

Appendix 1 – Legislation relating to committee structure and appointments

Section 41A (3) and (4) of Local Government Act 2002 (LGA 2002)– Roles and powers of mayors

[41A Role and powers of mayors

- (1) The role of a mayor is to provide leadership to—
 - (a) the other members of the territorial authority; and
 - (b) the people in the district of the territorial authority.
- (2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.
- (3) For the purposes of subsections (1) and (2), a mayor has the following powers:
 - (a) to appoint the deputy mayor;
 - (b) to establish committees of the territorial authority;
 - (c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—
 - (i) may make the appointment before the other members of the committee are determined; and
 - (ii) may appoint himself or herself.
- (4) However, nothing in subsection (3) limits or prevents a territorial authority from—
 - (a) removing, in accordance with clause 18 of Schedule 7, a deputy mayor appointed by the mayor under subsection (3)(a); or
 - (b) discharging or reconstituting, in accordance with clause 30 of Schedule 7, a committee established by the mayor under subsection (3)(b); or
 - (c) appointing, in accordance with clause 30 of Schedule 7, 1 or more committees in addition to any established by the mayor under subsection (3)(b); or
 - (d) discharging, in accordance with clause 31 of Schedule 7, a chairperson appointed by the mayor under subsection (3)(c).
- (5) A mayor is a member of each committee of a territorial authority.
- (6) To avoid doubt, a mayor must not delegate any of his or her powers under subsection (3).
- (7) To avoid doubt,—
 - (a) clause 17(1) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority unless the mayor of the territorial authority declines to exercise the power in subsection (3)(a);
 - (b) clauses 25 and 26(3) of Schedule 7 do not apply to the appointment of the chairperson of a committee of a territorial authority established under subsection (3)(b) unless the mayor of the territorial authority declines to exercise the power in subsection (3)(c) in respect of that committee.]

Clause 30, Schedule 7, LGA 2002 – Power to appoint committees, subcommittees, other subordinate decision-making bodies, and joint committees

30 Power to appoint committees, subcommittees, other subordinate decision-making bodies, and joint committees

- (1) A local authority may appoint—
 - (a) the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate; and
 - (b) a joint committee with another local authority or other public body [in accordance with clause 30A].
- (2) A committee may appoint the subcommittees that it considers appropriate unless it is prohibited from doing so by the local authority.
- (3) A committee 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 in relation to the committee or other body or the affairs of the committee or other body.
- (4) A subcommittee is subject in all things to the control of the committee that appointed it, and must carry out all general and special directions of the committee given in relation to the subcommittee or its affairs.
- (5) Unless expressly provided otherwise in an Act,—
 - (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.
- (6) Nothing in this clause entitles a local authority or committee to rescind or amend a decision made under a delegation authorising the making of decision by a committee, a subcommittee, or another subordinate decision-making body.
- (7) A committee, subcommittee, or other subordinate decision-making body is, unless the local authority resolves otherwise, deemed to be discharged on the coming into office of the members of the local authority elected or appointed at, or following, the triennial general election of members next after the appointment of the committee, subcommittee, or other subordinate decision-making body.
- (8) *Repealed.*
- [(9) *Repealed.*]
- [(10) *Repealed.*]

Clause 30A, Schedule 7, LGA 2002 –Joint committees

[30A Joint committees

- (1) A local authority may not appoint a joint committee under clause 30(1)(b) unless it has first reached agreement with every other local authority or public body that is to appoint members of the committee.
- (2) An agreement under subclause (1) must specify—
 - (a) the number of members each local authority or public body may appoint to the committee; and
 - (b) how the chairperson and deputy chairperson of the committee are to be appointed; and
 - (c) the terms of reference of the committee; and
 - (d) what responsibilities (if any) are to be delegated to the committee by each local authority or public body; and
 - (e) how the agreement may be varied.
- (3) An agreement under subclause (1) may also specify any other matter relating to the appointment, operation, or responsibilities of the committee that the parties agree.
- (4) A local authority or public body must not enter into an agreement under subclause (1) that is inconsistent with any enactment applying to that local authority or public body, or its members.
- (5) A joint committee appointed under clause 30(1)(b) is deemed to be both a committee of the appointing local authority and a committee of each other local authority or public body that has appointed members to the committee.
- (6) This Part applies to a joint committee except that—
 - (a) the powers to discharge any individual member and appoint another in his or her stead must be exercised by the local authority or public body that made the appointment; and
 - (b) the quorum at a meeting of the committee consists of—
 - (i) half of the members if the number of members (including vacancies) is an even number; or
 - (ii) a majority of members if the number of members (including vacancies) is an odd number; and
 - (c) the following matters may be varied by an agreement under subclause (1):
 - (i) the procedure by which the chairperson and deputy chairperson are to be appointed;
 - (ii) the procedure by which the chairperson or deputy chairperson may be removed from that office;
 - (iii) whether a quorum must include 1 or more members appointed by each party, or any party;
 - (iv) the extent to which the standing orders of any local authority or public body apply to meetings of the joint committee.
- [(6A) For the purposes of subclause (6)(b), a mayor who is a member of the committee solely by operation of section 41A(5) is not counted as a member of the committee for the purposes of determining—
 - (a) the number of members required to constitute a quorum; and
 - (b) whether a quorum exists at a meeting.]]
 - (7) Nothing in [[subclauses (1) to (4)]] applies to a joint committee constituted or continued by, or required to be constituted or continued by, an enactment other than this Act.]

Clause 31, Schedule 7, LGA 2002 – Membership of committees and subcommittees

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.