AND ASSOCIATIONS

Reasonable expenses will be reimbursed in respect of members' attendance at professional development courses, conferences and seminars.

Bookings are to be made through Council, and where possible, paid directly by the Council. Actual and reasonable costs incurred and paid directly by members will be reimbursed if receipts are available.

No expenses are reimbursed, or allowances paid in respect of subscriptions to clubs or associations.

CHILDCARE ALLOWANCE

Eligible members can claim a contribution towards childcare costs where they have responsibility for caring for children and have incurred payments to enable them to attend Council or Committee Meetings, briefings or workshops, other meetings where the member is Council's representative or meetings with community groups, subject to:

Last Approved: 20 November 2019

- a. The maximum hourly value for reimbursement is to be equivalent to the current minimum wage.
- b. The child or children being cared for is/are under 14 years of age.
- c. The childcare is provided by a person who is not a family member of the elected member and does not ordinarily reside with the elected member.
- d. Evidence of payments made and received are to be appended to any expense claim for childcare.
- e. No more than \$6,000 per annum per child can be claimed
- f. Claims are approved by the Mayor.

OTHER EXPENSE REIMBURSEMENTS AND ALLOWANCES

No other expense reimbursements are payable. The Council holds an insurance policy that covers the Mayor, Councillors and staff in case of accidental death. The benefits are payable to the Council.

TAXATION OF ALLOWANCES

Any allowable mileage allowances are not subject to withholding tax deductions. Reimbursements of actual business expenses are not subject to withholding tax deductions.

REVIEW OF POLICY

This policy will be reviewed every 3 years at the beginning of each triennium.

DEFINITIONS

Term: Definition

1. "Actual" means as evidenced by the original receipt attached to the claim form.
2. "Reasonable" means that it is within the amount specified by this policy or as deemed reasonable by the Mayor and/or Chief Executive.
3. "Council business" includes: formal council and community board meetings, committee meetings, workshops, seminars, statutory hearings, training courses, site visits, meetings with staff, meetings with community groups, meetings with members of the public. It does not include events where the primary focus is on social activity.
4. "Remuneration Authority" is an independent body established by the Remuneration Authority Act 1977, with responsibilities under the Local Government Act 2002 to determine remuneration and expense/allowance rules for local authority members.

RELATED DOCUMENTS

- Masterton District Council Sensitive Expenditure Policy

REFERENCES

- Local Government Act 2002
- Remuneration Authority Act 1977
- Local Government Members (2022/2023) Determination 2022

VERSION CONTROL

Version	Date	Summary of Amendments	Approved By
1.2	December 2019	Amendments to align with RA guidance with reimbursing allowances and childcare allowance added	Council
1.3	August 2020	Travel time allowance removed	Council
1.4	August 2021	ICT allowance amended to provide for own device use.	Council
1.5	October 2022	Amendments to align with RA guidance issued for the period following the October 2022 LG election.	

5.5 DATE AND TIME OF FIRST ORDINARY MEETING OF COUNCIL AND MEETINGS FOR 2022

File Number:

Author: Karen Yates, Manager Strategy and Governance

Authoriser: David Hopman, Chief Executive

PURPOSE

The purpose of the report is to confirm the date and time of the first ordinary meeting of Council and other Council and Committee meetings for the remainder of 2022.

EXECUTIVE SUMMARY

The Local Government Act 2002, Schedule 7 Clause 21, states that at the first Council meeting following a triennial general election, business to be conducted at the meeting must include:

- (d) *the fixing of the date and time of the first ordinary meeting of the local authority, or the adoption of a schedule of ordinary meetings.*

The following dates and times for ordinary meetings of Council during 2022 are proposed:

- First Ordinary Council meeting 3.00pm Wednesday 9 November 2022
- Ordinary Council Meeting 3.00pm Wednesday 14 December 2022

In addition to the two Council meetings to be scheduled, it is proposed that the Audit and Risk Committee meet on 23 November 2022.

The meeting schedule for 2023 will be brought to the December Council meeting.

RECOMMENDATION(S)

That Council, in accordance with the Local Government Act 2022, Schedule 7 Clause 21, adopts the following meeting dates for 2022:

- i) First Ordinary Council Meeting 3.00 Wednesday 9 November 2022
- ii) Audit and Risk Committee Meeting 3.00 Wednesday 23 November 2022
- iii) Ordinary Council Meeting 3.00 Wednesday 14 December 2022

OPTIONS CONSIDERED

A summary of the options considered is included in the table below.

Option	Advantages	Disadvantages
1 Approve the proposed schedule for 2022 with the 2023 meeting schedule to be brought to the December 2022 Council meeting for	Elected members have certainty around meeting dates to the end of the year. The decision will allow meetings to be advertised in accordance with the	None

	decision	requirements of the Local Government Official Information and Meetings Act 1987. The presentation of the schedule for 2023 at the December Council meeting will enable meetings required under the proposed committee structure to be incorporated.	
2	Approve an amended schedule	Elected members have certainty around meeting dates to the end of the year. The decision will allow meetings to be advertised in accordance with the requirements of the Local Government Official Information and Meetings Act 1987.	There is limited availability for meetings in 2022.
3	Do not approve the proposed schedule for 2022	No advantages identified	Council would not be complying with the Local Government Act 2002, Schedule 7 Clause 21, which requires either the fixing of the date for the first ordinary meeting or the adoption of a schedule of meetings at the first meeting of Council.

RECOMMENDED OPTION

Option 1 is recommended. This ensures that Council will have certainty over meeting dates for the remainder of 2022 and will have the opportunity to set the meeting dates for 2023 at the December Council meeting.

SUMMARY OF CONSIDERATIONS

Strategic, Policy and Legislative Implications

The decision sought is a statutory requirement under the Local Government Act.

Significance, Engagement and Consultation

The decision to approve the schedule to the end of the year has been assessed as not significant in terms of Council's Significance and Engagement Policy as the decision is procedural.

Financial Considerations

There are no financial considerations or implications other than staff time and ancillary costs for the notification of public meetings. These have been included in operational budgets.

Implications for Māori

No implications specific to Māori have been identified.

Communications/Engagement Plan

No communication or engagement plan is required. Meetings will be publicly notified in accordance with the requirements of the Local Government Official Information and Meetings Act 1987.

Environmental/Climate Change Impact and Considerations

There are no environmental/climate change impacts or considerations arising from the approval of the schedule of meetings to the end of 2022.

NEXT STEPS

Meetings for November and December will be publicly notified as required. The schedule of meetings for 2023 will be developed and brought to the December 2022 Council meeting for decision.

ATTACHMENTS

Nil

5.6 ADOPTION OF STANDING ORDERS 2022

File Number:

Author: Karen Yates, Manager Strategy and Governance

Authoriser: David Hopman, Chief Executive

PURPOSE

The purpose of this report is to seek Council's adoption of Standing Orders for Masterton District Council.

EXECUTIVE SUMMARY

Council must adopt Standing Orders for orderly conduct of its meetings (Clause 27(1), Schedule 7, Local Government Act 2002). The current Standing Orders were adopted by Council on 30 October 2019 and remain in force until replaced or amended by the new Council.

Council's current standing orders are based on a template developed by Local Government New Zealand (LGNZ). The template is consistent with current legislation, well-structured and written in a way that makes it easy to understand the content.

LGNZ has recently provided an updated version that incorporates changes which clarify matters raised by councils during the last triennium and improves readability and understanding. It is proposed that this version be adopted, with the amendments discussed below (see Attachment 1). At least 75% of members present at the meeting must approve the adoption (or amendment) of Standing Orders.

Standing Orders provide three options for speaking and moving motions in order to provide the meeting flexibility to deal with different situations. Council must select which option it prefers as a default position.

RECOMMENDATIONS

That Council adopts the Standing Orders included in Attachment 1 including:

- (i) the inclusion of provision for the exercise of a casting vote in specified circumstances (SO 19.3);
- (ii) provision for attendance at meetings via audio-visual link (SO 13 7-16); and
- (iii) confirmation of **[Option B or Option C]** for speaking and moving motions and amendments (SO 22)

CONTEXT

Councils are required to adopt Standing Orders. Masterton District Council has based its Standing Orders on the template developed by LGNZ for at least the last two trienniums. The template, which is updated every three years, provides a set of standing orders that are consistent with current legislation, are well structured and clearly written and include improvements based on feedback from councils over the preceding triennium. The main differences between the 2022

template and the Standing Orders adopted by Council in 2019 are highlighted in the Standing Orders proposed for adoption in Attachment 1.

ANALYSIS AND ADVICE

The template contains three options that councils need to consider when adopting the Standing Orders in relation to: the provision of a casting vote by a chairperson; to an option for allowing attendance at meetings by audio visual link; and options for speaking and moving. These are set out below.

1. The Provision of a Casting Vote by a Chairperson (SO19.3)

LGNZ Template Standing Order 19.3 provides that:

“The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, has a casting vote.”

This standing order allows unrestricted use of the casting vote in any circumstances enabling the Mayor or Chairperson to make the final decision on a matter where votes are tied.

Under the Local Government Act 2002 the incorporation of the casting vote in Standing Orders is optional. Council can decide whether to allow for the Mayor or Chairperson to have a casting vote. Where there is no provision for a casting vote, if the vote is tied, then the motion is defeated and the status quo is preserved.

In its 2019 Standing Orders Masterton District Council has provision for a casting vote in specified circumstances. It is proposed that this continue with standing order 19.3 in the LGNZ template replaced by the following provisions which are the same as those included in Council’s 2019 standing orders:

“19.3 In the case of an equality of votes the Chairperson has a casting vote (in addition to a deliberative vote) in the following circumstances:

19.3.1 The meeting is a meeting of the Council, or a hearings committee, and the Council or committee is subject to a binding obligation (whether created by legislation, contract or otherwise) to make a decision, and deferral of the matter would be likely to result in a breach of that obligation; or

19.3.2 The meeting is a meeting of the Council and the exercise of the casting vote is required to preserve the continuity of a programme, project, or process mandated by a prior resolution of the Council (including a resolution to adopt a policy or plan).”

These replacement clauses allow the use of a casting vote in situations where the implications of a resolution not being passed have consequences for Council.

2. Option for Attendance at Meetings by Audio-visual Link (SO 13.7-13.16)

Standing Orders 13.7 to 13.16 provide for attendance at meetings via an audio-visual link to allow members to participate in meetings if they are not physically present. The provision was made in standing orders in response to requests from councils representing large geographical areas where it can be difficult for members to attend meetings at short notice.

Members attending via an audio-visual link can vote at the meeting but are not counted for the purpose of quorum.

Members should note that the Epidemic Preparedness (COVID-19) Notice 2020, which temporarily removed the quorum restriction for those attending meetings remotely during the COVID-19 pandemic, has not been renewed so the original provision not allowing those attending a meeting remotely to be counted for meeting quorum, has been reinstated.

Masterton District Council has had provision for attendance by audio-visual link in the previous two trienniums and it is proposed that this option remain to provide for audio-visual attendance, subject to the approval of the chair of the relevant meeting, should the need arise.

3. Options for Speaking and Moving (SO22)

Standing Order 22 sets out general procedures for speaking and moving motions. Standing Order 22.1 provides three options for speaking and moving to provide the meeting flexibility to deal with different situations:

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, and any local or community boards.

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.*

Option A is currently the default option, unless it is agreed at the start of a meeting that either Option B or C, which enable more flexibility and greater discussion, be used instead for all or part of the meeting. The Masterton District Council 2019 Standing Orders had Option A as the default option.

It is proposed that the 2022 Standing Orders change Standing Order 22.1 to make either Option B or C the default option. With the reduction in the number of members following the 2020 Representation Review, the more formal Option A does not provide the flexibility the other two options do for the members to move, second and speak to motions and amendments. Options B or C enable more inclusive discussion about issues.

Unlike Option A, Option B allows members who have spoken to a motion to move an amendment to that motion and allows members who have moved or seconded an amendment that has been carried to move or second a subsequent amendment. Option C has no restrictions on who can move or second or speak to an amendment.

Choosing Option B or C as the default option does not prevent a meeting choosing one of the other options for the whole meeting or a specified item on the agenda, although that does need to be agreed by the majority of members at the beginning of the meeting.

OPTIONS CONSIDERED

A summary of the options considered is included in the table below.

Option		Advantages	Disadvantages
1A	Adopt the updated Standing Orders in Attachment 1 with option A as the default option for moving and seconding motions and amendments	Council will have up to date and clear Standing Orders for the conduct of meetings for the 2022-2025 triennium including the formal option for moving and seconding motions and amendments allowing debate to be controlled. The chairperson can, at the	This is the most formal option and limits the number of times members can speak and move amendments.

		beginning of the meeting, recommend that the meeting resolves to adopt either of options B or C for the meeting generally or for any specific item on the agenda.	
1B	Adopt the updated Standing Orders in Attachment 1 with option B as the default option for moving and seconding motions and amendments	<p>Council will have up to date and clear Standing Orders for the conduct of meetings for the 2022-2025 triennium including a less formal option for moving and seconding motions and amendments and allow more discussion on items.</p> <p>The chairperson can, at the beginning of the meeting, recommend that the meeting resolves to adopt either of options A or C for the meeting generally or for any specific item on the agenda.</p>	While limiting the ability of movers and seconders to move amendments this less formal option allows other members to move and second amendments regardless of whether they have spoken to the motion.
1C	Adopt the updated Standing Orders in Attachment 1 with option C as the default option for moving and seconding motions and amendments	<p>Council will have up to date and clear Standing Orders for the conduct of meetings for the 2022-2025 triennium including flexibility for moving and seconding motions and amendments to allow more discussion on items.</p> <p>The chairperson can, at the beginning of the meeting, recommend that the meeting resolves to adopt either of options A or B for the meeting generally or for any specific item on the agenda.</p>	This informal option has no restriction on the number of times members can speak and move amendments.
2	Adopt the Standing Orders with amendments	Depending on the amendments, Council may have up to date Standing Orders for the conduct of	Depending on amendments, if, for example, the casting vote

		meetings	provision is removed, Council may not be able to meet its statutory or legal obligations, or an amendment is contrary to a legislative requirement, Council may be in a position where it is acting contrary to the law.
3	Do not adopt new Standing Orders	No advantages have been identified	The 2019 standing orders will remain in place but will not reflect best practice or legislative changes since 2019

RECOMMENDED OPTION

Options 1B or 1C are recommended. This ensures that Council will have current and clear standing orders for the conduct of meetings in the 2022-2025 triennium with a less formal procedure for moving and seconding motions as the default.

SUMMARY OF CONSIDERATIONS

Strategic, Policy and Legislative Implications

Council is required by statute to have standing orders.

Significance, Engagement and Consultation

The decision to adopt standing orders is not significant in terms of Council's Significance and Engagement Policy as it is required by statute and is a procedural decision.

Financial Considerations

There are no financial considerations in the decision to adopt the Standing Orders.

Implications for Māori

There are no implications for Māori in the decision to adopt the Standing Orders.

Communications/Engagement Plan

No communications or engagement plan is required. The Standing Orders will be available on the Masterton District Council website.

Environmental/Climate Change Impact and Considerations

There are no environmental or climate change impacts or considerations in the decision to adopt the Standing Orders.

NEXT STEPS

The Standing Orders will be finalised as per Attachment 1.

ATTACHMENTS

1. **Standing Orders 2022** [↓](#) 

COUNCIL MEETING STANDING ORDERS



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Preface

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

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

These standing orders have been designed specifically for local authorities, their committees, subcommittees, subordinate decision-making bodies, and local and community boards. 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 orders for the conduct of their meetings, it is not necessary that they are adopted every triennium. However, LGNZ recommends that every council, committee, subordinate body and local and community board review their standing orders within at least the first six months following an election to ensure that they fully meet their needs for effective and inclusive meetings (see LGA 2002, sch 7, cl 27).

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.

LGNZ has made every reasonable effort to provide accurate information in this document, however it is not advice and we do not accept any responsibility for actions taken that may be based on reading it.

Contents

1.	Introduction	10
1.1	Principles	10
1.2	Statutory references	11
1.3	Acronyms	11
1.4	Application	11
2.	Definitions	11
	General matters	18
3.	Standing orders	18
3.1	Obligation to adopt standing orders	18
3.2	Process for adoption and alteration of standing orders	18
3.3	Members must obey standing orders	18
3.4	Application of standing orders	18
3.5	Temporary suspension of standing orders	18
3.6	Quasi-judicial proceedings	19
3.7	Physical address of members	19
4.	Meetings	19
4.1	Legal requirement to hold meetings	19
4.2	Meeting duration	19
4.3	Language	20
4.4	Webcasting meetings	20
4.5	First meeting (inaugural)	20
4.6	Requirements for the first meeting	20
5.	Appointments and elections	21
5.1	Mayoral appointment of deputy Mayor, committee chairs and members	21
5.2	Council Discharge of a Mayoral Appointment	21
5.3	Establishment of committees by the Mayor	22
5.4	Elections of regional chairpersons, deputy Mayors and deputy chairpersons	22
5.5	Removal of a deputy Mayor	22
5.6	Voting system for chairs, deputy Mayors and committee chairs	23
6.	Delegations	23
6.1	Duty to consider delegations to community boards	23
6.2	Limits on delegations	24
6.3	Committees may delegate	24
6.4	Use of delegated powers	24

6.5	Decisions made under delegated authority cannot be rescinded or amended	25
6.6	Committees and sub committees subject to the direction of the local authority	25
7.	Committees	25
7.1	Appointment of committees and subcommittees	25
7.2	Discharge or reconstitution of committees and subcommittees	25
7.3	Appointment or discharge of committee members and subcommittee members	26
7.4	Elected members on committees and subcommittees	26
7.5	Local authority may replace members if committee not discharged	26
7.6	Membership of Mayor	26
7.7	Decision not invalid despite irregularity in membership	27
7.8	Appointment of joint committees	27
7.9	Status of joint committees	27
7.10	Power to appoint or discharge individual members of a joint committee	27
	Pre-meeting	28
8.	Giving notice	28
8.1	Public notice – ordinary meetings	28
8.2	Notice to members - ordinary meetings	28
8.3	Extraordinary meeting may be called	28
8.4	Notice to members - extraordinary meetings	28
8.5	Emergency meetings may be called	29
8.6	Process for calling an emergency meeting	29
8.7	Public notice – emergency and extraordinary meetings	29
8.8	Meetings not invalid	29
8.9	Resolutions passed at an extraordinary meeting	30
8.10	Meeting schedules	30
8.11	Non-receipt of notice to members	30
8.12	Meeting cancellations	31
9.	Meeting agenda	32
9.1	Preparation of the agenda	32
9.2	Process for raising matters for a decision	32
9.3	Chief executive may delay or refuse request	32
9.4	Order of business	32
9.5	Chairperson's recommendation	32
9.6	Chairperson may prepare report	33

9.7	Public availability of the agenda	33
9.8	Public inspection of agenda	33
9.9	Withdrawal of agenda items	33
9.10	Distribution of the agenda	34
9.11	Status of agenda	34
9.12	Items of business not on the agenda which cannot be delayed	34
9.13	Discussion of minor matters not on the agenda	34
9.14	Public excluded business on the agenda	34
9.15	Qualified privilege relating to agenda and minutes	35
	Meeting Procedures	35
10.	Opening and closing	35
11.	Quorum	35
11.1	Council meetings	35
11.2	Committees and subcommittee meetings	36
11.3	Joint Committees	36
11.4	Requirement for a quorum	36
11.5	Meeting lapses where no quorum	36
11.6	Business from lapsed meetings	37
12.	Public access and recording	37
12.1	Meetings open to the public	37
12.2	Grounds for removing the public	37
12.3	Local authority may record meetings	37
12.4	Public may record meetings	37
13.	Attendance	38
13.1	Members right to attend meetings	38
13.2	Attendance when a committee is performing judicial or quasi-judicial functions	38
13.3	Leave of absence	38
13.4	Apologies	38
13.5	Recording apologies	39
13.6	Absent without leave	39
13.7	Right to attend by audio or audiovisual link	39
13.8	Member's status: quorum	39
13.9	Member's status: voting	39
13.10	Chairperson's duties	39
13.11	Conditions for attending by audio or audiovisual link	40
13.12	Request to attend by audio or audiovisual link	40

13.13	Chairperson may terminate link	40
13.14	Giving or showing a document	41
13.15	Link failure	41
13.16	Confidentiality	41
14.	Chairperson's role in meetings	41
14.1	Council meetings	41
14.2	Other meetings	42
14.3	Addressing the chairperson	42
14.4	Chairperson's rulings	42
14.5	Chairperson standing	42
14.6	Member's right to speak	42
14.7	Chairperson may prioritise speakers	42
15.	Public Forums	43
15.1	Time limits	43
15.2	Restrictions	43
15.3	Questions at public forums	43
15.4	No resolutions	44
16.	Deputations	44
16.1	Time limits	44
16.2	Restrictions	44
16.3	Questions of a deputation	44
16.4	Resolutions	45
17.	Petitions	45
17.1	Form of petitions	45
17.2	Petition presented by petitioner	45
17.3	Petition presented by member	45
18.	Exclusion of public	46
18.1	Motions and resolutions to exclude the public	46
18.2	Specified people may remain	46
18.3	Public excluded items	46
18.4	Non-disclosure of information	47
18.5	Release of information from public excluded session	47
19.	Voting	47
19.1	Decisions by majority vote	47
19.2	Open voting	47
19.3	Chairperson has a casting vote	47
19.4	Method of voting	48

19.5	Calling for a division	48
19.6	Request to have votes recorded	48
19.7	Members may abstain	48
20.	Conduct	49
20.1	Calling to order	49
20.2	Behaviour consistent with Code of Conduct	49
20.3	Retractions and apologies	49
20.4	Disorderly conduct	49
20.5	Contempt	49
20.6	Removal from meeting	50
20.7	Financial conflicts of interests	50
20.8	Non-financial conflicts of interests	50
20.9	Qualified privilege for meeting proceedings	51
20.10	Qualified privilege additional to any other provisions	51
20.11	Electronic devices at meetings	51
21.	General rules of debate	51
21.1	Chairperson may exercise discretion	51
21.2	Time limits on speakers	51
21.3	Questions to staff	52
21.4	Questions of clarification	52
21.5	Members may speak only once	52
21.6	Limits on number of speakers	52
21.7	Seconder may reserve speech	52
21.8	Speaking only to relevant matters	52
21.9	Restating motions	53
21.10	Criticism of resolutions	53
21.11	Objecting to words	53
21.12	Right of reply	53
21.13	No other member may speak	53
21.14	Adjournment motions	54
21.15	Chairperson's acceptance of closure motions	54
22.	General procedures for speaking and moving motions	54
22.1	Options for speaking and moving	54
22.2	Option A	54
22.3	Option B	55
22.4	Option C	55
23.	Motions and amendments	55

23.1	Proposing and seconding motions	56
23.2	Motions in writing	56
23.3	Motions expressed in parts	56
23.4	Substituted motion	56
23.5	Amendments to be relevant and not direct negatives	56
23.6	Foreshadowed amendments	57
23.7	Carried amendments	57
23.8	Lost amendments	57
23.9	Where a motion is lost	57
23.10	Withdrawal of motions and amendments	57
23.11	No speakers after reply or motion has been put	57
24.	Revocation or alteration of resolutions	57
24.1	Member may move revocation of a decision	58
24.2	Revocation must be made by the body responsible for the decision	58
24.3	Requirement to give notice	58
24.4	Restrictions on actions under the affected resolution	58
24.5	Revocation or alteration by resolution at same meeting	59
24.6	Revocation or alteration by recommendation in report	59
25.	Procedural motions	59
25.1	Procedural motions must be taken immediately	59
25.2	Procedural motions to close or adjourn a debate	59
25.3	Voting on procedural motions	60
25.4	Debate on adjourned items	60
25.5	Remaining business at adjourned meetings	60
25.6	Business referred to the council, committee or local or community board	60
25.7	Other types of procedural motions	60
26.	Points of order	60
26.1	Members may raise points of order	60
26.2	Subjects for points of order	61
26.3	Contradictions	61
26.4	Point of order during division	61
26.5	Chairperson's decision on points of order	61
27.	Notices of motion	61
27.1	Notice of intended motion to be in writing	61
27.2	Refusal of notice of motion	62
27.3	Mover of notice of motion	62
27.4	Alteration of notice of motion	62

27.5	When notices of motion lapse	63
27.6	Referral of notices of motion	63
27.7	Repeat notices of motion	63
28.	Minutes	63
28.1	Minutes to be evidence of proceedings	63
28.2	Matters recorded in minutes	63
28.3	No discussion on minutes	64
28.4	Minutes of last meeting before election	64
29.	Keeping a record	64
29.1	Maintaining accurate records	64
29.2	Method for maintaining records	65
29.3	Inspection	65
29.4	Inspection of public excluded matters	65
	Referenced documents	66
	Appendix 1: Grounds to exclude the public	67
	Appendix 2: Sample resolution to exclude the public	69
	Appendix 3: Motions and amendments (Option A)	72
	Appendix 4: Motions and amendments (Option B)	73
	Appendix 5: Motions and amendments (Option C)	74
	Appendix 6: Table of procedural motions	75
	Appendix 7: Webcasting protocols	77
	Appendix 8: Powers of a Chairperson	78
	Appendix 9: Process for removing a chairperson or deputy Mayor from office	83
	Appendix 10: Sample order of business	84
	Appendix 11: Process for raising matters for a decision	85

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 Appendix, 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 are also not part of the Standing Orders.

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 2002; 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" (LGA 2002, s 39).

1.1 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.

1.2 Acronyms

LGA 2002	Local Government Act 2002
LGOIMA	Local Government Official Information and Meetings Act 1987
LAMIA	Local Authorities (Members' Interests) Act 1968

1.3 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 territorial authority or regional council appointed under s 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 cl 30A of sch 7 of the LGA 2002; and
- (d) Any subcommittee of a committee described in (a), (b) and (c) of this definition.

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

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 sch 7 of the LGA 2002.

Extraordinary meeting has the same meaning as defined in cl 22 of sch 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 cl 30A of sch 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 or territorial authority, as defined in s 5 of the LGA 2002, which is named in these Standing Orders, and any subordinate decision-making bodies established by the local authority.

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

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

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

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 s 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 ss 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 of sch 7 of the 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).

Seconder 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 local or community boards or joint committees.

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

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

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

Working day means 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 20th of December and the 10th 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 and may 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. Local boards and community boards must also adopt standing orders. Standing orders must not contravene any Act.

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

3.2 Process for adoption and alteration of standing orders

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

LGA 2002, sch 7, cl 27(3).

3.3 Members must obey standing orders

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

LGA 2002, sch 7, cl 16(1).

3.4 Application of standing orders

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

3.5 Temporary suspension of standing orders

Any member of a council, committee, subcommittee and subordinate body, and local and community board, may move a motion to suspend 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.

LGA 2002, sch 7, cl 27(4).

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 or a local or community board may amend meeting procedures. For example, committees hearing applications under the Resource Management Act 1991 have additional powers under the Commissions of Inquiry Act 1908.

3.7 Physical address of members

Every member of a local authority, local board and community board must give to the chief executive a physical residential or business address within the district or region of the local authority and, if desired, an electronic or other address, to which notices and material relating to meetings and local authority business may be sent or delivered. Members are to provide their address within 5 working days of the publication of the declaration of the election results. 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. The same requirement applies to local boards and community boards in respect of their communities. Meetings must be called and conducted in accordance with:

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

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

4.2 Meeting duration

A meeting cannot continue more than six hours from when it starts (including any adjournments) or after 10.30pm, unless the meeting resolves to continue. If there is no such resolution, 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.

LGA 2002, sch, cl 21(1) - (4).

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 LGA 2002, sch 7, cl 21(4)).

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

- (a) The making and attesting of the declarations required of the mayor (if any) and members under LGA 2002, sch 7, cl14,;
- (b) The election of the chairperson (if any) and the making and attesting of the declaration required of the chairperson under LGA 2002, sch 7, cl 14;
- (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 ss 99, 105, and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910; and the Financial Markets Conduct Act 2013.
- (d) The fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings; and
- (e) The election of the deputy Mayor or deputy chairperson in accordance with the LGA 2002, sch7, cl 17.

LGA 2002, sch 7, cl 21(5).

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

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

5. Appointments and elections

5.1 Mayoral appointment of deputy Mayor, committee chairs and members

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

LGA 2002, s 41A(3).

5.2 Council Discharge of a Mayoral Appointment

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

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

LGA 2002, sch 7, cl 31.

5.3 Establishment of committees by the Mayor

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

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

Please note, a Mayor is a member of every committee unless specific legislation provides otherwise, such as a committee established under s 189 of the Sale and Supply of Alcohol Act 2012.

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

5.4 Elections of regional chairpersons, deputy Mayors and deputy chairpersons

The council (or a committee responsible for making the appointment) must decide by resolution to use one of two voting systems (see Standing Order 5.6) when electing people to the following positions:

- The chairperson and deputy chairperson of a regional council;
- The deputy Mayor;
- The chairperson and deputy chairperson of a committee; and
- A representative of a local authority.

Please note, this provision does not apply in situations where a mayor has used their powers under LGA 2002, s 41A to appoint a deputy Mayor, or committee chairs. See the LGNZ Guide to Standing Orders for more information.

LGA 2002, sch 7, cl 25.

5.5 Removal of a deputy Mayor

A deputy Mayor, whether appointed by the Mayor under the Standing Order 5.1, or elected by the council, can only be removed in accordance with cl 18, sch 7, of the LGA 2002. See Appendix 9.

LGA 2002, sch 7, cl 18.

5.6 Voting system for chairs, deputy Mayors and committee chairs

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

System A

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

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

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

System B

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

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

LGA 2002, sch 7, cl 25.

6. Delegations

6.1 Duty to consider delegations to community boards

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

LGA 2002, sch 7, cl 32(6).

Please note: A council is advised to delegate a range of decision-making responsibilities to its chief executive to cover the period from the day following the

Electoral Office's declaration until the new council is sworn in. See the LGNZ Guide to Standing Orders for further information.

6.2 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, community board, local board, member, or officer of the local authority, any of its responsibilities, duties, or powers except:

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

LGA 2002, sch 7, cl 32 (1).

6.3 Committees may delegate

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

LGA 2002, sch 7, cl (2) & (3).

6.4 Use of delegated powers

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

LGA 2002, sch 7, cl 32(2),(3), and (4).

6.5 Decisions made under delegated authority cannot be rescinded or amended

Nothing in these Standing Orders allows a council, committee and subcommittee to rescind or amend a lawfully made decision of a subordinate decision-making body carried out under a delegation authorising the making of that decision. The same requirement applies to a local board and community board in relation to any committees or subcommittees with delegated authority.

LGA 2002, sch 7, cl 30 (6).

6.6 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.

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

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.

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

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.

LGA 2002, sch 7, cl 30 (5) & (7).

Please note: Section 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.

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

7.4 Elected members on committees and subcommittees

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

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

LGA 2002, sch 7, cl 31(4).

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), sch 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.

LGA 2002, sch 7, cl 31(5).

7.6 Membership of Mayor

The Mayor is a member of every committee of the local authority unless specific legislation provides otherwise, such as a committee established under s 189 of the Sale and Supply of Alcohol Act 2012.

LGA 2002, s 41A(5).

7.7 Decision not invalid despite irregularity in membership

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

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

LGA 2002, sch 7, cl 29.

7.8 Appointment of joint committees

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

- (a) The number of members each party may appoint;
- (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.

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

7.9 Status of joint committees

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

LGA 2002, sch 7, cl 30A(5).

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

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

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

Pre-meeting

8. Giving notice

Please note: the processes described in this section (Standing Orders 8.1 – 8.12) apply as appropriate to local boards and community boards.

8.1 Public notice – ordinary meetings

All meetings scheduled for the following month must be publicly notified not more than 14 days and not less than 5 days before the end of 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).

LGOIMA, s 46.

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.

LGA 2002, sch 7, cl 19(5).

8.3 Extraordinary meeting may be called

An extraordinary council meeting may be called by:

- (a) Resolution of the council, or
- (b) A requisition in writing delivered to the chief executive which is signed by:
 - i. The Mayor; or
 - ii. Not less than one third of the total membership of the council (including vacancies).

LGA 2002, sch 7, cl 22(1).

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.

LGA 2002, sch 7, cl 22(3).

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 Mayor; or
- (b) If the Mayor is unavailable, the chief executive.

LGA 2002, sch 7, cl 22A(1).

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.

LGA 2002, sch 7, cl 22A(2).

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.

LGOIMA, s 46(3).

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.

LGOIMA, s 46(6).

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.

LGOIMA, s 51A.

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.

LGA 2002, sch 7, cl 19(6).

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 or board unless:

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

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

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

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, subordinate decision-making body, local boards or community board and, in the case of all decision-making bodies other than the council, must also fall within the scope of their specific delegations.

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 of the 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 of the LGA 2002.

9.7 Public availability of the agenda

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

LGOIMA, ss 5 & 46A.

9.8 Public inspection of agenda

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

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

LGOIMA, s 46A(1).

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.

LGOIMA, s 46A(7).

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 of the 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.

LGOIMA, s 46A(7A).

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.

LGOIMA, s 46A(9).

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.

LGOIMA, s 52.

Meeting Procedures

10. Opening and closing

Local authorities, local boards and community boards may, at the start of a meeting, choose to recognise the civic importance of the occasion through some form of reflection. This could be an expression of community values, a reminder of the contribution of members who have gone before or a formal welcome, such as a mihi whakatau.

Options for opening a meeting could include a karakia timitanga, mihi whakatau, or powhiri as well as a karakia whakamutunga to close a meeting where appropriate.

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.

LGA 2002, sch 7, cl 23(3)(a).

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, or if established by a local board or community board, the relevant board.

LGA 2002, sch 7, cl 23(3)(b).

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.

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

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.

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

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, subcommittees, local boards and community boards, must be open to the public.

LGOIMA, s 47 & 49(a).

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.

LGOIMA, s 50(1).

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.

LGA 2002, sch 7, cl 19(2).

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 s48 of 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 Mayor in order to protect a members' privacy and the Council may approve an application from the Mayor. The Mayor 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 Mayor (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, local board or community board 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.

LGA 2002, sch 7, cl 5(d).

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.

LGA 2002, sch 7, cl 25A(4).

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.

LGA 2002, sch 7, cl 25A(3).

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 this not be possible due to illness or emergency 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.

LGA 2002, sch 7, cl 25(A)(6).

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 Mayor must preside at meetings of the council unless they vacate the chair for a part or all of a meeting. If the Mayor is absent from a meeting or vacates the chair, the deputy Mayor must act as chairperson. If the deputy Mayor 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 Mayor for that meeting.

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

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.

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

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, subcommittee, local or community board, 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, local boards or community boards, 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, local boards or community boards, may speak for 5 minutes (excluding questions) about the petition, unless the meeting resolves otherwise. The chairperson must terminate the presentation of the petition if he or she believes the petitioner is being disrespectful, offensive, or making malicious statements.

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

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 s 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.

LGOIMA, s 48.

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.

LGOIMA, s 48(6).

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.

LGOIMA, s 46A(8).

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 (including a local or community board) must be decided at a meeting through a vote exercised by the majority of the members that are present and voting.

LGA 2002, sch 7, cl 24(1).

19.2 Open voting

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

LGA 2002, sch 7, cl 24(3).

19.3 Chairperson has a casting vote

In the case of an equality of votes the Chairperson has a casting vote (in addition to a deliberative vote) in the following circumstances:

- 19.3.1 The meeting is a meeting of the Council, or a hearings committee, and the Council or committee is subject to a binding obligation (whether created by legislation, contract or otherwise) to make a decision, and deferral of the matter would be likely to result in a breach of that obligation; or
- 19.3.2 The meeting is a meeting of the Council and the exercise of the casting vote is required to preserve the continuity of a programme, project, or process mandated by a prior resolution of the Council (including a resolution to adopt a policy or plan).

LGA 2002, sch 7, cl 24(2).

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.

LAMIA, ss 6 & 7.

20.8 Non-financial conflicts of interests

Non-financial interests involve questions about whether the judgement of a member of a local authority (or local or community board) 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.

LGOIMA, s 53.

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 because of any other enactment or rule of law applying to any meeting of the local authority.

LGOIMA, s 53.

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 SO 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 or 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 or local or community board, is to be considered at the next ordinary meeting of that committee or board, 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, and any local or community boards.

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 Part 6 of the 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 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 Standing Orders 22.2 – 22.4**, speak to the substantive motion, and may move or second a further amendment to it.

23.8 Lost amendments

Where an amendment is lost, the meeting will resume the debate on the original or substituted motion. Any member who has not spoken to that motion may, **depending on the choice of options for speaking and moving set out in Standing Orders 22.2 – 22.4**, speak to it, and may move or second a further amendment.

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 Chairperson 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, local or community board. The notice must set out:

- (a) The resolution or part of the resolution which the member proposes to revoke or alter;
- (b) The meeting date when the resolution was passed;
- (c) The motion, if any, which the member proposes to replace it with; and
- (d) Sufficient information to satisfy the decision-making provisions of sections 77-82 of Part 6, of the LGA 2002.

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

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, or a local or community board, only that body may revoke or amend the resolution, assuming the resolution is legally made.

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

LGA 2002, sch 7, cl 30(6).

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

LGA 2002, sch 7, cl 30(6).

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 or local or community board.

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, committee or local or community board

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

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 the LGA 2002, ss 77-82. 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 subordinate body or a local or community board.

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

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 or a local or community board must be referred to that committee or board by the chief executive.

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

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, subcommittees and any local and community boards 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.

LGA 2002, sch 7, cl 28.

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) The 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 1991, 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 and any local and community boards 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.

Public Records Act 2002, s 17.

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.

Contract and Commercial Law Act 2017, s 229(1).

29.3 Inspection

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

LGOIMA, s 51.

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.

LGOIMA, s 7.

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.

LGOIMA, s 48.

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"> i. be contrary to the provisions of a specified enactment; or ii. constitute contempt of court or of the House of Representatives (s.48(1)(b)).
		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"> i. a right of appeal lies to a court or tribunal against the final decision of the councils in those proceedings; or 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)).
		To deliberate on proceedings in relation to an application or objection under the Marine Farming Act 1971 (s.48(1)(d)).

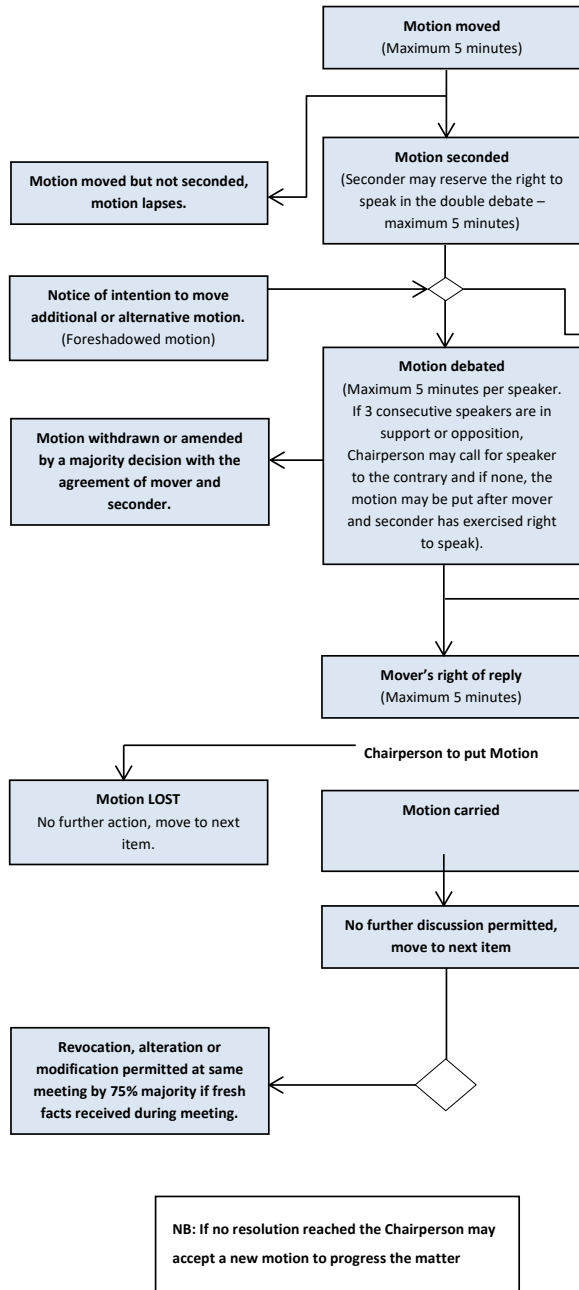
Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (s 7(2)(i)).
		To protect the privacy of natural persons, including that of deceased natural 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"> i. disclose a trade secret; or ii. unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information (s 7(2)(b)).
		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"> • a resource consent, or • a water conservation order, or • a requirement for a designation or • an heritage order, (s 7(2)(ba)).

Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		<p>To protect information which is subject to an obligation of confidence where the making available of the information would be likely to:</p> <ul style="list-style-type: none"> 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 ii. would be likely otherwise to damage the public interest (s 7(2)(c)).
		<p>To avoid prejudice to measures protecting the health or safety of members of the public (s 7(2)(d)).</p>
		<p>To avoid prejudice to measures that prevent or mitigate material loss to members of the public (s 7(2)(e)).</p>
		<p>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)).</p>
		<p>To enable the council to carry out, without prejudice or disadvantage, commercial activities (s 7(2)(h)).</p>

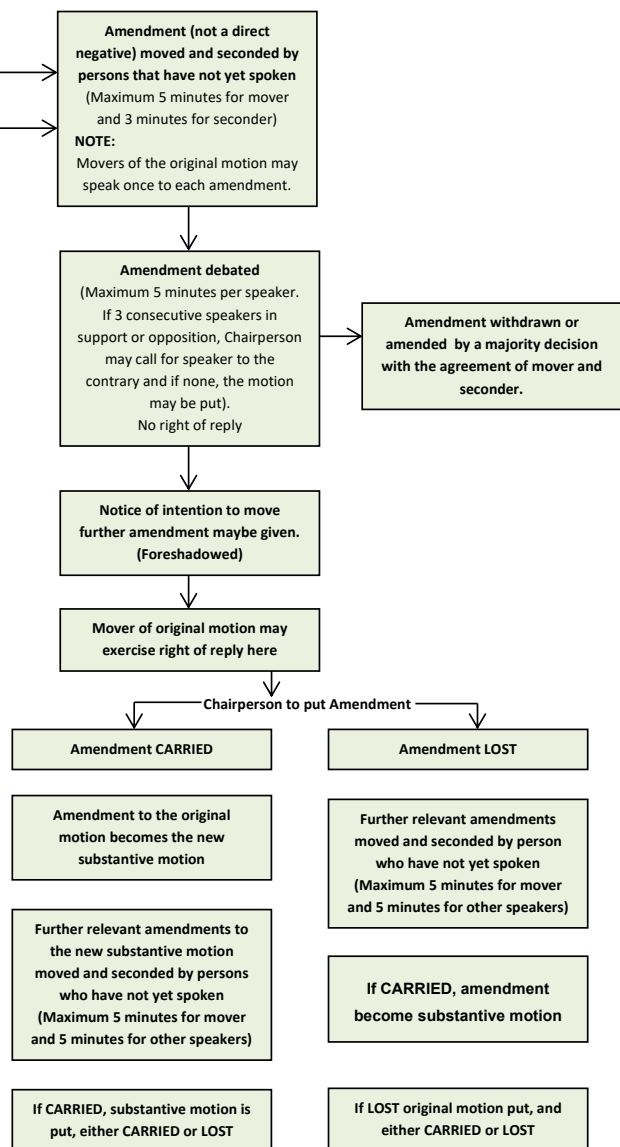
2. That *(name of person(s))* is permitted to remain at this meeting after the public has been excluded because of their knowledge of *(specify topic under discussion)*. This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because *(specify)*.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

Appendix 3: Motions and amendments (Option A)

Motions without amendments

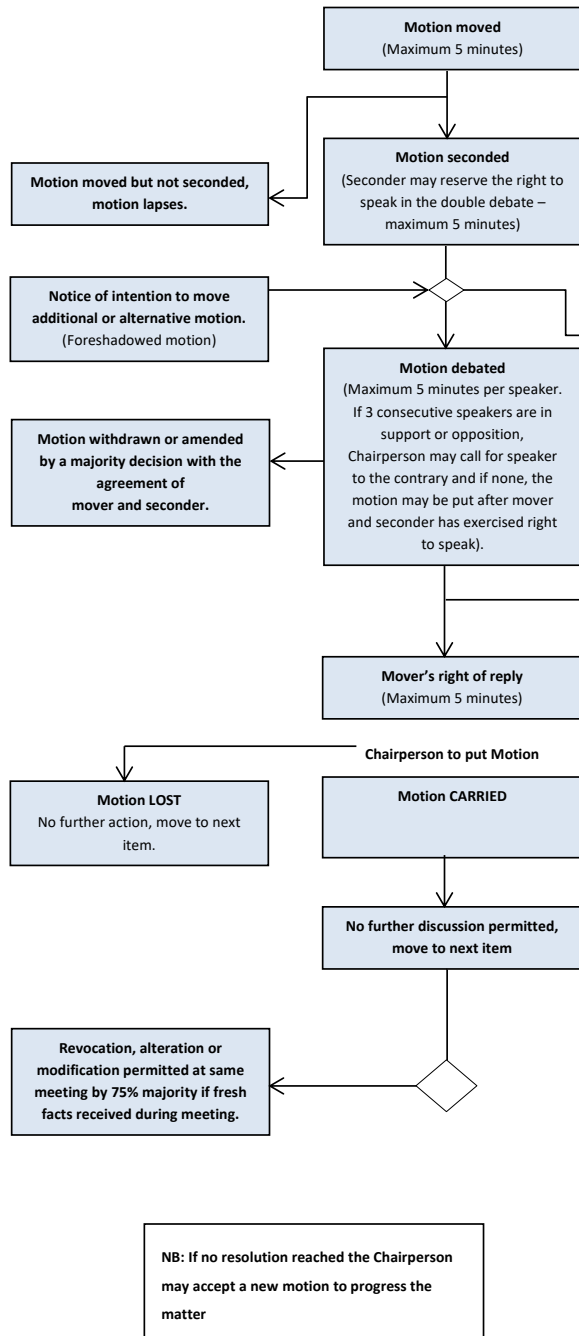


Motions with amendments

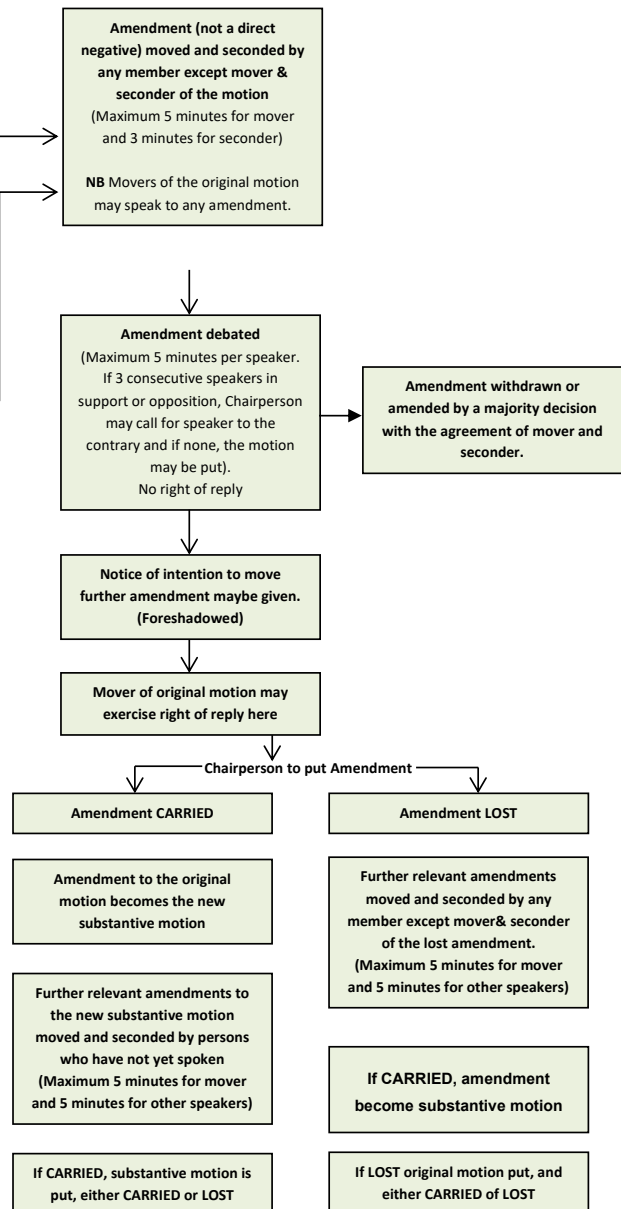


Appendix 4: Motions and amendments (Option B)

Motions without amendments

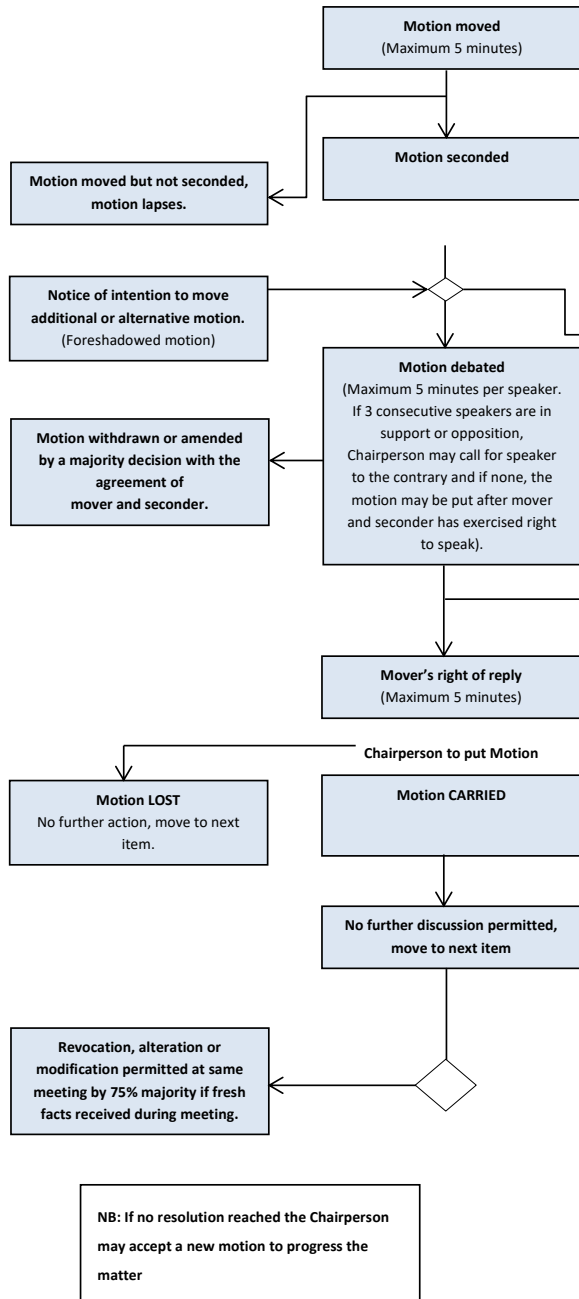


Motions with amendments

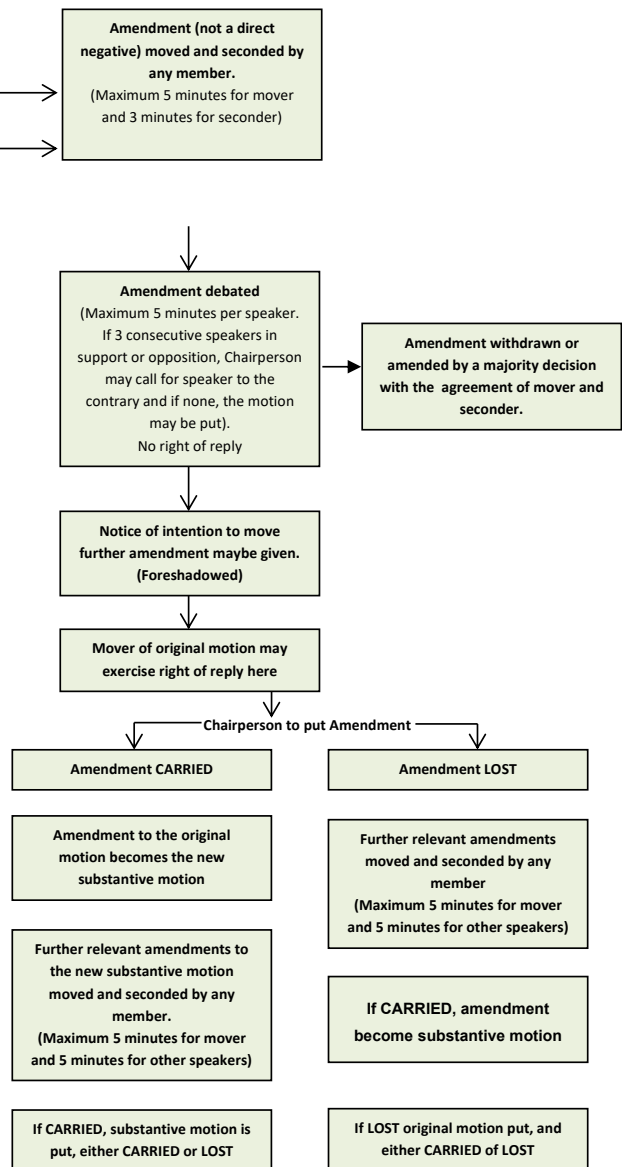


Appendix 5: Motions and amendments (Option C)

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 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 chairperson or deputy Mayor from office

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

LGA 2002, sch 7, cl 18.

Appendix 10: Sample order of business

Open section

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

Public excluded section

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

Appendix 11: Process for raising matters for a decision

Matters requiring a decision 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;
- Report of a community or local board; 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.

5.7 ADOPTION OF CODE OF CONDUCT

File Number:

Author: Karen Yates, Manager Strategy and Governance

Authoriser: David Hopman, Chief Executive

PURPOSE

The purpose of this report is to provide the Code of Conduct for Council's adoption.

EXECUTIVE SUMMARY

Clause 15, Schedule 7 of the Local Government Act 2002 (LGA) requires councils to have a Code of Conduct. A council can amend or replace its code of conduct but can't revoke it without replacement. The Code may be amended or replaced at any time, but the Local Government Act requires a vote in support of any amendment of at least 75% of the members present at the council meeting where the amendment is considered.

Council last considered its Code of Conduct in February 2021 when amendments were made to the Code of Conduct adopted in 2018. It is proposed that Council adopts the 2021 Code of Conduct and undertakes a review of the Code in the first half of 2023.

RECOMMENDATIONS

That Council

1. Receives the Adoption of the Code of Conduct report
2. Adopts the Code of Conduct 2021 included in Attachment 1 to this report.

CONTEXT

The LGA requires councils to have a Code of Conduct. The Code can be amended or replaced but can't be revoked without replacement. Any amendment or replacement of the Code needs the support of at least 75% of the members present at the meeting where the Code is considered.

The Masterton District Council Code of Conduct (the Code) sets out the standards of behaviour expected from the Council's elected and appointed members towards each other, staff, the public and the media. It is also concerned with the disclosure of information that members receive in their capacity as members. The Code aims to enhance the decision making, credibility, accountability and effectiveness of Council.

Council undertook a review of the Code in 2021 and, along with updates to the text to improve readability and understanding, the Code was revised to align with the Local Government Sector's good practice. In particular:

- In recognition of the part that social media plays in society today, the media section was updated clarifying elected members' role in relation to the media and social media. Specific social media guidelines were also added.
- Who could make a complaint under the Code was clarified – only elected members and the Chief Executive may make a complaint. If a member of staff or member of the public believes the Code has been breached, then the Code provides that they can advise the Mayor or the Chief Executive of an alleged breach for a complaint to be raised.
- The process for making a complaint was also expanded on to provide that complaints are made to the Mayor in the first instance. The Mayor will then work with the complainant to attempt to reach resolution before a formal process is initiated.
- Council's Sensitive Expenditure Policy Manual and the Fraud, Dishonesty and Corruption Policy and Register of Interests Template were attached to the previous Code. To enable these documents to be updated without having to amend the entire Code, it was recommended that they were removed from the revised version.

ANALYSIS AND ADVICE

While officers do not consider there are any issues with the Code, it is best practice for Council to periodically review the Code. It is proposed that Council undertakes a review of the Code in the first half of 2023 to allow new members time to develop an understanding of the Council environment. In the meantime, it is proposed that Council adopts the 2021 Code of Conduct to provide an agreed set of standards for Council to operate under until such time as the review can be undertaken.

OPTIONS CONSIDERED

A summary of the options considered is included in the table below.

Option	Advantages	Disadvantages
1 Adopt the 2021 Code of Conduct and undertake a review of the Code in the first half of 2023	Council will have an agreed set of standards in place until a review is undertaken. Returning members are familiar with the Code already as they were part of the Council that undertook the review and adopted the 2021 Code.	None identified
2 Adopt an amended Code of Conduct	Council would have an agreed set of standards determined by the current members.	Depending on the nature of any amendment, given the short space of time between election and this meeting, members may not fully understand how the Code and Council operate and so any amendment

			may not reflect best practice.
3	Do not adopt the 2021 Code of Conduct	The 2021 Code of Conduct will remain in place. Returning members are familiar with the Code already as they were part of the Council that undertook the review and adopted the 2021 Code.	If Council does not adopt the 2021 Code not all members may consider that they need to adhere to the standards set out in the Code.

RECOMMENDED OPTION

Option 1 is recommended. This ensures that Council will have an agreed set of standards in place until such a time as a review can be undertaken

SUMMARY OF CONSIDERATIONS

Strategic, Policy and Legislative Implications

Councils are required by statute to have a Code of Conduct. The Code sets out the standards of behaviour expected of members and aims to enhance the decision making, credibility, accountability and effectiveness of Council.

Significance, Engagement and Consultation

The decision to adopt a Code of Conduct does not amount to a significant decision under Council's Significance and Engagement Policy

Financial Considerations

There are no financial implications in adopting a Code of Conduct.

Implications for Māori

There are no implications for Māori in the adoption of a Code of Conduct by Council.

Communications/Engagement Plan

No communications or engagement plan is required. The 2021 Code of Conduct is on the Masterton District Council website.

Environmental/Climate Change Impact and Considerations

There are no environmental or climate change impacts or considerations arising out of the decision to adopt a code of conduct.

NEXT STEPS

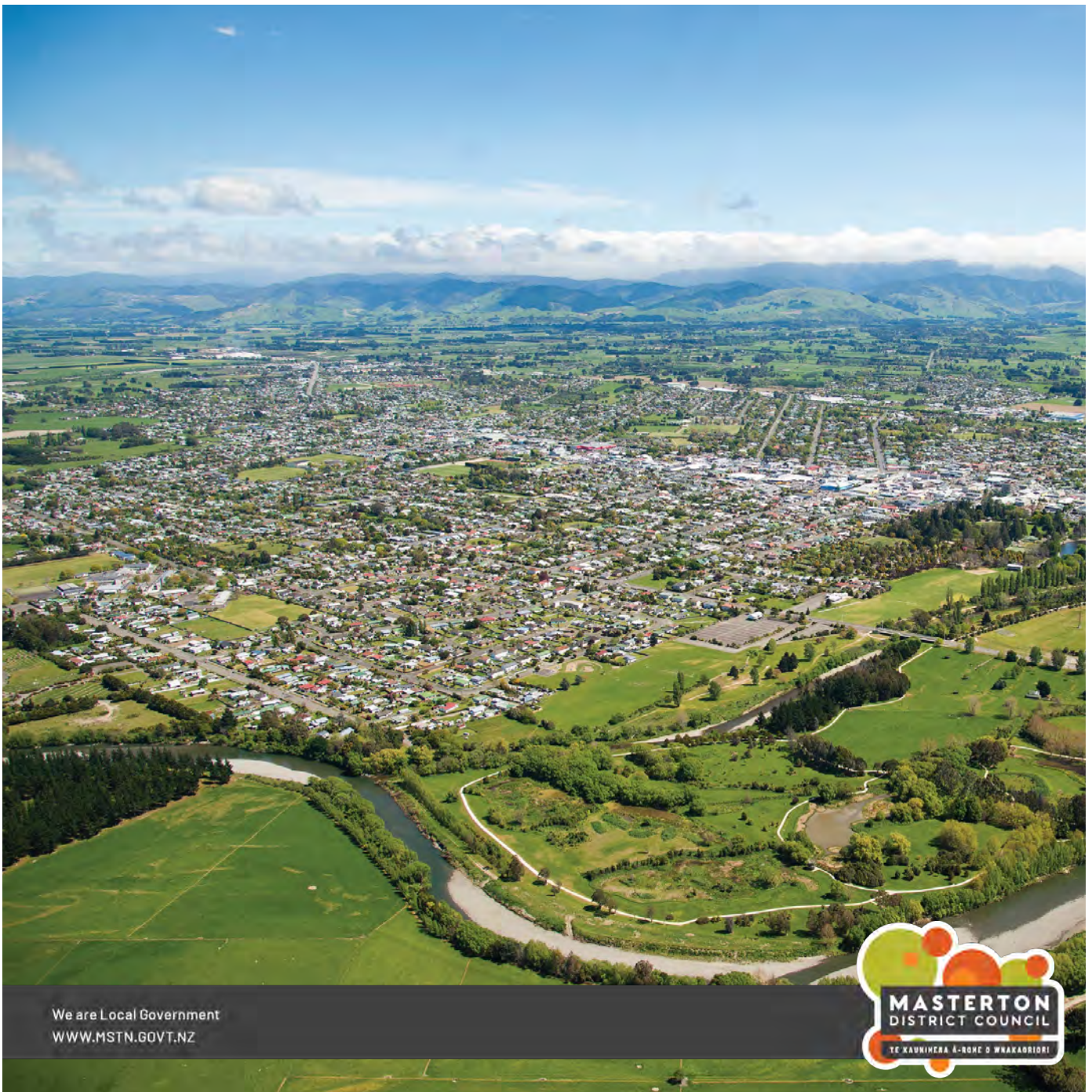
The next step is to schedule and prepare for the review of the Code in 2023.

ATTACHMENTS

1. **Code of Conduct 2021** [↓](#) 

CODE OF CONDUCT

Adopted by Masterton District Council 17 February 2021



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CONTENTS

1. Introduction.....	2
2. Scope	2
3. Values.....	3
4. Role and Responsibilities	4
4.1 Members.....	4
4.2 Chief Executive.....	4
5. Relationships.....	4
5.1 Relationships between members	4
5.2 Relationships with staff	5
5.3 Relationship with the public	5
6. Contact with the media	5
6.1 Media contact on behalf of the Council.....	6
6.2 Media comment on a member’s own behalf	6
7. Information.....	6
7.1 Confidential information	6
7.2 Information received in capacity as an elected member.....	7
8. Conflicts of Interest	7
9. Register of Interests.....	7
10. Ethical Behaviour	8
10.1 Undischarged bankrupt.....	8
11. Creating a supportive and inclusive environment.....	8
12. Breaches of the Code	9
12.1 Principles.....	9
12.2 Complaints.....	9
12.3 Investigation, advice and decision.....	9
12.4 Materiality.....	10
13. Penalties and actions	10
13.1 Material breaches	10
13.2 Statutory breaches	10
14. Review.....	11

Appendix A: Social Media Guidelines

Appendix B: Process for the determination and investigation of complaints

Appendix C: Self-assessment template

Appendix D: Legislation bearing on the role and conduct of elected members

1. Introduction

This Governance Code of Conduct (the Code) sets out the standards of behaviour expected from elected and appointed members (members) of the Masterton District Council/Te Kaunihera ā-rohe o Whakaoriori in the exercise of their duties. Its purpose is to:

- enhance the effectiveness of Masterton District Council and the provision of good local government of the Masterton district;
- promote effective decision-making and community engagement;
- enhance the credibility and accountability of Masterton District Council to its communities; and
- develop a culture of mutual trust, respect and tolerance between the members of Masterton District Council and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviours agreed in this 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 Council to give effect to its statutory responsibilities.

This Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting 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 the Masterton district and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.
3. **Ethical behaviour:** members will not place themselves in situations where their honesty and integrity may be questioned, will not behave improperly and will avoid the appearance of any such behaviour.
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** members will treat people, including other members, with respect and courtesy, regardless of their ethnicity, age, religion, gender, sexual orientation, or disability. Members will respect the impartiality and integrity of Council staff.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by this Code, and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to ensure they fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which Masterton District Council operates, including a regular review and assessment of Masterton District Council's collective performance.

These values complement, and work in conjunction with, the principles of section 14 of the LGA 2002; the governance principles of section 39 of the LGA 2002; and our Masterton District Council governance principles:

Whakamana Tangata	Respecting the mandate of each member and ensuring the integrity of the committee as a whole by acknowledging the principle of collective responsibility and decision-making.
Manaakitanga	Recognising and embracing the mana of others.
Rangatiratanga	Demonstrating effective leadership with integrity, humility, honesty and transparency.
Whanaungatanga	Building and sustaining effective and efficient relationships.
Kotahitanga	Working collectively.

4. Role and Responsibilities

The Code of Conduct is designed to strengthen the good governance of the district. 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 Masterton district;
- developing and adopting plans, policies and budgets;
- monitoring the performance of the Council against stated goals and objectives set out in its Long Term Plan;
- providing prudent stewardship of the council's resources;
- employing and monitoring the performance of the Chief Executive; and
- ensuring Masterton District 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 Masterton District 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 Masterton District Council;
- 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 Masterton District Council; and
- employing staff on behalf of Masterton District Council (including negotiation of the terms of employment for those staff).

Under section 42 of the LGA 2002, the Chief Executive is the only person *directly* employed by the Council itself. 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.

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 and honest;
- is courteous;
- is focused on issues rather than personalities;

- avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- avoids aggressive, offensive or abusive conduct, including the use of disrespectful or malicious language.

Any failure by members to act in the manner described in section 5.1 represents a breach of this Code.

Please note that nothing in this section of the Code is intended to limit robust debate within the Council as long as it is conducted in a respectful and insightful manner.

5.2 Relationships with staff

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

- raise any serious concerns about staff or contractors with the Mayor, who will then disclose those concerns to the Chief Executive;
- raise any concerns about the performance or behaviour of the Chief Executive with the Mayor;
- make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times, such as the duty to be a good employer;
- treat all staff with courtesy and respect and avoid publicly criticising any staff member;
- observe any protocols put in place by the Chief Executive concerning contact between members and staff; and
- avoid doing anything which might compromise, or could be seen as compromising, the impartiality of an employee.

Any failure by members to act in the manner described above represents a breach of this Code.

Members should be aware that failure to observe this portion of the Code may compromise the Council's obligation 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:

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; and
- act in a way that upholds the reputation of Masterton District Council.

Any failure by members to act in the manner described above represents a breach of this Code.

6. Contact with the media

The media play an important part in the operation and efficacy of local democracy. In order to fulfil this role, the media needs access to accurate and timely information about the affairs of council.

From time to time individual members will be approached to comment on a particular issue, either on behalf of the Council, or as an elected member in their own right. When responding to the media members must be mindful that operational questions should be referred to the Chief Executive and policy-related questions referred to the Mayor or the member with the appropriate delegated authority.

Masterton District Council/Te Kaunihera ā-rohe o WhakaoriŌri: Code of Conduct - page 5

When speaking to the media more generally members will abide by the following provisions.

6.1 Media contact on behalf of the Council

The Mayor or Chairperson is the first point of contact for an official view on any issue. If the Mayor is absent, or unable to act, a matter may be referred to the Deputy Mayor or to the relevant committee chairperson (in that order) for a response;

The Mayor may refer any matter to the relevant committee chairperson, a member or to the Chief Executive for comment

No member may speak to the media on behalf of Council unless first approved to do so by resolution of the Council, or of a Committee of the Council, or by the Mayor.

6.2 Media comment on a member's own behalf

Elected members are free to express a *personal view* in the media, at any time, provided the following rules are observed:

- media comments must not state or imply that they represent the views of the Council;
- media comments which are contrary to a Council decision or policy must clearly state that they do not represent the views of the majority of members
- media comments must observe the other requirements of the Code; for example, comments should not disclose confidential information, criticise, or compromise the impartiality or integrity of staff;
- media comments must not be misleading, must not purposefully misrepresent the views of the Council or the views of other members and should be accurate within the bounds of reasonableness; and
- members are encouraged to advise other members of contact from the media
- Social media pages controlled by members and used for making observations relevant to their role as an elected member should be openly attributed to the member. Social media pages used by a member to seek community participation on an issue prior to a Council decision should be actively monitored with abusive or inflammatory content removed promptly. Public comment should only be moderated (comments removed) for abusive or inflammatory comment to ensure transparency in the views expressed; alternatively posts/content can be set up as private posts with only the member receiving the feedback; 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).

Any failure by members to meet the standards set out above represents a breach of this Code.

7. Information

Access to information is critical to the effective performance of a local authority and the level of public trust felt by the public.

7.1 Confidential information

In the course of their duties members will occasionally 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 must 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 Council to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the chief executive as soon as practicable.

Members who are offered information on the condition that it remains confidential will inform the provider of the information that it is their duty to disclose the information and will decline the offer if that duty is likely to be compromised.

Any failure by members to act in the manner described above represents a breach of this Code.

Please note: failure to observe these provisions may impede the performance of the Council by inhibiting information flows and undermining public confidence. It may also expose the Council to prosecution under the Privacy Act and/or civil litigation.

8. Conflicts of Interest

Elected members will maintain a clear separation between their personal interests and their duties as 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 contracts with Masterton District Council or has a pecuniary interest. 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 the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the decision made, or the action taken, by Council. Failure to observe these requirements could also leave the member open to prosecution. In the event of a conviction, members can be removed from office.

9. Register of Interests

Members shall annually make a declaration of interest. These declarations are recorded in a public Register of Interests maintained by Masterton District Council (refer the Masterton District Council website for Register of Interests). The declaration must include information on the nature and extent of any interest, including:

- any employment, trade or profession carried on by the member or the members' spouse for profit or gain;
- any company, trust, partnership etc for which the member or their spouse is a director, partner or trustee;
- the address of any land in which the member has a beneficial interest, within the jurisdiction of MDC;
- the address of any land owned by Masterton District Council in which the member or their spouse is:
 - a tenant; or

- the land is tenanted by a firm in which the member or spouse is a partner, a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee; and
- 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 Masterton District Council developed in accordance with that determination;
- adhere to Masterton District Council's internal Sensitive Expenditure Policy Manual
- adhere to Masterton District Council's internal Fraud, Dishonesty and Corruption Policy
- not influence, or attempt to influence, any Masterton District Council staff, officer or member in order to benefit their own, or families personal or business interests;
- only use the Council resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

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

10.1 Undischarged bankrupt

In accordance with clause 15(5) of Schedule 7 (LGA 2002) any member who is an "undischarged bankrupt" will notify the Chief Executive prior as soon as practicable after being declared bankrupt. The member will also provide the Chief Executive with a brief explanatory statement of the circumstances surrounding the member's adjudication and the likely outcome of the bankruptcy.

11. Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

- attending workshops or programmes organised by the Council for the purpose of facilitating agreement on the Council's vision, goals and objectives and the manner and operating style by which members will work;
- taking part in any assessment of the Council's overall performance and operating style during the triennium¹; and

¹ Refer Appendix C self-assessment template

- taking all reasonable steps to ensure they possess the skills and knowledge to effectively fulfil their Declaration of Office (the Oath) and contribute to the good governance of the Masterton district.

12. Breaches of the Code

Members must comply with the provisions of this Code (LGA 2002, schedule 7, s. 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 this 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 this Code. This requires, conditional on the nature of an alleged breach, that affected parties:
 - have a right to know that an investigation process is underway;
 - are given due notice and are provided with an opportunity to be heard;
 - have confidence that any hearing will be impartial;
 - have a right to seek appropriate advice and be represented; and
 - have their privacy respected.

12.2 Complaints

All formal complaints made under this Code will be made in writing and forwarded to the Mayor in the first instance who will work with the complainant to come to a resolution. If the complainant and Mayor are unable to reach a satisfactory resolution, the complaint will be referred to the Chief Executive.

If a complaint relates to the Mayor, then the complaint must be made in writing to the Chair of the Hearings Committee who will work with the complainant to come to a resolution. If the Chair of the Hearings Committee and the complainant are unable to reach a satisfactory resolution the complaint will be referred to the Chief Executive.

On receipt of a complaint the Chief Executive must forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to warrant a full investigation.

The Code is designed to be a self-regulatory instrument, therefore only members and the Chief Executive may make a complaint under this Code. For clarity, if a member of staff or member of the public believed the Code had been breached by a member then they should advise the Mayor or Chief Executive of the alleged breach for a complaint to be raised.

Members should note that it is expected that any issue regarding a potential breach of this Code of Conduct is raised with the Mayor prior to a formal complaint being lodged.

12.3 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in Appendix B.

12.4 Materiality

An alleged breach under this Code is material if, in the opinion of the independent investigator, it would, if proven, bring a member or the Council into disrepute or, if not addressed, reflect adversely on another member of the Council.

13. Penalties and actions

Where a complaint is determined to be material and referred to MDC, 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 this Code the Council, or a committee with delegated authority, may require one of the following:

- a letter of censure to the member;
- a request (made either privately or publicly) for an apology;
- a vote of no confidence in the member;
- removal of responsibilities such as committee chair or Deputy Mayor
- removal of certain council-funded privileges (such as attendance at conferences);
- restricted entry to council offices, such as no access to staff areas (where restrictions may not previously have existed);
- limitation on any dealings with council staff so that they are confined to the Chief Executive only;
- suspension from committees or other bodies to which the member has been appointed; or
- an invitation for the member to consider resigning from the Council.

The Council or committee may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- attend a relevant training course; and/or
- work with a mentor for a period of time; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in 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 the Local Authorities (Members' Interests) Act 1968;
- 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 of the 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 to be in force until amended by Masterton District Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Once adopted, amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at a Council meeting where the amendment is considered.

Council may formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be considered by the Council in regard to potential changes for improving the Code.

Appendix A: Guidelines on the person 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 identification. 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: Process for the determination and investigation of complaints

Step 1: Mayor receives complaint

All complaints made under this Code will be made in writing and forwarded to the Mayor in the first instance who will work with the complainant to come to a resolution (complaints related to a breach of the Code by the Mayor will be forwarded to the Chair of the Hearings Committee). If the complainant and Mayor (or the complainant and the Chair of the Hearings Committee in the case of a complaint against the Mayor) are unable to reach a satisfactory resolution, the complaint will be referred to the Chief Executive who will refer the complaint to an independent investigator. The Chief Executive will also:

- inform the complainant that the complaint has been referred to the independent investigator and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- inform the respondent that a complaint has been made against them, the name of the investigator and refer them to the process for dealing with complaints as set out in the Code.

Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

- the complaint is frivolous or without substance and should be dismissed;
- the complaint is outside the scope of the Code and should be redirected to another agency or process;
- the complaint is non-material; and
- the complaint is material and a full investigation is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine the appropriate course of action. The investigator has full discretion to dismiss any complaint which, in their view, fails to meet the test of materiality.

On receiving the investigator's preliminary assessment the Chief Executive will:

- where an investigator determines that a complaint is frivolous or without substance, inform the complainant and respondent directly and inform other members (if there are no grounds for confidentiality) of the investigator's decision;
- 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 both the complainant and respondent of the action.

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

If the subject of a complaint is found to be non-material the investigator will inform the Chief Executive and, if they choose, recommend a course of action appropriate to the breach, such as:

- that the respondent seek guidance from the Chairperson or Mayor;
- that the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters leading to the complaint.

The Chief Executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the council.

Step 4: Actions where a breach is found to be material

If the subject of a complaint is found to be material the investigator will inform the Chief Executive, who will inform the complainant and respondent. The investigator will then prepare a report for the council on the seriousness of the breach.

In preparing that report the investigator may:

- consult with the complainant, respondent and any affected parties;
- undertake a hearing with relevant parties; and/or
- refer to any relevant documents or information.

On receipt of the investigator's report the Chief Executive will prepare a report for the council or committee with delegated authority, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The Chief Executive's report will include the full report prepared by the investigator.

Step 5: Process for considering the investigator's report

Depending upon the nature of the complaint and alleged breach the investigator's report may be considered by the full council, excluding the complainant, respondent and any other 'interested' members, or a committee established for that purpose.

The council or committee will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s.48 of the LGOIMA, in which case it will be a closed meeting.

Before making any decision in respect of the investigator's report the council or committee will give the member against whom the complaint has been made an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

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

In accordance with this Code councils will agree to implement the recommendations of a Code of Conduct Committee without debate.

Appendix C: Self-Assessment template

Please rate how you view the performance of elected members collectively (acting as the council) in the following areas:

A rating of 1 indicates an excellent level of performance – through to a rating of 4 indicating that the collective performance of elected members could improve significantly.

1. We act together as a team to deliver value to the people of our district/region.

1	2	3	4	(please circle)
---	---	---	---	------------------------

2. We are effective in being part of a coordinated approach to promote the district/regions.

1	2	3	4	(please circle)
---	---	---	---	------------------------

3. We have effective working relationships with key stakeholder groups.

1	2	3	4	(please circle)
---	---	---	---	------------------------

4. We have an effective working relationship with Council staff through members interactions with the Chief Executive.

1	2	3	4	(please circle)
---	---	---	---	------------------------

5. We engage effectively with the community on issues of importance to them.

1	2	3	4	(please circle)
---	---	---	---	------------------------

6. We are well prepared and well equipped to make informed decisions in our capacity as elected representatives.

1	2	3	4	(please circle)
---	---	---	---	------------------------

7. We participate appropriately in debates and act collectively in the best interests of the Northland region.

1	2	3	4	(please circle)
---	---	---	---	------------------------

8. Council decisions are made in an open and transparent fashion.

1	2	3	4	(please circle)
---	---	---	---	------------------------

9. We treat each other with mutual respect and demonstrate tolerance to different points of view in order to arrive at the best decisions for the region as a whole.

1 2 3 4 **(please circle)**

10. We have a clear sense of direction and understanding

1 2 3 4 **(please circle)**

The objective of this assessment is not necessarily that all members should agree.

Analysis of results may provide a useful starting point for discussions on the overall performance of the governance functions of the council and provide some insight into areas where improvements may be possible.

Appendix D: 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.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse or a company in which they have an interest). In relation to pecuniary interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests a person is deemed to be "concerned or interested" in a contract or interested "directly or indirectly" in a decision when:

- a person, or spouse or partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- a person, or their spouse or partner, is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected member's family trust and the council.

Determining whether a pecuniary interest exists

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned."
(OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors.

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor/Chair or other person to determine if they should discuss or vote on an issue but ultimately it is their own 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.

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 staff member) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to council.

If convicted of any offence under this Act a person can be imprisoned for up to two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of council; and
- use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

These offences are punishable by a term of imprisonment of seven years or more. Elected members convicted of these offences will automatically cease to be members.

Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places 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. Provisions directly relevant to this Code include:

Personal liability of members

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under section 44 LGA 2002, it is found that one of the following applies:

- a) money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) an asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) a liability has been unlawfully incurred by the local authority; or
- d) a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- a) without the member's knowledge;
- b) with the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) contrary to the manner in which the member voted on the issue; and
- d) in circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situation members will also be responsible for paying the costs of proceedings (section 47 LGA 2002).