



# **ATTACHMENTS**

**Ordinary Council meeting  
Separate Attachments 1**

**Tuesday, 7 October 2025**





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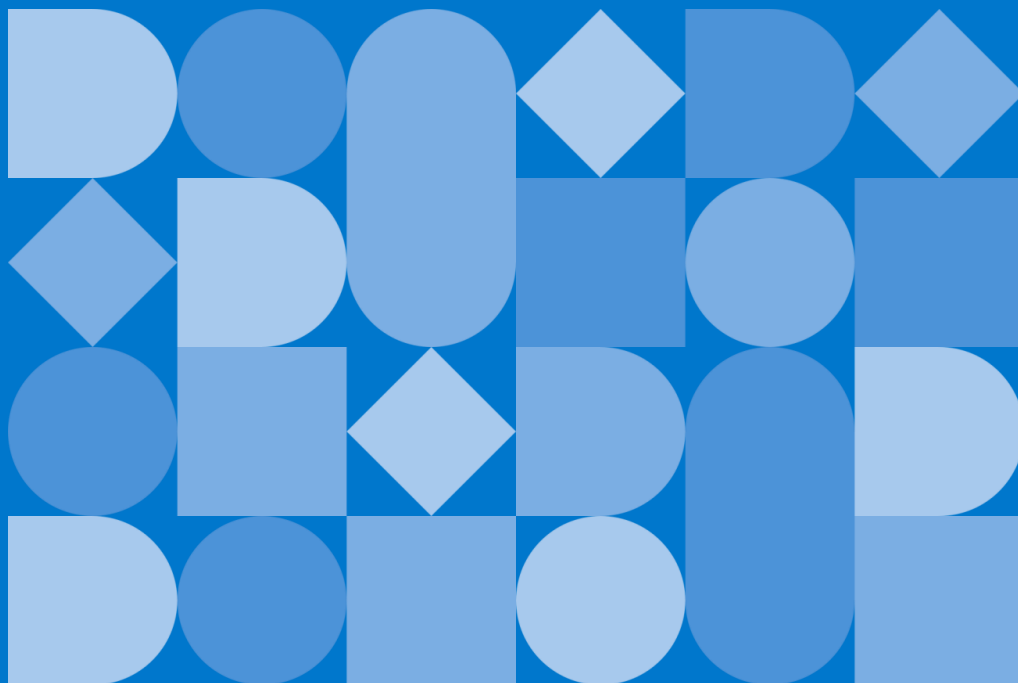
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# Draft Code of Conduct

## Tikanga Whanonga Hukihuki

Tauranga City Council  
Kaunihera Tauranga Taone  
Adopted on (put in date)



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## 1. Introduction - Whakatakinga

The Code of Conduct (the Code) has been adopted in accordance with the requirements of Clause 15, Schedule 7 of the Local Government Act 2002 (LGA), which requires every local authority to adopt a Code of Conduct for its elected members.

The Code contributes to:

- good governance of the City;
- effective decision-making and community engagement;
- the credibility and accountability of the Council to its communities; and
- a culture of mutual trust, respect and tolerance between the members of the Council and with management.

The Code sets standards for the behaviour of members towards other members, staff, the public and the media. It is also concerned with the disclosure of information that members receive in their capacity as members and includes a general explanation of the Local Government Official Information and Meetings Act 1987 and other legislation that applies to members.

When adopting a code of conduct, the Council must consider whether it must require a member or newly elected member to declare whether or not the member is an undischarged bankrupt.

Members of Tauranga City Council must comply with the Code of Conduct.

Before the Mayor and Councillors can take office they must make a declaration in accordance with s 14 of the LGA 2002 to:

*"I, (name of Mayor or Councillor), 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 Tauranga City, the powers, authorities, and duties vested in, or imposed upon, me as [mayor or member] of the Tauranga City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act"*

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

## 2. Members' commitment - Ngā herenga a ngā mema

These commitments apply when conducting the business of the Council as its representative or the representative of a ward, and communicating with other members, the media, the public, or staff. By adopting the Code of Conduct members agree that they will:

- treat all people fairly,
- treat all other members, staff, and members of the public, with respect,
- share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties,
- operate in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi,
- make it clear, when speaking publicly, that statements reflect their personal view, unless otherwise authorised to speak on behalf of the local authority,

- take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of a member,
- not bully, harass, or discriminate unlawfully against any person,
- not bring the local authority into disrepute,
- not use their position to improperly advantage themselves or anyone else or disadvantage another person,
- not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority,
- not disclose information acquired, or given, in confidence, which they believe is of a confidential nature.

### 3. Definitions - Tautuhinga

For the purposes of this Code “member” means an elected or appointed member of:

- the governing body of the Tauranga City Council,
- any committee or sub-committee of the Tauranga City Council

### 4. Te Tiriti o Waitangi - The Treaty of Waitangi

The Tauranga City Council commits to operating in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi and acknowledges the following principles:

1. **Tino Rangatiratanga:** The principle of self-determination provides for Māori self-determination and mana motuhake. This requires local authorities to be open to working with mana whenua partners in the design and delivery of their work programmes,
2. **Partnership:** The principle of partnership implies that local authorities will seek to establish a strong and enduring relationship with iwi and Māori, within the context of iwi and Māori expectations. Council should identify opportunities, and develop and maintain ways, for Māori to contribute to Council decisions, and consider ways Council can help build Māori capacity to contribute to council decision-making,
3. **Equity:** The principle of equity requires local authorities to commit to achieving the equitable delivery of local public services,
4. **Active protection:** The principle of active protection requires local authorities to be well informed on the wellbeing of iwi, hapū and whanau within their respective rohe,
5. **Options:** The principle of options requires local authorities to ensure that its services are provided in a culturally appropriate way that recognises and supports the expression of te ao Māori.

## 5. Principles of good governance - Mātāpono whakahaerenga pai

Members recognise the importance of the following principles of good governance.

1. **Public interest:** members should act solely in the public interest.
2. **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
3. **Tāria te wā and kaitiakitanga/stewardship:** members should use long-term perspective when making decisions. Decisions, which impact on past, current and future generations, also affect collective well-being.
4. **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
5. **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
6. **Openness:** members should act and take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.
7. **Honesty:** members should be truthful and not misleading.
8. **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.
9. **Free speech:** members will respect and foster the free exchange of information and the expression of diverse opinions by other members.

## 6. Behaviours - Whanonga

To promote good governance and build trust between the local authority, its members, and citizens, members **agree** to the following standards of conduct when they are:

- conducting the business of the local authority,
- acting as a representative of the local authority,
- acting as a representative of their electorate,
- communicating with other members, the media, the public and staff, and
- using social media and other communication channels.<sup>1</sup>

Where a member's conduct falls short of these standards, members accept that they may be subject to a complaint made under the council's Policy for alleged breaches of the Code of Conduct.

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<sup>1</sup> Please refer to protocols for social media in Appendix A the Code and to the LGNZ Good Governance Guide for further information on using social media and keeping safe.

### 6.1 Respect - Whakaute

Members will treat all other members, staff, and members of the public, with respect.

Respect means politeness and courtesy in behaviour, speech, and writing. Debate and differences are all part of a healthy democracy. As a member of a local authority you can challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You must not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Offensive behaviour lowers the public's expectations of, and confidence in, your local authority. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police.

### 6.2 Bullying, harassment, and discrimination – Whakaweti, whakangari, whakahāwea hoki

Members will treat all people fairly and will not:

- bully any person,
- harass any person, or
- discriminate unlawfully against any person.

For the purpose of the Code of Conduct, bullying is offensive, intimidating, malicious, or insulting behaviour. It represents an abuse of power through means that undermine, humiliate, denigrate, or injure another person. It may be:

- a regular pattern of behaviour, or a one-off incident,
- occur face-to-face, on social media, in emails or phone calls, happen in the workplace, or at work social events, and
- may not always be obvious or noticed by others.

Harassment means conduct that causes alarm or distress, or puts people in fear of violence, and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination occurs when a person is treated unfairly, or less favourably, than another person because of any of the following<sup>2</sup>:

age	skin, hair, or eye colour	race
disability	employment status	ethical belief
ethnic or national origin	family status	marital status
political opinion	religious belief	gender identity
sex	sexual orientation.	

<sup>2</sup> See Human Rights Commission <https://www.govt.nz/browse/law-crime-and-justice/human-rights-in-nz/human-rights-and-freedoms/>



### **6.3 Sharing information - Tohatoha taipitopito**

Members will share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties.

Occasionally members will receive information in their capacity as members of the governing body, which is pertinent to the ability of their kaunihera to properly perform its statutory duties. Where this occurs members will disclose any such information to other members and, where appropriate, the chief executive. Members who are offered information on the condition that it remains confidential will inform the person making the offer that they are under a duty to disclose such information, for example, to a governing body meeting in public exclusion.

### **6.4 Expressing personal views publicly - Tuku whakaaro whaiaro ki te tūmatanui**

Members, except when authorised to speak on behalf of the local authority, will make it clear, when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

The media play an important role in the operation and efficacy of our local democracy and need accurate and timely information about the affairs of the local authority to fulfil that role. Members are free to express a personal view to the media and in other public channels at any time, provided the following rules are observed:

- they do not purport to talk on behalf of the local authority, if permission to speak on behalf of the authority has not been given to them
- their comments must not be inconsistent with the Code, for example, they should not disclose confidential information or criticise individual members of staff, and
- their comments must not purposefully misrepresent the views of the local authority or other members.

Members will abide by the social media protocols described in Appendix A.

### **6.5 Provide equitable contribution - Te hāpai taurua i ngā mahi**

Members will take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of them.

Being a member is a position of considerable trust, given to you by your community to act on their behalf. To fulfil the expectations of your constituents and contribute to the good governance of your area it is important that you make all reasonable efforts to attend meetings and workshops, prepare for meetings, attend civic events, and participate in relevant training seminars.

The local government workload can be substantial, and it is important that every member contributes appropriately. This requires members to often work as a team and avoid situations where the majority of the work falls on the shoulders of a small number of members.

### **6.6 Disrepute - Whakautenga**

Members will not bring the local authority into disrepute.

Members are trusted to make decisions on behalf of their communities and as such their actions and behaviours are subject to greater scrutiny than other citizens. Members' actions

also reflect on the local authority as well as themselves and can serve to either boost or erode public confidence in both.

Behaviours that might bring a local authority into disrepute, and diminish its ability to fulfil its statutory role, include behaviours that are dishonest and/or deceitful. Adhering to this Code does not in any way limit a member's ability to hold the local authority and fellow members to account or constructively challenge and express concerns about decisions and processes undertaken by their local authority.

#### **6.7 Use of position for personal advantage - Whakamahinga tika i te tūranga**

Members will not use, or attempt to use, their position to improperly advantage themselves or anyone else, or disadvantage another person.

Being a member of a local authority comes with certain opportunities and privileges, including the power to make choices that can impact on others. Members must not take advantage of such opportunities to further their own or others' private interests or to disadvantage anyone unfairly. A member found to have personally benefited by information gained as an elected member may be subject to the provisions of the Secret Commissions Act 2010.

#### **6.8 Impartiality - Tōkeke**

Members will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They must not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers to gain understanding of their thinking and decision-making, however, they must not seek to influence officials to change their advice or alter the content of a report, other than in a meeting or workshop, if doing so would prejudice their professional integrity. Members should:

- make themselves aware of the obligations that the local authority and chief executive have as employers and always observe these requirements, such as the obligation to be a good employer, and
- observe any protocols put in place by the chief executive concerning contact between members and employees, and not publicly criticise individual staff.

If you have concerns about the behaviour of an official, whether permanent or contracted, you should raise your concerns with the local authority's chief executive, or, if the concerns are to do with the chief executive, raise them with the mayor, the council chairperson, or chief executive performance committee.

#### **6.9 Maintaining confidentiality - Kia mata hunahuna**

Members will not disclose information acquired, or given, in confidence, which they believe is of a confidential nature, unless.

1. they have the consent of a person authorised to give it,
2. they are required by law to do so,
3. the disclosure is to a third party to obtain professional legal advice, and that the third party agrees not to disclose the information to any other person, or
4. the disclosure is reasonable and in the public interest, is made in good faith, and in compliance with the reasonable requirements of the local authority.

## **7. Register of Interests - Rēhita Pānga**

### **7.1 Pecuniary and non-pecuniary declarations of Interest – Whakapuakanga Pānga**

The Local Government (Pecuniary Interests Register) Amendment Act 2002 requires members to complete an annual declaration of pecuniary (financial) interests and the details of this are set out in Appendix B. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making.

The Local Authorities (Members' Interests) Act 1968 (LAMIA) requires members to declare pecuniary interests of their associates (defined as a spouse or domestic partner or any family members living with them) and require declarations of non-pecuniary (non-financial) interests. A description of LAMIA is in Appendix B.

A summary of members' information is made available on the Council's website.

Please note, where a member's circumstances change they must ensure that their declaration of interest is updated as soon as practicable.

### **7.2 Gift Register - Rēhita Takoha**

The Local Government (Pecuniary Interests Register) Amendment Act 2002 requires a description of gifts of more than \$500 to be declared annually as well as travel outside of New Zealand that is not paid for by the member or their family. Details are set out in Appendix B.

## **8. Undischarged bankrupt - Kaihau i herea tonutia**

In accordance with clause 15(5) of Schedule 7 of the LGA 2002, any member who is an undischarged bankrupt shall notify the Chief Executive prior to the inaugural meeting or as soon as practicable after being declared bankrupt.

## **9. Policy for investigating and ruling on alleged breaches of the Code - Kaupapa here ki te whakawā, ki te whakatau hoki i ngā whatinga tikanga**

### **9.1 Principles - Mātāpono**

The following principles will guide any processes for investigating and determining whether or not a breach under the Code has occurred:

- (a) the complaints process will be independent, impartial and respect members' privacy and that natural justice and fairness concepts will apply.
- (b) Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
- (c) Members will have a right to seek independent advice, be represented, and if they choose, be accompanied by a support person throughout the process.
- (d) Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- (e) Complainants, and members subject to a complaint, will have access to advice and support for the time it takes to find a resolution.<sup>3</sup>
- (f) That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach.
- (g) 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.

## 9.2 Complaints - Kōamauamu

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the chief executive, who can make a complaint on behalf of their staff. All complaints made under the code must be made in writing and forwarded to the Chief Executive

## 9.3 Complaint referred to Independent Investigator - Kōmauamu i tonoa ki te Kaiwhakawā Motuhake

On receipt of a complaint the Chief Executive will forward the complaint to an independent investigator, drawn from a pool of names or agency agreed in advance in consultation with the Council.<sup>4</sup>

The chief executive is responsible for compiling a list of independent investigators. In selecting them, a chief executive may consider:

- the council's legal advisers,
- a national service specialising in public sector integrity,
- a national service providing assessment and investigation services, or
- an individual with relevant skills and competencies.

## 9.4 Role of Independent Investigator - Tūranga Kaiwhakawā Motuhake

On receipt of a complaint the Independent Investigator will undertake a preliminary assessment to determine the relative merit and seriousness or materiality of the complaint, and the nature of the subsequent process that will be followed.

The independent investigator will:

- determine whether a breach has occurred,
- if so, determine the seriousness or materiality of the breach, and

<sup>3</sup> For example, by enabling both parties to access a council's Employee Assistance Programme (EAP) or elected member's equivalent.

<sup>4</sup> On behalf of the Council the Chief Executive will prepare a list of investigators for this purpose of undertaking a preliminary assessment.

- determine actions that a local authority should take in response to the breach.

#### **9.4.1 Dismiss complaint - Whakawātea i te kōamuamu**

The complaint may be dismissed if the independent investigator finds them to be trivial, vexatious, frivolous, or politically motivated.

If a complaint is not dismissed, the independent investigator may initiate a number of processes where they consider the breach is minor and non-material or amenable to mediation.

#### **9.4.2 Uphold the complaint but rule that it is minor and non-material and recommend a course of action appropriate to the breach - Purutanga kōamuamu iti me te tūtohu huarahi atu**

In the case of a breach that is minor and non-material or amendable to mediation, the independent investigator may refer the person responsible for the alleged breach to the mayor/chair for their advice and guidance. These will not be reported to the local authority. A meeting or meetings with the mayor will be regarded as sufficient to resolve the complaint. Where a member is referred to the chair, the independent investigator may also recommend, for the chair's consideration:

- That the member attends a relevant training course to increase their knowledge and understanding of the matters resulting in the complaint.
- That the member work with a mentor for a period.
- That the member tenders an apology.

#### **9.4.3 Mediation - Whakaratarata**

If the complaint concerns a dispute between two members, or between a member and another party, the independent investigator may recommend mediation. If mediation is agreed by both parties, then its completion will represent the end of the complaints process. The outcomes of any mediation will be confidential and, other than reporting that a complaint has been resolved through mediation, there will be no additional report to the local authority.

Complaints that are dismissed, deemed to be minor and referred to a mayor or chair, or resolved by mediation, will not be reported to the local authority.

#### **9.4.4. Determining the significance or materiality of an alleged breach - Whakawā i te panga, i te hua o tētahi takahanga whakapae**

The independent investigator may take whatever actions they need to determine the significance or materiality of a complaint, within the budgetary constraints set down, including re-assessing the complaint.

The independent investigator will undertake an investigation appropriate to the scale of the breach, which may include:

- Consulting with the complainant and respondent
- Interviewing other affected parties
- Undertaking a hearing with relevant parties

The independent investigator will prepare a report for the chief executive which will set out the rationale for their findings and may include recommendations for resolving the breach and appropriate penalties.

When considering the issue of significance or materiality, the independent investigator will need to consider a range of factors before deciding, such as:

- Was the breach intentional or unintentional?
- Did it occur once or is there a pattern of recurring behaviour?
- Does the breach have legal or financial ramifications for the council?
- What is the impact of the breach on other elected members, on staff and on the community in general?

#### 9.4.5 Independent investigator's powers - Mana kaiwhakawā motuhake

On completing their preliminary investigation, an independent investigator may

- dismiss a complaint they consider to be trivial, vexatious, frivolous or politically motivated
- re-direct a complaint that is outside the scope of the Code to another agency or institutional process
- deem a complaint to be minor or non-material and refer a complaint to a chair/mayor
- refer the parties for mediation with an independent facilitator
- deem a complaint to be material and serious and investigate the complaint and prepare a report
- make recommendations which are binding on the Council to implement OR make recommendations which are non-binding on the Council (choose one)

The independent investigator's ruling will be contained in a report to the chief executive which will form the basis of a consequent report to the Council, or a committee with delegated responsibility to consider complaints, to inform them of the decision and the actions that they may be required to take.

The chief executive's report will contain the independent investigator's recommendations and their full report, which will be presented to the Council or a committee with delegated responsibility to consider complaints.

Any recommended actions made by the independent investigator in response to a complaint that has been upheld are binding on the local authority OR are non-binding on the local authority (choose one).

(put in wording if recommendations are to be non-binding). The Council can either accept the investigator's recommendations or, if they believe it is justified, amend the independent investigator's recommendations. As part of these considerations the complainant and respondent may be asked to appear before the council or committee and answer questions from members.

The Council will ensure that members with an interest in the complaint are not present during the discussion on the independent investigator's recommendations.

The penalty or sanction that might be applied will depend on the seriousness of the breach and options are set out in section 9.6.

(wording to be inserted if the decision is to have the independent investigators rulings binding) This is to ensure the process for investigation is free of any suggestion of bias and reduces the cost of the complaints process, by reducing the time spent on it, by members and officials.

The chief executive's report may also outline the plan for the report's public release.

The report will be received in a public meeting unless grounds, such as s.48 of LGOIMA, exist for the exclusion of the public.

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

Refer also to **Appendix D** – Complaints Procedure Flow Diagram

**Please note:** All actions taken in the implementation of a policy must be consistent with the Bill of Rights Act 1990. No appeal right is included in the Code of Conduct. Members who are unhappy with an independent investigator's decision have access to judicial review and/or the Ombudsman's Office.

#### **9.4.6 Costs and support - Utu me taunaki**

The costs of assessment and investigatory services will be met by the Council.

Members, those who make complaints, and those who are subject to a complaint, will be given appropriate and reasonable support.

#### **9.5 Materiality and seriousness of breach - Pānga takahanga motuhenga**

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

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

#### **9.6 Actions that may be applied when a breach has been confirmed - Ngā mahi ka whāia pea ina whakatauhia ai tētahi takahanga**

Where a complaint that the Code of Conduct was breached has been upheld, any actions taken against the member found to be in breach should be consistent with the following principles.

- Actions should be commensurate with the seriousness of the breach.
- Actions should be applied in a manner that is culturally appropriate and safe for the members involved.
- Actions should, to the degree practical, contribute to an inclusive culture in the local authority by focusing on constructive mediation, learning, and member improvement.

In determining a response to a breach of the Code of Conduct, one or more of the following could be selected:

1. That no action is required.
2. That the member meets with the mayor/chair for advice.
3. That the member attends a relevant training course.
4. That the member agrees to cease the behaviour.
5. That the member work with a mentor for a period.
6. That the member tenders an apology.
7. That the member participates in voluntary mediation (if the complaint involves a conflict between two members).
8. That the local authority sends a letter of censure to the member.
9. That the local authority passes a vote of no confidence in the member.

10. That the member loses certain kaunihera-funded privileges (such as attendance at conferences).
11. That the member loses specific responsibilities, such as committee chair, deputy committee chair or portfolio holder.
12. That the member be subject to restricted entry to kaunihera offices, such as no access to staff areas (where restrictions may not previously have existed).
13. That the member be subject to limitations on their dealings with kaunihera staff, other than the chief executive or identified senior manager.
14. That the member be suspended from committees or other bodies to which the member has been appointed.
15. That the member be invited to consider resigning from the council.

**Please note:** Actions 1-6 will typically not be reported to the local authority. Actions 7-15, which have a high degree of public interest, namely democratic representation, should be considered in an open meeting, unless there are grounds, such as those set out in LGOIMA, for not doing so.

#### 9.7 Statutory breaches - Takahanga ture

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

#### 10. Review - Arotakenga

Once adopted, the Code continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered.

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



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

### Āpitihanga A: Kupu ārahi i te whakamahinga whaiaro i te paepapori

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 guidelines are designed to help you when engaging in **personal or unofficial online** communications that may also refer to Tauranga City Council.

1. **Adhere to the Code of Conduct and other applicable policies.** Council policies and legislation, such as LGOIMA and the Privacy Act 2020, 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 social media but in so doing you must exercise sound judgment and common sense and clarify whether you are speaking personally or on behalf of the Council.
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 exceptionally 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 the 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 Council no member should represent themselves falsely via aliases or differing account names. 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.

Refer to [The Good Governance Guide, Attachment A](#) for dealing with abuse, harassment, and intimidation from the public, especially as it relates to social media

## Appendix B: Legislation which sets standards for ethical behaviour

### Āpitihanga B: Ngā ture e whakatakoto ana i ngā paerewa mō ngā whanonga matatika

Clause 15 of Schedule 7 of the Local Government Act 2002 (LGA 2002), requires that the Code of Conduct provides members with a general explanation of the Local Government Official Information and Meetings Act 1987, and any other enactment or rule of law that affects members.

The key statutes that promote ethical behaviour are the Local Government Act 2002 (LGA 2002), Local Government Official Information Act 1987 (LGOIMA), the Local Authorities (Members' Interests) Act 1968 (LAMIA), the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Serious Fraud Office Act 1990, the Local Government (Pecuniary Interests Register) Act 2022, the Health and Safety at Work Act 2015, and the Harmful Digital Communications Act 2015.

#### The Local Government Act 2002 - Te Ture Kāwanatanga ā-Rohe 2002

The LGA 2002 is local government's empowering statute. It establishes our system of local government and sets out the rules by which it operates. Those rules include the principles underpinning council decision-making, governance principles, Te Tiriti obligations as set by the Crown, and the role of the chief executive which is:

1. implementing the decisions of the local authority,
2. providing advice to members of the local authority,
3. ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed, or exercised,
4. ensuring the effective and efficient management of the activities of the local authority,
5. facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001,
6. maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority,
7. providing leadership for the staff of the local authority,
8. employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy), and
9. negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).

#### The Local Government Official Information and Meetings act 1987 - Taipitopito Ture Kāwanatanga ā-Rohe me Ngā Hui 1987

The LGOIMA sets rules for ensuring the public are able to access official information unless there is a valid reason for withholding it. All information should be considered public and released accordingly unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

There are both conclusive and other reasons for withholding information set out in sections 6 and 7 of LGOIMA, which include:

**Conclusive reasons for withholding** – if making the information available would likely:

- prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- endanger the safety of any person.

**Other reasons for withholding** – withholding the information is necessary to:

- protect the privacy of natural persons, including that of deceased natural persons;
- protect information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- in the case of an application for resource consents or certain orders under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain the effective conduct of public affairs through free and frank expression of opinions between or to members and local authority employees in the course of their duty or the protection of such people from improper pressure or harassment;
- maintain legal professional privilege;
- enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these 'other' reasons, a public interest balancing test applies. In these cases the council must consider whether the withholding of that information is outweighed by other considerations that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA need to be made by the appropriately authorised people within each council, and elected members must work within the rules adopted by each council.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

#### **The role of the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman's primary role under the Ombudsmen Act 1975 is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

Anyone who has a complaint of that nature about a local authority may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the chief executive of the local body involved, or any other party. The Ombudsman's decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the local authority takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to the local authority under this Act will, in general, become binding unless the local authority resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

### **The Local Authorities (Members' Interests) Act 1968 - Ture Mana ā-Rohe (Pānga Mema) 1968**

#### **Pecuniary interests**

The LAMIA provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the council. LAMIA has two main rules, referred to here as the contracting rule (in section 3 of the LAMIA) and the participation rule (in section 6 of the LAMIA).

- The **contracting rule** prevents a member from having interests in contracts with the local authority that are worth more than \$25,000 in any financial year, unless the Auditor-General approves the contracts. Breach of the rule results in automatic disqualification from office.
- The **participation rule** prevents a member from voting or taking part in the discussion of any matter in which they have a financial interest, other than an interest in common with the public. The Auditor-General can approve participation in limited circumstances. Breach of the rule is a criminal offence, and conviction results in automatic disqualification from office.

Both rules have a complex series of subsidiary rules about their scope and exceptions.

The LAMIA does not define when a person is "concerned or interested" in a contract (for the purposes of section 3) or when they are interested "directly or indirectly" in a decision (for the purposes of section 6). However, it does set out two situations where this occurs. These are broadly where:

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

However, in some situations outside the two listed in the Act a person can be "concerned or interested" in a contract or have a pecuniary interest in a decision, for example, where a contract is between the members family trust and the council.

#### **Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, which are addressed through the LAMIA, there are also legal rules about conflicts of interest more generally. These are rules that apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine

if bias exists, consider this question: Is there a real danger of bias on the part of the member of the decision-making body, in the sense that they might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?

The question is not limited to actual bias but relates to the appearance or possibility of bias. This is in line with the principle that justice should not only be done but should be seen to be done. Whether or not you believe that you are not biased is irrelevant. The focus should be on the nature of any conflicting interest or relationship, and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- statements or conduct indicate that a member has predetermined the decision before hearing all relevant information (that is, they have a “closed mind”), or
- a member has close relationship or involvement with an individual or organisation affected by the decision.

### Seeking exemption from the Auditor-General

Members who have a financial conflict of interest that is covered by section 6 of the LAMIA, may apply to the Auditor-General for approval to participate. The Auditor-General can approve participation in two ways.

1. Section 6(3)(f) allows the Auditor-General to grant an exemption if, in their opinion, a member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.
2. Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if they are satisfied that:
  - a. the application of the rule would impede the transaction of business by the council; or
  - b. it would be in the interests of the electors or residents of the district/region that the rule should not apply.

More information on non-pecuniary conflicts of interest and how to manage them can be found in the Auditor-General's Guidance for members of local authorities about the law on conflicts of interest.

### Protected Disclosures (Protection of Whistleblowers) Act 2022 - Ture Whākinga Tapu ((Taunaki i te Kaiwhāki) 2022

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:

- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial

- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

Council need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an "appropriate authority" under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

#### **The Serious Fraud Office Act 1990 - Ture o te Tari Tinihanga Motuhenga 1990**

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
- Risk mitigation to manage risks that can't be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

#### **The Local Government (Pecuniary Interests Register) Act 2022 - Ture Kāwanatanga ā-Rohe (Rēhita Pānga Putea) 2022**

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a local authority must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,

- the name of each trust in which the member has a beneficial interest,
- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the local authority, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

#### **The Health and Safety Act at Work Act 2015 - Ture Whakahaumarū ki te Mahi 2015**

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are "officers" under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation's culture, and
- getting your workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members' role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

### **The Harmful Digital Communications Act 2015 - Ture Whakawhitinga Kino ā-Matihiko 2015**

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital communications (like text, emails, or social media content) which can include racist, sexist and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual
- be threatening, intimidating, or menacing
- be grossly offensive to a reasonable person in the position of the affected individual
- be indecent or obscene
- be used to harass an individual
- make a false allegation
- contain a matter that is published in breach of confidence
- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual
- incite or encourage an individual to commit suicide
- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability

More information about the Act can be found at [Netsafe](#).



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

### Āpitihanga C: Tukanga tuku i te kōamuamu ki te kaiwhakawā motuhake

#### Step 1: Chief Executive receives complaint

All complaints made under this Code of Conduct must be made in writing and forwarded to the chief executive who will refer the complaint to an independent investigator selected from a list agreed at the start of the term. 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 of Conduct; and
- Inform the respondent that a complaint has been made against them, the name of the investigator and remind them of the process for dealing with complaints as set out in the Code of Conduct.

#### Step 2: Investigator makes preliminary assessment

On receipt of a complaint the independent investigator will assess whether:

1. The complaint is trivial, vexatious, frivolous or politically motivated and should be dismissed;
2. The complaint is outside the scope of the Code and should be re-directed to another agency or institutional process;
3. The complaint is minor or non-material;
4. The complaint is material and a full assessment is required.

In making the preliminary assessment the investigator may make whatever initial inquiry is necessary to determine their recommendations, including interviewing relevant parties, which are then forwarded to the Council's Chief Executive.

#### Step 3: Actions where a complaint is found to be trivial, vexatious, frivolous or politically motivated

If the subject of a complaint is found to be trivial, vexatious, frivolous or politically motivated by the independent investigator, they will inform the Chief Executive. On receiving the independent investigator's preliminary assessment the Chief Executive will inform the complainant, respondent and other members (if there are no grounds for confidentiality) of the investigator's decision. The complainant will have no recourse or appeal.

#### Step 4: Actions where a complaint involves a potential legislative breach

In cases where the independent investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, the investigator will inform the Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive will forward the complaint to the relevant agency and inform the complainant, the respondent and members.

**Step 5: Actions where a complaint is found to be minor and non-material**

If the subject of a complaint is found to be non-material, but more than trivial, vexatious, frivolous or politically motivated, the investigator will inform the Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive may choose to implement any recommendations from the investigator to either:

- (a) dismiss the complaint with no further action taken
- (b) uphold the complaint but rule that, as it is minor and non-material, no action is required
- (c) uphold the complaint, noting it is minor and non-material, and make a non-binding recommendation with a course of action appropriate to the breach, such as:
  - That the respondent is referred to the Mayor/Chair for guidance; and/or
  - That the respondent attends appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.
- (d) Seek the agreement of the parties to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter is closed and no further action is required. Note: if the parties do not agree to mediation, or mediation is unsuccessful in resolving the matter, the independent investigator will investigate and make a recommendation to the Chief Executive

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 6: Actions where a complaint is found to be serious and material**

If the subject of a complaint is found to be serious and material, the investigator will inform the Chief Executive, who will inform the complainant and respondent. At this point the Chief Executive will report to the Council that the complaint is found to be material and a decision will be made on whether the Council hears the complaint, or it is referred to an adjudicative body or a committee with delegated responsibility to consider complaints and determine penalties. The investigator will then undertake an investigation appropriate to the scale of the breach and prepare a report for the Council a committee with delegated responsibility to consider complaints and determine penalties on the seriousness of the breach. In preparing that report, the investigator may:

- Consult with the complainant, respondent and any directly affected parties; and/or
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

The Chief Executive will send a copy of the independent investigator's findings to the complainant and the respondent(s) inviting them to reply in writing as to whether or not they agree to the findings and whether they wish to make a written submission for consideration by the Council or Committee with delegated responsibility to consider complaints and determine penalties.

**Step 7A: Process for considering the independent investigator's report where their recommendations are non-binding**

On receipt of the investigator's report, the Chief Executive will prepare a report, including the independent investigator's full report and any submissions from affected parties, for the relevant Council body charged with assessing and ruling on material complaints, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed.

The Council, or adjudicative body, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body may ask the investigator to provide a briefing on their findings and invite the complainant and/or respondent to speak to any submissions that they might have made.

Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.

The Council, or council committee with delegated authority, will decide whether a material breach of the Code has occurred and what, if any, penalty or action should occur in response to the breach. The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 9 of the Code.

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

**OR Step 7B: Process for considering the independent investigator's report where their recommendations are binding**

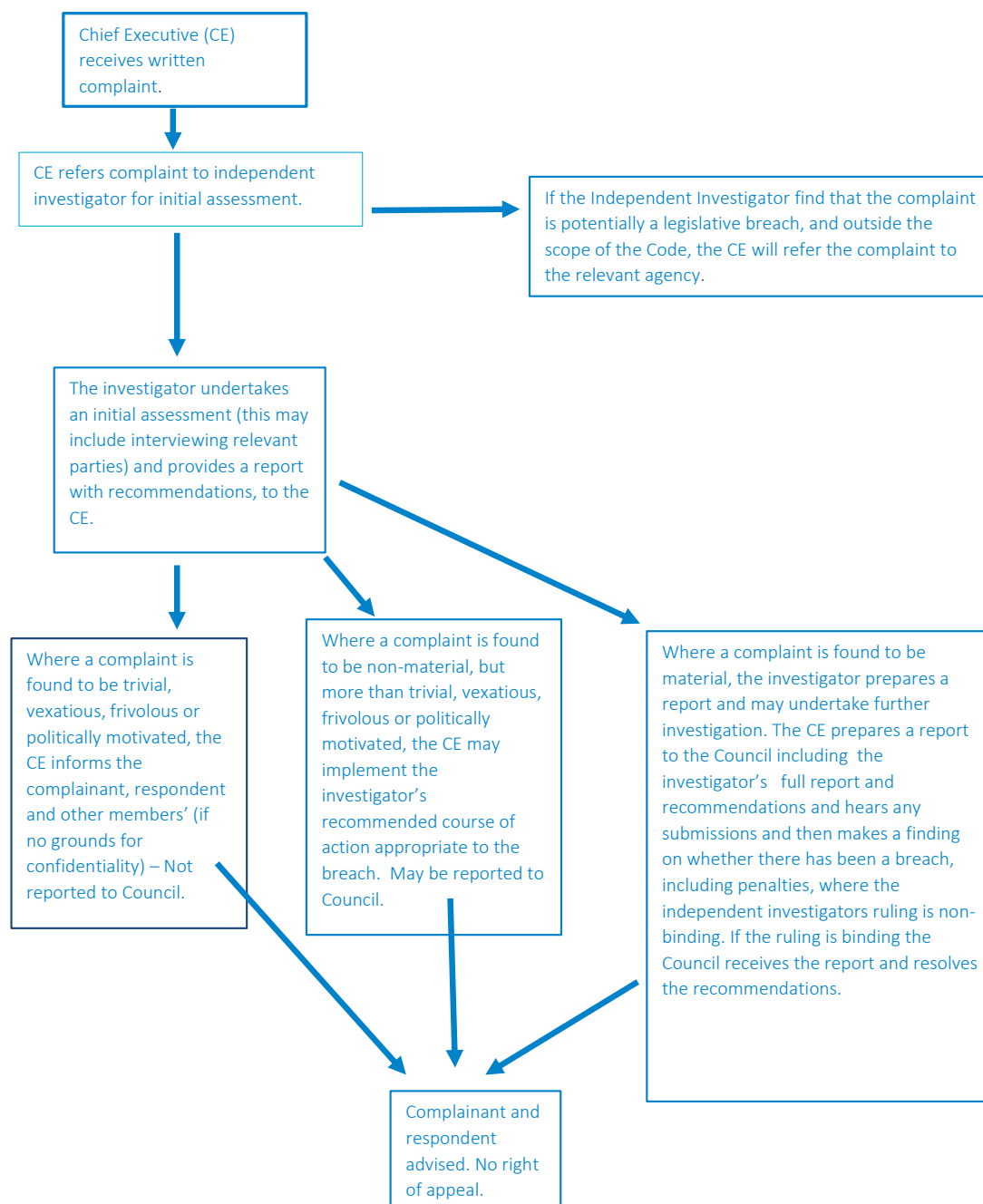
On receipt of the investigator's report, the Chief Executive will prepare a report, including the independent investigator's full report and any submissions from affected parties, for the relevant Council body charged with considering breaches of the Code, which will meet to consider the findings and implement the recommendations of the independent investigator. The report will be for their information only. The rulings of the independent investigator will be binding on the Council or relevant Council committee.

The Council, or council committee, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. The relevant body may ask the investigator to provide a briefing on their findings and invite the complainant and/or respondent to speak to any submissions that they might have made.

Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.

## Appendix D: Complaints Procedure – Flow Diagram

### Āpitianga D: Hātepe Kōamuamu – Hoahoa Rerenga





# **Tauranga City Council**

## **Draft Code of Conduct**

**Adopted on the**

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## 1. Introduction

The Code of Conduct (the Code) has been adopted in accordance with the requirements of Clause 15, Schedule 7 of the Local Government Act 2002 (LGA), which requires every local authority to adopt a Code of Conduct for its elected members.

The Code contributes to:

- good governance of the City;
- effective decision-making and community engagement;
- the credibility and accountability of the Council to its communities; and
- a culture of mutual trust, respect and tolerance between the members of the Council and with management.

The Code sets standards for the behaviour of members towards other members, staff, the public and the media. It is also concerned with the disclosure of information that members receive in their capacity as members and includes a general explanation of the Local Government Official Information and Meetings Act 1987 and other legislation that applies to members.

When adopting a code of conduct, the Council must consider whether it must require a member or newly elected member to declare whether or not the member is an undischarged bankrupt.

Members of Tauranga City Council must comply with the Code of Conduct.

Before the Mayor and Councillors can take office they must make a declaration in accordance with s 14 of the LGA 2002 to:

*"I, (name of Mayor or Councillor), 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 Tauranga City, the powers, authorities, and duties vested in, or imposed upon, me as [mayor or member] of the Tauranga City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act"*

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

## 2. Members' commitment

### Ngā herenga a ngā mema

These commitments apply when conducting the business of the Council as its representative or the representative of a ward, and communicating with other members, the media, the public, or staff. By adopting the Code of Conduct members agree that they will:

- treat all people fairly,
- treat all other members, staff, and members of the public, with respect,
- share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties,
- operate in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi,
- make it clear, when speaking publicly, that statements reflect their personal view, unless otherwise authorised to speak on behalf of the local authority,

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- take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of a member,
- not bully, harass, or discriminate unlawfully against any person,
- not bring the local authority into disrepute,
- not use their position to improperly advantage themselves or anyone else or disadvantage another person,
- not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority,
- not disclose information acquired, or given, in confidence, which they believe is of a confidential nature.

### 3. Definitions

For the purposes of this Code “member” means an elected or appointed member of:

- the governing body of the Tauranga City Council,
- any committee or sub-committee of the Tauranga City Council

### 4. Te Tiriti o Waitangi

The Tauranga City Council commits to operating in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi and acknowledges the following principles:

1. **Tino Rangatiratanga:** The principle of self-determination provides for Māori self-determination and mana motuhake. This requires local authorities to be open to working with mana whenua partners in the design and delivery of their work programmes,
2. **Partnership:** The principle of partnership implies that local authorities will seek to establish a strong and enduring relationship with iwi and Māori, within the context of iwi and Māori expectations. Council should identify opportunities, and develop and maintain ways, for Māori to contribute to Council decisions, and consider ways Council can help build Māori capacity to contribute to council decision-making,
3. **Equity:** The principle of equity requires local authorities to commit to achieving the equitable delivery of local public services,
4. **Active protection:** The principle of active protection requires local authorities to be well informed on the wellbeing of iwi, hapū and whanau within their respective rohe,
5. **Options:** The principle of options requires local authorities to ensure that its services are provided in a culturally appropriate way that recognises and supports the expression of te ao Māori.

## 5. Principles of good governance

(refer integrity principle)(refer accountability principle) (refer honesty and integrity principles)(refer objectivity principle)(see behaviours section) (refer honesty and openness principles) (see behaviours section)(refer leadership principle)(see new principle 9 and behaviours section) (refer openness principle)

Members recognise the importance of the following principles of good governance.

1. **Public interest:** members should act solely in the public interest.
2. **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
3. **Tāria te wā and kaitiakitanga/stewardship:** members should use long-term perspective when making decisions. Decisions, which impact on past, current and future generations, also affect collective well-being.
4. **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
5. **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
6. **Openness:** members should act and take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.
7. **Honesty:** members should be truthful and not misleading.
8. **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.
9. **Free speech:** members will respect and foster the free exchange of information and the expression of diverse opinions by other members.

## 6. Behaviours

To promote good governance and build trust between the local authority, its members, and citizens, members **agree** to the following standards of conduct when they are:

- conducting the business of the local authority,
- acting as a representative of the local authority,
- acting as a representative of their electorate,
- communicating with other members, the media, the public and staff, and

- using social media and other communication channels.<sup>2</sup>

Where a member's conduct falls short of these standards, members accept that they may be subject to a complaint made under the council's Policy for alleged breaches of the Code of Conduct.

### **6.1 Respect**

Members will treat all other members, staff, and members of the public, with respect.

Respect means politeness and courtesy in behaviour, speech, and writing. Debate and differences are all part of a healthy democracy. As a member of a local authority you can challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You must not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Offensive behaviour lowers the public's expectations of, and confidence in, your local authority. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police.

### **6.2 Bullying, harassment, and discrimination**

Members will treat all people fairly and will not:

- bully any person,
- harass any person, or
- discriminate unlawfully against any person.

For the purpose of the Code of Conduct, bullying is offensive, intimidating, malicious, or insulting behaviour. It represents an abuse of power through means that undermine, humiliate, denigrate, or injure another person. It may be:

- a regular pattern of behaviour, or a one-off incident,
- occur face-to-face, on social media, in emails or phone calls, happen in the workplace, or at work social events, and
- may not always be obvious or noticed by others.

Harassment means conduct that causes alarm or distress, or puts people in fear of violence, and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination occurs when a person is treated unfairly, or less favourably, than another person because of any of the following<sup>3</sup>:

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<sup>2</sup> Please refer to protocols for social media in Appendix A the Code and to the LGNZ Good Governance Guide for further information on using social media and keeping safe.

<sup>3</sup> See Human Rights Commission <https://www.govt.nz/browse/law-crime-and-justice/human-rights-in-nz/human-rights-and-freedoms/>

age	skin, hair, or eye colour	race
disability	employment status	ethical belief
ethnic or national origin	family status	marital status
political opinion	religious belief	gender identity
sex	sexual orientation.	

### 6.3 Sharing information

Members will share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties.

Occasionally members will receive information in their capacity as members of the governing body, which is pertinent to the ability of their kaunihera to properly perform its statutory duties. Where this occurs members will disclose any such information to other members and, where appropriate, the chief executive. Members who are offered information on the condition that it remains confidential will inform the person making the offer that they are under a duty to disclose such information, for example, to a governing body meeting in public exclusion.

### 6.4 Expressing personal views publicly

Members, except when authorised to speak on behalf of the local authority, will make it clear, when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

The media play an important role in the operation and efficacy of our local democracy and need accurate and timely information about the affairs of the local authority to fulfil that role. Members are free to express a personal view to the media and in other public channels at any time, provided the following rules are observed:

- they do not purport to talk on behalf of the local authority, if permission to speak on behalf of the authority has not been given to them
- their comments must not be inconsistent with the Code, for example, they should not disclose confidential information or criticise individual members of staff, and
- their comments must not purposefully misrepresent the views of the local authority or other members.

Members will abide by the social media protocols described in Appendix A.

### 6.5 Provide equitable contribution

Members will take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of them.

Being a member is a position of considerable trust, given to you by your community to act on their behalf. To fulfil the expectations of your constituents and contribute to the good governance of your area it is important that you make all reasonable efforts to attend meetings and workshops, prepare for meetings, attend civic events, and participate in relevant training seminars.

The local government workload can be substantial, and it is important that every member contributes appropriately. This requires members to often work as a team and avoid situations where the majority of the work falls on the shoulders of a small number of members.

## 6.6 Disrepute

Members will not bring the local authority into disrepute.

Members are trusted to make decisions on behalf of their communities and as such their actions and behaviours are subject to greater scrutiny than other citizens. Members' actions also reflect on the local authority as well as themselves and can serve to either boost or erode public confidence in both.

Behaviours that might bring a local authority into disrepute, and diminish its ability to fulfil its statutory role, include behaviours that are dishonest and/or deceitful. Adhering to this Code does not in any way limit a member's ability to hold the local authority and fellow members to account or constructively challenge and express concerns about decisions and processes undertaken by their local authority.

## 6.7 Use of position for personal advantage

Members will not use, or attempt to use, their position to improperly advantage themselves or anyone else, or disadvantage another person.

Being a member of a local authority comes with certain opportunities and privileges, including the power to make choices that can impact on others. Members must not take advantage of such opportunities to further their own or others' private interests or to disadvantage anyone unfairly. A member found to have personally benefited by information gained as an elected member may be subject to the provisions of the Secret Commissions Act 2010.

## 6.8 Impartiality

Members will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They must not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers to gain understanding of their thinking and decision-making, however, they must not seek to influence officials to change their advice or alter the content of a report, other than in a meeting or workshop, if doing so would prejudice their professional integrity. Members should:

- make themselves aware of the obligations that the local authority and chief executive have as employers and always observe these requirements, such as the obligation to be a good employer, and
- observe any protocols put in place by the chief executive concerning contact between members and employees, and not publicly criticise individual staff.

If you have concerns about the behaviour of an official, whether permanent or contracted, you should raise your concerns with the local authority's chief executive, or, if the concerns are to do with the chief executive, raise them with the mayor, the council chairperson, or chief executive performance committee.

## 6.9 Maintaining confidentiality

Members will not disclose information acquired, or given, in confidence, which they believe is of a confidential nature, unless.

1. they have the consent of a person authorised to give it,
2. they are required by law to do so,

3. the disclosure is to a third party to obtain professional legal advice, and that the third party agrees not to disclose the information to any other person, or
4. the disclosure is reasonable and in the public interest, is made in good faith, and in compliance with the reasonable requirements of the local authority.

## **7. Register of Interests**

### **7.1 Pecuniary and non-pecuniary declarations of Interest**

The Local Government (Pecuniary Interests Register) Amendment Act 2002 requires members to complete an annual declaration of pecuniary (financial) interests and the details of this are set out in Appendix B. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making.

The Local Authorities (Members' Interests) Act 1968 (LAMIA) requires members to declare pecuniary interests of their associates (defined as a spouse or domestic partner or any family members living with them) and require declarations of non-pecuniary (non-financial) interests. A description of LAMIA is in Appendix B.

A summary of members' information is made available on the Council's website.

Please note, where a member's circumstances change they must ensure that their declaration of interest is updated as soon as practicable.

### **7.2 Gift Register**

The Local Government (Pecuniary Interests Register) Amendment Act 2002 requires a description of gifts of more than \$500 to be declared annually as well as travel outside of New Zealand that is not paid for by the member or their family. Details are set out in Appendix B.

## **8. Undischarged bankrupt**

In accordance with clause 15(5) of Schedule 7 of the LGA 2002, any member who is an undischarged bankrupt shall notify the Chief Executive prior to the inaugural meeting or as soon as practicable after being declared bankrupt.

## **9. Policy for investigating and ruling on alleged breaches of the Code**

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### **9.1 Principles**

The following principles will guide any processes for investigating and determining whether or not a breach under the Code has occurred:

- (a) The complaints process will be independent, impartial and respect members' privacy and that natural justice and fairness concepts will apply.
- (b) Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
- (c) Members will have a right to seek independent advice, be represented, and if they choose, be accompanied by a support person throughout the process.
- (d) Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- (e) Complainants, and members subject to a complaint, will have access to advice and support for the time it takes to find a resolution.<sup>4</sup>
- (f) That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach.
- (g) 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

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## 9.2 Complaints

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the chief executive, who can make a complaint on behalf of their staff. All complaints made under the code must be made in writing and forwarded to the Chief Executive

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## 9.3 Complaint referred to Independent Investigator

On receipt of a complaint the Chief Executive will forward the complaint to an independent investigator, drawn from a pool of names or agency agreed in advance in consultation with the Council.<sup>6</sup>

The chief executive is responsible for compiling a list of independent investigators. In selecting them, a chief executive may consider:

- the council's legal advisers,
- a national service specialising in public sector integrity,
- a national service providing assessment and investigation services, or
- an individual with relevant skills and competencies.

<sup>4</sup> For example, by enabling both parties to access a council's Employee Assistance Programme (EAP) or elected member's equivalent.

<sup>6</sup> On behalf of the Council the Chief Executive will prepare a list of investigators for this purpose of undertaking a preliminary assessment.

#### **9.4 Role of Independent Investigator**

On receipt of a complaint the Independent Investigator will undertake a preliminary assessment to determine the relative merit and seriousness or materiality of the complaint, and the nature of the subsequent process that will be followed.

The independent investigator will:

- determine whether a breach has occurred,
- if so, determine the seriousness or materiality of the breach, and
- determine actions that a local authority should take in response to the breach.

##### **9.4.1 Dismiss complaint**

The complaint may be dismissed if the independent investigator finds them to be trivial, vexatious, frivolous, or politically motivated.

If a complaint is not dismissed, the independent investigator may initiate a number of processes where they consider the breach is minor and non-material or amenable to mediation.

##### **9.4.2 Uphold the complaint but rule that it is minor and non-material and recommend a course of action appropriate to the breach**

In the case of a breach that is minor and non-material or amendable to mediation, the independent investigator may refer the person responsible for the alleged breach to the mayor/chair for their advice and guidance. These will not be reported to the local authority. A meeting or meetings with the mayor will be regarded as sufficient to resolve the complaint. Where a member is referred to the chair, the independent investigator may also recommend, for the chair's consideration:

- That the member attends a relevant training course to increase their knowledge and understanding of the matters resulting in the complaint.
- That the member work with a mentor for a period.
- That the member tenders an apology.

##### **9.4.3 Mediation**

If the complaint concerns a dispute between two members, or between a member and another party, the independent investigator may recommend mediation. If mediation is agreed by both parties, then its completion will represent the end of the complaints process. The outcomes of any mediation will be confidential and, other than reporting that a complaint has been resolved through mediation, there will be no additional report to the local authority.

Complaints that are dismissed, deemed to be minor and referred to a mayor or chair, or resolved by mediation, will not be reported to the local authority.



#### 9.4.4 Determining the significance or materiality of an alleged breach

The independent investigator may take whatever actions they need to determine the significance or materiality of a complaint, within the budgetary constraints set down, including re-assessing the complaint.

The independent investigator will undertake an investigation appropriate to the scale of the breach, which may include:

- Consulting with the complainant and respondent
- Interviewing other affected parties
- Undertaking a hearing with relevant parties

The independent investigator will prepare a report for the chief executive which will set out the rationale for their findings and may include recommendations for resolving the breach and appropriate penalties.

When considering the issue of significance or materiality, the independent investigator will need to consider a range of factors before deciding, such as:

- Was the breach intentional or unintentional?
- Did it occur once or is there a pattern of recurring behaviour?
- Does the breach have legal or financial ramifications for the council?
- What is the impact of the breach on other elected members, on staff and on the community in general?

#### 9.4.5 Independent investigator's powers

On completing their preliminary investigation, an independent investigator may

- dismiss a complaint they consider to be trivial, vexatious, frivolous or politically motivated
- re-direct a complaint that is outside the scope of the Code to another agency or institutional process
- deem a complaint to be minor or non-material and refer a complaint to a chair/mayor
- refer the parties for mediation with an independent facilitator
- deem a complaint to be material and serious and investigate the complaint and prepare a report
- make recommendations which are binding on the Council to implement OR make recommendations which are non-binding on the Council (choose one)

The independent investigator's ruling will be contained in a report to the chief executive which will form the basis of a consequent report to the Council, or a committee with delegated responsibility to consider complaints, to inform them of the decision and the actions that they may be required to take.

The chief executive's report will contain the independent investigator's recommendations and their full report, which will be presented to the Council or a committee with delegated responsibility to consider complaints.

Any recommended actions made by the independent investigator in response to a complaint that has been upheld are binding on the local authority OR are non-binding on the local authority (choose one).

(put in wording if recommendations are to be non-binding). The Council can either accept the investigator's recommendations or, if they believe it is justified, amend the independent investigator's recommendations. As part of these considerations the complainant and respondent may be asked to appear before the council or committee and answer questions from members.

The Council will ensure that members with an interest in the complaint are not present during the discussion on the independent investigator's recommendations.

The penalty or sanction that might be applied will depend on the seriousness of the breach and options are set out in section 9.6.

(wording to be inserted if the decision is to have the independent investigators rulings binding) This is to ensure the process for investigation is free of any suggestion of bias and reduces the cost of the complaints process, by reducing the time spent on it, by members and officials.

The chief executive's report may also outline the plan for the report's public release.

The report will be received in a public meeting unless grounds, such as s.48 of LGOIMA, exist for the exclusion of the public.

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

Refer also to **Appendix D** – Complaints Procedure Flow Diagram

**Please note:** All actions taken in the implementation of a policy must be consistent with the Bill of Rights Act 1990. No appeal right is included in the Code of Conduct. Members who are unhappy with an independent investigator's decision have access to judicial review and/or the Ombudsman's Office.

#### 9.4.6 Costs and support

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The costs of assessment and investigatory services will be met by the Council.

Members, those who make complaints, and those who are subject to a complaint, will be given appropriate and reasonable support.

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#### 9.5 Materiality and seriousness of breach

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

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

#### 9.6 Actions that may be applied when a breach has been confirmed Ngā mahi ka whāia pea ina whakatauhia tētahi takahanga

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Where a complaint that the Code of Conduct was breached has been upheld, any actions taken against the member found to be in breach should be consistent with the following principles.

- Actions should be commensurate with the seriousness of the breach.
- Actions should be applied in a manner that is culturally appropriate and safe for the members involved.
- Actions should, to the degree practical, contribute to an inclusive culture in the local authority by focusing on constructive mediation, learning, and member improvement.

In determining a response to a breach of the Code of Conduct, one or more of the following could be selected:

1. That no action is required.
2. That the member meets with the mayor/chair for advice.
3. That the member attends a relevant training course.
4. That the member agrees to cease the behaviour.
5. That the member work with a mentor for a period.
6. That the member tenders an apology.
7. That the member participates in voluntary mediation (if the complaint involves a conflict between two members).
8. That the local authority sends a letter of censure to the member.
9. That the local authority passes a vote of no confidence in the member.
10. That the member loses certain kaunihera-funded privileges (such as attendance at conferences).
11. That the member loses specific responsibilities, such as committee chair, deputy committee chair or portfolio holder.
12. That the member be subject to restricted entry to kaunihera offices, such as no access to staff areas (where restrictions may not previously have existed).
13. That the member be subject to limitations on their dealings with kaunihera staff, other than the chief executive or identified senior manager.
14. That the member be suspended from committees or other bodies to which the member has been appointed.
15. That the member be invited to consider resigning from the council.

**Please note:** Actions 1-6 will typically not be reported to the local authority. Actions 7-15, which have a high degree of public interest, namely democratic representation, should be considered in an open meeting, unless there are grounds, such as those set out in LGOIMA, for not doing so.

### 9.7 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

## 10. Review

Once adopted, the Code continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered.

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

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

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

1. **Adhere to the Code of Conduct and other applicable policies.** Council policies and legislation, such as LGOIMA and the Privacy Act 2020, 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 social media but in so doing you must exercise sound judgment and common sense and clarify whether you are speaking personally or on behalf of the Council.
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 exceptionally 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 the 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 Council no member should represent themselves falsely via aliases or differing account names. 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.

Refer to [The Good Governance Guide, Attachment A](#) for dealing with experiencing abuse, harassment, and intimidation from the public, especially as it relates to social media.

## Appendix B: Legislation which sets standards for ethical behaviour

### Ngā ture e whakatakoto ana i ngā paerewa mō ngā whanonga matatika

Clause 15 of Schedule 7 of the Local Government Act 2002 (LGA 2002), requires that the Code of Conduct provides members with a general explanation of the Local Government Official Information and Meetings Act 1987, and any other enactment or rule of law that affects members.

The key statutes that promote ethical behaviour are the Local Government Act 2002 (LGA 2002), Local Government Official Information Act 1987 (LGOIMA), the Local Authorities (Members' Interests) Act 1968 (LAMIA), the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Serious Fraud Office Act 1990, the Local Government (Pecuniary Interests Register) Act 2022, the Health and Safety at Work Act 2015, and the Harmful Digital Communications Act 2015.

#### The Local Government Act 2002

The LGA 2002 is local government's empowering statute. It establishes our system of local government and sets out the rules by which it operates. Those rules include the principles underpinning council decision-making, governance principles, Te Tiriti obligations as set by the Crown, and the role of the chief executive which is:

1. implementing the decisions of the local authority,
2. providing advice to members of the local authority,
3. ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed, or exercised,
4. ensuring the effective and efficient management of the activities of the local authority,
5. facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001,
6. maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority,
7. providing leadership for the staff of the local authority,
8. employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy), and
9. negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).

#### The Local Government Official Information and Meetings act 1987

The LGOIMA sets rules for ensuring the public are able to access official information unless there is a valid reason for withholding it. All information should be considered public and released accordingly unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

There are both conclusive and other reasons for withholding information set out in sections 6 and 7 of LGOIMA, which include:

Conclusive reasons for withholding – if making the information available would likely:

- prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- endanger the safety of any person.

Other reasons for withholding – withholding the information is necessary to:

- protect the privacy of natural persons, including that of deceased natural persons;
- protect information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- in the case of an application for resource consents or certain orders under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain the effective conduct of public affairs through free and frank expression of opinions between or to members and local authority employees in the course of their duty or the protection of such people from improper pressure or harassment;
- maintain legal professional privilege;
- enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these 'other' reasons, a public interest balancing test applies. In these cases the council must consider whether the withholding of that information is outweighed by other considerations that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA need to be made by the appropriately authorised people within each council, and elected members must work within the rules adopted by each council.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

#### **The role of the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman's primary role under the Ombudsmen Act 1975 is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

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Anyone who has a complaint of that nature about a local authority may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the chief executive of the local body involved, or any other party. The Ombudsman's decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the local authority takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to the local authority under this Act will, in general, become binding unless the local authority resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

### **The Local Authorities (Members' Interests) Act 1968**

#### **Pecuniary interests**

The LAMIA provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the council. LAMIA has two main rules, referred to here as the contracting rule (in section 3 of the LAMIA) and the participation rule (in section 6 of the LAMIA).

- The **contracting rule** prevents a member from having interests in contracts with the local authority that are worth more than \$25,000 in any financial year, unless the Auditor-General approves the contracts. Breach of the rule results in automatic disqualification from office.
- The **participation rule** prevents a member from voting or taking part in the discussion of any matter in which they have a financial interest, other than an interest in common with the public. The Auditor-General can approve participation in limited circumstances. Breach of the rule is a criminal offence, and conviction results in automatic disqualification from office.

Both rules have a complex series of subsidiary rules about their scope and exceptions.

The LAMIA does not define when a person is "concerned or interested" in a contract (for the purposes of section 3) or when they are interested "directly or indirectly" in a decision (for the purposes of section 6). However, it does set out two situations where this occurs. These are broadly where:

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

However, in some situations outside the two listed in the Act a person can be "concerned or interested" in a contract or have a pecuniary interest in a decision, for example, where a contract is between the members family trust and the council.

#### **Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, which are addressed through the LAMIA, there are also legal rules about conflicts of interest more generally. These are rules that apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine if bias exists, consider this question: Is there a real danger of bias on the part of the member



of the decision-making body, in the sense that they might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?

The question is not limited to actual bias but relates to the appearance or possibility of bias. This is in line with the principle that justice should not only be done but should be seen to be done. Whether or not you believe that you are not biased is irrelevant. The focus should be on the nature of any conflicting interest or relationship, and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- statements or conduct indicate that a member has predetermined the decision before hearing all relevant information (that is, they have a “closed mind”), or
- a member has close relationship or involvement with an individual or organisation affected by the decision.

### Seeking exemption from the Auditor-General

Members who have a financial conflict of interest that is covered by section 6 of the LAMIA, may apply to the Auditor-General for approval to participate. The Auditor-General can approve participation in two ways.

1. Section 6(3)(f) allows the Auditor-General to grant an exemption if, in their opinion, a member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.
2. Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if they are satisfied that:
  - a. the application of the rule would impede the transaction of business by the council; or
  - b. it would be in the interests of the electors or residents of the district/region that the rule should not apply.

More information on non-pecuniary conflicts of interest and how to manage them can be found in the Auditor-General's Guidance for members of local authorities about the law on conflicts of interest.

### Protected Disclosures (Protection of Whistleblowers) Act 2022

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:

- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or public resources

- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

Council need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an "appropriate authority" under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

#### **The Serious Fraud Office Act 1990**

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
- Risk mitigation to manage risks that can't be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

#### **The Local Government (Pecuniary Interests Register) Act 2022**

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a local authority must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
- the name of each trust in which the member has a beneficial interest,

- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the local authority, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

### **The Health and Safety Act at Work Act 2015**

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are "officers" under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation's culture, and
- getting your workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members' role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

### **The Harmful Digital Communications Act 2015**

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital

communications (like text, emails, or social media content) which can include racist, sexist and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual
- be threatening, intimidating, or menacing
- be grossly offensive to a reasonable person in the position of the affected individual
- be indecent or obscene
- be used to harass an individual
- make a false allegation
- contain a matter that is published in breach of confidence
- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual
- incite or encourage an individual to commit suicide
- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability

More information about the Act can be found at [Netsafe](#).



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

### Step 1: Chief Executive receives complaint

All complaints made under this Code of Conduct must be made in writing and forwarded to the chief executive who will refer the complaint to an independent investigator selected from a list agreed at the start of the term. 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 of Conduct; and
- Inform the respondent that a complaint has been made against them, the name of the investigator and remind them of the process for dealing with complaints as set out in the Code of Conduct.

### Step 2: Investigator makes preliminary assessment

On receipt of a complaint the independent investigator will assess whether:

1. The complaint is trivial, vexatious, frivolous or politically motivated and should be dismissed;
2. The complaint is outside the scope of the Code and should be re-directed to another agency or institutional process;

The complaint is minor or non-material; 4. The complaint is material and a full assessment is required.

In making the preliminary assessment the investigator may make whatever initial inquiry is necessary to determine their recommendations, including interviewing relevant parties, which are then forwarded to the Council's Chief Executive.

### Step 3: Actions where a complaint is found to be trivial, vexatious, frivolous or politically motivated

If the subject of a complaint is found to be trivial, vexatious, frivolous or politically motivated by the independent investigator, they will inform the Chief Executive. On receiving the independent investigator's preliminary assessment the Chief Executive will inform the complainant, respondent and other members (if there are no grounds for confidentiality) of the investigator's decision. The complainant will have no recourse or appeal.

### Step 4: Actions where a complaint involves a potential legislative breach

In cases where the independent investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, the investigator will inform the Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive will forward the complaint to the relevant agency and inform the complainant, the respondent and members.

### Step 5: Actions where a complaint is found to be minor and non-material

If the subject of a complaint is found to be non-material, but more than trivial, vexatious, frivolous or politically motivated, the investigator will inform the Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive may choose to implement any recommendations from the investigator to either:

- (a) dismiss the complaint with no further action taken
- (b) uphold the complaint but rule that, as it is minor and non-material, no action is required
- (a) uphold the complaint, noting it is minor and non-material, and make a non-binding recommendation with a course of action appropriate to the breach, such as:
  - That the respondent is referred to the Mayor/Chair for guidance; and/or
  - That the respondent attends appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.
- (b) Seek the agreement of the parties to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter is closed and no further action is required. Note: if the parties do not agree to mediation, or mediation is unsuccessful in resolving the matter, the independent investigator will investigate and make a recommendation to the Chief Executive

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 6: Actions where a complaint is found to be serious and material**

If the subject of a complaint is found to be serious and material, the investigator will inform the Chief Executive, who will inform the complainant and respondent. At this point the Chief Executive will report to the Council that the complaint is found to be material and a decision will be made on whether the Council hears the complaint, or it is referred to an adjudicative body or a committee with delegated responsibility to consider complaints and determine penalties. The investigator will then undertake an investigation appropriate to the scale of the breach and prepare a report for the Council a committee with delegated responsibility to consider complaints and determine penalties on the seriousness of the breach. In preparing that report, the investigator may:

- Consult with the complainant, respondent and any directly affected parties; and/or
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

The Chief Executive will send a copy of the independent investigator's findings to the complainant and the respondent(s) inviting them to reply in writing as to whether or not they agree to the findings and whether they wish to make a written submission for consideration by the Council or Committee with delegated responsibility to consider complaints and determine penalties.

#### **Step 7A: Process for considering the independent investigator's report where their recommendations are non-binding**

On receipt of the investigator's report, the Chief Executive will prepare a report, including the independent investigator's full report and any submissions from affected parties, for the relevant Council body charged with assessing and ruling on material complaints, which will

meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed.

The Council, or council committee, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body may ask the investigator to provide a briefing on their findings and invite the complainant and/or respondent to speak to any submissions that they might have made.

Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.

The Council, or council committee with delegated authority, will decide whether a material breach of the Code has occurred and what, if any, penalty or action should occur in response to the breach. The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 9 of the Code.

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

**OR Step 7B: Process for considering the independent investigator's report where their recommendations are binding**

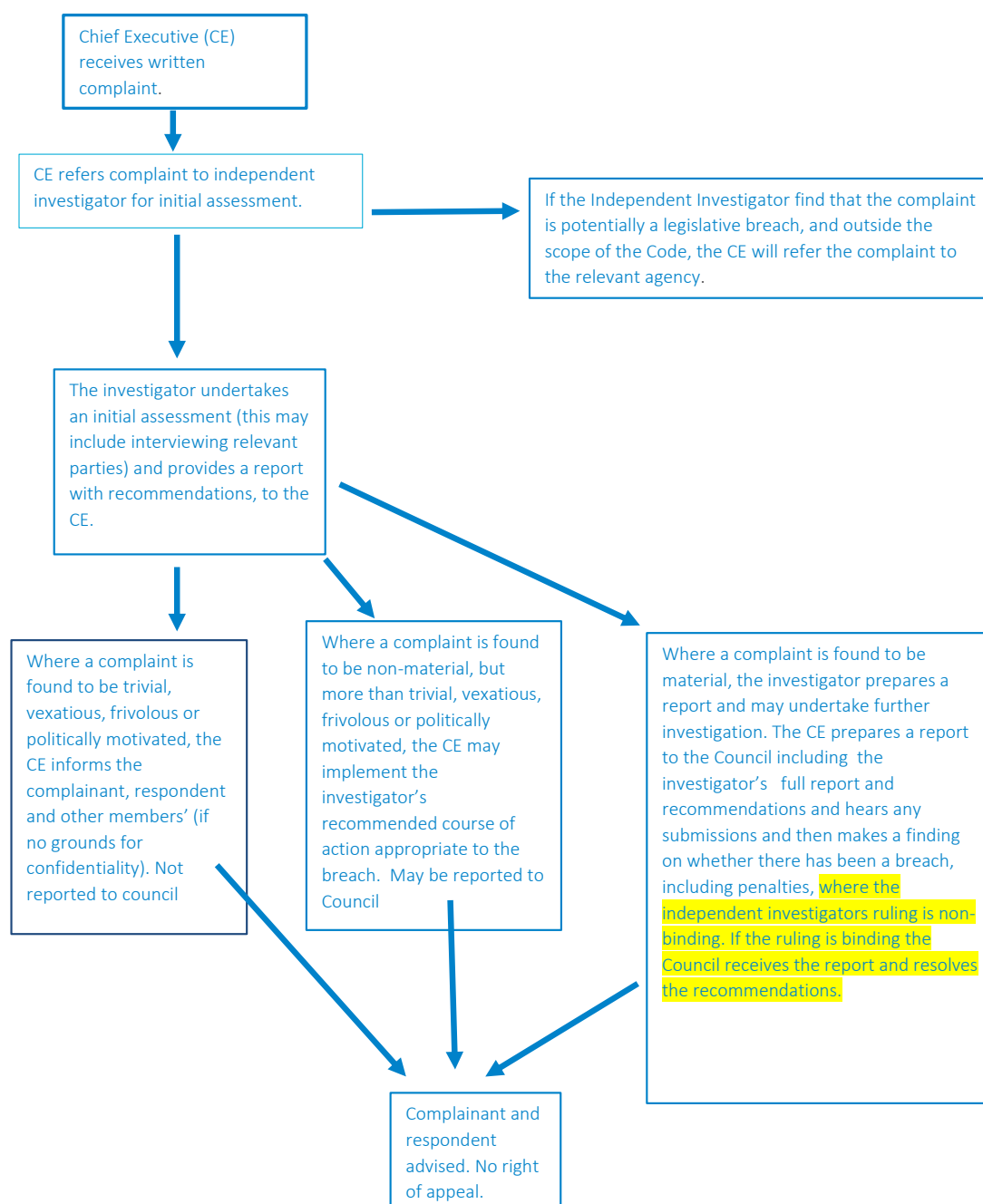
On receipt of the investigator's report, the Chief Executive will prepare a report, including the independent investigator's full report and any submissions from affected parties, for the relevant Council body charged with considering breaches of the Code, which will meet to consider the findings and implement the recommendations of the independent investigator. The report will be for their information only. The rulings of the independent investigator will be binding on the Council or relevant Council committee.

The Council, or council committee, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. The relevant body may ask the investigator to provide a briefing on their findings and invite the complainant and/or respondent to speak to any submissions that they might have made.

Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.



## Appendix D: Complaints Procedure – Flow Diagram





# **Tauranga City Council**

## **Code of Conduct**

**Adopted on the 14 July 2020**

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## 1. Introduction

The Code of Conduct (the Code) sets out the standards of behaviour expected from elected members in the exercise of their duties. Its purpose is to:

- Enhance the effectiveness of the local authority and the provision of good local government of the community, city, district or region;
- Promote effective decision-making and community engagement;
- Enhance the credibility and accountability of the local authority to its communities; and
- Develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviours agreed in the code.

Before the Mayor and Councillors can take office they must make a declaration in accordance with s 14 of the LGA 2002 to:

*"I, (name of Mayor or Councillor), 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 Tauranga City, the powers, authorities, and duties vested in, or imposed upon, me as [mayor or member] of the Tauranga City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act"*

## 2. Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members. The Code is designed to deal with the behaviour of members towards:

- Each other;
- The Chief Executive and staff;
- The media; and
- The general public.

It is also concerned with the disclosure of information that members receive in their capacity as elected members and information which impacts on the ability of the local authority to give effect to its statutory responsibilities.

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Council's Standing Orders.

## 3. Values

The Code is designed to give effect to the following values:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively in an accountable and transparent manner;

3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** members will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by the Code of Conduct and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.<sup>1</sup>
9. **Free speech:** members will respect the diversity of thought and opinion that are part of a healthy democracy.
10. **Transparency:** members will conduct the business of Council in an open, transparent and democratically accountable manner.

These values complement, and work in conjunction with, the principles of s14 of the LGA 2002 and the governance principles of s39 of the LGA 2002.

#### 4. Role and responsibilities

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

##### 4.1 Members

The role of the governing body includes:

- Representing the interests of the people of the city, district or region;
- Developing and adopting plans, policies and budgets;
- Monitoring the performance of the Council against stated goals and objectives set out in its long term plan;
- Providing prudent stewardship of the Council's resources;
- Employing and monitoring the performance of the Chief Executive; and
- Ensuring the Council fulfils its responsibilities to be a 'good employer' and meets the requirements of the Health and Safety at Work Act 2015.

##### 4.2 Chief Executive

The Chief Executive is appointed by the Council in accordance with section 42 of the LGA 2002. The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council. In terms of section 42 of the LGA the responsibilities of the Chief Executive are:

- implementing the decisions of the Council
- providing advice to the Council

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

- ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised
- managing the activities of the local authority effectively and efficiently
- 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 local authority
- employing staff on behalf of the local authority (including negotiation of the terms of employment for the staff of the local authority).

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. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

### 5.1 Relationships between members

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

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

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

### 5.2 Relationships with staff

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

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

Please note, elected members should be aware that failure to observe this portion of the Code may compromise the Council's obligations to be a good employer and consequently expose the Council to civil litigation or affect the risk assessment of Council's management and governance control processes undertaken as part of the Council's annual audit.

### 5.3 Relationship with the public

Given the vital role that democratic local government plays in our communities it is important that Councils have the respect and trust of their citizens. To facilitate trust and respect in their Council members will:

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

## 6. Media and social media

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

Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

1. In dealing with the media elected members must clarify whether they are communicating a view endorsed by their council or committee or are expressing a personal view.
2. Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:
  - Comments shall be consistent with the Code;
  - Comments must not purposefully misrepresent the views of the Council or the views of other members;
  - Social media pages controlled by members and used for making observations relevant to their role as an elected member should be open and transparent, except where abusive or inflammatory content is being posted; and
  - Social media posts about other members, council staff or the public must be consistent with section five of this Code. (See **Appendix A** for guidelines on the personal use of social media).
3. The following members can speak on behalf of the Council:
  - The Mayor is the first point of contact for the official view of the Council on any issue. Where the Mayor is absent any matters will be referred to the Deputy Mayor or relevant committee chairperson;
  - The Mayor may refer any matter to the relevant committee chairperson or to the relevant chairperson(s)
  - The chairperson may comment on behalf of the committee in relation to matters where decision making, public consultation or advocacy is a responsibility of the committee;
  - No other member may comment on behalf of the Council without having first obtained the approval of the Mayor, or on behalf of a committee without first having obtained the approval of the committee chairperson.



## 7. Information

Access to information is critical to the trust in which a local authority is held and its overall performance. A failure to comply with the provisions below can represent a breach of the Code.

### 7.1 Confidential information

In the course of their duties members will receive information, whether in reports or through briefings or debate, that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

### 7.2 Information received in capacity as an elected member

Occasionally members will receive information from external parties which is pertinent to the ability of their Council to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the chief executive as soon as practicable.

## 8. Conflicts of Interest

Elected members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

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

If a member is in any doubt 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 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.

Non-pecuniary conflicts of interest, or the perception of a conflict of interest, may impair (or be seen to impair) a member's ability to act faithfully, impartially and in the best interests of Tauranga City. Non-pecuniary conflicts of interest are to be declared at the beginning of any meeting, or at the first opportunity in a decision-making process.

Non-pecuniary interest is any interest the member may have in an issue that does not involve money. A common term for this is "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.

Refer to Appendix B for further information and refer also to the [Guidance for members about the Local Authorities \(Members' Interests\) Act 1968](#) from the Office of the Auditor General.

**Please note:** Failure to observe the requirements of LAMIA could potentially invalidate a decision made, or the action taken, by the Council. Failure to observe these requirements could also leave the elected member open to prosecution (see **Appendix B**). In the event of a conviction elected members can be ousted from office.

## 9. Register of Interests

### 9.1 Annual Declaration of Interest

Members shall, at least annually, make a declaration of interest using the form in **Appendix C**. These declarations are recorded in a public Register of Interests maintained by the Council. The declaration must include information on the nature and extent of any interest, including:

- (a) Any employment, trade or profession carried on by the member or the member's spouse/partner for profit or gain;
- (b) Any company, trust, partnership etc for which the member or their spouse/partner is a director, business partner or trustee;
- (c) A description of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- (d) A description of any land owned by the local authority in which the member or their spouse/partner is:
  - A tenant; or
  - The land is tenanted by a firm in which the member or spouse/partner is a business partner; a company of which the member or spouse/partner is a director; or a trust of which the member or spouse/partner is a trustee.
- (e) Non-pecuniary interests, for example, patron of an organisation, Membership of a Community/Sporting Committee.
- (f) 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 their declaration of interest is updated as soon as practicable.

## 9.2 Regulatory Register

In addition to the declaration of interests as set out in 9.1, members shall complete the Regulatory Register where there is potential for members to be seen to be influencing a council regulatory and/or compliance outcome.

The Regulatory Register requires a declaration of any potential conflict of interest, actual or perceived, where members have a close relationship or involvement with, or are advocating for and on behalf of, an individual, organisation or company affected by a decision of the Council in its regulatory and compliance roles.

The Regulatory Register:

- promotes greater transparency for the public and staff working in the regulatory and compliance areas of Council.
- provides protection for elected members from perceived conflicts of interest.
- provides protection for staff from perceived pressure and interference in regulatory and compliance decisions.

For clarity, the Regulatory Register is not required to be completed where members are making routine inquiries on behalf of their constituents e.g. elected members queries or where members are undertaking discussions and meetings of a general nature with developers or businesses.

## 9.3 Gift Register

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 gift register together with the details of the party and circumstances to explain how the gift came to be provided to and accepted by the member.

## 10. Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly members will:

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or their families', personal or business interests;
- Only use the Council's resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position. Refer to clause 9.3.

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

## 11. Creating a supportive and inclusive environment

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

- Attending post-election induction programmes organised by the Council for the purpose of facilitating agreement on the Council's vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment or evaluation of the Council's performance and operating style during the triennium.
- Taking all reasonable steps to acquire the required skills and knowledge to effectively fulfil their Declaration of Office (the Oath) and contribute to the good governance of the city, district or region.

## 12. Dress code

It is expected that members will dress in a manner that does not bring discredit to the Council.

## 13. Undischarged bankrupt

In accordance with clause 15(5) of Schedule 7 of the LGA 2002, any member who is an undischarged bankrupt shall notify the Chief Executive prior to the inaugural meeting or as soon as practicable after being declared bankrupt.

## 14. Breaches of the Code

Members must comply with the provisions of the code (LGA 2002, schedule 7, cl. 15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

### 14.1 Principles

The following principles will guide any processes for investigating and determining whether or not a breach under the Code has occurred:

- (a) That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach;
- (b) 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
- (c) That the concepts of natural justice and fairness will apply in the determination of any complaints made under the Code. This includes, conditional on the nature of an alleged breach, that directly affected parties:
  - Have a right to know that an investigation process is underway;
  - Are given due notice and are provided with an opportunity to be heard;
  - Have confidence that any hearing will be impartial;
  - Have a right to seek appropriate advice and be represented; and
  - Have their privacy respected.

### 14.2 Complaints

All complaints made under the code must be made in writing and forwarded to the Chief Executive. On receipt of a complaint the Chief Executive will forward the complaint to an independent investigator, drawn from a pool of names or agency agreed in advance.<sup>2</sup>

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<sup>2</sup> On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare a list of investigators for this purpose of undertaking a preliminary assessment.

Please note, only members and the Chief Executive (including the Chief Executive acting on behalf of staff) may make a complaint under the Code.

#### 14.2.1 Complaint referred to Independent Investigator

Where the Chief Executive has forwarded a complaint to an independent investigator, the independent investigator will conduct a preliminary assessment to determine whether the issue is sufficiently serious to be referred, with recommendations if necessary, to the Council or the Code of Conduct Committee (if established with delegated authority to deal with complaints) for assessing and ruling on complaints.

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

Refer also to **Appendix E** – Complaints Procedure Flow Diagram.

#### 14.3 Materiality

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

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

### 15. Penalties and actions

Where a complaint is determined to be material the Chief Executive will report to the Council that the complaint is found to be material and a decision will be made by the Council on whether the Council hears the complaint or is referred to the Code of Conduct Committee established to consider complaints, the nature of any penalty or action will depend on the seriousness of the breach.

#### 15.1 Material breaches

In the case of material breaches of the Code, the Council, or the Code of Conduct Committee established to consider complaints, may require one of the following:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. Removal of certain Council-funded privileges (such as attendance at conferences);
4. Removal of responsibilities, such as committee chair, deputy committee chair or portfolio holder;
5. Restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. Limitation on any dealings with Council staff other than the Chief Executive or identified senior manager;
7. A vote of no confidence in the member;
8. Suspension from committees or other bodies to which the member has been appointed; or
9. Invitation to the member to consider resigning from the Council.

The Council or Code of Conduct Committee (with delegated authority) may decide that instead of a penalty, one or more of the following may be required:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or

- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

### 15.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

## 16. Review

Once adopted, the Code continues in force until amended by the Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered.

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

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

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

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

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

This is a summary of the legislative requirements that have some bearing on the duties and conduct of elected members. The full statutes can be found at [www.legislation.govt.nz/](http://www.legislation.govt.nz/)

### The Local Authorities (Members' Interests) Act 1968

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

The two specific rules in the LAMIA are that members cannot:

- (a) Enter into contracts with their local authority worth more than \$25,000 (including GST) in a financial year unless the Auditor-General approves the contracts (referred to as the contracting rule). Breach of this rule results in automatic disqualification from office; and
- (b) Participate in matters before the Council in which they have a pecuniary interest, other than an interest in common with the public (referred to as the participation rule). Breach of this rule is a criminal offence and conviction results in automatic disqualification from office

A pecuniary interest is one that involves money. This could be direct or indirect.

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

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

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

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected 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 need to be recorded in the meeting minutes. (Further requirements are set out in the Council's Standing Orders.)

Further guidance is provided in the booklet “Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968” which has been provided to elected members. It is important that you pay attention to the contents of this booklet as this is one of the few areas of the Council's business where staff do not set out to provide pro-active advice and members are personally liable for compliance with the provisions of this Act.

**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. Non-pecuniary interest is any interest the member may have in an

issue that does not involve money. A common term for this is “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).

[The Guidance on Member’s Interest](#) provided by Office of the Auditor General provides advice and information on this issue. If a member thinks they may have an “interest” in any matter before the Council or a Committee then discuss the issue with your lawyer (at no cost to the Council), the Mayor, the Committee Chair or the Chief Executive before the meeting. While this will not relieve you of your obligations under the LAMIA it will provide you with some independent guidance. The Council has adopted the recommendation of the Office of the Auditor General and has asked all elected members to make a written declaration of their personal and financial interests that may at times conflict with their role as an elected member. This information will be kept in a “Register of Interests” and this is made available for public inspection upon request. Members are responsible for keeping their written declarations up to date at all times. Members will be reminded on an annual basis to update their declaration.

### **Local Government Official Information and Meetings Act 1987**

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

Under LGOIMA the authority to make decisions on whether information should be released is delegated to the Chief Executive. Information contained in the open section of any agenda is already in the public domain. Any information marked "public excluded" or "confidential" should not be released or discussed outside the meeting concerned. If, as an elected member, you are asked to provide that information to a third party you should refer the request to either the Chief Executive or to the General Manager responsible for the report. Should an elected member release confidential information and should the Council suffer any loss as a result, the member may become personally liable for the Council's loss if it can be shown that the member was not acting in good faith.

### **Secret Commissions Act 1910**

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

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

Prosecutions made for offences under this Act require the approval of the Attorney-General who has the power to decide whether any such prosecution shall be dealt with as an indictable offence or as one punishable on summary conviction. An indictable offence penalty for individuals includes up to two years imprisonment or a fine of up to \$1,000.00. A conviction would also have the consequences of loss of office in terms of Clause 1 of Schedule 7 of the Local Government Act 2002. For a summary offence the penalties include a period of up to 3 months imprisonment or a fine of up to \$100.00.

### **Crimes Act 1961**

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

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

Elected members convicted of these offences will automatically cease to be members.

Elected members are deemed to be "officials" for the purposes of this Act and are subject to the penalties if found to be in breach of them. A conviction would also have the consequences of loss of office in terms of Clause 1 of Schedule 7 of the Local Government Act 2002 (which disqualifies a Member who is convicted of an offence punishable by a term of imprisonment of two years or more).

### **Financial Markets Conduct Act 2013**

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

**The Local Government Act 2002**

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles, and details the personal liability of members.

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s44 LGA 2002, it is found that one of the following applies:

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

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

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

In certain situation members will also be responsible for paying the costs of proceedings (s47 LGA 2002).

**Protected Disclosures Act 2000 (Whistle-Blower Protection)**

The Protected Disclosures Act 2000 was amended in May 2009 to provide protection to elected members. Under the Act the definition of an employee of a public sector organisation (PSO) includes elected members of the governing body of an organisation. Under the Act an employee who discloses information about a serious wrongdoing by the PSO is protected from civil or criminal liability that might arise from such a disclosure and from retaliatory action against the employee.

Serious wrongdoing under the Act includes unlawful or irregular use of funds or resources, conduct that has serious risks to public health and safety; conduct that has serious risk to the maintenance of law; conduct that constitutes an offence; and oppressive, improper discriminatory conduct, gross negligence or gross mismanagement by a public official. Protection under the Act applies where an employee has information about a serious wrongdoing; a reasonable belief that the information is true or likely to be true; the employee wishes to have the matter investigated; and desires protection under the Act. The Act requires disclosure by an employee to follow the internal procedures of the PSO.

The Council is required to establish internal procedures to address the receipt of and dealing with information about serious wrongdoing in or by the Council. The Council adopted a [Protected Disclosures Policy](#) on 22 February 2007, updated on 7 December 2015, and it is available on the Council's website

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**Appendix C: Register of interests form**

<b>Member name:</b>
<b>Spouse/partner name:</b>
<b>Part A: Member's declared employment, trade or profession and any company, trust or partnership for which the member is a director, business partner or trustee</b>
<b>Part B: Spouse/partner declared employment, trade or profession and any company, trust or partnership for which the member is a director, business partner or trustee</b>
<b>Part C: Address of any land in which a beneficial interest is held within the Council boundaries by the member and their spouse/partner</b>

Part D: Address of any land owned by the Council that is tenanted by the member or their spouse/partner, or to a firm or organisation in which the member or their spouse/partner is a director or trustee


Part E: Non-pecuniary interests e.g. Patron of an organisation, Membership of a Community/Sporting Committee


Part F: Any other matters to declare that the public might reasonably regard as likely to influence the members actions


I declare that the above disclosures are a true and complete record of my interests and the interests of my spouse/partner in accordance with section 9 of the Code of Conduct.

Signature:

Date:

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

### Step 1: Chief Executive receives complaint

On receipt of a complaint under the Code, the Chief Executive will refer the complaint to an investigator selected from a list agreed at the start of the triennium. The Chief Executive will also:

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

### Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

1. The complaint is trivial or frivolous and should be dismissed;
2. The complaint is outside the scope of the Code and should be re-directed to another agency or institutional process;
3. The complaint is minor or non-material; or
4. The complaint is material and a full assessment is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine their recommendations, including interviewing relevant parties, which are then forwarded to the Council's Chief Executive.

### Step 3: Actions where a complaint is found to be trivial or frivolous

If the subject of a complaint is found to be trivial or frivolous the investigator will inform the Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive will inform the complainant, respondent and other members (if there are no grounds for confidentiality) of the investigator's decision.

### Step 4: Actions where a complaint involves a potential legislative breach

In cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, the investigator will inform the Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive will forward the complaint to the relevant agency and inform the complainant, the respondent and members.

### Step 5: Actions where a complaint is found to be non-material

If the subject of a complaint is found to be non-material, but more than trivial or frivolous, the investigator will inform the Chief Executive. On receiving the investigator's preliminary assessment the Chief Executive may choose to implement any recommendations from the investigator to either



- (a) dismiss the complaint with no further action taken
- (b) uphold the complaint but rule that, as it is minor and non-material, no action is required
- (c) uphold the complaint, noting it is minor and non-material, and make a non-binding recommendation with a course of action appropriate to the breach, such as:
  - That the respondent is referred to the Mayor for guidance; and/or
  - That the respondent attends appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.

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

#### **Step 6: Actions where a complaint 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. At this point the Chief Executive will report to the Council that the complaint is found to be material and a decision will be made on whether the Council hears the complaint, or it is referred to an adjudicative body (the Code of Conduct Committee). The investigator will then undertake an investigation appropriate to the scale of the breach and prepare a report for the Council or the Code of Conduct Committee on the seriousness of the breach. In preparing that report, the investigator may:

- Consult with the complainant, respondent and any directly affected parties; and/or
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

The Chief Executive will send a copy of the investigator's findings to the complainant and the respondent(s) inviting them to reply in writing as to whether or not they agree to the findings and whether they wish to make a written submission for consideration by the Council or Committee with delegated responsibility to consider complaints and determine penalties.

On receipt of the investigator's report, the Chief Executive will prepare a report, including the investigator's full report and any submissions from affected parties, for the relevant Council body charged with assessing and ruling on material complaints, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed.

#### **Step 7: Process for considering the investigator's report**

The investigator's report will be considered by the Council or adjudicative body established for considering reports on Code of Conduct complaints, or any other body that the Council may resolve, noting that the process will meet the principles set out in section 15.1 of the Code.

The Council, or adjudicative body, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body may ask the investigator to provide a briefing on their findings and invite the complainant and/or respondent to speak to any submissions that they might have made.

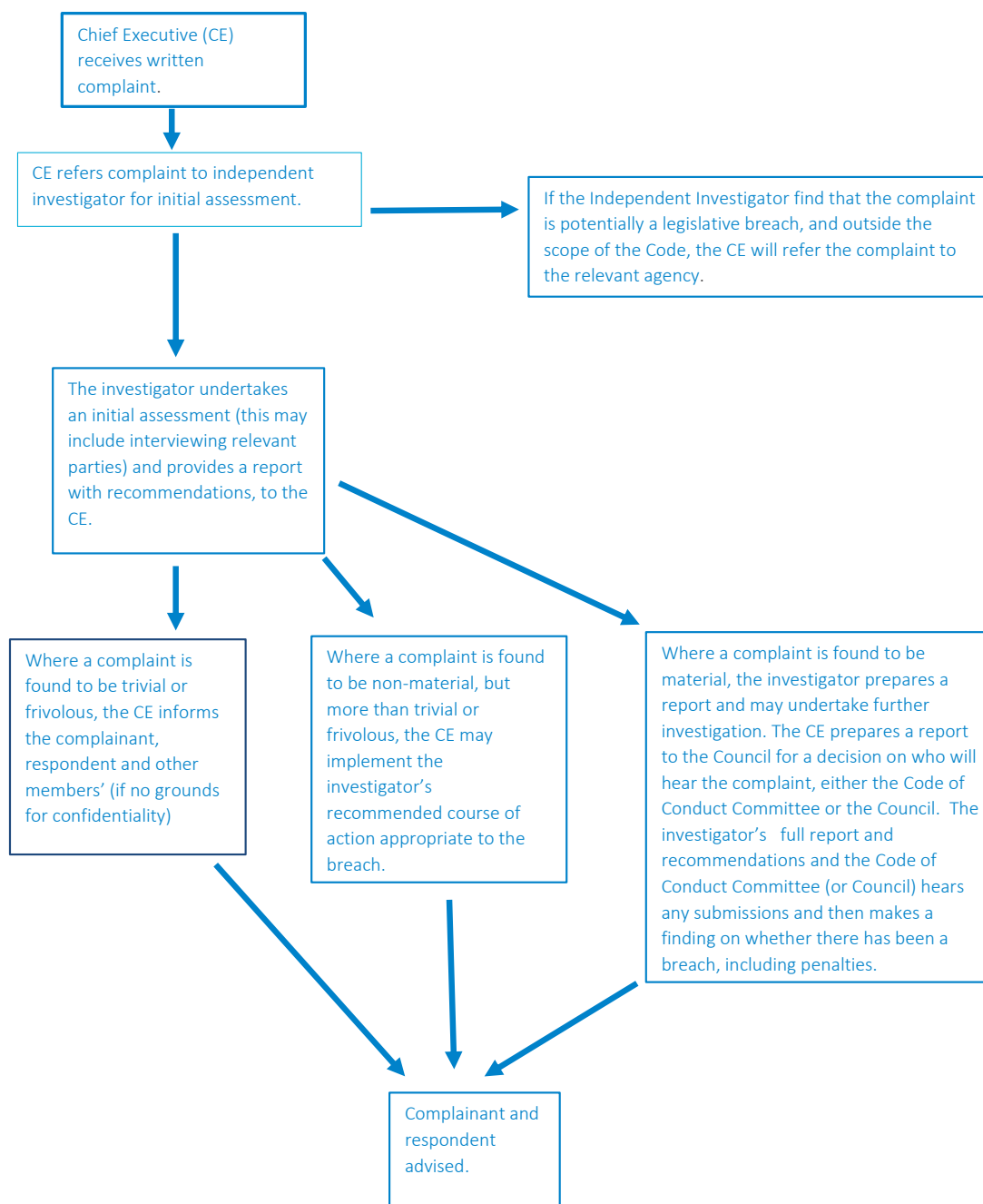
Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity.

The Council, or adjudicative body, will decide whether a material breach of the Code has occurred and what, if any, penalty or action should occur in response to the breach. The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 15.1 of the Code.

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

The respondent and complainant will be informed in writing of the decision.

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**Appendix E: Complaints Procedure – Flow Diagram**

# Tauranga City Council



## Standing Orders

*Date of adoption*

## Preface

### Kupu whakapuaki

These standing orders:

- Put the standing orders into plain English, so that everyone can understand them.
- Are based on Local Government New Zealand's 2025 template.
- Incorporate recent legislative changes,
- Make the design more user friendly,
- Strengthen the principles underpinning the standing orders and give them more prominence,
- Make it easier to navigate the templates by shifting non-essential matters to the Standing Orders' Guide,
- Provide guidance, through the updated Guide, on frequently asked questions.

#### Other changes include:

- Changing the timeframe when the Council must resolve to continue a meeting from eight to six hours (Standing Order 4.2)
- For clarity, retain the delegation to the Chief Executive during the election interregnum period (Standing Order 6.6)
- Adding new Standing Orders 8.9 to 8.12 relating to urgent meetings following an election that may be called as set out in the legislation but not previously in Standing Orders
- Add quorum provisions for the Mayor appointed as a member of a joint committee solely due to section 41A (5) of the Local Government Act 2002 (where the Mayor is a member of each committee) they are not counted towards the quorum (Standing Order 11.4).
- For clarity, retain the apologies provisions in Standing Order 13.5
- For clarity, retains the right for members to attend by audio-visual link (Standing Order 13.7)
- Adding in quorum provisions which enables members to be counted towards a quorum when not physically present (Standing Order 13.8)

- Amending times for public forum and delegation speakers on behalf of organisations to five minutes (excluding questions) with a limit of two speakers per organisation (Standing Orders 15.1, 15.2 and 16.1 and 16.2)
- Adding requirement for petitioner with an electronic petition to indicate how many signatories live within Tauranga City Council boundaries (Standing Orders 17.1-17.3)
- For clarity, the casting vote provision for the Mayor/Chair has been retained (Standing Order 19.3)
- For clarity, retains the recording of a division if one member votes against the motion (Standing Order 19.4)
- For clarity, retain the ability to use a suitable electronic voting system (Standing Order 19.4)
- Including Code of Conduct references which were removed under Commissioners (Standing Orders 20.2-20.3)
- Adding time limits of five minutes for members speaking to motions, rights of reply and discussion motions previously revoked now put back in (Standing Order 21.2)
- For clarity, Option C has been retained for motions and amendments (Standing Order 22.4) and Appendix 5 as the preferred option.
- Adding in new Amendments to motions enabling the meeting to amend a motion subject to the agreement of the mover and seconder (Standing Order 23.5)
- Adding in where “reasons for decisions” are required and additional reasons for not accepting an amendment (Standing Order 23.6)
- Adding criteria on what is included in Minutes (Standing Order 28.2)
- Retain Appendix 8 on workshops with additional points as set out in the Guide to Standing Orders.

## Introduction

### Kupu whakataki

These standing orders contain rules for the conduct of meetings of councils, committees, subcommittees, and subordinate decision-making bodies. They meet the requirements of the Local Government Act 2002 (LGA 2002) and the Local Government Official Information and Meetings Act 1987 (LGOIMA) in relation to the conduct of meetings.

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

Whenever a question about the interpretation or application of these Standing Orders is raised, particularly where a matter is not directly provided for, it is the responsibility of the chair of each meeting to make a ruling.

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

## Principles

### Ngā mātāpono

The LGNZ Standing Orders provide rules for local authorities to use when making decisions. Underpinning the standing orders are several principles, the most important being that councils and their members:

- Conduct their business in a transparent manner through public notice of meetings, provision of access to information, publicly open discussions, and meetings that are open to the public.
- Respect confidentiality, in accordance with relevant legislation, when making decisions that contain sensitive information.
- Represent their community when making decisions by taking account of the diversity of its communities, their views and interests, and the interests of communities in the future.
- Acknowledge, and, as appropriate, make provision for Te Ao Māori and local tikanga in meeting processes.
- Ensure that decision-making procedures and practices meet the standards of natural justice, in particular, that decision-makers are seen to have open minds.
- Have a high standard of behaviour which fosters the participation of all members, including the expression of their views and opinions, without intimidation, bullying, or personal criticism.

- Act with professionalism by ensuring their conduct is consistent with the principles of good governance and the behaviours outlined in the Council's Code of Conduct.
- Free speech: members will respect the diversity of thought and opinion that are part of a healthy democracy.

In addition, application of these standing orders must comply, as appropriate, with the decision-making provisions of Part 6, LGA 2002, and be consistent with section 39, LGA 2002, that "governance structures and processes are effective, open, and transparent" (LGA 2002, s 39).



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## 1. Introduction

### Kupu whakataki

These standing orders have been prepared to enable the orderly conduct of council meetings. They incorporate both legislative provisions relating to meetings, decision making, and transparency. The standing orders also provide practical guidance on the operation of meetings to ensure compliance with statutory provisions and meet the spirit of the legislation.

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

- Part 1 general items.
- Part 2 pre-meeting procedures.
- Part 3 meeting procedures.

The Appendices, which follow Part 3, provide templates and additional guidance for implementing provisions within the Standing Orders. The Appendices are an attachment to the Standing Orders and not part of the Standing Orders themselves. Amendments to the Appendices do not require the agreement of 75 per cent of those present.

The 'Guide to Standing Orders' provides additional advice on the application of the Standing Orders and is not part of the Standing Orders.

### 1.1 Statutory references

#### Ngā tohutoro ā-ture

These Standing Orders include statutory and non-statutory meeting provisions and provide guidance on how those provisions should be applied in practice.

These standing orders have been rewritten in plain English. Where a statutory provision applies a statutory reference is provided in the standing order.

Statutory references apply throughout the period of the meeting whether or not Standing Orders have been suspended.

Use of the word 'must' in a standing order implies a mandatory legislative requirement.

### 1.2 Acronyms

#### Ngā kupu rāpoto

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

Te whakamahinga

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

Ngā whakamārama

### Adjournment

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

### Advisory group

A group of people convened by a council 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 groups, panels, forums, portfolio groups, briefings, and other similar bodies.

### Agenda

A document listing the items for consideration at a meeting, together with associated 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

Any change or proposed change to an original or substantive motion.

### Appointed member

A member of a committee, subcommittee, or subordinate decision-making body of a council who is not elected.

### Audio link

Technology that enables audio communication between participants at a meeting when one or more of them is not physically present at the place of the meeting.

### Audiovisual link

Technology that enables audiovisual communication between participants at a meeting when one or more of them is not physically present at the place of the meeting.

### Casting vote

A second vote exercised by a chair to break a tied vote.

### Chair

The person with authority to lead a meeting or other gathering.

**Chief executive**

The chief executive of a city or district council appointed under s 42 of the LGA 2002. For the purposes of these Standing Orders, references to chief executive includes any other officer authorised to act as the chief executive.

**Clear working days**

The number of working days (business hours) prescribed in these Standing Orders for giving notice. A calculation of clear working day excludes the date of the meeting and date on which the notice is given.

**Committee**

Includes, in relation to a council:

- 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**

A community board established under s 49 of the LGA 2002.

**Conflict of Interest**

Includes:

- a) Any pecuniary (financial) interest;
- b) Any interest arising because of a person's position as a trustee, director, officer, employee, or member of another body; and
- c) Any personal non-pecuniary interest, such as pre-determination or bias.

**Contempt**

Being disobedient to, or disrespectful of, the meeting chair, members, officers, or the public, or otherwise not complying with these standing orders

**Council**

In the context of these Standing Orders, the governing body of a city or district council.

**Debate**

Discussion by members that occurs once a motion has been moved and seconded.

**Deliberative vote**

The ordinary vote of a member (as compared to the casting vote of a chair).

**Deputation**

A request from any person or group to make a presentation to the council which is approved by the chair. A deputation may be made in English, te reo Māori or New Zealand Sign Language.

**Division**

A formal vote at a meeting where the names of those members present, including the chair, are formally recorded as voting either for or against. This includes a vote where the names and votes are recorded electronically.

**Electronic link**

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**

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

**Internet site**

In relation to a council or other person or entity, an Internet site that is maintained by, or on behalf of, the council, person, or entity and to which the public has free access.

**Joint committee**

A committee in which the members are appointed by more than one council in accordance with cl 30A of sch 7 of the LGA 2002.

**Karakia timatanga**

An opening prayer or blessing.

**Karakia whakamutunga**

A closing prayer or blessing.

**Lawfully excluded**

A member of a local authority who has been removed from a meeting due to behaviour that a chair has ruled to be contempt.

**Leave of absence**

A pre-approved absence for a specified period of time consistent with any council policy.

**Local authority**

The territorial authority named in these Standing Orders, and, if the context requires, any community boards, local boards, committees or subordinate decision-making bodies established by the territorial authority.

**Mayor**

The Mayor of a city or district council elected under the Local Electoral Act 2001.

**Meeting**

Any first, inaugural, ordinary, extraordinary, emergency or urgent meeting of a local authority convened under the provisions of LGOIMA.

**Member**

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**

A brief welcome typically delivered by one person without any further formalities.

**Minutes**

The record of the proceedings of any meeting.

**Motion**

A formal proposal to a meeting.

**Mover**

The member who initiates a motion.

**Newspaper**

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.

**Non-elected member**

See Appointed Member.

**Notice of motion**

A motion given in writing by a member in advance of a meeting in accordance with these Standing Orders.

**Officer**

Any person employed by the council either full or part time, on a permanent or casual or contract basis.

**Open voting**

Voting which is conducted openly and transparently (i.e. enables an observer to identify how a member has voted on an issue) and may be conducted electronically. The result of the vote must be announced immediately after it has concluded. Secret ballots are specifically excluded.

**Ordinary meeting**

Any meeting, other than the first meeting, of a council publicly notified in accordance with ss 46(1) and (2) of LGOIMA.

**Original motion**

The first motion moved in a debate, prior to amendment (if any).

**Pecuniary Interest**

In relation to a member, means a matter or activity of financial benefit to that member, including any interest described in s 3 or 6 of LAMIA.

**Petition**

A request to a council which contains at least 20 signatures.

**Pōhiri**

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

**Present at the meeting**

Present at the meeting to constitute a quorum means the member is to be either physically present in the room or attending the meeting by audio/visual link, if allowed by these standing orders.

**Procedural motion**

A motion 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 or proposed to be considered with the public excluded. It includes:

- a) Any minutes (or portions of minutes) of public excluded sessions which have not been subsequently released by the council; and
- b) Any other information which has not been released by the council as publicly available information.

**Public excluded session**

Refers to those meetings or parts of meetings from which the public is excluded by the council as provided for in LGOIMA. Also referred to as confidential or in-committee session.

**Public forum**

A period set aside, usually at the start of a meeting, for the purpose of public input.

**Public notice/publicly notified**

A notice or notification to members of the public that is made publicly available until any opportunity for review or appeal in relation to the matter notified has lapsed, on the council's website. The notice/notification must be published in at least one daily newspaper circulating in the region or district of the council, 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.

**Qualified privilege**

The privilege conferred on member by s 52 and s 53 of LGOIMA.

**Quasi-judicial**

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**

The minimum number of members required to be present to constitute a meeting.

**Resolution**

A motion or amendment that has been adopted by the meeting.

**Right of reply**

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

**Second**

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**

A decision-making body appointed by a local authority which is required by the local authority to follow these standing orders. For clarity local boards, community boards and joint committees are not subordinate decision-making bodies.

**Substantive motion**

An original motion which has been amended by the meeting.

**Subcommittee**

A body appointed by a council, or a committee of a council, local board or community board. See definition of “committee”.

**Urgent meeting**

has the same meaning as defined in cl 21A of sch 7 of the LGA 2002.

**Working day**

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 council 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**

A group set up by a council to achieve a specific objective that is not a committee or subcommittee and to which these Standing Orders do not apply.

**Workshop**

In the context of these Standing Orders, a gathering of elected members for the purpose of considering items of importance to the council at which no decisions are made and to which these Standing Orders will not apply, unless required by the council. Workshops may include non-elected members and may be described as briefings.

## General matters

### Ngā take arowhānui

#### 3. Standing orders

##### Ngā tikanga whakahaere hui

##### 3.1 Obligation to adopt standing orders

Te takohanga ki te whai i ngā tikanga whakahaere hui

- Councils are required to adopt a set of standing orders.
- Standing orders set out how meetings are conducted.
- Standing orders must not contravene any Act.
- If a standing order is inconsistent with a legal requirement, that requirement prevails over the standing order.

This obligation applies to city and district Councils, regional councils, local boards and community boards.

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

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

Te tukanga ki te whai me te whakarerekē hoki i ngā tikanga whakahaere hui

Adopting new standing orders requires a vote of not less than 75 per cent of the members present.

Amending the current standing orders also requires a vote of not less than 75 per cent of the members present.

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

##### 3.3 Members must comply with standing orders

Me ū ngā mema ki ngā tikanga whakahaere hui

All members must comply with these standing orders.

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

All external meeting participants, including appointed members, must comply with these standing orders.



**3.4 Application of standing orders**

Te whakamahinga o ngā tikanga whakahaere hui

These Standing Orders apply to all meetings. This includes meetings of committees, subcommittees and any other subordinate decision-making body.

Standing Orders apply to any meeting (or part meeting) where the public have been excluded.

**3.5 Temporary suspension of standing orders**

Te whakatārewa taupua i ngā tikanga whakahaere hui

A meeting can temporarily suspend a standing order(s), provided the suspension does not contravene any legislative requirement.

The meeting must suspend standing order(s) by resolution.

The meeting's motion to suspend a standing order(s), must include:

- a) The reason for suspending the standing order(s).
- b) The standing order(s) being suspended.

A motion to suspend standing order(s) can be taken before or during a debate.

Once seconded, the meeting chair must put the motion without debate.

To be carried, at least 75 per cent of members present and voting must support the motion.

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

**3.6 Quasi-judicial proceedings**

Ngā whakawākanga ā-kaunihera

A meeting which is undertaking quasi-judicial proceedings may set their own meeting procedures.

Quasi-judicial proceedings are held for the purpose of conducting hearings and/or considering disputes.

Some committees may have additional powers under the Commissions of Inquiry Act 1908.

### 3.7 Physical address of members

Te tauwāhi o ngā mema

Every member, whether elected or appointed, must provide the chief executive with an electronic address where meeting notices and information may be sent.

Where a member does not have an electronic address, they must provide the Chief executive with a physical address within the district or region, where material can be sent.

It is preferable for all members to provide both an electronic and physical address.

Members should inform the chief executive which contact information can be made publicly available.

Personal information provided by a member is subject to the Privacy Act 2020.

## 4. Meetings

Ngā hui

### 4.1 Legal requirement to hold meetings

Te herenga ā-ture kia whakatū hui

The council must hold the meetings necessary for the good government of its city or district.

The calling of meetings, and their conduct must be in accordance with:

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

Meetings must be held at the times and places set by the council.

*LGA 2002, Sch. 7, cl 19(1) & (3) & (4)*

### 4.2 Meeting duration

Te roa o ngā hui

Unless the meeting resolves to continue, meetings cannot:

- a) sit for more than two hours without a break of at least ten (10) minutes.
- b) continue more than six (6) hours (including adjournments) from when it convened, or
- c) continue after 10.30pm.

If there is no resolution to continue, any business remaining must be:

- a) Adjourned,
- b) Transferred to the next meeting, or
- c) Transferred to an extraordinary meeting.

#### **4.3 Language** **Reo**

A member may address a meeting in English, te reo Māori, or New Zealand Sign Language.

The chair may require that a speech is translated and printed in English or te reo Māori.

A member intending to address the meeting in New Zealand Sign Language, or te reo Māori, when the normal business of the meeting is conducted in English, must advise the chair not less than two working days before the meeting.

A member intending to address the meeting in English when the normal business of the meeting is conducted in te reo Māori must advise the chair not less than two working days before the meeting.

Any written materials should be forwarded to the chief executive at least two days before the meeting for translation.

#### **4.4 Webcasting meetings** **Ngā hui kauhaurangi**

Webcast meetings should be provided in accordance with the protocols contained in the LGNZ Guide to Standing Orders.

#### **4.5 First meeting (inaugural)** **Hui tuatahi (ōkawa)**

The chief executive calls the first meeting following a triennial general election.

The meeting must be called as soon as practicable after election results are known.

Unless an emergency exists, the chief executive must give elected members not less than seven days' notice of the first meeting.

In the case of an emergency, the chief executive may give elected members notice of the meeting as soon as practicable.

*LGA 2002, Sch. 7, cl 21(1) - (3).*

#### 4.6 Requirements for the first meeting

Ngā herenga ō te hui tuatahi

The chief executive or their nominee must chair the first meeting until the Mayor has made their oral and written declarations.

The Mayor will chair the meeting once they have made their oral and written declarations.

*LGA 2002, Sch. 7, cl 21(4)*

The business to be conducted at the first meeting must include:

- a) The oral and written declarations of both the Mayor and members (*LGA 2002, Sch. 7, cl14*);
- b) A general explanation of:
  - i. LGOIMA; and
  - ii. Other laws affecting members, including the appropriate provisions of the LAMIA; and ss 99, 105, and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910; and the Financial Markets Conduct Act 2013.
- c) Determining the date and time of the next meeting, or the adoption of a schedule of meetings; and
- d) Where the Mayor has not appointed a Deputy Mayor (s41A(3)(a) of the LGA 2002) prior to the meeting, the election of the Deputy Mayor

The general explanation of Acts can also include the LGA provisions relating to the Register of members' pecuniary interests (ss 54A – 54I).

If an Urgent Meeting has been held (*LGA 2002, sch 7, cl21A*), the business that must be conducted at the first meeting will not include any business dealt with at that Urgent Meeting.

*LGA 2002, Sch. 7, cl 21(5), LGA 2002, Sch.7, cl 20(6), LGA 2002, s 41A(3)*

## **5. Appointments and elections**

Ngā kopounga me ngā pōtitanga

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

Ngā kopounga a te Koromatua i te Koromatua tuarua, i ngā Upoko kōmiti, i ngā mema hoki

A Mayor may appoint:

- a) the Deputy Mayor,
- b) the chair and the members of each committee.

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

If the Mayor declines to appoint a Deputy Mayor, or committee chairs, the council (or a committee, if directed by the council) must elect those positions in accordance with Standing Order 5.4.

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

Te Whakakorenga a Te Kaunihera i te Kopounga a te Koromatua

Nothing limits or prevents a council from discharging either a chair or a member of a committee appointed by the Mayor.

*LGA 2002, Sch. 7, cl 31.*

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

Te Whakatūnga o ngā komiti e te Koromatua

The Mayor may establish the council's committees and appoint their chairs.

Where a Mayor exercises this right, the council must adopt the committee's terms of reference by resolution at the next appropriate meeting of the council.

Should the Mayor decline to establish committees a council decision to establish committees must follow the processes set out in these Standing Orders.

Nothing limits or prevents a council 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.

The 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 Deputy Mayors and deputy chairs**

Te pōti i te Koromatua Tuarua me ngā Upoko tuarua

When electing the following positions, the council must resolve to use one of two voting systems (see Standing Order 5.6):

- a) The Deputy Mayor;
- b) The chair of a committee
- c) A deputy chair of a committee; and/or
- d) A representative of a council.

This provision does not apply where a mayor has appointed a Deputy Mayor or committee chairs under LGA 2002, s 41A.

*LGA 2002, Sch. 7, cl 25.*

*See the LGNZ Guide to Standing Orders for more information.*

**5.5 Removal of a Deputy Mayor**

Te whakakorenga o te Koromatua Tuarua

A council can remove a Deputy Mayor.

It does not matter whether the Deputy Mayor has been appointed by the Mayor, or appointed by the council itself.

A council removing a Deputy Mayor must use the process set out in cl 18, sch 7, of the LGA 2002. (See Appendix 9)

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

**5.6 Voting system for Deputy Mayors and committee chairs**

Pūnaha pōti mā ngā Koromatua Tuarua me ngā Upoko komiti

The council must use one of the following two voting systems for electing:

- a) A Deputy Mayor; and/or
- b) A committee chair.

**System A**

The successful candidate must receive a majority of the votes of members present and voting.

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.

*Round One*

- There is one round of voting.
- If a candidate receives the majority of votes they are elected.
- If no candidate receives the majority of votes, the candidate receiving the fewest votes in the first round is excluded and a further round of voting occurs.

*Round Two (if required)*

- There is a second round of voting.
- If a candidate receives the majority of votes they are elected.
- If no candidate receives the majority of votes, the candidate receiving the fewest votes in the second round is excluded and a further round of voting occurs.

*Subsequent rounds (if required)*

- There is a further round of voting.
- If a candidate receives the majority of votes they are elected.
- If no candidate receives the majority of votes, the candidate receiving the fewest votes is excluded and a further round of voting occurs.

**System B**

- The successful candidate must receive more votes than any other candidate.
- There is only one round of voting.
- If two or more candidates tie for the most votes, the tie is resolved by lot.

*LGA 2002, Sch. 7, cl 25.*

## 6. Delegations<sup>1</sup>

Te tuku mana

### 6.1 Only the holder of a delegated authority can rescind or amend a previous decision

Ka taea e te kaupupuri anake o te mana tuku te whakakore, te whakarerekē rānei i tētahi whakatau o mua

Where a council or a committee has delegated authority to another body, member or officer, they cannot rescind or amend a decision made under that delegated authority.

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

However, the current holder of the delegated authority may rescind or amend a previous decision made under the same authority.

*Refer to Standing Orders Guide for scenarios on delegation practice.*

### 6.2 Limits on delegations

Ngā tepenga o te tuku mana

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 council, 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;

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<sup>1</sup> 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 Officer's declaration until the new council is sworn in. See the LGNZ Guide to Standing Orders for further information.



- g) The power to adopt a remuneration and employment policy.

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

### **6.3 Committees may delegate**

Ka āhei ngā komiti ki te tuku mana

A committee, subcommittee, subordinate decision-making body, local board, community board, member, or officer of the council, may delegate any of its responsibilities, duties, or powers to a subcommittee or person.

A sub-delegation is 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**

Te whakamahi i te mana tuku

The body, member or officer of the council who has been delegated authority to act may exercise those responsibilities, powers or duties:

- a) without confirmation by the body that delegated the authority; and
- b) in a like manner and with the same effect as the council or committee could have exercised or performed them.

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

### **6.5 Bodies are subject to the direction of the council**

E herea ana ngā rōpū e ngā tohutohu a te kaunihera

A committee, subcommittee or other subordinate decision-making body is subject in all things to the control of the local authority, or committee that appointed the subcommittee.

A committee, subcommittee or other subordinate decision-making body must carry out all general and special directions given to them by the local authority or committee.

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

### **6.6 Delegation to Chief Executive during election interregnum period**

Apataki ki te Tumu Whakarae kei pōti wātea ana

From the day following the Electoral Officer's declaration, until the new Council is sworn in, the Chief Executive is authorised to make decisions in respect of urgent matters that cannot reasonably wait until the first meeting of the new Council, in consultation with the Mayor elect.

Any decision made under this delegation is to be reported to the first meeting of the new Council.

## **7. Committees**

Ngā komiti

### **7.1 Appointment of committees and subcommittees**

Te kopou i ngā komiti me ngā komiti iti

A council may appoint the decision-making bodies that it considers appropriate. This includes committees, subcommittees and any other subordinate decision-making body.

Unless the council prohibits it, a committee can appoint subcommittees.

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

### **7.2 Discharge or reconstitution of committees and subcommittees**

Te whakakore, te whakahou rānei i ngā komiti me ngā komiti iti

Unless legislation or regulation prevents it:

- a) a council can discharge or reconstitute a sub-ordinate decision-making body;
- b) a committee may discharge or reconstitute a subcommittee it has established;
- c) every subordinate decision-making body is discharged following a triennial general election.

*LGA 2002, Sch. 7, cl 30(5) (7)*

**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 for more information).

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

Te kopou, te whakakore rānei i ngā mema komiti me ngā mema komiti iti

A council may appoint or discharge any member of a committee, or subcommittee.

Committees may appoint or discharge members of the subcommittees they have established unless the council directs otherwise.

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

**7.4 Membership of committees and subcommittees**

Te memātanga o ngā komiti me ngā komiti iti

- A council or committee may appoint non-elected members (appointed members) to a committee or subcommittee.
- At least one member of a committee must be an elected member.
- An appointed member on a committee or subcommittee must, in the opinion of the council or the committee, have the skills, attributes or knowledge to assist the committee or subcommittee.
- A staff member of the council, in the course of their employment, can be a subcommittee member, but not a committee member.

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

**7.5 Council may replace members if committee not discharged**

Ka āhei te kaunihera ki te whakakapi mema mēnā kaore te komiti i whakakorehia

- A council may resolve that a committee or subcommittee is not to be discharged following a triennial general election.
- Where a committee has not been disestablished at a triennial general election, the council may replace the members after that election.

*LGA 2002, Sch. 7, cl 31(5) & cl 30(7)*

**7.6 Membership of the Mayor**

Te memātanga o te Koromatua

The Mayor is a member of every committee of the council unless specific legislation provides otherwise (e.g. 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**

Ka whai mana tonu te whakatau ahakoa te rangirua o te memātanga

A decision of a council or committee is not invalidated if:

- a) there is a vacancy in the membership of the council or committee at the time of the decision; or
- b) 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**

Te kōupounga o ngā komiti taihono

A council may appoint a joint committee with another council or other public body if it has reached prior agreement with each council or public body.

The agreement must specify:

- a) the number of members each party may appoint;
- b) how the chair and deputy chair will be appointed;
- c) the committee's terms of reference ;
- 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) - (3).*

**NB** A Mayor who is a member of a joint committee by virtue of s 41A(5), is not counted as part of the quorum of that joint committee.

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

## **7.9 Status of joint committees**

Te mana o ngā komiti taihono

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

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

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

Te mana ki te kopou, ki te whakakore rānei i tētahi mema o te komiti taihono

Individual members of a joint committee may only be discharged or appointed by the council or public body that made the original appointment.

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

## Pre-meeting

### Hui tōmua

#### 8. Giving notice

Te tuku pānui

##### 8.1 Public notice – ordinary meetings

Pānui tūmatanui – ngā hui noa

The council must publicly notify all upcoming meetings:

- a) Every month:
  - i. by publishing a list of meetings scheduled for the following month;
  - ii. the list must be publicly notified not more than 14 and not less than 5 days before the end of the preceding month; and
  - iii. the public notice must include the dates, times and places of each meeting.
- b) Alternatively, where a meeting is scheduled to be held after the 21st day of any month:
  - i. the council can publicly notify the meeting(s) no more than 10 (and not less than 5) **working** days before the day on which the meeting is to be held.

*LGA 2002 s.5, LGOIMA, s.2 & s 46*

##### 8.2 Public notice/publicly notified means:

Ko te tikanga o te pānui tūmatanui/te tuku pānui ki te hunga tūmatanui ko:

- a) publicly available on the council's internet site; and
- b) published in at least:
  - i. 1 daily newspaper which circulates in the region or district of the council; or
  - ii. 1 or more other newspapers that have a combined circulation equivalent to the newspaper in i) above.

*LGA 2002 s.5, LGOIMA, s.2 & s 46, (see LGNZ Guide to Standing Orders for more information).*

**8.3 Notice to members - ordinary meetings**

Te tuku pānui ki ngā mema – ngā hui noa

- The chief executive must advise every member of the time and place of every meeting.
- That advice must be given in writing.
- If the council has adopted a schedule of meetings, the advice must be given not less than 14 days before the first meeting of the schedule.
- If the council has not adopted a schedule of meetings, the advice must be given not less than 14 days before the meeting.

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

**8.4 Extraordinary meeting may be called**

Ka āhei ki te karanga hui motuhake

An extraordinary council meeting may be called by:

- a) council resolution; or
- b) a written requisition delivered to the chief executive. The requisition must be signed by:
  - i. the Mayor or chair; or
  - ii. not less than one third of the total membership of the council (including vacancies).

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

**8.5 Notice to members - extraordinary meetings**

Te tuku pānui ki ngā mema – ngā hui motuhake

The chief executive must give written notice to members advising them of the time and place of an extraordinary meeting (called under Standing Order 8.3).

The notice must:

- a) include the general nature of the business to be considered; and
- b) be provided to each member of the council at least three working days before the meeting day.

If the meeting is called by resolution, the chief executive can provide the notice in a lesser period (as specified in the resolution) provided it is not less than 24 hours.

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

**8.6 Emergency meetings may be called**

Ka āhei te karanga hui ohore

In some instances, the council must deal with business urgently. An Emergency Meeting may be called:

- a) when the notice requirements for an extraordinary meeting cannot be met; and
- b) it is not practicable to call the meeting by resolution.

An Emergency Meeting may be called by:

- a) the Mayor or chair; or
- b) the chief executive (if the Mayor or chair is unavailable).

*LGA 2002, Sch. 7, cl 22A(1).*

**8.7 Process for calling an emergency meeting**

Te tukanga mō te karanga hui ohore

Given the need for an emergency meeting, the person calling the meeting (or another person on their behalf) must give notice of the time and place of the meeting by whatever means is reasonable in the circumstances, at least 24 hours before the meeting.

Notice must be given to each member of the council and the chief executive.

*LGA 2002, Sch. 7, cl 22A(2).*

**8.8 Public notice – emergency and extraordinary meetings**

Pānui tūmatanui – ngā hui ohore me ngā hui motuhake

Where an emergency or extraordinary meeting is called and the public notice requirements of LGOIMA and/or these Standing Orders cannot be met, the council must still publicly notify the meeting.

The public notice must also include the general nature of the items being discussed at the meeting.

The public notice must

- a) be publicly notified as soon as practicable before the meeting; or
- b) if it is not practicable to publish in newspapers before the meeting, it must be notified:
  - i. as soon as practicable on the council's website; and
  - ii. in any other manner which is reasonable in the circumstances.

*LGOIMA, s 46(3).*

**8.9 An urgent meeting may be called**

Ka āhei ki te karanga hui wawe

The chief executive may call an urgent meeting of the council before candidates to be declared elected after a recount are known if:

- a) an application for a recount has been made following a triennial general election; and
- b) an event occurs that, in the chief executive's opinion, requires the council to deal with a matter urgently; and
- c) the first meeting of the council has not yet been called.

*LGA 2002, Sch. 7, cl 21A (1 & 2)*

**8.10 Process for calling an urgent meeting**

Te tukanga mō te karanga hui wawe

If the chief executive calls an urgent meeting, the chief executive must give notice of that meeting as soon as practicable to every person who:

- a) is not an affected candidate; and
- b) has been declared to be elected to the council.

Notice must be given to each of those persons:

- a) by whatever means is reasonable in the circumstances; and
- b) at least 24 hours before the meeting commences.

The notice must specify:

- a) the time and place of the urgent meeting; and
- b) the matter for determination at the urgent meeting.

*LGA 2002, Sch.7, cl 21A (3(a) & 5), Sch.7, cl 21A (3)(b)*

**8.11 Public notice – urgent meetings**

Pānui tūmatanui – ngā hui wawe

Where an urgent meeting is called and the public notice requirements of LGOIMA and/or these Standing Orders cannot be met, the council must still publicly notify the meeting.

The public notice must include the general nature of the matter being discussed at the meeting and must:

- a) be publicly notified as soon as practicable before the meeting; or



b) if it is not practicable to publish in newspapers before the meeting, it must be notified:

- i. as soon as practicable on the council's website; and
- ii. in any other manner which is reasonable in accordance.

*LGA 2002, Sch.7, cl 21A(4) & LGOIMA, s 46(3).*

## **8.12 Conduct of urgent meetings**

Ngā whakahaere o ngā hui wawe

The council may only conduct the following business at an urgent meeting:

- a) in respect of the persons described in LGA 2002, sch7, cl21A(3)(a), the oral and written declarations of the mayor (if any) and members (under clause 14);
- b) a general explanation of LGOIMA and other laws affecting members, including the appropriate provisions of LAMIA; ss 99, 105, and 105A of the Crimes Act 1961; the Secret Commissions Act 1910; the Financial Markets Conduct Act 2013, and the LGA2002 provisions relating to the register of members' pecuniary interests (ss54A – 54I);
- c) The matter in respect of which the urgent meeting has been called.
- d) The election of a member to preside at the urgent meeting (if required).

Councils cannot consider any items other than those specified above.

If multiple urgent meetings are required, the items outlined in a) and b) (above) may be omitted from the business to be conducted if they have previously been dealt with.

The chief executive (or their nominee in the chief executive's absence) must chair the urgent meeting until:

- a) the mayor (if any) has made their oral and written declarations; or
- b) the members that are present have:
  - i. made their oral and written declarations; and
  - ii. elected one of their number to preside at the urgent meeting.

An affected candidate cannot participate in the meeting but may attend the meeting if it is open to the public.

*LGA 2002, Sch. 7 Cl21B*

**8.13 Meetings not invalid**

Ngā hui e whai mana tonu ana

Failing to publicly notify a meeting does not, of itself, invalidate a meeting.

Where a council becomes aware that a meeting has not been properly notified, it must, as soon as possible, give public notice that the meeting has been held.

The public notice must state:

- a) the meeting has occurred without proper notice;
- b) the general nature of the items discussed; and
- c) the reasons why the meeting was not notified.

*LGOIMA, s 46(5) & (6).*

**8.14 Resolutions passed at an extraordinary meeting**

Ngā tatūnga i ngā hui motuhake

A council must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the council 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 five working days before the day on which the meeting was held.

*LGOIMA, s 51A.*

**8.15 Meeting schedules**

Ngā hōtaka hui

A council may adopt a schedule of meetings. The schedule may cover any period of time that the council considers appropriate.

The council can amend the schedule at any time.

- Notifying the schedule to members is considered to be notification of every meeting on the schedule.
- Notifying members of an amendment to the schedule is notification of the amended meeting.

Nothing in this clause replaces the council's obligations under the LGOIMA for public notification of meetings.

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

**8.16 Non-receipt of notice to members**

Te kore e whiwhi i te pānui ki ngā mema

A meeting of a council is not invalid if an elected member does not receive (or does not receive in time) notice of the meeting unless:

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

A member may waive the need to be given notice of meetings.

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

**8.17 Meeting cancellations**

Te whakakorenga o ngā hui

- The chair of a scheduled meeting may cancel the meeting if, in consultation with the chief executive, they consider this is necessary.
- Reasons for cancellation may 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**

Rārangi take o te hui

**9.1 Preparation of the agenda – for members**

Te whakarite i te rārangi take – mā ngā mema

At least two working days prior to a meeting the chief executive must prepare an agenda for the meeting, to be circulated to all members attending the meeting.

Even though the agenda is the chief executive's responsibility, where practicable, the chief executive should consult the chair for the meeting about the agenda.

The agenda must:

- a) list the items to be brought before the meeting;
- b) include the reports and other attachments associated with the list of items in the agenda; and
- c) indicate which items are expected to be discussed with the public excluded. (see also standing order 9.14.).

*LGOIMA, s 46A.*

**9.2 Process for raising items for a decision**

Te tukanga hei whakaara take kia whakatauhia ai

Council, committees, local boards and/or community boards and subordinate decision-making bodies may, by resolution, request reports on matters they determine.

For all decision-making bodies other than the council, requests for reports must fall within the scope of their terms of reference.

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

Ka āhei te tumu whakarae ki te whakaroa, te whakakore rānei i tētahi tono

The chief executive may delay commissioning, or not produce, reports that involve significant cost, unless agreed by the council, or are beyond the scope of the body that made the request.

Where the chief executive refuses a request to prepare a report, they will:

- a) discuss options for meeting the request with the respective chair;
- b) report back to a subsequent meeting:
  - i. with an estimate of the resourcing and/or cost involved; and
  - ii. seek direction on whether the report should still be prepared.

A chief executive may refuse a direct report request from an individual member. In this instance, an explanation should be provided to the member.

**9.4 Order of business**

Te raupapatanga o ngā take

At the meeting, the items are to be dealt with in the order in which they are listed on the agenda unless the chair, or the meeting (by resolution), decides otherwise.

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 Chair's recommendation**

Te tūtohunga a te Upoko

A chair may provide a recommendation on an agenda item.

- The chair's recommendation can be provided before or during the meeting.
- Where a chair's recommendation varies significantly from an officer's recommendation, the chair must provide the reasons for the recommendation.

- The recommendation, and reasons, must comply with the decision-making requirements of Part 6 of the LGA 2002.

#### **9.6 Chair may prepare report**

Ka āhei te Upoko ki te whakarite pūrongo

The chair of a meeting may prepare a report to be included in the agenda provided the matter falls within the terms of reference for the meeting.

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

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

Te noho wātea o te rārangi take ki te hunga tūmatanui

The meeting information provided to members must be publicly available unless the information relates to a matter reasonably expected to be discussed with the public excluded.

*LGOIMA, s. 5 & 46A.*

#### **9.8 Public inspection of agenda**

Te tirohanga a te hunga tūmatanui i te rārangi take

A member of the public is entitled to inspect, during normal office hours, the agendas including associated reports provided to members.

The agendas must be available for viewing at the public offices of the council (including service delivery centres) and the public libraries under the council's control.

Agendas must be accompanied by

- a) the associated reports; or
- b) a notice advising where the reports can be inspected.

While the documents must be available for viewing at least two working days before a meeting, they should be made available with as much notice as possible before the meeting date.

It is sufficient for the documents to be available for electronic inspection.

No charge can be imposed for the inspection of the agendas (including reports).

*LGOIMA, s 46A(1) - (3).*

**9.9 Withdrawal of agenda items**

Te tango take i te rārangi take

The chief executive may withdraw an item from an agenda.

The chief executive should inform the chair of the reason(s) for the withdrawal.

**9.10 Distribution of the agenda to members**

Te tohatoha i te rārangi take ki ngā mema

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.

In the case of extraordinary, emergency, or urgent meeting, the agenda must be made available as soon as is reasonable in the circumstances.

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**

Te tūnga o te rārangi take

No matter included on a meeting agenda, including any recommendations in associated reports, has been decided as final until it has been the subject of a formal resolution of the meeting.

**9.12 Items not on the agenda – decision cannot be delayed**

Ngā mea kāore i runga i te rārangi take – kāore e taea te whakatōmuri i te whakatau

A meeting may deal with an item that is not on the agenda where the meeting resolves to deal with that item, and the chair 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 discussion of the item cannot be delayed until a subsequent meeting.

*LGOIMA, s 46A(7).*

Items not included on an agenda may be considered at a meeting if included in a report from the chief executive or the chair.

Nothing in this standing order removes the requirement to meet the provisions of Part 6 of the LGA 2002.

**9.13 Items not on the agenda – minor issues for discussion only**

Ngā mea kāore i runga i te rārangi take – ko ngā take iti hei kaupapa kōrero anake

A meeting can discuss minor items which are not on an agenda if:

- a) the matter relates to council business; and
- b) at the start of the public part of the meeting, the chair explains that the matter will be discussed.

The meeting cannot make a resolution, decision, or recommendation on any minor matter that was not on the agenda for that meeting.

The meeting can, however, refer the matter to a subsequent meeting for further discussion.

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

**9.14 Public excluded business on the agenda**

Ngā take tūmataiti o te rārangi take

The chief executive may exclude a report, or part of a report, from an agenda where they expect it to be discussed once the public has been excluded (by resolution) from the meeting.

Where reports, or parts of reports, are withheld, the agenda and proposed recommendation must clearly indicate:

- a) the matter is expected to be discussed with the public excluded;
- b) the general subject of any items to be considered while the public is excluded;
- c) the reasons for passing a resolution (with reference to the particular provision relied on for each matter); and
- d) the actual ground in section 48(1) relied on to exclude the public.

*LGOIMA, s. 46A(8)-(9) and 48(3)*

**Note:** The Ombudsman advises that the reason for passing a resolution should contain specific details about the harm the Council is trying to avoid, rather than simply reciting the clause from section 6 or section 7(2) as it is written in the LGOIMA.

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

Te whakaaetanga motuhake e pā ana ki te rārangi take me ngā meneti

Where a meeting is open to the public and:

- a) a member of the public is given a copy of the agenda or further statements;  
or
- b) a member of the public is given a copy of the minutes;

The publication of any defamatory matter included in the agenda or minutes is privileged, unless it is proved (through defamation proceedings) that the defendant:

- a) was motivated by ill will toward the plaintiff, or
- b) took improper advantage of the publication.

*LGOIMA, s 52.*

**Meeting Procedures****Ngā tikanga o ngā hui****10. Opening and closing**

Te whakatuwhera me te whakakapi

The chair, or any person authorised by the chair, may make a statement or prayer, or similar, to open/close a meeting.

Appropriate karakia timitanga and mihi whakatau, or pōhiri, may also be considered to open, and karakia whakamutunga to close, a meeting where appropriate.

**11. Quorum**

Nuinga

**Note:** A meeting is constituted if a quorum is present, regardless of whether all of the members are voting or entitled to vote (*LGA 2002, Sch. 7, cl 23(1)*).

No business may be conducted if a quorum of members is not present for the whole time the business is being considered.

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

**11.1 Council meetings**

Ngā hui kaunihera

The quorum for a meeting of the council is:



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

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

## **11.2 Committee and subcommittee meetings**

Ngā hui komiti me ngā hui komiti iti

- A council sets the quorum for its committees and subcommittees, either by resolution or by stating the quorum in the body's terms of reference.
- A committee may set the quorum for any subcommittees it establishes.
- The minimum quorum for a committee or subcommittee is two members.
- The quorum of a committee (but not a subcommittee) must include at least one member of the council.

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

## **11.3 Joint Committees**

Ngā Komiti Taihono

The quorum for a meeting of a Joint Committee is:

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

A Joint Committee Agreement may vary the quorum requirement above to provide that a quorum must include 1 or more members appointed by each party.

*LGA 2002, Sch. 7, cl 30A(6)(b) &(c).*

## **11.4 Mayor as member of a joint committee**

Te kahika hei mema o tētahi komiti taihono

A Mayor is a member of all Joint Committees.

If the Mayor is a member solely due to s 41A(5), the Mayor is not counted as a member of the committee for determining:

- a) The number of members required to constitute a quorum; or
- b) Whether a quorum exists at a meeting.

*LGA 2002, s 41A(5), Sch. 7, cl30A(6A)*

**11.5 Meeting lapses where no quorum**

Te tārewatanga o ngā hui mēnā karekau he nuinga

A meeting lapses, and the chair must vacate the chair, if a quorum is not present within 30 minutes of the advertised start of the meeting.

- The chair has the discretion to wait for a longer period if members are known to be travelling to the meeting but have been delayed.
- If a quorum is lost during a meeting, the meeting lapses if the quorum is not present within 15 minutes.
- No business may be conducted while waiting for the quorum to be reached.

Minutes must record when a meeting lapses due to a lack of a quorum, along with the names of the members who attended and left, causing the quorum to lapse.

**11.6 Business from lapsed meetings**

Ngā take o ngā hui tārewa

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 chair sets an earlier meeting or refers the matter to another body with appropriate decision-making authority, and this is notified by the chief executive.

**12. Public access and recording**

Te āheinga a te hunga tūmatanui me ngā hopunga

**12.1 Meetings open to the public**

E tuwhera ana ngā hui ki te hunga tūmatanui

Every meeting of the council (including its committees) must be open to the public unless the public has been excluded.

Members of the news media are considered to be members of the public.

*LGOIMA, s 47, 48 & 49(a).*

**12.2 Grounds for removing the public**

Ngā take e panaia ai te hunga tūmatanui

The chair may require a 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 Council may record meetings**

Ka āhei te kaunihera ki te hopu i ngā hui

Where the council intends to record a meeting(s), the venue should contain clear signage indicating that proceedings may be recorded.

**12.4 Public may record meetings**

Ka āhei te hunga tūmatanui ki te hopu i ngā hui

- 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 chair at the commencement of the meeting.
- The process of recording must not distract the meeting from conducting its business.
- Where circumstances require, the chair may direct the recording to stop for a specified period of time.

**13. Attendance**

Taetaenga

**13.1 Members right to attend meetings**

Te mōtika a ngā mema ki te tae ki ngā hui

A member of a council, or of a council committee, has the right to attend any meeting of the council or a committee unless they have been lawfully excluded.

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

If a member of a council is not an appointed member of the meeting which they are attending, they:

- a) may not vote on any matter at that meeting; but
- b) may, with the permission of the chair, take part in the meeting's discussions (subject to standing order 13.2).

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

**Note:** this section does not confer any rights to appointed members on council committees.

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

Te tae atu i te wā e whakahaere whakawākanga ana tētahi komiti

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

### **13.3 Leave of absence**

Tamōtanga ōkawa

A council may grant a member leave of absence following an application from that member (including the Mayor).

To protect members' privacy the council may delegate authority to the Mayor to grant a leave of absence to a member. In the absence of the Mayor, the Deputy Mayor may exercise that authority.

The Mayor, or Deputy Mayor, will inform all members of the council whenever a member has been granted leave of absence under delegated authority.

Meeting minutes will record that a member who has been granted a leave of absence is an apology for that meeting.

### **13.4 Apologies**

Ngā whakapāha

A member who does not have leave of absence may tender an apology if they intend being absent from all or part of a meeting.

The chair must invite apologies at the beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apology.

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

### **13.5 Recording apologies**

Te tuhi i ngā whakapāha

The minutes must record:

- a) any apologies tendered before or during the meeting, including whether they were accepted or declined; and
- b) the time of arrival and departure of all members.

Members may be recorded as absent on council business where their absence is a result of a commitment made on behalf of the council or at the request of the Mayor for council related business.

The minutes may record at the member's request if the member is absent due to sickness and other relevant reasons beyond the member's control.

### **13.6 Absent without leave**

Tamōtanga ōpaki

Members who miss four consecutive meetings of the council (the governing body), without a leave of absence or apology having been accepted, will create an extraordinary vacancy.

This standing order doesn't apply to extraordinary meetings.

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

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

Te mōtika kia tae atu mā te hononga oro, ataata rongo rānei

Provided the conditions in Standing Orders 13.11 and 13.12 are met:

- a) Members of the council and its committees have the right to attend meetings by electronic link unless they have been lawfully excluded.
- b) Members of the public, for the purpose of a deputation or public forum, approved by the chair, have the right to attend meetings by electronic link, unless they have been lawfully excluded.

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

Te tūnga a te mema: nuinga

Where these standing orders provide for members attendance by electronic link, members who attend meetings by electronic link are counted as present for the purposes of the quorum.

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

### **13.9 Member's status: voting**

Te tūnga a te mema: te pōti

Where a meeting has a quorum, the members attending by electronic link can vote on any items raised at the meeting.

### **13.10 Chair's duties**

Ngā haepapa a te Upoko

Where the technology is available and a member is attending a meeting by audio or audiovisual link, the chair 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
  - iii. the requirements in these Standing Orders are met.

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

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

Ngā here o te tae atu mā te hononga oro, mā te ataata-rongo rānei

Noting Standing Order 13.7, the chair 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**

Te tono kia tae atu mā te hononga oro, mā te ataata-rongo rānei

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

Where 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 council or its committees.

### **13.13 Chair may terminate link**

Ka āhei te Upoko ki te momotu i te hononga

The chair may direct that an electronic link 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; or
- e) information classified as confidential may be compromised (see also SO 13.16).

#### **13.14 Giving or showing a document**

Te hoatu, te whakaatu tuhinga rānei

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 chair thinks fit.

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

#### **13.15 Link failure**

Mūhoretanga o te hononga

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**

Te matatapu

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.

The chair may require the member to confirm that no unauthorised people are able to view or hear the proceedings. If the chair is not satisfied by the explanation, they may terminate the link.

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

Te mahi a te Upoko i ngā hui

**14.1 Council meetings****Ngā hui kaunihera**

- The Mayor must chair all council meetings unless they vacate the chair. The Mayor may vacate the chair for an entire meeting or part of a meeting.
- The Deputy Mayor must chair the council meeting if the Mayor is absent from a meeting or vacates the chair.
- The members present must elect an acting chair if the Mayor and Deputy Mayor are not present and/or have vacated the chair.
- The Deputy Mayor or the acting chair has all the responsibilities, duties and powers of the chair for the duration of the meeting.

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

**14.2 Other meetings****Ētahi atu hui**

The chair of a committee or subcommittee must chair each meeting unless they vacate the chair for all or part of a meeting.

The deputy chair (if any) must chair the meeting if the chair is absent or has vacated the chair.

The committee members present must elect an acting chair if the deputy chair is absent or has not been appointed.

The deputy chair or the acting chair has all the responsibilities, duties and powers of the chair for the meeting.

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

**14.3 Addressing the chair****Te kōrero ki te Upoko**

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

**14.4 Chair's rulings****Ngā whakatau a te Upoko**

The chair will decide all procedural questions, including those where insufficient provision is made by the Standing Orders.

Where a point of order questions the chair's ruling, the deputy chair will decide.

Refusal to obey a chair's ruling or direction constitutes contempt (see Standing Order 20.5).



**14.5 Chair standing**

Te mana o te Upoko

When the chair 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 chair without interruption.

**14.6 Member's right to speak**

Te mōtika o te mema ki te kōrero

Members are entitled to speak in accordance with these Standing Orders.

Members should address the chair when speaking.

Members may not leave their place while speaking unless they have the leave of the chair.

**14.7 Chair may prioritise speakers**

Ka āhei te Upoko ki te whakaraupapa i ngā kaikōrero

When two or more members want to speak the chair will determine the speaking order and name the member who may speak first.

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**

Ngā Wānanga Tūmatanui

Public forums are a defined period of time, put aside for the purpose of public input.

Public forums enable members of the public to bring items of their choice, not on the meeting's agenda, to the attention of the council.

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

**15.1 Time limits**

Ngā tepenga wā

A period of up to 30 minutes will be available for the public forum at each scheduled council and committee meeting.

Requests to speak at a public forum must be:

- a) made to the chief executive (or their delegate);
- b) made at least one clear day before the meeting; and
- c) must outline the items that will be addressed by the speaker(s).

Unless the Chair has restricted the speaking time

- a) Speakers can speak for up to five minutes (excluding questions)
- b) No more than two speakers can speak on behalf of a group or organisation.

The chair has discretion to:

- a) extend a speaker's allocated speaking time;
- b) where there are more than six speakers presenting in the public forum, restrict one or more speakers allocated speaking time, or
- c) waive the time requirement for requesting permission to speak in the public forum.

## **15.2 Restrictions**

Ngā aukatinga

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

- a) a speaker is repeating views presented by an earlier speaker at the same public forum;
- b) more than two speakers have requested to speak on the same matter at the same meeting;
- c) the speaker is criticising elected members and/or staff;
- d) the speaker is being repetitious, disrespectful or offensive;
- e) the speaker has previously spoken on the same issue;
- f) the speaker has caused disruption at multiple previous committee and/or council meetings;
- g) the matter is subject to legal proceedings;
- h) the matter is subject to a hearing, including the hearing of submissions where the council or committee sits in a quasi-judicial capacity; and/or
- i) decision-making authority on the matter rests with another body or individual.

**15.3 Questions at public forums**

Ngā pātai i ngā wānanga tūmatanui

With the chair's permission, members may ask questions of speakers at the conclusion of their presentation.

Questions are to be confined to obtaining information or clarification on matters raised by a speaker.

The speaker may not ask questions of either members or staff.

**15.4 No resolutions**

Kāore he tatūnga

No debate or decisions can be made at the meeting on issues raised during the public forum.

**16. Deputations**

Ngā whakaaturanga ōkawa

The purpose of a deputation is to enable a person, group, or organisation, to make a presentation about an item(s) on a meeting agenda.

Deputations may be heard at the commencement of the meeting, or at the time that the relevant agenda item is being considered.

Requests to make a deputation must be:

- a) made to the chief executive (or their delegate);
- b) made at least five clear days before the meeting; and
- c) must outline the items that will be addressed by the speaker(s).

Any documents to be included in the deputation must be received at least two days in advance to allow time for translation

The chair has the discretion to waive the time requirement for requesting permission to make a deputation.

Members of the public may not question either members or staff.

**16.1 Time limits**

Ngā tepenga wā

Unless the chair has restricted the speaking time under Standing Order 16.2:

- a) speakers can speak for up to five minutes (excluding questions); and
- b) no more than two speakers can speak on behalf of a deputation.

The chair has discretion to extend a speaker's speaking time.

## **16.2 Restrictions**

Ngā aukatinga

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

- a) a speaker is repeating views presented by an earlier speaker at the meeting;
- b) the speaker is criticising elected members and/or staff;
- c) the speaker is being repetitious, disrespectful or offensive;
- d) the speaker has previously spoken on the same issue;
- e) the matter is subject to legal proceedings;
- f) the matter is subject to a hearing, including the hearing of submissions where the council or committee sits in a quasi-judicial capacity and/or
- g) where a member of the public has previously caused a disruption at multiple meetings, the chair may decline a deputation request and require the individual to provide their views in writing.

## **16.3 Questions of a deputation**

Ngā pātai o te whakaaturanga ōkawa

With the permission of the chair, members may ask questions of any speakers at the conclusion of the deputation.

Questions are to be confined to obtaining information or clarification on items raised by the deputation.

Those making the deputation may not ask questions of either members or staff.

## **16.4 Resolutions**

Ngā tatunga

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

## **17. Petitions**

Ngā petihana

### **17.1 Form of petitions**

Te āhua o ngā petihana

Petitions may be presented to a council or committee meeting provided the subject matter falls within the terms of reference of the intended meeting.

Petitions must:

- a) contain at least 20 signatures and consist of fewer than 150 words (not including signatories);
- b) for petitions presented in an electronic format, the petitioner must indicate as best they can when presenting the petition how many signatories live within the Tauranga City Council boundaries
- c) be received by the chief executive at least five working days before the meeting at which they will be presented; and
- d) must not be disrespectful, use offensive language or include malicious, inaccurate, or misleading statements (see Standing Order 20.9 on qualified privilege); and
- e) May be written in English, te reo Māori, or given in sign language. Petitioners should inform the chief executive in sufficient time to allow translation services to be arranged.

The chair may waive the requirement that petitions are required five working days before the meeting.

### **17.2 Petition presented by petitioner**

Petihana i whakaaturia e te kaipetihana

A petitioner who presents a petition to the council or a committee may speak for ten minutes (excluding questions) about the petition unless the meeting resolves otherwise.

The chair must terminate the presentation if they believe the petitioner is being disrespectful, offensive, or making malicious statements.

### **17.3 Petition presented by member**

Petihana i whakaaturia e tētahi mema

A member may present a petition on behalf of a petitioner. In doing so the member must confine themselves to presenting:

- a) the petition;
- b) the petitioners' statement; and
- c) the number of signatures.

**18. Exclusion of public**

Te aukati i te hunga tūmatanui

**18.1 Motions and resolutions to exclude the public**

Ngā mōtini me ngā tatūnga ki te aukati i te hunga tūmatanui

Members of a meeting may resolve to exclude the public from the whole meeting or part of the 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 with copies of the motion made available to any member of the public who is present.

A resolution to exclude the public must be in the form set out in schedule 2A of LGOIMA (see Appendix 2). The council must:

- a) include the general subject for each matter to be excluded;
- b) describe the grounds in section 48 for excluding the public;
- c) have considered whether the public interest in the matter weighs against excluding the public;
- d) provide reason(s), should the resolution pass, set out in plain English and including sufficient detail.

The resolution forms part of the meeting's minutes.

**Note:** Section 7(2)(f)(i) (free and frank expression) cannot be used as a ground to exclude the public from meetings.

*LGOIMA, s 48.*

**18.2 Specified individuals may remain**

Ka āhei ētahi tāngata ka tautuhia ki te noho atu

A resolution to exclude the public may provide for specified individuals to remain if the meeting believes they have knowledge that will assist the meeting.

If it is proposed that specified individuals should stay, the resolution must state how their knowledge is relevant and will be of assistance.

No resolution is needed for people entitled to be at the meeting (such as relevant staff and officials contracted to the council for advice on the matter).

*LGOIMA, s 48(6).*

**18.3 Public excluded items****Ngā take tūmataiti**

The chief executive must indicate, on the agenda, any matter they expect the meeting to consider with the public excluded.

The chief executive may exclude reports, the content or items from reports, expected to be discussed with the public excluded.

*LGOIMA, s 46A(8) & (9).*

**18.4 Non-disclosure of information****Te kore e whāki mōhiohio**

Members and officers may only discuss the information relating to public excluded agenda items and reports with another member, an officer, or a person authorised by the chief executive.

This restriction does not apply where a meeting has resolved, or the chief executive has decided, to make the information publicly available because:

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

**18.5 Release of information from public excluded session****Te tuku i ngā mōhiohio o tētahi hui tūmataiti**

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

The chief executive may release information which has been considered at a public excluded session when it is determined that the grounds to withhold the information no longer exist.

**19. Voting****Te pōti****19.1 Decisions by majority vote****Ngā whakatau mā ngā pōti a te tokomaha**

Unless the LGA 2002 or council's standing orders provide otherwise, council and committees must decide all items before a meeting by:

- a) a vote; and
- b) the majority of members that are present and voting.

*LGA 2002, Sch. 7, cl 24(1) & (4).*

**19.2 Open voting**

Te pōti tuwhera

All items must be determined by open voting.

Everyone present at a meeting must be able to see (or hear) how each individual councillor votes.

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

**19.3 Chair has a casting vote**

Mā te Upoko te pōti whakatau

The Mayor, chair, 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.

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

**19.4 Method of voting**

Tikanga pōti

The method of voting must be as follows:

- a) The chair, in putting the motion, must:
  - i. call for an expression of opinion on the voices; or
  - ii. take a show of hands; and
  - iii. announce the result.
- b) The chair's announcement is conclusive unless it is questioned immediately by a member, in which event the chair will call a division.
- c) The chair, or a member, may call for a division instead of, or immediately after, voting by voice and/or taking a show of hands.
- d) when vote is unanimous, record as "carried unanimously"
- e) when vote is not unanimous, the names of the members voting for and against the motion and abstentions are to be recorded in the minutes and the Chair is to read out the names for the audio/video recording of the meeting.

Where a suitable electronic voting system is available that system may be used instead of a show of hands, vote by voices, or division. The result must be publicly displayed and notified to the chair who must declare the result.



**19.5 Calling for a division**

Te karanga wehewehenga

When a division is called, the chief executive must:

- a) record the names of the members voting for and against the motion
- b) record the names of members abstaining
- c) provide the outcome to the chair to declare the result.

The result of the division including members' names and the way in which they voted must be entered into the minutes.

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

The provisions above may not be needed if section 19.4(e) is retained.

**19.6 Request to have votes recorded**

Te tono kia tuhia ngā pōti

- A member may request their vote, or abstention is recorded in the minutes.
- The request must be received immediately after the vote is taken.
- The minutes must record the member's vote or abstention.

The provisions above may not be needed if section 19.4(e) is retained.

- Recording any other items, such as a members' reason for their vote or abstention, is not permitted.

**19.7 Members may abstain**

Ka āhei ngā mema ki te noho puku

- A member may abstain from voting.
- A member does not need to provide a reason for their abstention.

**20. Conduct**

Whanonga

**20.1 Calling to order**

Te whakatuwhera i te hui

When the chair calls members to order they must be seated and stop speaking.

If a member fails to stop speaking and take their seat, the chair may direct the member to leave the meeting immediately.

The chair may also adjourn the meeting:

- a) if other people cause disorder; or
- b) in the event of an emergency.

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

Me ū ngā whanonga ki te Tikanga Whanonga

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**

Ngā whakakahoretanga me ngā whakapāha

The chair may require a member, or speaker, to apologise and/or withdraw offending comments where the individual:

- a) has been disrespectful of another member, staff or the public; or
- b) contravened the council's Code of Conduct.

If the member refuses to comply with the chair's instruction, the chair may:

- a) direct that the individual leave the meeting for a specified time and/or
- b) make a complaint under the Code of Conduct.

## **20.4 Disorderly conduct – members and public**

Whanonga kino – ngā mema me te hunga tūmatanui

A member whose behaviour is disorderly or is creating a disturbance, may be asked by the chair to leave the room immediately.

The chair must specify whether the member is required to leave for:

- a) the remainder of the meeting; or
- b) a lesser period.

The chair may also adjourn the meeting:

- a) if other people cause disorder; or
- b) in the event of an emergency.

If the disorder continues the chair may adjourn the meeting for a specified time.

**20.5 Contempt****Te whakahāwea**

Where the chair has repeatedly cautioned a member for disorderly conduct the meeting may resolve that the member is in contempt.

The 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 chair for disorderly conduct, may be subject to Standing Order 20.6.

**20.6 Removal from meeting****Te pana tangata i te hui**

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

This Standing Order will apply where the chair has ruled that the member should leave the meeting and:

- a) the member has refused or failed to do so; or
- b) has left the meeting and attempted to re-enter it without the chair's permission.

**20.7 Financial conflicts of interests****Ngā pānga taharua ahumoni**

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

The nature of the interest does not need to be disclosed.

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:

- a) an exception set out in s 6 of the LAMIA applies to them, or
- b) the Auditor-General has granted an exemption or declaration under s 6(4), 3(a) or 3(aa) of the LAMIA.

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.

The chair, chief executive and/or the meeting cannot 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 members' abstention from any discussion and voting on the matter.

*LAMIA, ss 3, 6 & 7.*

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

Ngā pānga taharua ahumoni

- Non-financial interests involve questions about whether the judgement of a member 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 that may influence their judgement, 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.
- The chair, chief executive and/or the meeting cannot rule on whether a member has a non-financial interest in the matter being discussed.

## **20.9 Qualified privilege for meeting proceedings**

Te whakaaetanga motuhake i roto i ngā tuhinga hui

Any oral statement made at any meeting of the council in accordance with the rules adopted by the council 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**

He āpitihanga te whakaaetanga motuhake ki ētahi atu whakaritenga

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 council.

*LGOIMA, s 53.*

## **20.11 Electronic devices at meetings**

Ngā pūrere hiko i ngā hui

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

**21. General rules of debate**

Ngā tikanga ahuwhānui o te tautohetohe

**21.1 Chair may exercise discretion**

Ka āhei te Upoko ki te whakarite i tāna ake whakatau

The chair has discretion to apply any procedural items in this section of Standing Orders as they see fit.

**21.2 Time limits on speakers**

Ngā tepenga wā mō ngā kaikōrero

The following time limits apply to members speaking at meetings:

- a) movers of motions when speaking to the motion – five minutes;
- b) movers of motions when exercising their right of reply – five minutes; and
- c) other members – five minutes.

Time limits can be extended by:

- a) resolution, or
- b) at the chair's discretion.

**21.3 Questions to staff**

Ngā pātai ki ngā kaimahi

The chair has discretion to decide whether questions can be put to staff once the debate has begun.

The chair has discretion to determine:

- a) how the question is to be dealt with; or
- b) whether the question needs to be answered or not.

**21.4 Questions of clarification during debate**

Ngā pātai whakamārama i te wā o te tautohetohe

At any point in a debate a member may ask the chair:

- a) for clarification about the nature and content of the motion; and/or
- b) the particular stage the debate has reached.

**21.5 Members may speak only once**

Kotahi anake te wā e kōrero ai ngā mema

A member, depending on the choice of options for speaking and moving set out in Standing Orders 22.2 - 22.4, may not speak more than once to a motion at a meeting of the council, except with permission of the chair.

Members can speak more than once to a motion at a committee or subcommittee meeting with the chair's permission.

**21.6 Limits on number of speakers**

Te tepenga o te nui o ngā kaikōrero

If three speakers have spoken in support of, or in opposition to, a motion, the chair may call for a speaker to the contrary.

If there is no speaker to the contrary, the chair must put the motion after the mover's right of reply.

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

**21.7 Mover and seconder may reserve speech**

Ka āhei te kaimōtini me te kaitautoko ki te tārewa i ā rāua kōrero

A member may move or 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 items**

Te kōrero mō ngā take hāngai anake

Members may only speak to:

- a) a matter on the meeting agenda;
- b) a motion or amendment which they propose; or
- c) to raise a point of order.

Members must confine their remarks strictly to the motion or amendment they are speaking to.

The chair's rulings on these items are final and not open to challenge.

**21.9 Restating motions**

Te whakapuaki anō i ngā mōtini

At any time during a debate a member may ask that the chair restate a motion and any amendments; but not in a manner that interrupts a speaker.

**21.10 Criticism of resolutions**

Te whakahē tatūnga

A member speaking in a debate may not unduly criticise the validity of any resolution, except where the matter under debate is a notice of motion to amend or revoke that resolution.

**21.11 Objecting to words**

Te whakahē kupu

A member may object to words used by another member in debate and ask that the objection be recorded in the minutes.

The objection must be lodged at the time the words are used, and before any other member has spoken.

The chair must order the minutes to record the objection.

**Note:** This provision does not prevent 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**

Mōtika whakautu kōrero

The mover of a motion has a right of reply.

The mover of an amendment to the motion does not.

In their reply, the mover must confine themselves to answering previous speakers and not introduce any new items.

A mover has only one right of reply. The mover can exercise their right of reply either at the end of the debate on the motion (whether original, substituted or substantive) 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 their 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.

**21.13 No other member may speak**

Kāore tētahi atu mema e āhei ki te kōrero

No member may speak:

- a) after the mover has started their reply;
- b) after the mover has indicated that they want to forego their reply; or

- c) where the mover has spoken to an amendment to the original motion and the chair has indicated that he or she intends to put the motion.

#### **21.14 Adjournment motions**

Ngā mōtini whakatārewa

The carrying of any motion to adjourn a meeting supersedes other business, including business yet to be resolved.

Any adjourned business must be considered at the next meeting.

Business referred to, or referred back to, another decision-making body must be considered at the next ordinary meeting of that body, unless otherwise specified.

#### **21.15 Chair's acceptance of closure motions**

Te whakaae a te Upoko ki ngā mōtini whakakapi

The chair may only accept a closure motion where:

- a) there have been at least two speakers for and two speakers against the motion proposed to be closed; or
- b) the chair considers it reasonable to do so.

However, the chair 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 (unless the mover has already exercised that right) after which the chair puts the motion or amendment to the vote.

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

Ngā tukanga mō te kōrero me te whakatau mōtini

#### **22.1 Options for speaking and moving**

Kōwhiringa ki te kōrero me te mōtini

This subsection provides three options for speaking and moving motions and amendments at a meeting of council and its committees.

**Option C** applies unless, on the recommendation of the chair 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****Kōwhiringa A**

- 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 a matter in the report. In this case the original mover or seconder may also move or second the amendment).
- b) Only members who have not spoken to the motion (whether original, substituted or substantive) may move or second an amendment to it.
- c) A member may only move or second one amendment in a debate. It does not matter whether the amendment is carried (and becomes the substantive motion) or lost.
- d) Members can speak to any amendment. The meeting may reword a motion provided that:
  - i. the mover and seconder agree to the rewording; and
  - ii. the majority of members agree to the rewording.

**22.3 Option B****Kōwhiringa B**

- 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 move or second the amendment).
- b) Any members, regardless of whether they have spoken to the motion (whether original, substituted or substantive), may move or second an amendment to it.
- c) The mover or seconder of an amendment that is carried can move or second a subsequent amendment.
- d) A mover or seconder of an amendment which is lost cannot move or second a subsequent amendment.
- e) Members can speak to any amendment.
- f) The meeting may reword a motion provided that:
  - i. the mover and seconder agree to the rewording; and
  - ii. the majority of members agree to the rewording.

**22.4 Option C (Primary Option) Refer Appendix 5****Kōwhiringa C**

- a) The mover and seconder of a motion can move or second an amendment.
- b) Any members, regardless of whether they have spoken to the motion (whether original, substituted or substantive), may move or second an amendment to it.
- c) The mover or seconder of an amendment (whether it is carried or lost) can move or second further amendments.
- d) Members can speak to any amendment.
- e) The meeting may reword a motion provided that:
  - i. the mover and seconder agree to the rewording; and
  - ii. the majority of members agree to the rewording.

**23. Motions and amendments****Ngā mōtini me ngā menemana****23.1 Proposing and seconding motions****Te whakatakoto me te tautoko mōtini**

- All motions, and amendments to motions moved during a debate, must be seconded (including notices of motion).
- The chair may then state the motion and propose it for discussion.
- A motion should be moved and seconded before debate but after questions.
- Any motion, including substituted motions and amendments, that are not seconded are not valid and should not be entered in the minutes.
- Members who move or second a motion are not required to be present for the entirety of the debate.

**23.2 Motions in writing****Ngā mōtini ā-tuhi**

The chair may require movers of motions, including substituted motions and amendments, to provide them in writing.

**23.3 Motions expressed in parts**

Ngā mōtini i whakatakotohia ki ngā wāhanga

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

**23.4 Substituted motion**

Ngā mōtini whakakapi

The meeting may replace a motion with a substitute provided that:

- a) the substituted motion has been moved and seconded; and
- b) the mover and seconder of the original motion agree to its replacement.

All members may speak to the substituted motion.

**23.5 Amendments to motions**

Ngā menemana ki ngā mōtini

Subject to standing order 23.6, the meeting may amend a motion provided that:

- a) the motion has been moved and seconded; and
- b) the mover and seconder of the original motion agree to its amendment.

All members may speak to the amendment.

**23.6 Amendments must be relevant and not direct negatives**

Me hāngai ngā menemana, otirā kia kaua e whakakahore

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.

Amendments must comply with the decision-making provisions of Part 6 of the LGA 2002.

Reasons for not accepting an amendment 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) being in conflict with a motion referred to the governing body by that meeting; or

f) direct negative.

### **23.7 Foreshadowed amendments**

Ngā menemana i tūtohua

Only one amendment can be debated at a time.

The meeting must dispose of a proposed or existing amendment before a new amendment can be moved.

Members may foreshadow, to the chair, an intention to move further amendments and may advise the nature of those amendments.

### **23.8 Lost amendments**

Ngā menemana mūhore

Where a proposed amendment is lost, the meeting will resume the debate on the motion (whether original, substituted or substantive).

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 Carried amendments**

Ngā menemana i mana

Where an amendment is carried;

- a) The motion, incorporating the amendment, becomes the substantive motion.
- b) the meeting will resume the debate on 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.

### **23.10 Where a motion is lost**

Ina hinga tētahi mōtini

Where a motion that recommends a course of action is lost, a new motion, with the consent of the chair, may be proposed to provide an alternative course of action.

### **23.11 Withdrawal of motions and amendments**

Te tango mōtini, te tango menemana hoki

The meeting owns a motion or amendment once it has been moved, seconded and put to the meeting for discussion.

The mover cannot withdraw a motion or amendment without the agreement of the majority of members who are present and voting.

The mover of an original motion cannot withdraw the motion if an amendment has been moved, seconded and put to the meeting for discussion unless the amendment has been lost, or withdrawn by agreement

Refer to Standing Order 23.4.

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

Kāore e āhei te kōrero i muri i te whakatakoto whakautu, i te whakatakoto mōtini rānei

No member may speak to a motion once:

- a) the mover has started their right of reply; or
- b) the chair has started putting the motion.

### **23.13 Reasons for decisions**

If a resolution is different to the staff report and the “why” this decision was made is unclear, the resolution can include “reasons for decision”.

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

Te whakakore, te whakarerekē rānei i ngā tatūnga

### **24.1 Member may move revocation of a decision by notice of motion**

Ka āhei te mema ki te whakakore i tētahi whakataunga mā te whakatakoto mōtini

A member of a decision-making body may give the chief executive a notice of motion for the revocation or alteration of all or part of a previous resolution of the same decision-making body.

The notice of motion must set out:

- a) the resolution or part of the resolution which the member proposes to revoke or alter;
- b) the decision-maker and 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 sufficient information, or the decision is likely to be deemed a significant decision, the notice of motion should recommend 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**  
**Mā te rōpū nā rātou te whakatau e whakakore**

Where a committee, subcommittee, joint committee, other subordinate decision-making body has made a resolution under delegated authority, only that body may revoke or amend the resolution (assuming the resolution has been legally made).

This provision does not prevent the body that delegated authority from removing or amending a delegation.

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

*Refer also to Part 6 (Delegations) of these Standing Orders*

**24.3 Requirement to give notice**  
**Te herenga ki te whakamōhio atu**

A notice of motion to revoke, or alter, a previous resolution must:

- a) be in writing;
- b) be signed by not less than one third of the members of the council or body that made the resolution (including vacancies); and
- c) be delivered to the chief executive at least five clear working days before the proposed meeting.

The mover can send the notice of intended motion via email including the scanned electronic signatures of members.

If the notice of motion is lost, the chief executive cannot accept a similar notice of motion which is substantially the same in purpose and effect within the next twelve months.

**24.4 Restrictions on actions under the affected resolution**  
**Ngā herenga o ngā mahi i raro i te tatūnga whai pānga**

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 chair:

- a) the practical effect of delaying actions under the resolution would be the same as if the resolution had been revoked; or

- b) by reason of repetitive notices, the effect of the notice is an attempt by a minority to frustrate the will of the council or the committee that made the previous resolution.

In both 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**

Te whakakore, te whakarerekē rānei mā te tatūnga i taua hui tonu

A meeting may revoke or alter a previous resolution made at the same meeting where:

- a) the meeting has received fresh facts or information concerning the resolution during the course of the meeting; and
- b) 75 per cent of the members present and voting have agreed, by resolution, to the revocation or alteration.

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

Te whakakore, te whakarerekē rānei mā te tūtohunga i roto pūrongo

The council, on a recommendation in a report by the chair, chief executive, a committee or subcommittee, a subordinate decision-making body or a 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**

Ngā mōtini ā-hātepe

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

Me wawe tonu te pōti mō ngā mōtini ā-hātepe

A procedural motion to close or adjourn a debate takes precedence over other business, except points of order and rights of reply.

If a procedural motion is seconded the chair must put it to the vote immediately, without discussion or debate.

The chair must accept a procedural motion to close or adjourn debate:

- a) after two speakers have spoken for the motion and two have spoken against the motion; or
- b) in the chair's opinion it is reasonable to accept the closure.

**25.2 Procedural motions to close or adjourn a debate**

Ngā mōtini ā-hātepe hei whakakapi, hei whakatārewa rānei i tētahi tautohetohe

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 now be put (a closure motion);
- c) that the matter being discussed be adjourned to a specified time and place and not be further discussed at the meeting;
- d) that the matter of business being discussed 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 matter being discussed 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**

Te pōti mō ngā mōtini ā-hātepe

A majority of members present, and voting, must decide any procedural motion to close or adjourn a debate.

If a procedural 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**

Ngā tautohetohe mō ngā take kua whakatārewatia

When debate resumes on items that have been previously adjourned all members can speak on the items.

**25.5 Remaining business at adjourned meetings**

Ngā take e toe tonu ana i ngā hui kua whakatārewatia

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



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

Ngā take i tohua ki te kaunihera, ki te komiti, ki te poari ā-rohe, ki te hapori rānei

Where a matter is referred to, or referred back to, a committee the committee will consider the matter at its next meeting unless the meeting resolves otherwise.

**25.7 Other types of procedural motions**

Ētahi atu momo mōtini ā-hatepe

The chair has the discretion to allow any other procedural motion not contained in these Standing Orders.

**26. Points of order**

Ngā ui tikanga

**26.1 Members may raise points of order**

Ka āhei ngā mema ki te tuku ui tikanga

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 speaking must stop speaking and sit down (if standing).

**26.2 Subjects for points of order**

Ngā kaupapa hei tuku ui tikanga

A member raising a point of order must state precisely what its subject is.

Points of order may be raised for the following subjects:

a.	Disorder	Bringing disorder to the attention of the chair.
b.	Language	Highlighting use of disrespectful, offensive or malicious language.
c.	Irrelevance	Informing the chair that the topic being discussed is not the matter currently before the meeting.
d.	Misrepresentation	Alerting the chair of a misrepresentation in a statement made by a member, an officer or a council employee.
e.	Breach of standing order	Highlighting a possible breach of a standing order which must specify which standing order is subject to the breach.
f.	Recording of words	Requesting that the minutes record any words that have been the subject of an objection.

**26.3 Contradictions**

Ngā whakahorihori

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**

Ngā ui tikanga i te wā o te wehewehenga

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

**26.5 Chair's decision on points of order**

Te whakatau a te Upoko i ngā ui tikanga

The chair 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 chair's ruling on any point of order, and any explanation of that ruling, is not open to any discussion and is final.

Where a point of order concerns the performance of the chair, the chair will:

- a) refer the point of order to the deputy chair; or
- b) if there is no deputy chair, another member to hear arguments and make a ruling.

**27. Notice of motion**

Te pānui mōtini

**27.1 Notice of intended motion to be in writing**

Me tuhi te pānui mōtini

A notice of intended motion must:

- a) be in writing;
- b) be signed by the mover;
- c) state the meeting at which it is proposed the motion be considered; and
- d) be delivered to the chief executive at least five clear working days before the proposed meeting.

The mover can send the notice of an intended motion via email and include a scanned electronic signature of the mover.

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

## **27.2 Refusal of notice of motion**

Te whakakāhore i te pānui mōtini

The chair 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;
- b) is not related to the role or functions of the council or the meeting concerned;
- 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;
- d) is concerned with matters which are already the subject of reports or recommendations to the meeting concerned;
- 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 recommend that the proposal is referred to the chief executive for consideration and report; or
- f) concerns a matter where council has delegated decision-making authority to a subordinate body or a local or community board.

Where the refusal is due to f), the chief executive must refer the notice of motion to the appropriate body or board.

The chief executive should provide reasons for refusing a notice of motion to the mover.

## **27.3 Mover of notice of motion**

Te kaimōtini o te pānui mōtini

A meeting may not consider a notice of motion in the absence of the mover unless the mover has provided written authorisation for another member to move the motion.

**27.4 Alteration of notice of motion**

Te whakarerekē i te pānui mōtini

Only the mover may alter a proposed notice of motion.

Any alteration requires the agreement of a majority of those present at the meeting and must be made at the time the motion is moved.

Once moved and seconded no amendments may be made to a notice of motion.

**27.5 When notices of motion lapse**

Āhea mōnehu ai te pānui mōtini

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

**27.6 Referral of notices of motion**

Te tuari i te pānui mōtini ki rōpū kē

Where a notice of motion refers to a matter ordinarily dealt with by a committee of the council or a local or community board, the chief executive must refer the notice of motion to that committee or board.

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

**27.7 Repeat notices of motion**

Ngā pānui mōtini tārua

When a motion has been considered and rejected by the council or a committee:

- a) 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.
- b) No other notice which, in the chair's opinion, has the same effect, may be put while the original motion stands.

**28. Minutes**

Meneti

**28.1 Minutes to be evidence of proceedings**

Ko ngā meneti te taunakitanga o ngā hui

The council, its committees and subcommittees must authorise and keep minutes of their proceedings.

When confirmed by resolution at a subsequent meeting, or following authorisation by the chair (by manual or electronic signature) the minutes will be authenticated and stored in hard or electronic copy.

Once authorised, the minutes are the *prima facie* evidence of the proceedings they relate to.

*LGA 2002, Sch.. 7, cl 28.*

## **28.2 Items recorded in minutes**

Ngā take i tuhia ki ngā meneti

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 chair;
- d) any apologies or leaves of absences;
- e) members absent without apology or leave of absence;
- f) members 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 matter considered;
- k) matter 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;
- u) the names of people permitted to stay in public excluded;

- v) the timestamp for each report on the livestream recording be included in the minutes for ease of reference;
- w) discussion on concerns raised at the meeting as requested by the chair at times are to be recorded in the minutes; and
- x) actions requested during the meeting are recorded in the minutes and the chair states clearly what these actions are during the meeting (note these are not resolutions).

**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**

Kāore ngā take kei ngā meneti e kōrerorerotia

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**

Ngā meneti o te hui whakamutunga i mua tonu i te pōtitanga

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

## **29. Keeping a record**

Te pupuri mauhanga

### **29.1 Maintaining accurate records**

Te pupuri mauhanga tika

A council 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.

A council must maintain all public records that are in its control in an accessible form, to be able to be used for subsequent reference.

*Public Records Act 2002, s 17.*

### **29.2 Method for maintaining records**

Te tikanga pupuri mauhanga

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**

#### **Tirotirohanga**

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 items**

#### **Tirotirohanga o ngā take tūmataiti**

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**

### **Ngā tuhinga i kōrerotia**

1. Commissions of Inquiry Act 1908
  2. Crimes Act 1961
  3. Contract and Law Act 2017
  4. Financial Markets Conduct Act 2013
  5. Local Authorities (Members' Interests) Act 1968 (LAMIA)
  6. Local Electoral Act 2001 (LEA)
  7. Local Government Act 1974 and 2002 (LGA)
  8. Local Government Official Information and Meetings Act 1987 (LGOIMA)
  9. Public Records Act 2005
  10. Resource Management Act 1991 (RMA)
  11. Sale and Supply of Alcohol Act 2012
  12. Secret Commissions Act 1910
  13. Securities Act 1978
-

**Appendix 1: Grounds to exclude the public****Āpitianga 1: Ngā take e aukatihia ai te hunga tūmatanui**

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 is not 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

### Āpitianga 2: Tauira o te tatūnga aukati i te hunga tūmatanui

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:

General subject of each matter to be considered	Reason for excluding the public	Grounds for excluding the public
		To prevent the disclosure of information which would— <ol style="list-style-type: none"> <li>i. be contrary to the provisions of a specified enactment; or</li> <li>ii. constitute contempt of court or of the House of Representatives (s.48(1)(b)).</li> </ol>
		To consider a recommendation made by an Ombudsman (s. 48(1)(c)).
		To deliberate on matters relating to proceedings where: <ol style="list-style-type: none"> <li>i. a right of appeal lies to a court or tribunal against the final decision of the councils in those proceedings; or</li> <li>ii. the council is required, by an enactment, to make a recommendation in respect of the matter that is the subject of those proceedings (s.48(1)(d)).</li> </ol>
		To deliberate on proceedings in relation to an application or objection under the Marine Farming Act 1971 (s.48(1)(d)).

General subject of each matter to be considered	Reason for excluding the public	Grounds for excluding the public
	<p>Good reason exists under Section 7.</p> <p>To carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (s 7(2)(i)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7. To protect the privacy of natural persons, including that of deceased natural persons (s 7(2)(a)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7.</p> <p>To maintain legal professional privilege (s 7(2)(g)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7.</p> <p>To prevent the disclosure or use of official information for improper gain or advantage (s. 7(2)(j)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7.</p> <p>To protect information which if public would;</p> <ul style="list-style-type: none"> <li>i. disclose a trade secret; or</li> <li>ii. unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information (s 7(2)(b)).</li> </ul>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>

General subject of each matter to be considered	Reason for excluding the public	Grounds for excluding the public
	<p>Good reason exists under Section 7. 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;</p> <ul style="list-style-type: none"> <li>• a resource consent, or</li> <li>• a water conservation order, or</li> <li>• a requirement for a designation or</li> <li>• an heritage order, (s 7(2)(ba)).</li> </ul>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7.</p> <p>To protect information which is subject to an obligation of confidence where the making available of the information would be likely to:</p> <ol style="list-style-type: none"> <li>i. prejudice the supply of similar information, or information from the same source, where it is in the public interest that such information should continue to be supplied; or</li> <li>ii. would be likely otherwise to damage the public interest (s 7(2)(c)).</li> </ol>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7.</p> <p>To avoid prejudice to measures protecting the health or safety of members of the public (s 7(2)(d)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>

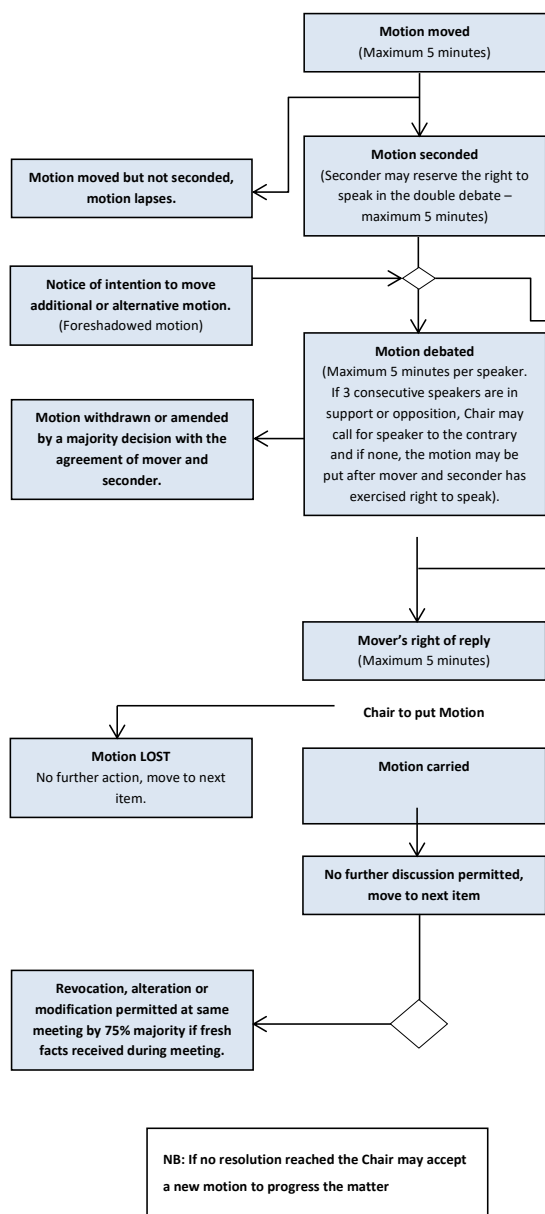
General subject of each matter to be considered	Reason for excluding the public	Grounds for excluding the public
	<p>Good reason exists under Section 7.</p> <p>To avoid prejudice to measures that prevent or mitigate material loss to members of the public (s 7(2)(e)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7.</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)(iii)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>
	<p>Good reason exists under Section 7.</p> <p>To enable the council to carry out, without prejudice or disadvantage, commercial activities (s 7(2)(h)).</p>	<p>That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)</p>

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.)

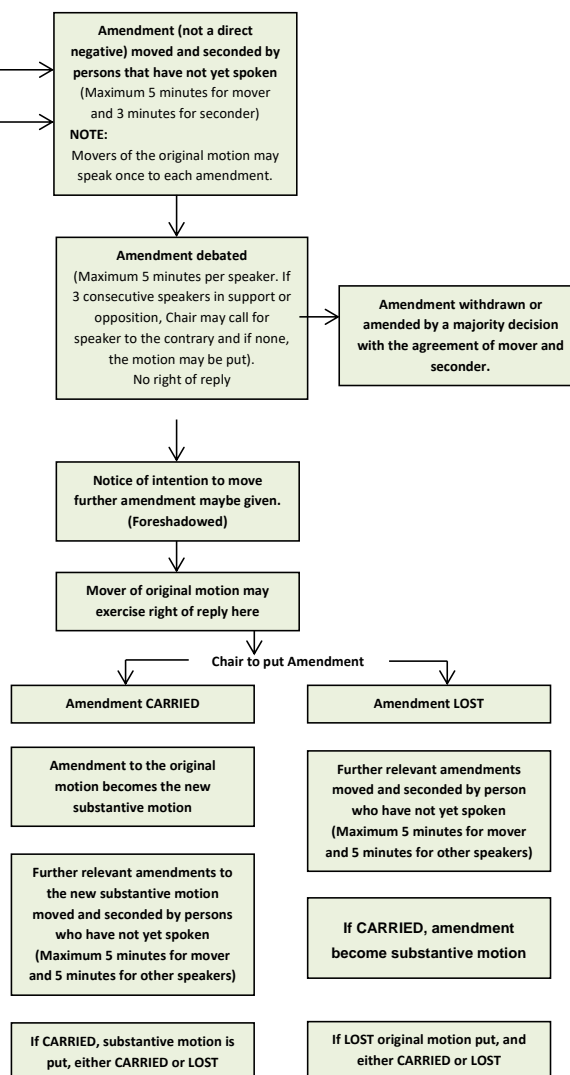
### Appendix 3: Motions and amendments (Option A)

Āpitihanga 3: Ngā mōtini me ngā menemana (Kōwhiringa A)

#### Motions without amendments



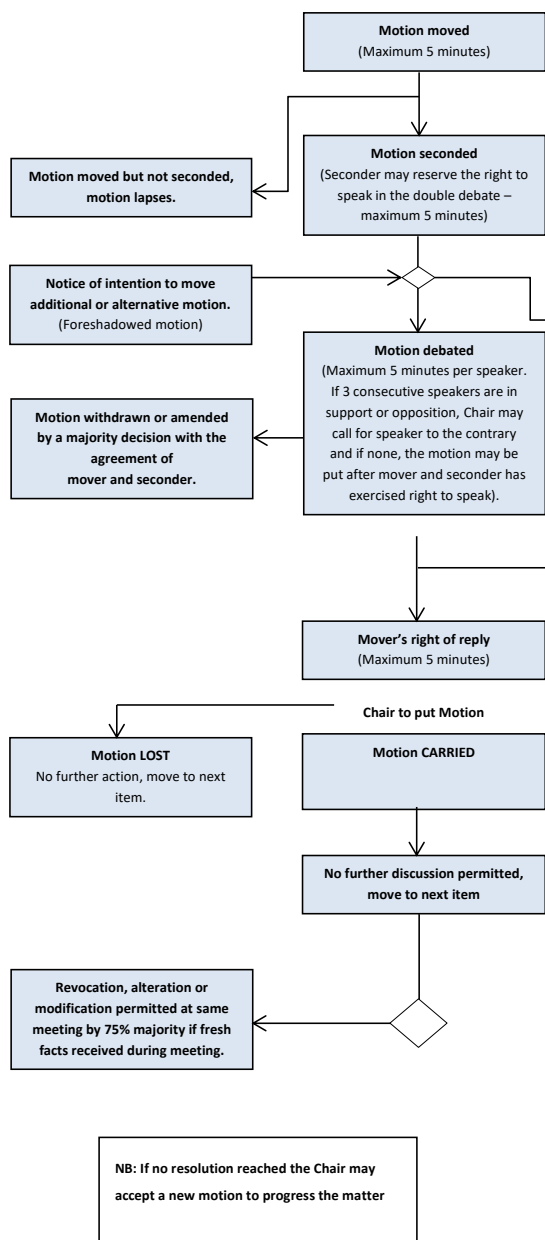
#### Motions with amendments



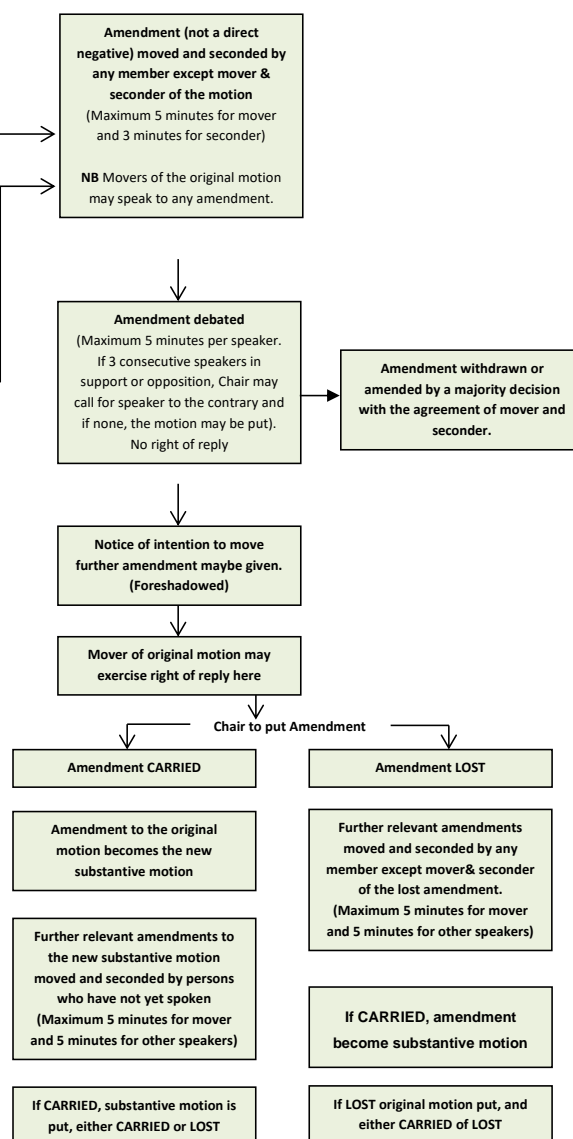
## Appendix 4: Motions and amendments (Option B)

Āpitihanga 4: Ngā mōtini me ngā menemana (Kōwhiringa B)

### Motions without amendments



### Motions with amendments

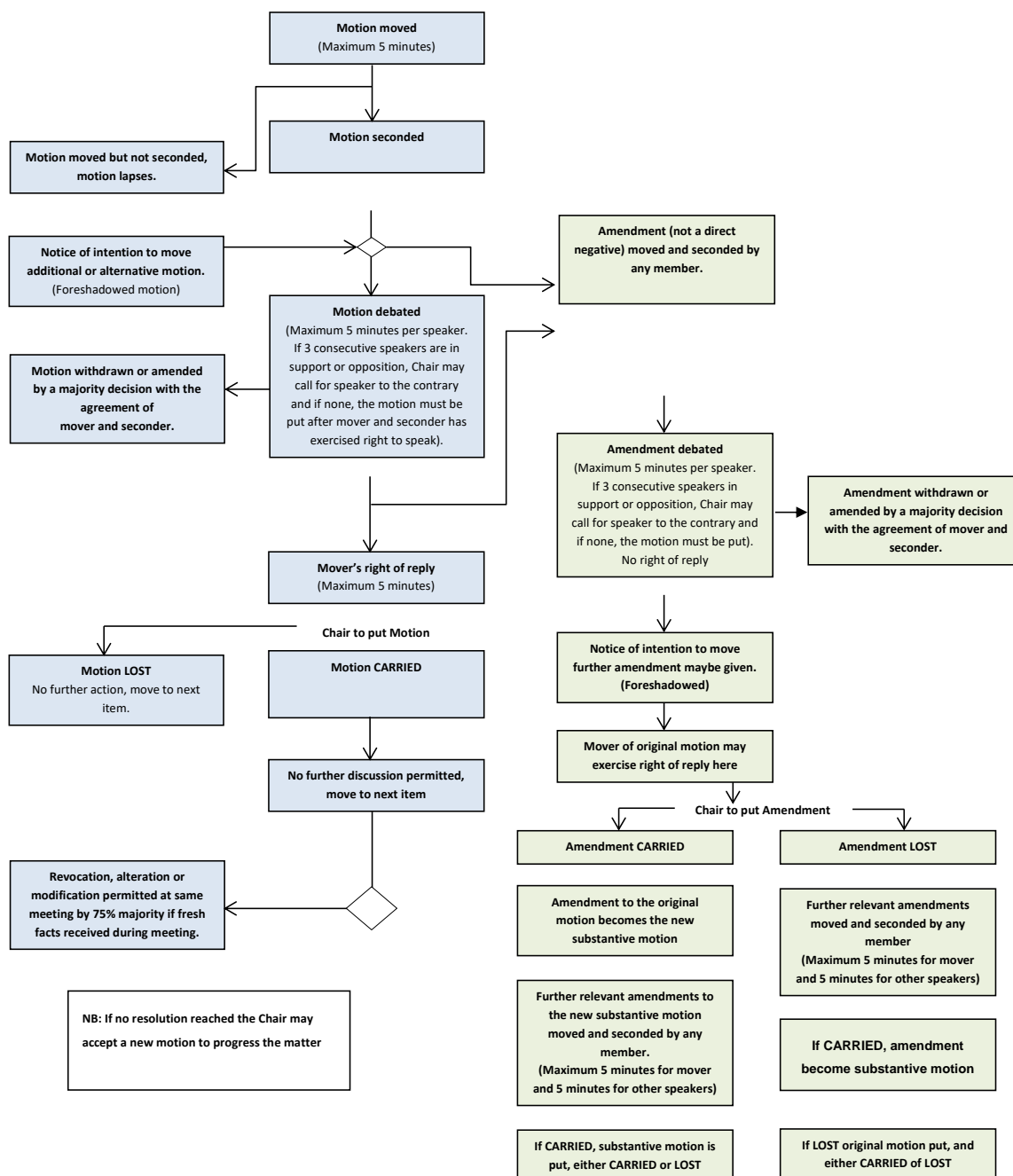


## Appendix 5: Motions and amendments (Option C)

Āpitihanga 5: Ngā mōtini me ngā menemana (Kōwhiringa C)

Motions without amendments

Motions with amendments





**Appendix 6: Table of procedural motions**

Āpitianga 6: Tūtohi o ngā mōtini ā-hātepe

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

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

**Appendix 7: Powers of a Chair****Āpitihanga 7: Ngā mana a te Upoko**

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

**Cancellation of a meeting (SO.8.17)**

The chair may cancel a scheduled meeting after consulting with the Chief Executive if they consider it necessary due to lack of business, lack of quorum or clash with another event.

**Order of business (SO.9.4)**

The chair can decide the order of business at a meeting.

**Chair's recommendation (SO.9.5)**

The chair of any meeting may include on the agenda for that meeting a chair's recommendation regarding any item brought before the meeting. Where these vary significantly from an officer's recommendation, the chair must provide the reasons for the recommendation, and these must comply with the decision-making requirements of Part 6 of the LGA 2002.

**Chair's report (SO.9.6)**

The chair may prepare a report to be included in the agenda provided it's within the terms of reference for the meeting. Any report and recommendations must comply with the decision-making requirements of Part 6 of the LGA 2002.

**Items not on the agenda (SO.9.12 and SO 9.13)**

**Major items** not on the agenda may be dealt with at that meeting if so resolved by the local authority and the chair 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 chair 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.

**Meeting lapses where no quorum and business from lapsed meetings (SO.11.5 and 11.6)**

The chair:

- (a) Has the discretion to wait for a longer period than 30 minutes if members are known to be travelling to the meeting but have been delayed (SO 11.5)
- (b) May call an earlier 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 (SO 11.6)

- (c) May refer the matters to another body with appropriate decision-making authority (SO 11.6)

**Public to be removed from the meeting (SO.12.2)**

The chairperson may require a 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.

**Stopping public recording a meeting (SO.12.4)**

The chair is to be notified of the public recording the meeting and this recording must not distract from the meeting conducting its business. The chair can direct the public to stop recording of a public part of the meeting for a specified period of time.

**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 chair 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.

**Chair may terminate audio/audio-visual link (SO.13.13)**

The chair may direct an electronic link be terminated where the use of it is:

- a) The link is increasing or may reasonably increase the length of the meeting
- b) The behaviour of members using the link warrants termination
- c) It is distracting to the members who are physically present
- d) The quality of the link is no longer suitable
- e) Information classified as confidential may be compromised

**Confidentiality of members attending by audio/audio-visual link (SO.13.16)**

The chair may require a member to confirm that no unauthorised people are able to view or hear proceedings and if not satisfied by the explanation, may terminate the link.

**Chair must chair each meeting (SO.14.2)**

The chair of a committee or sub-committee must chair each meeting unless they vacate the chair for all or part of a meeting. Where co-chairs for committees are in place, the terms of reference for those committees set out how co-chairs will determine who chairs the meeting.

**Chair to decide all questions (SO. 14.4)**

The Chair is to decide all procedural questions where these Standing Orders make no provision or insufficient provision. The chair's ruling is final and not open to debate.

**Chair's rulings (SO.14.4)**

Any member who refuses to accept a ruling or direction of the chair can be found to be in contempt (see Standing Orders 20.5 and 20.6) .

**Chair rising (SO.14.5)**

Whenever the chair 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 chair may be heard without interruption.

**Explanations (SO. 14.6)**

The chair 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.

**Members may leave places (SO.14.6)**

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

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

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

**Extend time limits of public forum speakers/deputations (SO.15.1 and 16.1)**

The Chair has the discretion to extend a speaker's allocated time, restrict speakers' allocated time where more than six speakers are presenting, and waive the time requirement for requesting permission to speak in the public forum.

**Decline to hear a public forum speaker or terminate a presentation (SO.15.2 and 16.2)**

The chair has the discretion to decline to hear a speaker or to terminate a presentation at any time in the circumstances set out in SO 15.2.

**Questions of speakers/deputations (SO.15.3 and 16.3)**

The chair 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. The speaker may not ask questions of either members or staff.

**Petitions (SO.17.2 – 17.1)**

The chair may waive the requirement that petitions are required to be received five working days before the meeting. The chair may terminate the presentation if they believe the petitioner is being disrespectful, offensive, or making malicious statements.

**Chair's voting (SO19.3)**

The chair 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.

**Method of voting (SO19.4)**

The chair when putting a motion must

- i. call for an expression of opinion on the voices; or
- ii. take a show of hands or if a suitable electronic voting system is available use that instead of a show of hands, vote by voices or division.
- iii. announce the result i.e. read out the names for and against the motion and abstentions
- iv. call a second division where there is confusion or error in the original division.

**Calling to order (SO.20.1)**

When the chair calls members to order they must be seated and stop speaking. If a member fails to do this the chair may direct the member to leave the meeting immediately. The chair may also adjourn the meeting if other people cause disorder or in the event of an emergency.

**Retractions and apologies (SO.20.3)**

The chairperson may require a member, or speaker, to apologise and/or withdraw offending comments where the individual:

- a) has been disrespectful of another member, staff or the public; or
- b) contravened the council's Code of Conduct.

If the member refuses to comply with the chairperson's instruction, the chairperson may:

- a) direct that the individual leave the meeting for a specified time and/or
- b) make a complaint under the Code of Conduct.

**Disorderly conduct – members and public (SO.20.4)**

The chair may:

- (a) Require any member or member of the public whose conduct is disorderly or who is creating a disturbance, to leave the meeting immediately and must specify whether this is for the remainder of the meeting or a lesser period.
- (b) Adjourn the meeting if other people cause disorder or in the event of an emergency

**Contempt (SO20.5)**

Where the chairperson has repeatedly cautioned a member for disorderly conduct the meeting may resolve that the member is in contempt.

**Removal or exclusion of member from a meeting (SO20.6)**

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

Where the chair has ruled that the member should leave the meeting and:

- a) the member has refused or failed to do so; or
- b) has left the meeting and attempted to re-enter it without the chairperson's permission.

**Time limits on speakers (SO.21.2)**

The chair has the discretion to extend time limits for members speaking to motions and amendments.

**Questions to staff (SO.21.3)**

The chair has the discretion to decide what questions are put to staff once a debate has begun.

**Members may speak only once (SO.21.5)**

The chair has the discretion to give permission for a member to speak more than once to a motion.

**Limits on number of speakers (SO21.6)**

The chair may call for a speaker to the contrary if three speakers have spoken in support of, or in opposition to, a motion. 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.

**Speaking only to relevant items (SO.21.8)**

The chair'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 chair 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.

**Chair's acceptance of closure motions (SO.21.15)**

The chairperson may only accept a closure motion where:

- a) there have been at least two speakers for and two speakers against the motion proposed to be closed; or
- b) 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.

**Motion in writing (SO.23.2)**

The chair may require movers of motions, including substituted motions and amendment to provide them in writing.

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

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

**Where a motion is lost (SO.23.10)**

Where a motion that recommends a course of action is lost, a new motion, with the consent of the chairperson, may be proposed to provide an alternative course of action.

**Restrictions on actions under the affected resolution (SO.24.4)**

If, in the opinion of the chair 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 chair 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.

**Revocation or alteration of previous resolution (SO 24.6)**

A chair may recommend in a report to meeting the revocation or alteration of all or part of any resolution previously passed, and the meeting may act on such a recommendation in accordance with the provisions in these Standing Orders.

**Procedural motions must be taken immediately (SO.25.1)**

The chair must put a procedural motion to the vote immediately, without discussion or debate.

**Other types of procedural motions (SO.25.7)**

The chair has the discretion to allow any other procedural motion not contained in these Standing Orders.

**Chair to decide points of order (SO. 26.5)**

The chair 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 chair on any point of order is not open to any discussion and is final.

Where a point of order concerns the performance of the chair, the chair will refer the point of order to the deputy chair.

**Refusal of notice of motion (SO.27.2)**

The chair 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;
- b) is not related to the role or functions of the council or the meeting concerned;



- 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;
- d) is concerned with matters which are already the subject of reports or recommendations to the meeting concerned;
- 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 recommend that the proposal is referred to the chief executive for consideration and report; or
- f) concerns a matter where council has delegated decision-making authority to a subordinate body or a local or community board.

Where the refusal is due to f), the chief executive must refer the notice of motion to the appropriate body or board. The chief executive should provide reasons for refusing a notice of motion to the mover.

**Repeat notice of motion (SO.27.7)**

When a motion has been considered and rejected by the council or a committee:

- a) 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.
- b) No other notice which, in the chair's opinion, has the same effect, may be put while the original motion stands.

**Minutes (SO.28.1)**

The chair is to sign the minutes (either manual or electronic signature) once confirmed by resolution at a subsequent meeting.

**Minutes of last meeting before election (SO.28.4)**

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 council before the next election of members.

**Appendix 8: Workshops****Āpitianga 8: Awheawhe****Definition of workshop**

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

**Application of standing orders to workshops**

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

**Calling a workshop**

Workshops, briefings and working parties may be called by:

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

**Process for calling workshops**

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

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

All workshops will be open to the public except for when good reason is provided. Good reason to exclude the public being broadly consistent with those outlined in Part 1 of the Local Government Official Information and Meetings Act 1987 (LGOIMA). However, the circumstances where workshops are closed to the public are not necessarily limited to those grounds in LGOIMA.

All workshops, including those held in Public Excluded session, will be publicly notified via council's scheduled meetings webpage and include the topic and/or purpose of the workshop.

**Record of workshop**

A written record of the workshop should be kept and include:

- Time, date, location and duration of workshop;
- Person present; and
- General subject matter covered
- Information presented to elected members, if applicable; and
- Relevant details of the topic, matter or information discussed.

The aim is to publish records of workshops and briefings on the Council's website as soon as practicable after the event.

Refer to LGNZ Guide to Standing Orders Template for more information on workshops.



# GUIDE TO THE 2025 LGNZ STANDING ORDERS TEMPLATES

HE ARATOHU I TE ANGA TIKANGA  
WHAKAHAERE HUI A LGNZ

// UPDATED MARCH 2025





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## Introduction

### *Kupu whakataki*

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

Local authorities, local boards and community boards must adopt standing orders for the orderly conduct of their meetings. In the world of local government, the word ‘meeting’ has a specific meaning that refers to gatherings that conform to rules and regulations laid down in the Local Government Act 2002 (LGA 2002) and Local Government Official Information and Meetings Act 1987 (LGOIMA).

The LGNZ standing orders templates (SO) have been designed to help councils achieve just this. Standing orders are a critical element of good governance and great local democracy, because well-run meetings and hui should increase community awareness and understanding of our decision-making processes and build trust in our local political institutions. LGNZ has published three standing orders templates: [one for city and district councils](#), [one for regional councils](#), and [one for community boards](#).

This Guide has been developed to assist with councils applying their standing orders in practice and provide examples of good practice. It has been updated to provide guidance on changes made to the 2025 standing orders templates, such as:

- Additions to the “principles”;
- Changes that allow people joining by non-audio-visual means to be counted as part of a quorum;
- The addition of “urgent meetings” in the event of delays caused by an equality of votes following an election; and
- Advice on how to operate committees with co-chairs (SO. 5) within the existing framework of rules.

The LGNZ standing orders templates<sup>1</sup> draw heavily on the 2003 model standing orders published by Te Mana Tautikanga o Aotearoa Standards New Zealand, and the Department of Internal Affairs’ Guidance for Local Authority Meetings published in 1993. The template is updated every three years to ensure it incorporates new legislation and evolving standards of good practice.

We would like to thank the members of Taituarā’s Democracy and Participation Working Party for their assistance with publication of the 2025 standing orders templates, which have been updated and refreshed through the increased use of plain English and the introduction of a more user-friendly format.

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<sup>1</sup> All standing order references refer to the territorial authority standing orders template. Numbers may vary slightly in the regional council and community boards templates.





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LGNZ is continually looking at ways to make the standing orders templates more accessible to members and flexible enough to allow councils to adjust them to local circumstances. We're always keen to hear your feedback.

### **Options for adopting the templates**

#### ***Ngā kōwhiringa mō te whakamahi i ngā anga***

The LGNZ standing order templates contain options that enable councils to adapt standing orders to meet their own styles and preferences. It is essential that councils consider these options before adopting the standing orders.

A new council may wish to delay adopting the new standing orders until after it has had an opportunity to discuss, and agree on, a future governance style, a discussion that would normally occur at a post-election induction workshop (see below for more information). Staff might also like to encourage members to set time aside, at least once a year, to review how the standing orders are working and whether their decision-making structures are effective.

To ensure that standing orders assist the governing body to meet its objectives in an open and transparent manner, while also enabling the full participation of members, governing bodies and local or community boards intending to adopt an LGNZ template need to decide which of the following options they wish to include in their standing orders.

#### **Should members have a right to attend by audio or audio-visual link?**

The LGA 2002 allows members to participate in meetings if they are not physically present, via audio or audio-visual means, if that participation is enabled by the council's standing orders.

Should a governing body, local, or community board decide they do not wish to allow members to do this, then standing order SO 13.7 ("Right to attend by audio or audio-visual link") must be deleted from the template before it is adopted. (see Part 3: Meeting Procedures for more information).

Since 1 October 2024, members who join meetings by audio/audio-visual means will be counted as part of the quorum. This only applies where a council has adopted SO 13.7 or an equivalent provision allowing members to attend meetings by audio visual means.

#### **Should Mayors/Chairs have a casting vote?**

The LGA 2002 allows a chairperson (chair) to use a casting vote if this is specified in standing orders. The vote can be used when there is a 50/50 split in voting. The LGNZ standing orders template includes the casting vote option. Should a governing body, local or community board decide that it does not wish for its chairs to have a casting vote, then SO 19.3, "Chairperson has a casting vote," will need to be deleted before the template is adopted.

Some councils have opted for an intermediate position, in which a casting vote can only be used for prescribed types of decisions, such as when there is an equality of votes for the adoption of a statutory plan (see Part 3: Meeting Procedures for more information).

### **Options for speaking and moving amendments**

The LGNZ template offers councils a choice of three frameworks for speaking to and moving motions



and amendments, see the discussion on SO 22.1 for more information.

- Option A (SO 22.2) is the most formal of the three and limits the number of times members can speak and move amendments. For example, members who have moved and seconded a motion cannot then move and second an amendment to the same motion, and only members who have not spoken to the motion, or a substituted motion, may move or second an amendment to it. This is the framework used in the 2003 Standards New Zealand Model Standing Orders.
- Option B (SO 22.3) is less formal. While limiting the ability of movers and seconders of motions to move amendments, this option allows other members, regardless of whether they have spoken to the motion or a substituted motion, to move or second an amendment.
- Option C (SO 22.4) is the least formal of the three options. It gives members more flexibility by removing the limitations in options one and two that prevent movers and seconders speaking.

The council might also consider whether the option selected for the governing body should also apply to committees. Given that committees are designed to encourage more informal debate, and promote dialogue with communities, the informal option, Option C, might be the most appropriate.

#### Providing sufficient time to prepare advice

Standing orders provide for members of the community to engage directly with councils, standing committees and local or community boards, often by deputation (SO.16). When deputations are made it is common for officials (staff) to be asked to prepare advice on the items to be discussed.

The most common examples are SO.16 Deputations and SO.17 Petitions. In both cases the default standing orders give officials five days in which to prepare any necessary advice. Whether five days is sufficient time for staff to prepare advice will depend upon the size of a council and the way it works.

Before adopting the LGNZ template, the council should ensure that the five-day default is appropriate and practicable, and if not, amend the number of days.

#### Deciding when to adopt and review your standing orders

There is a tendency for new council to adopt the standing orders, the code of conduct and the governance arrangements of the former council soon after they are formed. This is not recommended.

#### Proposed resolution for adopting your standing orders

Once a decision has been reached on which discretionary clauses to incorporate, then a resolution to adopt the original or amended standing orders can be tabled. Such a resolution could, for example, take the following shape:

*That the council (council name) adopt the standing orders with the following amendments:*

1. *That the standing orders enable members to join hui by audio visual link - yes/no.*
2. *That the chair be given the option of a casting vote – yes/no.*
3. *That Option X be adopted as the default option for speaking and moving motions.*
4. *That SOs 16 and 17 require that requests for deputations or petitions are made at least XX days any presentation is made to the council.*

LGNZ recommends that local and community boards, and joint committees (if not set out in their terms of reference), undertake the same considerations before adopting their standing orders.



These matters should be discussed in detail at the initial members' induction hui or at a specially designed workshop or meeting held within a few months after the local body elections. The reason for this suggestion is to allow time for new members to fully understand how local government works, complete any induction training, and form a view on whether the existing standing orders and governance structures are working or not.

It is important that elected members fully understand the policies and frameworks that will influence and guide their decision-making over the three years of their term, and the implications of each. This applies not only to your choice of standing orders but also to your code of conduct and your governance structure, such as whether to have committees or not and the delegations, if any, to be given to those committees.

**Please note** that the approval of at least 75 per cent of members present at a meeting is required to adopt (and amend) standing orders. In addition, it's good practice for members to reassess their governance arrangements, including standing orders, halfway through the second year of their term to ensure they remain inclusive and effective, given potential changes in community make-up, values and expectations.

### The principles

#### *Ngā mātāpono*

The 2025 edition of the LGNZ standing order templates include an enhanced principles section which has been placed before the contents section to reinforce its importance.

The role of the principles is to highlight the overall purpose of standing orders and to assist chairs and their advisers when required to both interpret specific clauses or make rulings on matters that may be ambiguous. The principles state that members will:

1. Conduct their business in a transparent manner through public notice of meetings, provision of access to information, publicly open discussions, and meetings that are open to the public.
2. Respect confidentiality, in accordance with relevant legislation, when making decisions that contain sensitive information.
3. Represent their community when making decisions by taking account of the diversity of its communities, their views and interests, and the interests of communities in the future.
4. Acknowledge, and, as appropriate, make provision for Te Ao Māori and local tikanga in meeting processes.
5. Ensure that decision-making procedures and practices meet the standards of natural justice, in particular, that decision-makers are seen to have open minds.
6. Have a high standard of behaviour which fosters the participation of all members, including the expression of their views and opinions, without intimidation, bullying, or personal criticism.
7. Act with professionalism by ensuring their conduct is consistent with the principles of good governance and the behaviours outlined in the Council's Code of Conduct.



In addition to the principles, meetings should comply, as appropriate, with the decision-making provisions of Part 6, LGA 2002 and be consistent with section 39, LGA 2002, which states that “governance structures and processes are effective, open, and transparent” (LGA 2002, s 39).

The principles have been brought to the front of the document to make it clear they are the foundation upon which the standing orders are based. The 2025 standing orders templates include additional principles to highlight the potential value of incorporating te ao Māori and local tikanga in meeting processes, recognise the importance of fostering participation and the expression of members’ views, and reinforce the importance of acting professionally in line with the values set out in your council’s code of conduct.

The new principles focus on processes and behaviours to enhance community trust in councils as democratic institutions. Poor behaviour can lead to unsafe outcomes for both staff and elected members and bring councils into disrepute. We hope that the new principles will help Mayors and Chairs who can face challenges in some of these areas.

### **Alternatives to formal (deliberative) meetings**

#### ***He ara anō mō te hui ōkawa (whakatau)***

While the purpose of the Guide is to assist members and their officers to interpret and implement the LGNZ standing orders templates, there are times when it’s useful for members to come together in less formal settings that enable wide ranging discussions, or briefings, in which standing orders may not apply. Such settings can be described as workshops or briefings. This chapter summarises recent advice published by the Ombudsman about the use of workshops and briefings.

#### **Workshops**

Workshops are best described as sessions where elected members get the chance to discuss issues outside the formalities of a council meeting. Informal hui can provide for freer discussions than formal meetings, where standards of discussion and debate apply, such as speaking time limits. There are no legislative rules for the conduct of workshops, and no legal requirement to allow the public or media access, although it is unlawful to make decisions at workshops or briefings where the LGA and LGOIMA requirements have not been satisfied.

Workshops can be a contentious issue in local government because they may be with the public excluded and lack minutes, which can be perceived as undermining principles of transparency and accountability. The Ombudsman’s 2023 report into local council meetings and workshops, Open for business, makes several recommendations designed to address these concerns, reflected in this Guide. The effect of these recommendations (which are not, of themselves, legal requirements) is to encourage accountability processes around informal workshops and briefings etc, which are more in line with those applying to formal meetings. It will be for a council to determine whether to adopt these recommendations, or some other approach to address any accountability or transparency concerns, which may involve the preparation and release of post-workshop reports.

Workshops and briefings can provide an effective way to have ‘blue skies’ discussions, seek information and clarification from officers, and give feedback to officials on early policy work before



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an issue is advanced. This can involve identifying a range of options that would be comfortable to elected members, before officials then proceed to assess those options. In effect, workshops and briefings are a part of the educative and deliberative phases of council decision-making, but typically one step removed from the substantive, formal phase.

Workshops can have multiple functions. In their guide to hui structures, Steve McDowell and Vern Walsh, from Meetings and Governance Solutions, describe workshops as a:

“forum held to provide detailed or complicated information to councillors which if undertaken at a council or committee hui could take a significant amount of time and therefore restrict other business from being transacted. Workshops provide an opportunity for councillors to give guidance to staff on next steps (direction setting).”<sup>2</sup>

They note that workshops provide an opportunity to:

- receive detailed technical information, including information that would be time-consuming to work through in another forum
- discuss an approach or issues around a topic without time restrictions or speaking restrictions
- enable members to question and probe a wide range of options, and gain an understanding of proposals
- enable staff to provide more detailed answers to questions and explore options that might otherwise be considered not politically viable.

Workshops or informal meetings cannot be used to make an actual or effective decision. It is also potentially unlawful to make a ‘de facto’ decision at a workshop, that is, to agree a course of action and then vote it into effect at a following formal council meeting without genuine debate. It is good practice to advise participants in workshops to avoid discussion and deliberation on matters which could carry elected members too far down a path toward a substantive decision. This is a matter of degree, but if a range of options is narrowed down significantly, this could give the impression of a decision being “all but” made at the workshop. We note that in the *Open for Business* report, the Ombudsman makes it clear that their jurisdiction extends to complaints about behaviour at workshops.

### **When not to use workshops**

Some councils have taken to holding regular workshops that alternate with meetings of their governing bodies. The rationale is that the workshops enable members to be fully briefed on the upcoming governing body agenda and to seek additional information at an early stage, rather than having to do so in a way that might complicate formal meetings.

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<sup>2</sup> See <https://www.meetinggovernance.co.nz/copy-of-learning-and-development>



Such practices are regarded with some concern by both the Ombudsman and the Auditor General, as they are seen as inconsistent with transparency and openness. If councils find this a useful approach, then the pre-governing body workshop could be open to the public to avoid the suspicion that “de-facto” decisions are being made.

### Briefings

One of the unique features of local government is that all councillors, sitting as the council, have ‘equal carriage’ of the issues to be considered. This means, for example, that when the budget is under consideration there is no minister for finance or treasurer to assume executive authority or to guide the decision-making process – all councillors have equal accountability.

**Accordingly, all councillors are required to satisfy themselves about the integrity, validity and accuracy of the issues before them.**

Councillors have many complex issues about which to make decisions and rely on the advice they receive from the administration. Complex issues often require more extensive advice processes which culminate in the council report.

Briefings are a key feature of these processes. These are sessions during which councillors are provided with detailed oral and written material, and which provide councillors with the opportunity to discuss the issues between themselves and with senior staff. They often involve robust discussion and the frank airing of controversial or tentative views. Councillors who are well briefed are more likely to be able to debate the matter under discussion and ask relevant questions which will illuminate the issues more effectively. Councillors should be careful to not commit to formal decisions at these sessions.

Features of council briefings:

- They should be used when complex and controversial issues are under consideration
- They should involve all councillors and relevant senior staff
- All councillors should be offered the opportunity to attend and relevant senior staff should be involved
- Written briefing material should be prepared and distributed prior to the hui in order that the same information and opportunity to prepare is given to all councillors and officers
- They need to be chaired in such a way that open and honest communication takes place and all issues can be explored. Because time and availability are often limited, the chair must ensure that discussions are kept on track and moving towards a conclusion
- For more complex strategic issues, multiple briefings are usually necessary.

Traditionally, the content and form of briefings has meant they are not held in the public arena. This is to give councillors the opportunity to work through issues in a way that was not considered possible in an open council meeting. However, the Ombudsman’s good practice guidelines for workshops (in *Open for business*, October 2023), which includes the principle of “open by default”, apply equally to briefings. This is discussed further below.

To ensure transparency and accountability, it is important that the administration is made accountable for the formal advice it provides to the council meeting which subsequently takes place.



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This advice may or may not be entirely consistent with the discussions which took place at the briefing.

### **Calling a workshop or briefing**

Workshops, briefings and working parties may be called by:

- a resolution of the local authority or its committees
- a committee chair; or
- the chief executive.

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

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

### **Having a workshop or briefing open to the public**

To build trust in council decision-making, councils should, unless dealing with confidential matters, consider whether workshops should be open to the public. The Ombudsman's view is that while it may be reasonable to close a workshop in a particular case, a general policy of having all workshops closed to the public is likely to be unreasonable.

Whether it is reasonable to close a workshop will depend on the individual case. Situations where it may be reasonable to hold a workshop in a public-excluded/private forum will include those where, if the workshop were a meeting, the public could be excluded under LGOIMA. However, the circumstances are not necessarily limited to those grounds in LGOIMA.

As mentioned above, the Ombudsman's view is that the same "open by default" approach should apply to briefings (and to forums, hui etc irrespective of the name given). Therefore, when deciding to hold either a workshop or a briefing, the first question to be considered is whether there is a convincing reason for excluding the public, or whether there is any reason why the briefing should not be open. Given the Ombudsman's report and recommendations, continuing with a practice of conducting all briefings outside the public arena runs the risk of drawing adverse comment from the Ombudsman.

That said, given the different function and nature of a briefing, as compared to a workshop (as explained above), it may be that the circumstances in which it is reasonable for a briefing to be closed to the public arise more readily than for a workshop.

### **Publicising upcoming workshops and briefings**

Further to the above, details of *open* workshops and briefings should be publicised in advance so that members of the public can attend if they wish. These details should include the time, date, venue, and subject matter of the workshop or briefing.



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For transparency reasons, it is also desirable for councils to publicise information about closed workshops and their subject matter, together with the rationale for closing them. This allows members of the public to make relevant information requests under LGOIMA if desired.

### **Making a record**

The Ombudsman recommends that a written record of the workshop or briefing should be kept, to ensure that a clear, concise, and complete audit trail exists. Whether this is achievable or not will depend on the resource capacity of each council, but it would be good practice to attempt to create a record of what was discussed.

The record need not be as detailed as for formal meeting records and minutes, but should include:

- time, date, location, and duration of workshop,
- people present,
- general subject matter covered,
- information presented to elected members, if applicable, and
- relevant details of the topic, matter or information discussed.

### **Publishing the record**

Councils should aim to publish records of workshops, briefings, and other informal meetings on their website as soon as practicable after the event.

## **Relationships with Iwi/Māori**

### ***Ngā hononga ki ngā Iwi/Māori***

Since local governments receive their powers and authority from Parliament, they have a variety of duties that flow from the Crown's Te Tiriti obligations along with the discretion to involve and build relationships with mana whenua organisations, as they have with other organisations. Such relationships, with both hapū/Iwi and Māori as citizens, can be enhanced by the way in which councils conduct their meetings and arrange their decision-making processes.

The Local Government Act 2002 (LGA), and other acts of parliament, sets out a range of duties and responsibilities to Iwi/Māori that derive directly from the Crown's Te Tiriti obligations, some of which are directly relevant to the application of standing orders, namely:

1. Acknowledging, often through charters or memoranda of understanding, the historic mandate of mana whenua organisations as the traditional governors of Aotearoa New Zealand and your council's jurisdiction (relevant to Article 2 of Te Tiriti).
2. Enabling opportunities for the participation of Māori as citizens in council decision-making processes (relevant to Article 3 Te Tiriti).

### **Acknowledging Iwi/hapu as mana whenua (Article 2)**

Iwi and hapū have a status that comes from their role as the indigenous governors of Aotearoa prior to Te Tiriti o Waitangi, and which is recognised in the United Nations Declaration on the Rights of





Indigenous Peoples, to which NZ is a signatory. This status is different from the 'stakeholder' status given to many local organisations that councils usually work with. It is a status that is also acknowledged by many councils through ongoing relationship building initiatives.

In building relationships, it's important for councils to work with relevant iwi and hapū to determine how best to recognise their status. A common approach involves the development of a joint memorandum or charter of understanding to provide clarity around expectations, including how current and future engagement should occur. Such agreements could include:

- Processes for ensuring relevant mana whenua concerns are incorporated in governing body and committee hui agendas,
- Mechanisms for ensuring that papers and advice, as appropriate, incorporate the views and aspirations of mana whenua. Such mechanisms might include the co-design and co-production of policy papers and allowing mana whenua themselves to submit papers,
- A role for kaumatua in formal council processes, such as:
  - having a local kaumatua or mana whenua representative chair the inaugural council hui and swearing in of members, and/or
  - enabling kaumatua or other mana whenua representatives to sit at the governing body table as advisors.
- Placing information about significant aspects of your area's history as a regular item on the governing body's agenda,
- Holding hui on marae and other places of significance to Māori,
- Providing presentations at governing body meetings highlighting the history of the local area; and
- Inviting mana whenua organisations to appoint representatives on council committees and working parties.

### **Facilitating the participation of Māori as citizens (Article 3)**

Standing orders are a mechanism for enabling members to work collectively to advance the public interests of their community – they are also a tool for promoting active citizenship. In recognition of the Crown's obligations under Article 3 of Te Tiriti and its responsibility to take account of Te Tiriti principles, parliament has placed principles and requirements in the LGA to facilitate the participation of Māori in council decision-making processes. These can be found in s.4 and parts 2 and 6 of the LGA.

Given that local government decisions are made in meetings governed by standing orders, councils should consider how their standing orders can facilitate such participation, such as by proactively taking steps to make it easy for Māori citizens to become involved in decision-making processes. The LGA 2002 provides some help, namely that local authorities must:

- Establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority, (LGA, section 14(1)(d)),
- Consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority, and
- Provide relevant information to Māori for the purposes of contributing to, and building 'capacity' to contribute to, the local authority's decision-making processes.



In relation to the LGA 2002, 'capacity' can be understood as the ability of a person (or group) to participate knowledgeably, given their resources and their understanding of the requisite skills, tools, and systems. Ways to build capacity include:

- Providing training and guidance on how council meeting and decision-making processes work,
- Holding meetings and workshops on marae and other community settings to help demystify local government processes, and
- Providing information about meetings in te reo Māori, including agendas and papers.

Councils should also consider the degree to which their facilities are culturally welcoming by incorporating Māori tikanga values and customs, such as protocols and mātauranga Māori (Māori knowledge). Examples include:

- Appropriate use of local protocol at the beginning and end of formal occasions, including pōwhiri and mihi whakatau,
- Using karakia timatanga for starting meetings and hui,
- Closing meetings and hui with karakia whakamutunga,
- Re-designing order papers and report formats to include te reo Māori, including headings,
- Reviewing council processes and cultural responses through a Te Tiriti o Waitangi lens, and
- Offering members the option of making the declaration in te reo Māori.

### Member declarations

#### *Ngā whakapuakitanga a ngā mema*

Before elected members can act as members of their council or local/community board, they must make a declaration. The declaration requires members, when making decisions, to put aside any partisan interests they may have to their ward or constituency, or sub-division, and exercise their skill and judgement in the best interests of their jurisdiction, whether a region, district/city, or community/local board area.

The declaration is designed for members of governing bodies, local, and community boards. It can be made in both te reo and English, or signed.

#### Declaration

"I, [full name of Mayor, councillor or board member], 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 [name of region, district, city, local or community board], the powers, authorities, and duties vested in or imposed upon me as a member of the [name of local authority] by virtue of the LGA 2002, the Local Government Official Information and Meetings Act 1987 (LGOIMA), or any other Act."



### Te reo declaration

#### Member declaration

Ko ahau, ko ....., e oati ana ka whai ahau i te pono me te tōkeke, i runga hoki i te mutunga kē mai nei o āku pūkenga, o āku whakatau hoki kia whakatutuki, kia mahi anō hoki i te mana whakahaere, te mana whakatau me ngā momo mahi kua uhia ki runga i a au kia whiwhi painga mō te takiwā o Te ..... hei kaicouncil o te Council-a-rohe o Te ....., e ai hoki ki te Ture Kāwanatanga-ā-Taiao 2002, ki te Ture Kāwanatanga-ā-Taiao Whakapae me te Hui 1987, me ētahi Ture anō rānei.

Waitohu: .....

Waitohu mai ki mua i a: .....

### Declarations by appointed community board members

A question often asked is whether members appointed to community boards need, in addition to their council declaration, to make a community board declaration.

Noting that councils have taken different approaches to this question in the past, we sought advice from our legal advisors, Simpson Grierson. In their view, the LGA 2002 is unambiguously clear: appointed members to community boards should make both declarations. The advice states that:

While it is at least good practice to make the second declaration, clause 14 of Schedule 7 makes it a legal requirement that must be met before a member can fulfil their role. The main reason for this view is that the role of an elected member is statutory in origin, with clause 14 of Schedule 7 stating that a person “may not act as a member of a local authority until... that person has... made an oral declaration”.

The term “member” is defined to include members appointed or elected to community boards or local boards, as well as those members that are elected to a local authority. Because of the way in which “member” is defined, there is no distinction between appointed and elected community board members in terms of the requirements of clause 14.

It should also be noted that the clause 14 declaration is not framed to only apply to local authorities (i.e. council as a whole), as it captures “elements” that will need to be modified dependent on the body/role that a member is to fulfil (e.g. to reflect that the role of a community board is to represent and advocate for the interests of their community, within the district). This further supports the view that this ‘second’ declaration must be made (as appropriate), before the office of a community board member can be fulfilled and a person can “act” as a member in a substantive manner (that is, they can make decisions).



It is also important to note section 54(2) of the LGA, which states “[Part 1](#) of Schedule 7 (excluding [clauses 15](#) and [33 to 36](#)) applies to community boards, with all necessary modifications, as if they were local authorities”. Between this provision (which does not exclude clause 14), and the discussion above regarding the ‘elements’ of the declaration, there is little room for question about the applicability of the declaration to community board members.

**It is the combination of both declarations, where a person is both a councillor and a community board member, that enables that person to fulfil their roles.**

The risks arising from having appointed members on community boards who have not made the community board declaration are primarily administrative. That is, a member who voted for or against a motion considered by a community board could conceivably expose that decision, or any non-decision, to judicial review.

### **Protocols for live streaming council meetings**

#### ***Ngā tikanga mō te pāho mataora i ngā hui kaunihera***

An increasing number of councils are livestreaming meetings, raising questions about what constitutes good practice. This section offers guidelines based on the practice of several councils for consideration.

#### **Draft protocol**

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. Members joining by virtual means will be incorporated in the webcast alongside those attending in person.
4. In the event of any interjections from elected members, any general disorder, or a disturbance from the public gallery, recording will continue unless the majority of members in attendance agree to stop the recording.
5. PowerPoint presentations, recording of votes by division and other matters displayed by overhead projector may be shown.
6. Shots unrelated to the proceedings or not in the public interest, are not permitted.
7. If there is general disorder or disturbance from the public gallery, coverage will revert to the chairperson.



8. Appropriate signage will be displayed both in and outside the meeting room alerting people to the fact that the proceedings are being livestreamed.
9. Council meetings shall be livestreamed in real time.
10. PowerPoint presentations and any other matters displayed by overhead projector shall be the focus of the recording.
11. Recordings shall be made available to the public through a link located on the council's website.

Some councils publish a disclaimer to acknowledge factors that might be beyond the council's ability to control, such as a loss of connection or, given that they are broadcast in real time and un-mediated, potentially offensive comments made by a participant at the meeting. For example, Waitomo District makes the following disclaimer:

**Disclaimer – Webcasting of public council meetings**

All public meetings of the council and its committees shall be webcast in real time, recorded and made available to the public after the meeting via a link on this website.

Webcasting in real time allows you to watch and listen to the meeting in real time, giving you greater access to Council debate and decision making and encouraging openness and transparency.

Every care is taken to maintain individuals' privacy and attendees are advised they may be recorded.

There may be situations where, due to technical difficulties, a webcast in real time may not be available. Technical issues may include, but are not limited to:

- the availability of the internet connection
- device failure or malfunction
- unavailability of social media platforms or power outages.

While every effort will be made to ensure the webcast and website are available, the council takes no responsibility for, and cannot be held liable for, the webcast should the council's website be temporarily unavailable due to technical issues.

Opinions expressed, or statements made by individual persons, during a meeting are not the opinions or statements of the ..... Council. The council accepts no liability for any opinions or statements made during a meeting.

Access to webcasts and recordings of Council meetings is provided for personal and non-commercial use. Video, images and audio must not be altered, reproduced or republished without the permission of Council.



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### **Protocols for members participating in meetings by audio-visual means**

#### ***Ngā tikanga mō ngā mema e whai wāhi ana ki ngā hui mā te ataata-rongo***

Given the increasing use of meetings held by virtual means, whether by Zoom, Microsoft Teams, or another provider, members need to agree to a new behavioural etiquette to ensure that business is conducted transparently and efficiently, and that members can participate freely and safely.

#### **Draft protocol**

The following protocol is suggested as a guide for governing members' behaviour in virtual meetings:

12. Members attending a meeting by audiovisual link must have their camera turned on unless having the camera off has been approved by the chair prior to the meeting.
13. Members must ensure that cell phones are silent and with no vibration during council, committee and advisory group meetings.
14. Before the meeting members should make sure they have the right equipment, including a reliable internet connection, a microphone, speaker, and camera. Members should test equipment and troubleshoot any issues.
15. Microphones must be muted when members are not speaking or after the welcome procedure.
16. Members should focus on the meeting, not on other matters.
17. Members wishing to contribute to the debate should speak in a normal tone.
18. When asking questions, allow time for delayed responses.
19. Direct questions to the chairperson.
20. Avoid interrupting others while they are speaking.
21. Establish how and when participants can interrupt. For example, should participants raise their actual or virtual hands to signal they want to speak.
22. Post questions via chat.
23. Call out participants who are not following meeting etiquette.
24. Wear appropriate clothing and avoid stripes and small patterns as they can become distorted in the camera.
25. Members should position the camera so that it shows their full face.
26. Ensure that the lighting in the room is optimal. If possible, adjust your primary lighting source to be in front of you, and consider a ring light to improve lighting even more.



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In addition, there are specific matters that councils need to agree to, such as:

- How members should interrupt a speaker to raise a Point of Order
- How Notices of Motion will be submitted
- How voting will be carried out, and if challenged, how votes will be verified.

Approaches to these questions and others may vary depending upon the meeting software being used. Most councils are likely to make use of the chat and hand-raising functions.

### **Process for removing a chairperson or deputy Mayor from office**

#### ***Te tukanga mō te whakakore i te tūranga o te upoko, te kahika tuarua rānei***

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.



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**Please note** that these provisions also apply to community boards.

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

### Setting the agenda and raising matters for a decision

#### ***Te whakarite rārangi take me te whakaara take kia whakatauhia ai***

One of the most common questions raised by elected members, especially new members, concerns the process for placing an item on a council or committee agenda. The process as set out in the standing orders states that 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
- Report of the chairperson.

When out of time for a Notice of Motion, a member may bring an urgent matter to the attention of the meeting through the chairperson.

Standing Order 9.12 describes the requirements that apply when a meeting resolves to consider a matter not on the agenda, requiring that the chairperson provide the following information during the public part of the meeting:

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

Please note nothing in this standing order removes the requirement to meet the provisions of Part 6 of the LGA 2002.

Standing order 9.13 enables a meeting to discuss minor items which are not on an agenda only if the matter relates to council business and at the start of the public part of the meeting, the chairperson explains that the matter will be discussed.

Please note that while a meeting cannot make a resolution, decision, or recommendation on any minor matter that was not on the agenda for that meeting, it can refer the matter to a subsequent meeting for further discussion.

#### **Pre-agenda meetings**

Setting agendas involves finding a balance between being seen to be responsive to a topical or urgent issue, and the need for council officials to prepare advice members need to make an





informed and legal decision. In addition, members, whether of the governing body or committees, are likely to have matters that they want considered – but not all matters can be discussed at any single meeting, so councils need a process to prioritise agenda items.

One approach is to employ pre-agenda meetings.

Whakatāne District Council holds pre-agenda meetings when setting council, committee and community board agendas. Pre-agenda meetings for community boards involve:

- Face-to-face meetings approximately two weeks before each board meeting
- Meetings are ideally scheduled at a time which suits working community board members, but can be flexible. Meetings seldom if ever exceed one hour
- The community board chair requests any agenda items from board members prior to the pre-agenda meeting (excluding requests for service items)
- Pre-agenda meetings consist of a governance representative and a staff liaison person (but not limited to this), the community board chair and deputy chair
- The first items for consideration are those recommended by staff as 'must-haves'. Occasionally, some minor items can be resolved without going on the agenda, simply by having the staff representative follow-up with appropriate council teams. If there are too many items, the group prioritises and refers some to future meetings
- Pre-agenda meetings are more than simply agenda-setting meetings – they are another structured slot in the calendar to connect, build relationships with staff and smooth out little issues without bringing them to a meeting.

### Mayors' powers (s.41A)

#### *Ngā mana a te kahika (s.41A)*

S. 41A (LGA 2002) describes the role of a Mayor as being to:

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

The Mayor's powers	The governing body's powers
(a) to appoint the deputy Mayor.	Remove a deputy Mayor appointed by the Mayor.
(b) to establish council committees, their terms of reference, appoint the chair of each of those committees and the members.	Discharge or reconstitute a committee established by the Mayor



(c) to appoint themselves as the chair of a committee.	Discharge a committee chair who has been appointed by the Mayor
To decline to exercise the powers under clauses (a) and (b) above. The Mayor may not delegate those powers to another person.	

### Mayor is a full member of committees (but not DLCs)

Under s.41A(5), a Mayor is a full member of each committee (though not community or local boards). This replaces the previous reference to Mayors being *ex officio* members of committees.

As a result, Mayors are counted for the purpose of determining a quorum, except in the case of a joint committee, where a Mayor whose membership is solely due to s.41A is not counted for the purpose of the quorum. However, if a Mayor has been appointed to a joint committee due to their role or experience (that is, named as a council representative on the joint committee) then they will count as part of the quorum (see Cl. 6A, Schedule 7 LGA 2002).

*Clause 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:*

*The number of members required to constitute a quorum, or whether a quorum exists at a meeting.*

### District Licensing Committees

A number of councils have asked whether s.41A(5), which states that Mayors are members of all committees, applies to District Licensing Committees. The short answer is no, DLCs are sufficiently different to typical standing orders, that s.41A does not apply. The reasons, provided by our legal advisers at Simpson Grierson, are:

- Section 186 of the Sale and Supply of Alcohol Act (SSAA) requires the Council to appoint 1 or more DLCs as, in its opinion, are required to deal with licensing matters for its district. This is important, as it highlights the specific statutory role of the DLC.
- The functions of the DLCs include determining applications and renewals for licences and manager's certificates (section 187, SSAA).
- Section 189 requires the Council to "appoint" members to each DLC. The Chair is a specific appointment, and can be an elected member or a commissioner, and the other two members need to be appointed from the councils list held under section 192, SSAA. What this means is that a formal resolution needs to be made to determine the statutory appointees to the DLC, which for the Chair can be an elected member (including the Mayor) or commissioners.
- There is no strict requirement that an elected member who chairs the DLCs must have experience relevant to alcohol licensing matters. However, because being a chair of a DLC could involve a significant time commitment each week, there is generally consideration of



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whether it would be appropriate for a Council to recommend the appointment of commissioners to be the DLC chair (instead of elected members).

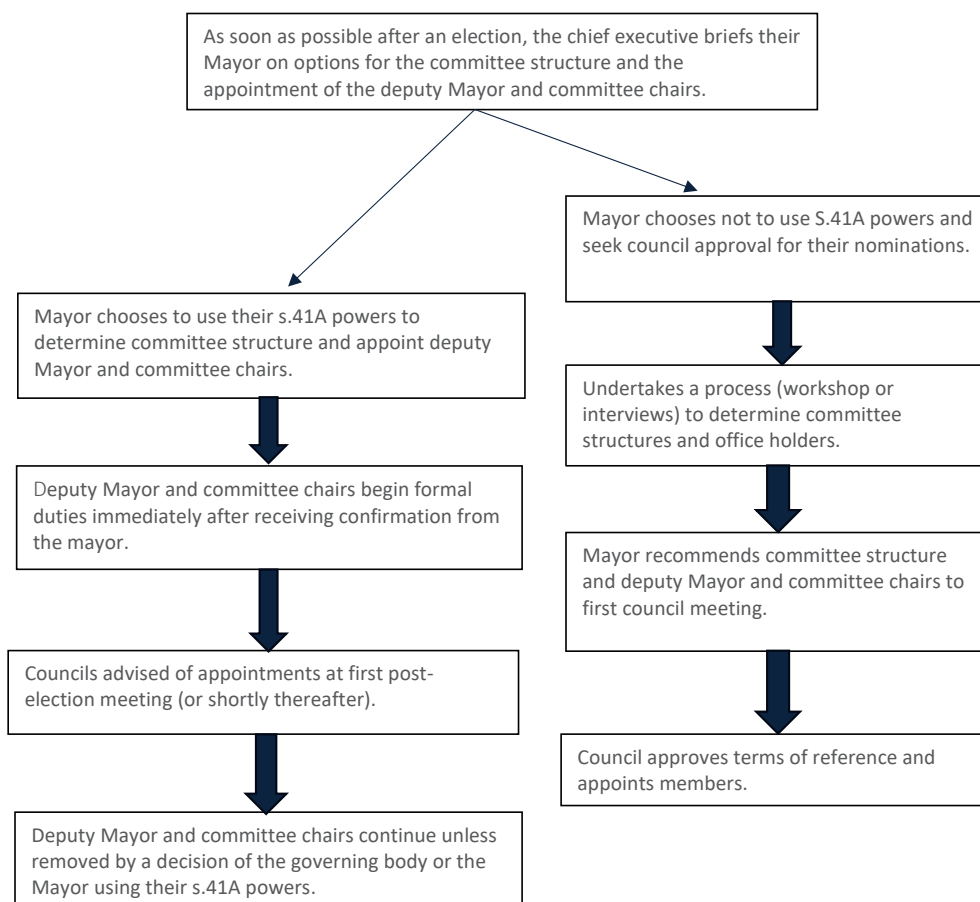
- We tend to see that commissioners are appointed as the DLC Chair, given the quasi-judicial function of the DLC, and the significant time commitment involved. There is also often a need for specific training and experience to allow the Chair to properly fulfil the role.
- Sections 189(6) and 192(2 - 3) require a council to maintain a list of persons that can be appointed to the DLC, with those persons needing to have “experience relevant to alcohol licensing matters”. Such experience may include knowledge of the legal and regulatory aspects of alcohol licencing and knowledge of the SSAA, and this would apply to the Chair as well.

The collective effect of these provisions is to set up a framework (and requirements) for the appointment of DLC members, although as noted above there are no strict requirements applying to the appointment of an elected member as the Chair. In practice, the council – through its officers – should assist with the appointment process and highlight the issues and constraints that will need to be considered when making appointments.

To the extent that section 200 says that LGOIMA applies to a DLC, other than Part 7, this highlights that while the DLC is a council committee, it is tasked with a specific set of function and is required to comply with the specific meeting provisions in the SSAA, rather than complying with the obligations in Part 7 of LGOIMA. This provision does not, in our view, relate to the Mayor’s role but supports the interpretation that the DLC is different in substance from other council committees.



**Process recommended for establishing committees.**





## Delegations

### *Ngā tukunga mana*

Delegations are one of the most important instruments councils have for achieving their objectives, as governing is a complex endeavour and a governing body by itself cannot hope to hold all the information required. Councils make lots of decisions. For example, a parking warden makes decisions about whether to write a parking ticket, the parks department makes decisions about whether trees need to be pruned or not and governing bodies make decisions about the level of rates.

Ensuring that decisions are made at the appropriate level is vital to ensure the efficient and effective operation of your local authority.

Local authorities have broad powers of delegation, which are described in cl.32 of Schedule 7 of the LGA 2002. Other Acts also contain powers of delegation, although these are specific to the powers in those Acts, such as the Building Act 2004. **Certain decisions, however, must be exercised by the full council and cannot be delegated.** These include:

- The power to make a rate
- The power to make a bylaw (although local boards have the right to recommend these for their local areas)
- The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term council community plan
- The power to adopt a long-term plan, annual plan, or annual report
- The power to appoint a chief executive.

Most other decisions can be delegated to committees, local or community boards and in some cases, the chief executive. Bodies with delegated decision-making powers, such as a committee, have the full authority of the council for the decision-making powers delegated. The council cannot usually rescind or amend a decision made by a committee to which the council has delegated the decision-making power (see the Guide to the LGNZ Standing Orders). Councils can change or revoke delegations at any time.

### Role of committees

Unlike the governing body of a council, committees can work in a less formal manner, which allows in-depth discussion and debate about issues. This allows elected members to ask questions directly of staff involved in the preparation of advice and engage with stakeholder organisations and citizens themselves. It is an approach that ensures policy decisions are based on not only good information but also consider the views of interested parties from within your communities.

While committees focus on more detailed matters than the governing body, they need to avoid the temptation to get involved in operational activities, or duplicate the work of staff.

Similarly, it is not best practice if committees are simply a first-order rubber stamping process for issues, or resolutions, on the route to final approval by the full council.



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### Reasons for delegating

The LGA 2002 describes the purpose of delegations as being to promote efficiency and effectiveness in the conduct of a local authority's business. Although delegations allow a local authority to devolve certain decision-making, it will ultimately retain legal responsibility for exercising any powers it has delegated. The potential reasons for delegating include:

- Freeing up councillors so they can focus on strategic issues for the benefit of the entire district, city or region rather than be distracted by minor issues
- Meeting legislative requirements (for example, there are certain activities a council cannot delegate)
- Allowing complex and time-consuming issues to be effectively addressed, such as reviewing district plans, matters that are impractical for the governing body to handle
- Enabling decision-makers to build up additional knowledge and skill on important issues, such as a committee overseeing the council's infrastructure performance, or an Audit and Risk Committee
- Providing opportunities for elected members to debate and discuss issues in an informal setting, unlike the formal arrangements that apply to governing bodies
- Finding a mechanism that will allow the direct involvement of staff, such as a subcommittee
- Being able to appoint external experts to a council decision-making body, such as committee or sub-committee.

Ultimately, delegation is a tool for putting decision-making closer to communities and people affected by the matters under consideration while also allowing for the direct participation of those affected parties, such as Iwi/hapū.

### Delegating to staff

Delegating specific powers, duties or functions to staff members can speed up council decisions and ensure that council meetings are not tied down by procedural and everyday administrative decisions. It also enables councils to use the technical knowledge, training, and experience of staff members to support its decisions.

Decisions to delegate specific powers to staff (and special committees) are made at a formal council meeting and specify what the delegate is empowered to do. They are usually required to observe the strategies, policies and guidelines adopted by the council and may be required to report periodically to the council on decisions made. Through the chief executive and senior managers, the council can monitor the actions of staff to ensure that they exercise their delegated authority correctly. In this way the council retains control over decision-making.

### Delegating to community and local boards

A territorial authority must consider whether to delegate to a community board if the delegation would enable the community board to best fulfil its role. The advantage of delegating decisions that apply specifically to areas for which the community has responsibility is to use a community board's local knowledge, its networks and its ability to form partnerships with local agencies and communities themselves.



Different rules apply to councils with local boards. Where a unitary council has local boards (only unitary councils can have local boards) decision-making is shared between the governing body and the local boards. The LGA 2002 requires that, with the exception of regulatory activities, the governing body must allocate responsibility for decisions to either itself or the local board for the area. Allocation must be made in accordance with principles set out in section 48L(2). The principles require that local boards should be given delegated authority for decisions unless the following applies:

- The impact of the decision will extend beyond a single board area
- Effective decision-making will need to be aligned or integrated with other decisions that are the responsibility of the decision-making body
- The benefits of a consistent or coordinated approach outweigh the benefits of reflecting the diverse needs and preferences of the communities within local board areas.

Local boards also have their own plan and agreement with the governing body which includes a description of their roles and the budget necessary for them to carry out their responsibilities.

#### **Can the council change a decision made by a committee using its delegated authority?**

The answer is generally no, but exceptions can exist. As a rule, a council is ultimately responsible for the decisions made by a committee using its delegated authority. While it cannot reverse the decision, it can, however, withdraw the delegation and remake the decision as long as the decision has not been implemented. Councils can also apply conditions to a delegation, for example, specifying that the delegated authority only applies in a defined number of circumstances, and that beyond those circumstances the decision will revert back to the governing body.

Section 6 of the 2025 standing orders has been amended to provide additional clarity on the practice of making delegations, such as guidance on what should happen when a body with a delegation is unable to undertake that delegation due, for example, to having been disbanded.

The following scenarios have been prepared to help answer some of the common questions concerning delegations.

#### **Delegation scenario 1**

Following the 2019 election, the Mayor established a Parking Committee to which the council delegated authority to determine parking prohibitions. In 2020, the Committee resolved to create time restricted parking (P120s) on the north side of Clawton Street.

Following the 2022 election, the Parking Committee was not re-established which meant that the delegated authority to determine parking prohibitions passed back to the council as a whole.

In 2023, the Operations Committee began a review of the CBD upgrade and concluded that the time-restricted parking should be removed – can the Operations Committee revoke the 2020 resolution of the Parking Committee?

**Answer:** *No, responsibility for determining parking prohibitions sits with the governing body. For the Operations Committee to remove the restrictions, it needs to ask the governing body to give it the necessary delegatory powers.*



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### Delegation scenario 2

Following the 2019 election, the Mayor established a Parking Committee and council delegated authority to the Committee to determine parking prohibitions. In 2020, the Committee resolved to create time-restricted parking to P120 on the north side of Main Street (the main thoroughfare in the CBD). The Committee was re-established, with the same powers, after the 2022 elections.

In 2023, the council undertook a review of the CBD and recommended the removal of the time restricted carparks approved by the Parking Committee in 2020. The proposed removal of the carparks has been advertised and there are 34 submissions objecting to the proposed removal and 40 in support.

Given the level of public interest in this matter can full council make the decision, rather than putting the onus on the CBD Parking Committee?

**Answer:** *The governing body can make the decision to remove the time-restricted car parks only if it resolves to remove the delegated power from the Parking Committee, or if the Committee itself resolves to refer the decision to the governing body. The governing body could possibly intervene if it had included a condition in the original delegation that allowed it to make the decision if, for example, public interest went beyond a specified threshold, as measured, perhaps, by the number of submissions.*

### Delegation scenario 3

Following the 2019 election the then Mayor established a Parking Committee and council delegated authority to the Committee to determine parking prohibitions. In 2020, the Committee resolved to create time restricted parking to P120 on the north side of Main Street (the main thoroughfare in the CBD).

After the 2022 election the new Mayor established a Finance, Audit and Risk Committee and a Committee of the Whole to deal with all other business. Following a request from business owners the council is proposing to change the P120 car parks on main street to P60 carparks.

Now that the Parking Committee no longer exists, can the committee of the whole amend the Parking Committee's 2020 decision and change the parks to P60s?

**Answer:** *as the Parking Committee no longer exists, its powers (delegations) have passed back to the governing body. For the Committee of the Whole to change the parks to P60 the delegations need to be included in its terms of reference.*

### Delegation scenario 4

Following the 2022 election, the Mayor established a Parking Committee and council delegated authority to the Committee to determine parking prohibitions. The Committee has three members with a quorum of two members.

An urgent resolution is required to create a section of no-stopping outside the primary school on Clawton Street. One of the Committee members is overseas and has a leave of absence. One of the other Committee members is the principal of the Clawton Road Primary School and has declared a conflict of interest.





Can the Mayor exercise their authority under s41A to change the membership of the Committee (for a short period of time) to ensure there is a quorum?

**Answer:** Both the Mayor, using their s.41A powers, and the governing body, can make appointments to committees or sub-committees that they have established.

*If the Mayor chooses to use their s.41A powers he/she will need to inform the governing body in advance. As the LGA 2002 gives the governing body the right to “overturn” a Mayor’s decision there is an implied obligation that they will be informed of the Mayor’s decision before it is enacted.*

### Preparing for the next triennial election

#### ***Te whakarite mō te pōtitanga ā-toru tau e whai ake ana***

The end of a triennium provides an opportunity to reflect on the efficacy of the policies, processes, and structures that collectively constitute a council’s governance approach. Understanding what worked well and what didn’t, can provide valuable lessons that the incoming council may wish to consider when deciding on their own governance approach. There is no point in replicating processes or structures that everyone agrees were sub-optimal. Possible initiatives include:

#### **Governance handovers**

To assist new councils in coming up to speed, councils, i.e. the governing bodies, may like to “prepare a letter to themselves” or a briefing for the incoming council.

The purpose of such a letter or report is to provide the new members of a council with an insight into what the outgoing council saw as the major challenges and what they learned during their term in office that they might have done differently. In other words, a chance to help the new council avoid the mistakes they may have made.

Whether or not to prepare advice for an incoming council and if so, what advice, is ideally a discussion that a Mayor/regional council Chair should have with their respective governing body before the last scheduled council meeting. It may be an ideal topic for a facilitated workshop.

#### **Reviewing decision-making structures**

One of the first decisions that new councils must make concerns their decision-making structure. Unfortunately, in most cases, new councils end up adopting the decision-making body of their predecessors.

We spend too little time looking at whether our councils have the right decision-making structure, as there is a wide menu of options, from governing bodies that choose to make all decisions, committees that are Committees of the Whole, committees with external appointments and portfolio models. We need to work with governing bodies to help them identify the right approach for their communities.

One way of doing this is to survey your elected members towards the end of the triennium to identify what worked well about their decision-making structure and what could be improved. Based on surveys and interviews the incoming councils should be presented with a menu of decision-making options with the strengths and weaknesses of each set out clearly.



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### **Committees that are not discharged**

Depending on the nature of their responsibilities, a council or group of councils in the case of a joint committee, can resolve that a committee continues beyond a triennial election. Typically, such a committee would be responsible for providing oversight of some form of project that has a long-term focus and may also contain appointed members.

Whether or not the committee is to be discharged at an election should be set out in its original terms of reference, adopted by resolution. Following an election the council, or councils by agreement in the event of a joint committee, can discharge and appoint new members to that committee.

### **When to schedule the last ordinary meeting**

When putting together the schedule of meetings for the last year of a triennium, how close to polling day should the last meeting occur? Councils take different approaches and their practice may be affected by the nature of business that a council is facing prior to the coming elections.

Given that the election campaign properly starts four weeks before polling day, common practice would be to schedule the last ordinary council hui in the week before the campaign period begins.

This allows retiring members to make valedictory speeches away from the political atmosphere of the election.

Council business continues in the four weeks before polling day so expect some committees and sub-committees to still be meeting to deal with ongoing work, whether it is preparation of a submission or oversight of a local project. Urgent matters can still be addressed through an extraordinary or emergency meeting.

### **What about issues emerging in the interregnum?**

Between polling day and the first meeting of the new council, at which members are sworn in, issues can arise that require an urgent council decision, so who should make such decisions?

This is a frequently asked question and there's only one practical answer, and that is your council's chief executive. Before the elections (and preferably at the first or second council meeting where delegations are agreed), a time-limited delegation should be adopted giving the chief executive broad discretion to act on behalf of the local authority. For example:

*That from the day following the Electoral Officer's declaration, until the new council is sworn in, the Chief Executive is authorised to make decisions in respect of urgent matters, in consultation with the Mayor elect. All decisions made under this delegation will be reported to the first ordinary meeting of the new council.*



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## Guidance on individual clauses

This section of the Guide provides advice and guidance on specific clauses of the 2025 LGNZ standing orders and how they should be interpreted.

### Part 1: General matters

#### *Ngā take whānui*

This section of the Guide deals with those matters that apply to the overall context in which standing orders operate including the role of Mayors and Chairs and the nature of decision-making bodies. It covers the following:

- Mayoral appointments,
- Meeting the decision-making requirements of Part 6, LGA 2002,
- Appointment of staff to sub-committees,
- Approving leave for members of the governing body,
- The relative roles of extraordinary and emergency hui, and
- Good practice for setting agendas.

#### SO 5.1: Mayoral appointments

It is critical that the chief executive advises their Mayor about their powers under section 41A Role and powers of Mayors, LGA 2022 as soon as possible after election results have been confirmed. This is to ascertain whether the Mayor wishes to make use of those powers.

Included in the standing orders are provisions regarding the ability of Mayors to establish committees and appoint deputy Mayors, committee chairs and committee members.

Where a Mayor chooses to use these powers, a council must ensure the results are communicated as soon as practicable to members of the governing body. We recommend that the information is provided by the Mayor or chief executive in the Mayor's report, for the first meeting of the governing body that follow the Mayor's appointments.

#### SO 5.5: Removing a Chair, deputy Chair or deputy Mayor

Clause 18, Schedule 7 of the LGA 2002 sets out the process for removing a Chair, deputy Chair or deputy Mayor. It is a detailed process that requires firstly, a resolution by the relevant meeting to replace the Chair or deputy, and secondly, a follow-up meeting, to be held no less than 21 days after the resolution, at which the change occurs.

A common question is whether the individual facing a challenge to their position should be able to speak and vote – the answer is yes. Both natural justice and the nature of the question to be resolved allows those directly involved to be able to speak and lobby on their own behalf.



### **SO 6.1: Only the holder of a delegated authority can rescind or amend a previous decision**

It is common to get questions about the status of a delegation, especially when the body given the delegation, such as a committee, has been disbanded. A number of points should be noted:

- While only the holder of a delegated authority can rescind or amend a previous decision, this is qualified by whether the previous decision has been executed or not, and whether the “holder” still exists. (Please note, that this is subject to clause 30(7), Sch 7 of the LGA 2002, if the body in question is not discharged).
- Where a delegation no longer exists, either because the body, member, officer or appointment has been disestablished or the delegation has been revoked, any purported decisions made by that decision-maker without a valid delegation will be unauthorised”.
- Where a decision is made under a delegation that has already been revoked (or in law is deemed to be revoked), the decision will lack the requisite delegated authority.
- If the decision has been made and relied upon, the issue of ostensible authority arises. If it has not been acted upon, the more appropriate approach is to note that the decision was made without authority, which means there is no ‘decision’ to revoke or amend. The council or delegating body is then free to decide on the matter.

See Appendix 4 for more information.

### **SO 7: Committees – appointment of staff to sub-committees**

While non-elected members such as community experts, academics, or business representatives, may be appointed to committees and sub-committees, please note that council staff (staff) can only be appointed to a sub-committee. When appointing a sub-committee, a council or committee should ensure the terms of reference provide clarity of the skills and competencies required. This may involve:

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

### **SO 7.10: Power to appoint or discharge individual members of a joint committee – committees that are not discharged**

A council, or a group of council in the case of a joint committee, can resolve that a committee continues beyond a triennial election, although for this to be the case all participating councils would need to resolve. In the case of joint committees, the appointment of new members and discharge of existing members sits with the council that they are members of.

A related and often asked question is whether appointments to District Licensing Committees (DLCs), unlike other committees, can be made for longer than a term. This is possible as DLCs are statutory committees that are not automatically discharged at the end of a term.



#### SO 8.4/6: Regarding extraordinary and emergency meetings

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

Standing orders recommend that extraordinary meetings should only deal with the business and grounds for which they are called and should not be concerned with additional matters that could be considered at an ordinary meeting. Public forums should not be held prior to an extraordinary hui.

If councils need to hold meetings that are additional to those specified in their schedule, then they should amend their schedule to include additional ordinary meetings, rather than call them extraordinary meetings, to address what might be the general business of the council.

The LGA was amended in 2019 to provide for 'emergency' meetings (in addition to extraordinary and ordinary meetings). The key differences between extraordinary and emergency meetings are outlined below.

**Table 1 Comparison of extraordinary and emergency meeting provisions**

	Extraordinary meeting	Emergency meeting
<b>Called by</b>	A resolution of the local authority or requisition in writing delivered to the chief executive and signed by: <ul style="list-style-type: none"> <li>the Mayor or Chair, or</li> <li>not less than one-third of the total membership of the local authority (including vacancies).</li> </ul>	The Mayor or Chair; or if they are unavailable, the chief executive
<b>Process</b>	Notice in writing of the time and place and general business given by the chief executive.	By whatever means is reasonable by the person calling the meeting or someone on their behalf.
<b>Period</b>	At least three days before the meeting unless by resolution and not less than 24 hours before the meeting.	Not less than 24 hours before the meeting.
<b>Notification of resolutions</b>	With two exceptions, a local authority must as soon as practicable publicly notify any resolution passed at an extraordinary meeting. <sup>3</sup>	No similar provision exists for emergency meetings however good practice would suggest adoption of the same process that applies to extraordinary meetings.

<sup>3</sup> The exceptions apply to decisions made during a public excluded session or if the meeting was advertised at least five working days before the day on which it was held.



### **SO 8.9: Urgent meetings**

In August 2023, Parliament amended the LGA 2002 to enable a chief executive to call an urgent meeting of a council if, in the chief executive's opinion, the council needs to deal with a matter urgently before the first meeting of the council has been called, and members sworn in.

An urgent meeting can only be called if an application for a recount has been made, and can be called even if the results of that recount are yet to be known.

The only business able to be conducted at that meeting is set out in LGA 2002, Sch. 7 Cl21B. It includes member declarations, an explanation of critical legislation, the election of a member to preside if needed and the matter under consideration.

### **SO 9.5: Chair's recommendation – ensuring the decision-making requirements of Part 6 are met**

Part 6 is shorthand for sections 77-82 of the LGA 2002, which impose specific duties on councils when they are making decisions. The duties apply to all decisions, but the nature of compliance depends on the materiality of the decision.

The most important provisions are found in s. 77 (bullets a-c) below) and s. 78 (bullet d) below), which require that local authorities must, while making decisions:

- a. seek to identify all reasonably practicable options for the achievement of the objective of a decision,
- b. assess the options in terms of their advantages and disadvantages,
- c. if any of the options identified under paragraph a) involves a significant decision in relation to land or a body of water, consider the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga, and
- d. consider the views and preferences of persons likely to be affected by, or to have an interest in, the matter.

The level of compliance needs to be considered in light of the council's Significance and Engagement Policy. It is also important to be aware that these obligations apply to the following:

- Recommendations made as part of a chair's report, and
- Recommendations made by way of a Notice of Motion (NOM).

#### **Chair's report**

It is common for a chair to use their report to raise a new matter for council deliberation. If that matter is more than minor it should be accompanied by an officer's report setting out options, their relative strengths and weaknesses and include evidence that any citizen affected by the recommendation has had a chance to have their views considered. The same applies to a notice of motion that seeks members' agreement.

#### **What to do if a chair's recommendation or a Notice of Motion are inconsistent with Part 6?**

A chair should refuse to accept a NOM that addresses possibly significant matters, unless it is accompanied by an officials' report assessing the level of significance and the applicability of Part 6. The same also applies to a recommendation made in a chair's report.



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Where a matter triggers the requirements of Part 6, the chair or mover of the NOM, should:

- Ask the chair or mover of the NOM to amend their motion so that it asks for a staff report on the matter, or
- Require members submit a draft NOM to staff in advance to determine whether it is likely to trigger the need to comply with Part 6.

This guidance also applies to Standing Order 27.2 Refusal of notice of motion and allows a chair to refuse to accept a NOM that fails to include sufficient information to satisfy the requirements of sections 77-82 of the LGA.

To reduce the risks of this happening, some councils:

- Require the mover of a notice of motion to provide written evidence to show that their motion complies with Part 6, or
- Ask members to submit a proposed NOM to staff before a meeting so that an accompanying report can be prepared.

### **SO 13.3: Leave of absence**

The standing orders provide for a council to delegate the authority to grant a leave of absence to a Mayor or regional council Chair. When deciding whether to grant a leave of absence consideration should be given to the impact of the requested leave on the capacity of the council to conduct its business.

Requests should be made in advance of a meeting and, where a member intends to be away for more than a single meeting, include all affected meetings.

#### **Extended leave of absence**

Council will need to establish their own policy as to whether a person who has a leave of absence for a length of time will continue to receive remuneration as an elected member. A policy could, for example, provide for remuneration to continue to be paid for the first three months of a leave of absence.

Most elected members will take leave from time to time; however, elected members, unlike paid employees, do not have entitlements to prescribed holiday or sick leave. An extended leave of absence without pay could be for personal reasons such as family/parental leave, prolonged holiday, illness or in some cases, when standing for another public office.

The Remuneration Authority advises that:

- Leave of absence without pay can and may be granted for a period by formal resolution of the council.
- The period of leave must involve total absence. The member cannot undertake any duties either formal or informal, including council meetings, meetings with external parties and constituent work. Nor can a member speak publicly on behalf of the council or represent it on any issues.

While on a formal extended leave of absence without pay, the payment of remuneration, allowances and the reimbursement of expenses to an elected member (including Mayor or regional council Chair) must cease during the whole period for which formal leave of absence is granted. All other



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benefits (including the use of a council provided vehicle for the Mayor or regional council Chair) will also be unavailable to the member during the whole of period for which formal leave of absence is granted.

#### **Acting Mayor or chairperson**

An important role of the deputy Mayor or deputy regional council Chair is to cover short absences by the Mayor or regional Chair. In these cases, the deputy is not eligible to receive the remuneration, allowances and benefits usually payable to the Mayor or regional council Chair.

However, if an elected member is acting as the Mayor or regional council Chair because the position is vacant, or the incumbent is on a formal extended period of leave of absence without pay (as described above), the acting member is eligible to receive the remuneration, allowances, fees and benefits usually payable to the Mayor or regional council Chair, instead of the acting member's usual entitlements listed in the current Local Government Members Determination and the council's members expenses and reimbursement policy. The acting member is also entitled to the use of the motor vehicle if one is provided to the Mayor or regional council Chair.

*For more information go to <https://www.remauthority.govt.nz/local-government-members/leave-of-absence#cessation-of-remuneration,-allowances-and-expenses-1>*

#### **SO 13.4: Apologies**

Apologies are usually given when a member cannot attend a forthcoming meeting or inadvertently missed one, in which cases the apologies are made retrospectively.

#### **SO 13.6: Absent without leave**

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

Please note that this rule only applies to meetings of the governing body (and community boards and local boards). It does not apply to committees of the whole.

Section 117(1) of the Local Electoral Act 2001 begins: 'If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a local board or community board...'. Therefore, the standing order applies to local boards and community boards in addition to the council, but will not apply to committees of the whole.





## Part 2: Pre-meeting arrangements

### *Ngā whakaritenga i mua i te hui*

The pre-meeting section of the Standing Orders covers the various processes and steps that need to be completed ahead of a meeting, including the preparation of an agenda. This section of the Guide includes:

- Setting and advertising meetings
- Relocating meetings at the last minute
- Putting matters on the agenda.

#### Setting meeting times

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

#### SO 8: Giving notice

Section 46(1) and (2) of the LGOIMA prescribes timeframes for publicly advertising meetings. This is so the community has sufficient notice of when meetings are due to take place. However, the wording of these subsections can cause some confusion:

- Section 46(1) suggests providing a monthly schedule, published 5-14 days before the end of the month.
- Section 46(2) suggests that meetings in the latter half of the month may not be confirmed sufficiently in advance to form part of a monthly schedule published before the start of the month.

Therefore, Section 46(2) provides a separate option for advertising meetings held after the 21st of the month. These can be advertised 5-10 working days prior to the meeting taking place.

Basically, councils must utilise the monthly schedule in section 46(1) for hui held between the 1st and 21st of the month; however, both methods for advertising meetings can be used for meetings held after the 21st. This requirement does not, however, apply to extraordinary or emergency meetings.

#### SO 8.1 and 8.2: Public notice and notice to members – definitions

Prior to the last election, the standing orders were updated to include new definitions of what constitutes a 'public notice' and how 'working days' are defined. The full provisions are:

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

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



- (ii) One or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district.

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

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

#### **SO 8.15: Meeting schedules – relocating meetings at the last minute**

Local authorities must hold meetings at the times and places as advertised, so if an appointed meeting room becomes unavailable at the last minute (i.e. after the agenda has been published), and an alternative room in the same venue or complex cannot be used, the meeting can be relocated but will become an 'extraordinary' meeting and the requirements set out in Standing Orders 8.4 and 8.9 will need to be met.

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

- Alerting customer services,
- Changing meeting invitations to elected members,
- Updating notices visible outside both old and new venues,
- A sign on the original meeting room door, and
- Updates on the council website and social media pages.

#### **SO 9.1: Preparation of the agenda – good practice**

Deciding what to put on an agenda and the process used to make that decision is an important consideration. An agenda is ultimately the responsibility of the chair of the meeting and the chief executive, with the collation of the agenda and its contents sitting with the chief executive's control. The process varies between councils and is heavily influenced by size. Some principles of good practice include:

- Start the process with a hui of the council committee chairs to identify upcoming issues and determine which committee will address them first
- To strengthen relationships, mana whenua organisations could be invited on a regular basis to contribute items for an agenda or share their priorities, for consideration by a future meeting



- Seek regular public input into forthcoming agendas by engaging with a representative panel of community members
- Ensure elected members themselves can identify matters for upcoming hui agendas.

If a member wants a new matter discussed at a meeting, they should give the chair early notice, as the matter may require the chief executive to prepare an accompanying report.

Matters may be placed on the agenda by the following means:

1. By a direct request to the chair of the meeting, chief executive, or an officer with the relevant delegated responsibility.
2. By asking the chair to include the item in their report, noting that the matter might require a staff report if it involves a decision.
3. By the report of a committee. Committees are a mechanism for citizens, or elected members, to raise issues for council consideration. A committee can make recommendations to the governing body.
4. Through a local or community board report. Community boards can raise matters relevant to their specific community for consideration by the governing body. A councillor could approach a community board to get their support on a local issue.
5. Through a Notice of Motion. See Standing Order 27.1 for more detail. A NOM must still comply with the decision-making provisions of Part 6 LGA 2002 before it can be considered. Generally, a NOM should seek a meeting's agreement that the chief executive prepare a report on the issue of concern to the mover.

Where a matter is urgent, but has not been placed on an agenda, it may be brought before a meeting as 'extraordinary business' via a report by the chief executive or the chair. This process gives effect to section 46A (7) and (7A) of the Local Government Official Information and Meetings Act (LGOIMA) 1987. (Also see Setting the Agenda and Raising Matters for a Decision for more information.)

The topic of any request must fall within the terms of reference, or the scope of delegations, given to the meeting or relevant committee, board or subsidiary body. For example, business referred to a community board should concern a matter that falls within the decision-making authority of the board.

### **SO 9.7: Making agendas available**

Underpinning open, transparent and accountable decision-making involves providing an opportunity for members of your community to know in advance what matters will be debated at which meeting. Making governing body, committee and community board agendas publicly available, whether in hard copy or digitally, is critical.

Section 46A of the LGOIMA requires agendas and reports to be made publicly available at least two working days before a meeting. This is a minimum requirement – agendas and papers should be posted on the council website with as much notice as possible before the meeting date.

Different communities will have different challenges and preferences when it comes to how they access information. Not all communities have reliable access to the internet, and you will need to



consider the abilities of young, old and visually or hearing impaired when determining how to provide access to information. Distributing information using a range of digital and traditional channels with consideration for accessibility needs will be a step toward strengthening trust in local democracy and narrowing the gap between council and their communities.

#### **SO 9.8: Managing confidential information**

Occasionally, councils must address the issue of how confidential agenda items should be handled, such as if there is a possibility that the information in the agenda could benefit a member or individual, should it become public. Some councils address this risk by delaying the distribution of confidential papers until two days before a meeting, providing them in hard copy, and individualising them, so that the specific copy each member receives is identified.

### **Part 3 – Meeting procedures**

#### ***Ngā tukanga hui***

Procedures for making decisions are at the heart of council standing orders. This section includes:

- Opening and closing your meeting with a karakia timatanga or reflection
- Voting systems
- Chair's obligation to preside and chair's casting vote
- Joining by audio-visual means
- Member conduct
- Quorums
- Revoking decisions
- Members attending meetings that they are not members of
- Moving and debating motions
- Discharging committees.

#### **SO 4.5: Timing of the inaugural meeting**

In 2023 the LGA 2002 was amended to increase the time between the declaration of results and the first meeting (swearing in) of a council. The new wording of Clause 21 Schedule 7 (LGA 2002) states:

1. *The first meeting of a local authority following a triennial general election must be called by the chief executive as soon as practicable after the date by which a candidate may apply for a recount has passed and*
  - a. *the results of the election are known; or*
  - b. *if an application for a recount is filed by a candidate or the electoral officer, the recount has been completed and the candidates to be declared elected are known.*

The implication of this change, brought in to deal with potential tied votes, is that notice of the first meeting cannot be given by the CE until three days after the declaration of results (or earlier if a recount is completed within the three days).



### SO 10: Opening and closing your meeting

Local authorities have no obligation to start their meeting with any reflection or ceremony, however, it has become increasingly popular as a way of signalling the kaupapa of a council meeting and acknowledging its ceremonial importance. An example of a reflection used at the start of a meeting is the following karakia. This approach allows for tangata whenua processes to be embraced.<sup>4</sup>

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

When a meeting opens with a karakia it should close with a karakia (unless there's multiple meetings/workshops in a day – in which case the closing karakia comes at the end of the day). Examples of karakia can be found from multiple sources, including from [Te Puni Kōkiri](#).

### SO 11.4: Requirement for a quorum – what happens when a member is 'not at the table'?

If a council has made provision in its standing orders for meetings to be held by audio visual means, then all members who join, whether virtually or physically, are counted as part of the quorum. This reflects a change to the LGA 2002 that took effect in September 2024.

### SO 13.1: Members' right to attend all meetings

The legislation (cl. 19(2) Schedule 7, LGA 2002) and these standing orders are clear that members can attend any meeting unless they are 'lawfully excluded' (see the LGNZ standing order template for a definition of lawfully excluded). If attending, elected members have the same rights as the public. They may be granted additional speaking rights if permitted by the chair.

Many councils require non-members to sit away from the meeting table or in the public gallery to make it clear they are not committee members.

<sup>4</sup> Examples of karakia, and general advice on the use of tikanga Māori, can be found via an app, titled Koru, developed by MBIE and available from most app stores.



Whether a member can claim allowances for attending the meeting of a committee that they are not a member of is a question that should be addressed in the relevant council's allowances and expenses policy.

### **SO 13.7: Right to attend by audio or audio visual link**

Local authorities can allow members to participate in meetings online or via phone. This can reduce travel requirements for councillors in large jurisdictions and facilitates participation for councillors when travelling.

If a council wishes to allow members to join remotely, then provision must be made for this in the standing orders. The LGNZ template contains the relevant provisions. If not, then standing orders 13.7-13.16 should be removed before the template is adopted.

**Please note:** Since October 2024, in situations where a council's standing orders make provisions for members to join meetings by audio/audio-visual means all members who join such a meeting by audio/audio-visual means are now counted as part of that meeting's quorum.

### **SO 13.16: Protecting confidentiality at virtual meetings**

Some members have raised concerns that meetings held by audio-visual means may create confidentiality risks, such as the risk that a member may not be alone while a confidential matter is being discussed.

Councils should avoid, if possible, dealing with public-excluded items in a meeting that allows people to join virtually. While this may not be possible in extraordinary circumstances, we have strengthened the ability of a chair to terminate a link if they believe a matter, which should be confidential, may be at risk of being publicly released, see SO 13.13.

### **SO 14.1: Governing body meetings – must the Mayor or Chair preside?**

Schedule 7, Clause 26(1) of the LGA 2002 provides that the Mayor (or Chair of a regional council) must preside over each council meeting they are present at. This reflects the Mayor's leadership role set out in section 41A. However, the requirement is subject to the exception "unless the Mayor or Chair vacates the chair for a particular meeting". This exception would usually be invoked if there is

#### **Do members have to be present at hearings to vote?**

The rules vary according to the legislation under which the hearing or submission process is occurring.

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

It is good practice to make it clear in the minutes that the members who were absent had been provided with records of all submissions oral and written, prior to deliberations.

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



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a situation in which they should not lead for some legal reason, such as where they have a conflict of interest or are prohibited from voting and discussing, such as by virtue of section 6 of the Local Authorities (Members' Interests) Act 1968, where the member has a pecuniary interest in the matter being discussed.

It is implicit in clause 26(1), that the Mayor or Chair will still be present in the meeting, and except in situations where the law prevents them from discussing and voting on a particular matter, they can continue to take part as a member. The clause only relates to vacating the chair, not leaving the meeting.

### **SO 14.2 Other meetings**

#### **The co-chairs option**

The question, whether councils can appoint co-chairs to committees, or not, has been raised by several councils over the last few years. Indeed, the question was the subject of a remit at the 2013 LGNZ Annual General Meeting, with most member councils agreeing that LGNZ should take steps to enable this, such as changing legislation or regulation. It turns out that some councils already have co-chairs. The following text, kindly provided by Tauranga City Council, sets out a process for establishing co-chairs under the LGA 2002.

The provisions of the LGA 2002 relating to the appointment of a chairperson of a committee refer to the appointment of a singular person as the chairperson. This does not allow for the appointment of a co-chair. Consequently, the positions of chairperson and deputy chairperson are appointed and remain separate.

However, the chairperson can vacate the chair for all or part of a meeting and thus enable their deputy chairperson to chair the meeting (Clause 26(2) Schedule 7, LGA 2002). Consequently, the chairperson is able to be present and participate in the meeting, including the right to vote, while not chairing the meeting (unless they vacated the chair due to a conflict of interest). This would enable the two roles to effectively act as co-chairs.

This arrangement pre-supposes that the chairperson agrees to vacate the chair to enable the deputy chairperson to chair the meeting at pre-agreed times. The committee's terms of reference would need to state that it is the intention that this occurs, however, there is no ability to enforce this practice should the chairperson decides not to vacate the chair or a particular meeting.<sup>5</sup>

Only one person can chair a meeting at any one time. The person chairing the meeting has the powers of the chairperson as set out in standing orders. They would also have the option to use the casting vote (under Standing Order 19.3) in the case of an equality of votes. It is recommended that this be explicitly stated in the terms of reference for clarification.

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<sup>5</sup> Options include alternating meetings or agreeing to chair for a specific time e.g. for the year. The chairperson will need to formally vacate the chair at the start of each meeting where it is pre-agreed the deputy chair will chair, and this needs to be recorded in the minutes of that meeting.



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### **Can a chair stand down and stay in the meeting?**

A common question raised with LGNZ is whether a chairperson can step down from their role as chair for all or part of the meeting to give another member chairing experience for example and stay in the room. The answer is yes. Simpson Grierson have provided the following advice:

Our view is that it is acceptable for a person to vacate their position as chair and remain at the meeting, whether that is to allow another person to have training or otherwise.

Clauses 26(1) and (2) of Schedule 7 state: 'The Mayor or chairperson of the local authority [or a chairperson of a committee] must preside at each meeting of the [local authority/ committee] at which he or she is present unless the Mayor or chairperson vacates the chair for a particular meeting.'

Clause 26 does not state when a Mayor or chair may or must vacate the chair, or otherwise clarify the circumstances when a chair might decide to vacate. In many cases it may be because they have a conflict of interest, or another interest which means they consider it is appropriate that they do not remain the chair (for all or part of a meeting). For example, they may have an exemption or declaration from the Auditor-General under the LAMIA, but decide that it is better that they not chair the meeting for the particular agenda item concerned, or the entire meeting.

In a conflict of interest situation the person should stand aside from the part of the meeting that engages with the conflict situation, but in other situations it appears they can still participate in the meeting. Clause 26 does not stipulate that the person vacating the chair must also leave the meeting.

There are no other provisions in the LGA 2002 or the LGOIMA, or statements in relevant case law, that suggest that when a person vacates the chair for the meeting, they must also 'vacate' the meeting.

It is important to note that the language used in clause 26 anticipates that the chair can still be present, even if they have vacated the chair role for a particular meeting. If the chair was required to leave a meeting, there may be problems achieving a quorum, and it is clear in clause 23 that a meeting is constituted if a quorum is present 'whether or not all of the members are voting or entitled to vote.'

### **SO 15: Public forums**

The standing orders provide for a period of up to 30 minutes, or longer if agreed by the chair, for members of the public to address the meeting.

The template allows this to be for up to five minutes each on items that fall within the delegations of the meeting, unless it is the governing body and provided matters raised are not subject to legal proceedings or related to the hearing of submissions. Speakers may be questioned by members through the chair, but questions must be confined to obtaining information or clarification on matters the speaker raised. The chair has discretion to extend a speaker's time.





While the forum is not part of the formal business of the meeting, it is recommended that a brief record is kept. The record should be an attachment to the minutes and include matters that have been referred to another person, as requested by the meeting.

### **SO 16: Deputations**

In contrast to public forums, deputations allow individuals or groups to make a formal presentation to a meeting, as an item on the agenda. Given the additional notice required for a deputation, staff may be asked to prepare advice on the topic, and members may move and adopt motions in response to a deputation, when the matter is debated in the meeting.

### **SO 18.1: Resolutions to exclude the public**

A resolution to exclude the public should clearly identify the specific exclusion ground and also explain in plain English how the council has applied that ground to the meeting content under consideration.

It is not good practice to simply cite the section number of LGOIMA as the “grounds” on which the resolution is based and quote the text of the section as the “reason” for passing the resolution. Rather, the “reason” should set out in plain English and in reasonable detail (where appropriate) the reason for public exclusion i.e., how the LGOIMA ground applies to the information and weighing that against any countervailing public interest arguments for non-exclusion. The extent to which this level of detail can be given may depend on the information concerned, and the ground(s) relied on. For example, the reason should not be described in a way which jeopardises the reason for public exclusion itself. With that in mind, a short description of the topic or matter being considered, alongside the withholding ground, may be all that can be safely disclosed in certain cases.

#### **Excluding the public: good practice**

In his report, Open for Business, the Ombudsman made observations on the processes that councils should follow when deciding to exclude the public from a meeting. Key points made in the report include:

A primary requirement is that public exclusion may only be made by way of formal resolution of elected members at the meeting itself. It is important that elected members take this responsibility seriously and carefully consider the advice of council officials. The resolution must:

- Be at a time when the meeting is open to the public, with the text of the resolution being available to anyone present.
- Be in the form set out in Schedule 2A of the LGOIMA.
- Only exclude on one of the grounds set out in section 48(1).
- State reasons for the resolution, including the interests it is protecting in the case of section 6 or 7 withholding grounds.
- Where exceptions to the exclusion are made for particular individuals, the resolution must detail their relevant expertise to the topic for discussion.

In his report the Ombudsman observed that some councils cited grounds for exclusion that were ultra vires, such as, for the expression of free and frank advice, which is not an eligible ground. A further issue raised by the Ombudsman was that many councils were not reporting the reasons



for excluding the public as clearly as they should be, and he has recommended that meeting minutes need to document public exclusion resolutions in a clear manner. He also favoured the use of “plain English” descriptions of the reasons for exclusion, rather than just, “clipping the wording from the legislation” (Open for Business, page 31).

### **SO 18.5: Release of information from public excluded session**

Councils have different processes for releasing reports, minutes and decisions arising from public-excluded meetings, which can comprise material considered confidential under section 6 or section 7 of the LGOIMA. Documents may be released in part, with only some parts withheld.

The reasons for withholding information from the public do not necessarily endure in perpetuity – for example, information that was confidential due to negotiations may not need to remain confidential when the negotiations have concluded.

When a report is deemed to be ‘in confidence’, information can be provided on whether it will be publicly released and when. Regarding any items under negotiation, there is often an end point when confidentiality is no longer necessary.

If no release clause is provided, a further report may be needed to release the information creating more work. The following clause can be included in report templates (if in confidence) to address this issue:

*“That the report/recommendation be transferred into the open section of the meeting on [state when the report and/or recommendation can be released as an item of open business and include this clause in the recommendation].”*

The above comments apply to release of information in the immediate context of a publicly excluded meeting. Councils are also encouraged to formalise the process for reconsidering the release of publicly excluded content at a time when the basis for withholding it may no longer apply.

In addition to the above, the public can of course make a LGOIMA request at any time for information heard or considered in the public excluded part of a meeting. Such a request must be considered on its merits and based on the circumstances at the time of the request. It cannot be refused simply because the information was earlier heard at a public excluded meeting.

### **Public excluded business – returning to an open session**

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

1. By a resolution of the meeting, whereby the chair, or a member, moves that since the grounds for going into public excluded no longer exist, the public excluded status is hereby lifted.
2. At the end of the public excluded item, where public excluded status is ‘tagged’ to only those items that meet the criteria in the sample resolution set out in Appendix Two of the Standing Orders. Status is automatically lifted once discussion on that item is concluded.



Generally, option two should be followed. However, option one might apply where, during a substantive item, it is necessary to go into public excluded for a section of that item. In this case, the chair or a member should signal through a point of order that the grounds for excluding the public no longer apply. It is only a question of style as to whether a motion to return to open meeting is required.

In the event that a meeting moves into a public excluded forum, there is a requirement that the council make a resolution to that effect. Schedule 2A of the LGOIMA sets out a template resolution for that purpose, which should be adopted (with potential modifications to align with the style or preference of a particular council).

### **SO 19.3: Chair's casting vote**

Standing Order 19.3 allows the chair to exercise a casting vote where there is a 50-50 split. Including this in standing orders is optional under Schedule 7, cl. 24 (2), LGA 2002. The casting vote option has been included in the template to avoid the risk that a vote might be tied and lead to a significant statutory timeframe being exceeded.

There are three options:

1. The casting vote provisions are left as they are in the default standing orders
2. The casting vote provision, Standing Order 19.3, is removed from the draft standing orders before the standing orders are adopted
3. The standing orders are amended to provide for a 'limited casting vote' that would be limited to a prescribed set of decisions only such as statutory decisions, for example: *where the meeting is required to make a statutory decision e.g., adopt a Long-Term Plan, the chair has a casting vote where there is an equality of votes.*

### **SO 19.4: Method of voting**

One of the issues that arose during preparation of the new standing orders concerned the performance of some electronic voting systems and whether the way in which they operate is consistent with what we understand as 'open voting'.

LGNZ has taken the view that open voting means members should be able to see how each other votes 'as they vote', as opposed to a system in which votes are tallied and then a result released in a manner that does not show how individuals voted.

It is also important to note, when using electronic voting systems, that the LGNZ standing orders templates supports the right of members to abstain from voting, see standing order 19.7.

### **SO 19.5: Calling for a division**

Understanding order 19.5, a member can call for a 'division' for any reason. If one is called, the standing orders require the chief executive to record the names of the members voting for and against the motion, as well as abstentions, and provide the names to the chair to declare the result. This must also be recorded in the minutes.

There are options for gathering this information. For example:



- When asking individual members how they voted, vary the order in which elected members are asked e.g., alternate between clockwise and anti-clockwise,
- To get a clear picture, ask members who voted for or against a motion or amendment to stand to reflect how they voted i.e., “all those in favour please stand” with votes and names, recorded, followed by “all those against please stand” etc.

### **SO 20: Members’ conduct**

Section 20 of the standing orders deals with elected member conduct at meetings. One feature of the LGNZ standing orders is the cross reference made to a council’s Code of Conduct, which sets standards by which members agree to abide in relation to each other. The Code of Conduct template, and the draft policy for dealing with breaches, can be found at <https://www.lgnz.co.nz/learning-support/governance-guides/>.

At the start of a triennium, councils, committees and local and community boards, should agree on protocols for how meetings will work, including whether members are expected to stand when speaking and if there are specific dress requirements.

#### **SO 20.7: Financial conflicts of interest**

While the rules are clear that a member of a local authority may not participate in discussion or voting on any matter before an authority in which they have a financial or non-financial conflict of interest, determining whether one exists can be more challenging.

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

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

The rule makes it an offence for an elected member with a financial conflict of interest discussing and voting on a matter, for example, where an interest is in common with the public.

The Auditor General can grant exemptions from this rule, allowing a member to participate.

Members should seek approval from the Auditor General if there is a possibility that their case would qualify for an exemption or declaration where it involves matters under s.6(4) LAMIA. For matters involving s3(a) and 3(aa) the council makes the application (see OAG’s guide on Conflicts of Interest published in 2004).

#### **SO 20.8: Non-financial conflicts of interest:**

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

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

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



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Bias, both actual and perceived, is a form of non-financial conflict of interest. A claim of bias can be made on the grounds of predetermination. A member who believes they may have a non-financial conflict of interest, or be perceived as having a bias, should:

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

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

#### **SO 22.1: Options for speaking and moving motions**

One of the new features in these standing orders is the ability to use different rules for speaking to, and moving, motions to give greater flexibility when dealing with different situations.

Standing Orders 22.1-22.5 provide three options. Option A repeats the provisions in the Standards New Zealand Model Standing Orders, which limit the ability of members to move amendments if they have previously spoken. Option B provides more flexibility by allowing any member, regardless of whether they have spoken before, to move or second an amendment, while Option C allows still further flexibility.

When a council, committee, or community board, comes to adopt their standing orders, it needs to decide which of the three options will be the default option; this does not prevent a meeting from choosing one of the other two options, but it would need to be agreed by a majority of members at the start of that specific meeting.

The formal option A tends to be used when a body is dealing with a complex or controversial issue and the chair needs to be able to limit the numbers of speakers and the time taken to come to a decision. In contrast, options B and C enable more inclusive discussion about issues, however some chairs may find it more difficult to bring conversations to a conclusion.

For joint committees the decision could be simplified by agreeing to adopt the settings used by whichever member council is providing the administrative services.

#### **SO 23.10: Where a motion is lost**

This standing order was added in 2019 to make it clear that when a motion is lost, it is possible to move an additional motion if it is necessary to provide guidance or direction. For example, if a motion “that the council’s social housing stock be sold” was defeated, the organisation might be left without direction regarding the question of how the stock should be managed in the future.

Standing Order 23.10 enables a meeting to submit a new motion if required to provide direction to management.



### SO 24.2: Revoking a decision

A council cannot directly revoke a decision made and implemented by a subordinate decision-making body which has the delegation to make the decision, provided its decision-making powers were exercised in a lawful manner.

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

### SO 25.2: Procedural motions to close or adjourn a debate – what happens to items left on the table

Standing Order 25.2 provides five procedural motions to close or adjourn a debate.

When an item is left to lie on the table, it is good practice wherever possible to state what action is required to finalise it and when it will be reconsidered.

Item (d) states: “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)”.

We recommend that at the end of the triennium, any such matters should cease to lie on the table and are withdrawn.

## Part 4: Keeping records *E whakarite mauhanga*

### SO 28: Keeping minutes

#### What to record?

The purpose of taking minutes is to keep a record of the proceedings of a council meeting and the actions a meeting has agreed to take or not. The minutes create an audit trail of public decision-making and provide an impartial record of what has been agreed. Good minutes strengthen accountability and help build confidence in our local democracy.

In the recent *Open for Business* report, dated October 2023, the Ombudsman recommends that minutes should contain a clear audit trail of the full decision-making process, including any relevant debate and consideration of options (as well as the decision itself).

It will be for each council to determine how this is best achieved in the particular circumstances. For example, it is common for reports to decision-makers to contain an options analysis and where this

#### Good practice

- Minutes should provide a clear audit trail of the decision-making path.
- They should be succinct, but without sacrificing necessary content.
- Someone not in attendance should be able to understand what was decided.
- Anyone reading the minutes in 20 years’ time will understand them.



is the case (and those options are endorsed) it would seem unnecessary to duplicate that in the minutes.

The level of detail recorded in minutes will vary according to preferences; however, the style adopted should be discussed with, and agreed to, by the bodies whose discussions and decisions are to be minuted. One way of doing this is to include, as part of the resolution adopting the minutes, either a stand-alone motion stating the level of detail that will be recorded or including this within the standing orders themselves.

#### **SO 28.2: Matters recorded in minutes**

SO 28.2 sets out what the minutes must record. In addition, it is recommended a record is made of the reasons given for a meeting not having accepted an officer's recommendations in a report; this might be important for future audit purposes.

While it is not a legal requirement, the Ombudsman has recommended that it is good practice for minutes to record how individual elected members voted. Whether to adopt this practice in general, or exercise discretion on when to record voting, may depend on the significance and nature of the decisions involved. When divisions are called, it is necessary to record voting. Where meetings have been live-streamed or recorded, a reference could be made in the minutes with the relevant link so readers can access more information if they choose.

When recording Māori place names, or discussion in Te Reo Māori, please make sure to use correct and local spelling.

#### **Recording reasons for decisions**

Recent decisions of the courts have highlighted the importance of recording decisions in a manner that clearly and adequately explains what was decided and why. Keeping good meeting records also:

- Helps ensure transparency of decision-making by providing a complete and clear record of reasoning
- Provides a reference in the event of issues arising around decision-making processes
- Provides an opportunity to create a depository of knowledge about how council make decisions and so develop a consistent approach.

In these decisions, the Courts have acknowledged that the provision of reasons is one of the fundamentals of good administration, by acting as a check on arbitrary or erroneous decision-making. Doing so assures affected parties that their evidence and arguments have been assessed in accordance with the law, and it provides a basis for scrutiny by an appellate court. Where this is not done, there is a danger that a person adversely affected might conclude they have been treated unfairly by the decision-maker and there may be a basis for a successful challenge in the courts (Catey Boyce, Simpson Grierson 2017).

While each situation is different, the extent and depth of the reasoning recorded should consider:

- The function and role of the decision maker, and nature of the decision being made
- The significance of the decision in terms of its effect on persons
- The rights of appeal available
- The context and time available to make a decision.



In short, the level of detail provided should be adequate to provide a 'reasonably informed' reader of the minutes an ability to identify and understand the reasons for the recommendations/decision made. In reaching a view on the appropriate level of reasoning that should be provided, the Significance and Engagement Policy of a council may be useful to guide the types of decision that warrant more detail.

### **Hard copy or digital**

Te Rua Mahara o te Kāwanatanga Archives New Zealand has released [guidance on the storage of records by digital means](#). General approval has been given to public offices to retain electronic records in electronic form only, after these have been digitised, subject to the exclusions listed below.

The following categories of public records are excluded from the general approval given:

- Unique or rare information, information of importance to national or cultural identity or information of historical significance;
- Unique or rare information of cultural value to Māori (land and people) and their identity; and
- All information created prior to 1946.

For more detail on each of these categories, refer to the guide '[Destruction of source information after digitisation 17/G133](#)'. Te Rua Mahara o te Kāwanatanga Archives New Zealand will consider applications to retain public records from these categories in electronic form only on a case-by-case basis.

The Authority to retain public records in electronic form only is issued by the Chief Archivist under Section 229(2) of the Contract and Commercial Law Act 2017 (CCLA).

### **Compliance with Section 229(1) of the CCLA**

A public office can retain public records in electronic form, and destroy the source information, only if the public record is covered by an approval given in this Authority (or specific authorisation has otherwise been given by the Chief Archivist), and the conditions of Section 229(1) of the CCLA are met. The two conditions of Section 229(1) are:

1. The electronic form provides a reliable means of assuring that the integrity of the information is maintained, and
2. The information is readily accessible to be usable for subsequent reference.

**Note:** Public offices should be aware that Section 229 of the CCLA does not apply to those enactments and provisions of enactments listed in Schedule 5 to the CCLA (Enactments and





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provisions excluded from subpart 3 of Part 4). For further clarification, the Authority should be read in conjunction with the guide –[Destruction of source information after digitisation 17/G13](#)<sup>6</sup>.

#### **Information tabled at meetings**

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

#### **Chair's signature**

Where councils capture and store minutes digitally the traditional practice for authorising minutes of the chair's signature is not at all practical. For the digital environment, one approach would be to include, with the motion to adopt the minutes, a sub-motion to the effect that the chair's electronic signature be attached/inserted.

#### **Regarding non-LGA 2002 hearings**

The LGNZ standing orders are designed to comply with the LGA 2002 and LGOIMA 1987. Other statutes under which council may have meetings and hearings can have different requirements. For example:

Minutes of hearings under the Resource Management Act, Dog Control Act 1996 and Sale and Supply of Alcohol Act 2012 include additional items, namely:

- Record of any oral evidence,
- Questions put by panel members and the speaker's response,
- Reference to tabled written evidence, and
- Right of reply.

Information required in minutes of hearings of submissions under a special consultative procedure, such as Long-Term Plan hearings, include:

- Records of oral submission,
- Questions put by elected members and the speaker's response to them, and
- Reference to tabled written submissions.

In cases where a council chooses a course of action in response to submissions which is contrary to advice provided by officials, the reasons why it chose not to follow official advice should be recorded.

In summary:

- For procedural matters a pre-formatted list of statements can be useful for slotting in the minutes as you go
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<sup>6</sup> See [Authority to retain public records in electronic form only – Archives New Zealand](#)



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- Avoid attributing statements to specific politicians as it creates opportunity for debate during the confirmation of minutes
  - Do attribute statements when given as expert advice
  - Be flexible. Minutes are live recordings of real events – the rules will not always help you.

### **Affixing the council seal**

The requirement to have a common seal was removed by the LGA 2002. However, there is an implied requirement for a council to continue to hold a common seal as there are some statutes that refer to it. A council may decide to require or authorise the use of its common seal in certain instances.

For example:

- Section 174(1) of the LGA 2002, states that if an officer of a local authority or other person is authorised by the LGA 2002 or another enactment to enter private land on behalf of the local authority, the local authority must provide a written warrant under the seal of the local authority as evidence that the person is so authorised.
- Section 345(1)(a) of the LGA 1974, which provides for the council conveying or transferring or leasing land, which is no longer required as a road, under common seal.
- Section 80 of the Local Government (Rating) Act 2002, which provides that the council must, in the case of sale or lease of abandoned land, execute under seal a memorandum of transfer (or lease) on behalf of the ratepayer whose interest has been sold or leased.
- Clause 17 of Schedule 1 of the Resource Management Act 1991 (RMA), which provides that approvals of proposed policy statements or plans must be affected by affixing the seal of the local authority to the proposed policy statement or plan.

However, given that there are no requirements in these provisions as to how the common seal may be affixed, it is therefore up to each local authority itself to decide.

Where such requirements continue to exist, the legal advice (sourced from Simpson Grierson) recommends that council have any deeds signed by two elected members. While the common seal could be affixed in addition to this, it is not legally required.

If a council continues to hold a common seal, then it is up to the council to decide which types of documents it wishes to use it for, and which officers or elected members have authority to use it. The process for determining this should be laid out in a delegation's manual or separate policy.



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## **Appendix 1: Sample order of business**

### ***Āpitihanga 1: He tauira rārangi take***

There is no single correct way of structuring the order of business to be considered at a meeting. Determining the appropriate order of agenda items will be influenced by the type of council, its size, the decision-making structures and the governance culture, as well as the preferences of the chair. A commonly used order of business is set out below:

#### **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)\*

\*Only those aspects of these reports that are confidential should be considered in public excluded.



## Appendix 2: Childcare allowance policy – guidance & template

### Āpitihanga 2: Kaupapahere mō te utu tiaki tamariki – aratohu me te anga

LGNZ has developed the following template policies on child-care allowances to reflect our commitment to diversity and inclusivity. These are for councils to consider and adopt if they see fit.

- The draft “childcare allowance clauses” could be included in a council’s “Elected Member Expenses, Allowances and Reimbursements Policy” (Expenses Policy). Councils can also adopt them as a separate policy if they wish
- Before any council decides to adopt any clauses/new policy, it will need to comply with its usual decision-making requirements in the Local Government Act 2002.

Both policies have been developed by LGNZ’s legal advisers and both have been reviewed by the Remuneration Authority.<sup>7</sup>

#### Background and objectives

In 2017/18, the Remuneration Authority carried out a comprehensive review of its approach to determining remuneration and allowances for local government elected members. In this review they noted that caring for dependents was one of the barriers to participation as an elected member, particularly for younger women. As a result, in 2019 provision was made for councils to adopt an elected member childcare allowance.

The consultation document that led to the introduction of the childcare allowance raised questions, and included proposals, about leave of absence for other personal reasons. However, the Remuneration Authority did not make any specific determinations about leave of absence, other than a determination which requires an acting Mayor/Chair to be paid the remuneration and allowances that are normally payable to the Mayor/Chair when they are fulfilling that role (in an acting capacity).

The Remuneration Authority currently provides discretion for local authorities to make childcare allowances: see clause 14, Local Government Members (2022/23) Determination 2022.

LGNZ encourages all councils to provide for this allowance in their policies, for both councillors and community/local board members. While it is for eligible elected members to decide whether they will claim the allowance, ensuring all discretionary allowances are made available to elected members helps to minimise financial barriers for those who wish to hold office.

The Remuneration Authority reviews allowance limits annually, so before any childcare allowance is paid in any year, the current determination (and possibly the council policy) should be reviewed:

- Existing Expenses Policies will specify when allowance claims are to be made and paid

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<sup>7</sup> Please note that any reference to ‘parental leave’ in these draft policy clauses does not mean ‘parental leave’ as that term is used in the Parental Leave and Employment Protection Act 1987.



- Councils should consider whether amendments are required to these clauses in conjunction with adopting these template clauses
- The placeholder text in [brackets] is for each council to choose/insert for consistency with other council documents, as part of their decision-making process.

The council will review this policy at least every three years, immediately following the local government election.

**Please note:** The council can only include additional ‘rules’ relating to an elected member claiming this allowance if the Remuneration Authority approves these in accordance with clause 6(3)(e), Schedule 7 of the Local Government Act 2002. However, instead of seeking approval from the Remuneration Authority, a council may decide to add ‘notes’, or parameters, that align with any preferences it has in relation to an elected member claiming the allowance. For example, by requiring that specific childcare centres be used, see below:

*The council encourages elected members to use [XYC childcare centre] which is [owned and operated by the [council/council's CCO]] OR [which receives grant funding from the Council each year]*

#### Childcare allowance template:

*The placeholder text in [brackets] is for each council to choose/insert for consistency with other Council documents and policies. Childcare allowance policy: draft clauses:*

1. From the day the official result of the [2022] election is declared, eligible [Members] may claim a childcare allowance of up to [\$6,000] per annum only, per child, to contribute towards expenses incurred by the [Member] for childcare provided while they are engaged on local authority business.<sup>8</sup>
2. In accordance with the Local Government Members Determination issued by the Remuneration Authority, a [Member] is eligible for the childcare allowance only if:
  - a. the member is a parent or guardian of the child, or is a person who usually has responsibility for the day-to-day care of the child (other than on a temporary basis); and
  - b. the child is under 14 years of age; and
  - c. the childcare is provided by a person who—
    - i. is not a parent of the child or a spouse, civil union partner, or de facto partner of the member; and
    - ii. does not ordinarily reside with the member; and
3. the member provides satisfactory evidence to the Council of the amount paid for childcare.

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<sup>8</sup> To find out whether your council provides a childcare allowance and, if so, the amount of that allowance, go to the council's Governance Statement, which can be found on its website. Alternatively, approach the council's administration officer.



### Appendix 3: Parental leave of absence policy: notes and guidance

#### Āpitianga 3: Kaupapahere tamōtanga mātua: he kupu ārahi me te aratohu

A good democracy needs to be inclusive and reflect as far as practicable the diversity of our communities. This applies not only to what councils do but also to the way in which decisions are made, including the membership of governing bodies and community and local boards. It is important that all eligible citizens not only feel able to stand for election and but also to participate fully if elected.

As the law stands, elected members are not entitled to statutory 'parental leave,' as they are not subject to the Parental Leave and Employment Protection Act 1987. Consequently, any decision to approve parental leave for an elected member is a council decision. The draft policy clauses below are intended to assist councils with their decision-making if an elected member seeks a leave of absence for parental leave.

LGNZ has developed the following template on parental leave to reflect our commitment to diversity and inclusivity. These are for councils to consider and adopt if they see fit. We recommend that the draft "parental leave" clauses are adopted as a standalone policy, given that they concern the matter of leave, rather than the payment of a specified allowance.

- Councils should ensure that any parental leave of absence policy clauses are consistent with existing standing orders, insofar as they relate to the approval of a leave of absence. A council may need to amend their standing orders to reflect:
  - That where a leave of absence is approved on the basis that an elected member will not perform any services (e.g., a total leave of absence), remuneration (and allowances) will not be payable for the period.
- The Parental Leave of Absence policy clauses assume that a parental leave of absence will be a total leave of absence, where no usual duties or functions are performed.

*The placeholder text in [brackets] is for each council to choose/insert for consistency with other council documents and policies.*

#### Parental leave of absence policy template

1. When a [Member] gives birth or adopts a baby under [XX age] old, the council may approve a leave of absence under [standing order #] (parental leave of absence).
2. A parental leave of absence may be approved for up to [X] months on request.
3. Approval of parental leave of absence will mean that the [Member] must not carry out any duties, either formal or informal. This will mean that the [Member] will not attend any council, community board, local board, or committee meetings, meetings with external parties or constituent work. The [Member] is also not able to speak publicly on behalf of the council or represent the council on any issue.
4. A [Member] will not be paid any remuneration or allowances while on an approved parental leave of absence.
5. If a member continues in their role in a more limited (partial) capacity, such as attending to constituent enquiries (e.g., phone calls and engagements where possible), and reading etc,



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but not attending council meetings or workshops, their remuneration should revert to the remuneration received by a councillor with minimum allowable remuneration for their council, as set out in its determination.

6. The council will offer members returning from full parental leave a programme to assist them to transition back into their former role, this may involve a briefing from the chief executive officer on matters of importance that occurred during the member's absence.

# Tauranga City Council



## Standing Orders

Adopted 22 February 2021

Objective ID: A12465166



## Preface

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

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

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

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

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

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

These Standing Orders were amended by the Council on 22 February 2021 following the appointment of a Commission to replace the Mayor and Councillors.

For the term of the Commission, where the Standing Orders refer to the Mayor, this will be taken to refer to the Commission Chair, and where it refers to the elected members, this will be taken to refer to the Commissioners.

Other changes included:

- (i) Option C for motions and amendments (Standing Order 22.4) and Appendix 5 as preferred option.
- (ii) Remove references to Code of Conduct.
- (iii) Amend the public forum time set aside at the beginning of each meeting to state this is at the discretion of the Chairperson; and amend the time speakers on behalf of an organisation or topic can speak to up to 5 minutes in total, unless the Chairperson (at their discretion) otherwise agrees (Standing Order 15.1 and 16.1).
- (iv) Time limits for members speaking to motions, rights of reply and discussing motions be revoked (Standing Order 21.2).

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.

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## 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 information on the application of the standing orders and are also not part of the standing orders.

### 1.1 Principles

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

- Conduct its business in an open, transparent and democratically accountable manner;
- Give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- Make itself aware of, and have regard to, the views of all of its communities;
- Take account, when making decisions, of the diversity of the community, its interests and the interests of future communities as well;
- Ensure that any decisions made under these standing orders comply with the decision-making provisions of Part 6 of the LGA; and
- Ensure that decision-making procedures and practices meet the standards of natural justice.
- Free speech: members will respect the diversity of thought and opinion that are part of a healthy democracy.

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

### 1.2 Statutory references

The Standing Orders consist of statutory provisions about meetings along with guidance on how those provisions should be applied in practice. Where a statutory provision has been augmented with advice on how it might be implemented the advice (so as not to confuse it with the statutory obligation) is placed below the relevant legislative reference. In some cases, the language in the statutory provision has been modernised for ease of interpretation or amended to ensure consistency with more recently enacted statutes.



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

### 1.3 Acronyms

LGA 2002	Local Government Act 2002
LGOIMA	Local Government Official Information Act 1987
LAMIA	Local Authority Members' Interests Act 1968

### 1.4 Application

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

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

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

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

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

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

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

- (a) A committee comprising all the members of that authority;

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

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

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

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

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

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

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

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

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

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

**Karakia timatanga** means an opening prayer.

**Karakia whakamutunga** means a closing prayer.

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

**Leave of absence** means a period of time, approved by the Mayor, for which an elected member is on leave from the duties of being an elected member.

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

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

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

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

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

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

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

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

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

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

**Open voting** means voting that is conducted openly and in a transparent manner (i.e. enables an observer to identify how a member has voted on an issue) and may be conducted by electronic means. The result of the vote must be announced immediately it has concluded. Secret ballots are specifically excluded.

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

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

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

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

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

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

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

- any minutes (or portions of minutes) of public excluded sessions which have not been subsequently released by the local authority;
- any other information which has not been released by the local authority as publicly available information.

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

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

**Public notice** in relation to a notice given by a local authority, 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 Internet site. And in addition, is published in at least one daily newspaper circulating in the region or district of the local authority, or one or more other newspapers that have a combined circulation in that region or district which is at least equivalent to that of a daily newspaper circulating in that region or district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, Labour Day, the Sovereign's birthday, 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 do not apply. Workshops may include non-elected members. See definition of “advisory group”. Workshops are also described as briefings.

## General matters

### 3. Standing orders

#### 3.1 Obligation to adopt standing orders

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

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

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

The adoption of standing orders and any amendment to standing orders must be made by the Council and by a vote of not less than 75 % of the members present.

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

#### 3.3 Members must obey standing orders

All members of the local authority, including members of committees and subcommittees, must obey these standing orders.

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

#### 3.4 Application of standing orders

These standing orders apply to all meetings of the local authority, its committees, subcommittees and subordinate decision-making bodies. This includes meetings and parts of meetings that the public are excluded from.

#### 3.5 Temporary suspension of standing orders

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

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

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

#### 3.6 Quasi-judicial proceedings

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

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

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

## **4. Meetings**

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

The local authority must hold meetings for the good government of its city, district or region. Meetings must be called and conducted in accordance with:

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

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

### **4.2 Meeting duration**

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

No meeting can sit for more than two hours continuously without a break unless the meeting resolves to extend the time before a break.

### **4.3 Language**

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

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

### **4.4 Webcasting meetings**

Webcast meetings should be provided in accordance with the protocols contained in Appendix 7.

### **4.5 First meeting (inaugural)**

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

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

#### 4.6 Requirements for the first meeting

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

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

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

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

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

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

### 5. Appointments and elections

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

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

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

#### 5.2 Council Discharge of a Mayoral Appointment

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

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

*cl. 31, Schedule 7 LGA 2002*



### 5.3 Establishment of committees by the Mayor

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

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

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

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

### 5.4 Elections of Deputy Mayor, Chairperson and Deputy Chairperson of a committee

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

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

Please note, this provision does not apply in situations where a mayor has used their appointment powers under s.41A to appoint a deputy Mayor or committee chairs. See Appendix 9.

*cl. 25 Schedule 7, LGA 2002.*

### 5.5 Removal of a Deputy Mayor

A deputy Mayor, whether appointed by the Mayor under standing order 5.1 or elected by the council, can only be removed in accordance with cl. 18, Schedule 7, of the LGA 2002. See Appendix 10.

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

### 5.6 Voting System for Regional Chair, Deputy Mayor and committee Chairs

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

#### System A

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

- (a) there is a first round of voting for all candidates;
- (b) if no candidate is successful in the first round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded; and

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

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

### **System B**

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

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

*cl. 25 Schedule 7, LGA 2002.*

## **6. Delegations**

### **6.1 Limits on delegations**

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

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

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

### **6.2 Committees may delegate**

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

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

### **6.3 Use of delegated powers**

The committee, subcommittee, other subordinate decision-making body, or member or officer of the local authority to which or to whom any responsibilities, powers, duties are delegated may, without confirmation by the council, committee or body or person that made the delegation, exercise or

perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.

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

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

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

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

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

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

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

#### **6.6 Delegation to Chief Executive during election interregnum period**

From the day following the Electoral Officer's declaration, until the new Council is sworn in, the Chief Executive is authorised to make decisions in respect of urgent matters that cannot reasonably wait until the first meeting of the new Council, in consultation with the Mayor elect.

Any decision made under this delegation is be reported to the first meeting of the new Council.

### **7. Committees**

#### **7.1 Appointment of committees and subcommittees**

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

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

#### **7.2 Discharge or reconstitution of committees and subcommittees**

Unless expressly provided otherwise in legislation or regulation:

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

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

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

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

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

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

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

### **7.4 Elected members on committees and subcommittees**

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

At least one member of a committee must be an elected member of the council. A staff member of the local authority, in the course of their employment, can be a member of a subcommittee but not a committee.

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

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

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

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

### **7.6 Membership of Mayor**

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

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

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

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

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

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

## 7.8 Appointment of joint committees

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

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

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

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

## 7.9 Status of joint committees

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

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

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

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

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

## Pre-meeting

### 8. Giving notice

#### 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 and 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.

*s. 46, LGOIMA.*

#### 8.2 Notice to members - ordinary meetings

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

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

### 8.3 Extraordinary meeting may be called

An extraordinary council meeting may be called by:

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

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

### 8.4 Notice to members - extraordinary meetings

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

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

### 8.5 Emergency meetings may be called

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

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

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

### 8.6 Process for calling an emergency meeting

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

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

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

### 8.7 Public notice – emergency and extraordinary meetings

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

- (a) To be publicly notified as soon as practicable before the meeting is to be held; or

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

*s. 46 (3) LGOIMA.*

## **8.8 Meetings not invalid**

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

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

*s. 46 (6), LGOIMA.*

## **8.9 Resolutions passed at an extraordinary meeting**

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

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

*s. 51A, LGOIMA.*

## **8.10 Meeting schedules**

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

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

## **8.11 Non-receipt of notice to members**

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

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

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

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

### **8.12 Meeting cancellations**

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

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

## **9. Meeting agenda**

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

It is the chief executive's responsibility 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 will consult the Chairperson.

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

Requests for reports may be made by a resolution of the council, committee, subcommittee, subordinate decision-making body and, in the case of all decision-making bodies other than the council, must also fall within the scope of their specific delegations. A process for requesting reports is described in Appendix 13.

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

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

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

### **9.4 Order of business**

At the meeting the business is to be dealt with in the order in which it stands on the agenda unless the Chairperson, or the meeting, decides otherwise. An example of a default order of business is set out in Appendix 12.

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

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

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



## 9.6 Chairperson's report

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

## 9.7 Public availability of the agenda

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

*s. 5 & 46A, LGOIMA.*

## 9.8 Public inspection of agenda

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

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

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

## 9.9 Withdrawal of agenda items

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

## 9.10 Distribution of the agenda

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

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

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

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

*s. 46A (7), LGOIMA*

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

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

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

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

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

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

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

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

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

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

*s. 52, LGOIMA.*

## **Meeting Procedures**

### **10. Opening and closing**

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

## **11. Quorum**

### **11.1 Council meetings**

The quorum for a meeting of the council is:

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

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

### **11.2 Committees and subcommittees 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.

In the case of subcommittees, the quorum will be two members unless otherwise stated. In the case of committees at least one member of the quorum must be a member of the council.

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

### **11.3 Joint Committees**

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

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

### **11.4 Requirement for a quorum**

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

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

### **11.5 Meeting lapses where no quorum**

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

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

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

## **11.6 Business from lapsed meetings**

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

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

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

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

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

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

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

### **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 must be notified to the Chairperson at the commencement of the meeting to ensure that the recording does not distract the meeting from fulfilling its business.

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

## **13. Attendance**

### **13.1 Members right to attend meetings**

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

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

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

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

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

### **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 delegates the power to grant a leave of absence to the Mayor in order to protect a members' privacy.

The Mayor may approve a members' application, 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 Chairperson must invite apologies at the beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apologies.

### **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. The minutes may record at the member's request if the member is absent due to sickness and other relevant reasons beyond the member's control.

The minutes will also record if the member is absent as a result of a commitment made on behalf of the council or at the request of the Mayor for council related business.

### **13.6 Absent without leave**

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

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

### **13.7 Right to attend by audio or audio visual 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.

### **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 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 of that person in relation to the meeting;
  - iii. the requirements of Part 7 of LGOIMA are met; and
  - iv. the requirements in these standing orders are met.

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

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

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

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

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

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

### **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; and
- (d) the quality of the link is no longer suitable.

### **13.14 Giving or showing a document**

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

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

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

### **13.15 Link failure**

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

### **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 times that the public are excluded. At such times, the Chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings.

## **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.

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

### **14.2 Other meetings**

In the case of committees, subcommittees and subordinate decision-making bodies, the appointed Chairperson must preside at each meeting, unless they vacate the chair for all or part of a meeting. If the Chairperson is absent from a meeting or vacates the chair, the deputy Chairperson (if any) will act as Chairperson. If the deputy Chairperson is also absent, or has not been appointed, the committee

members who are present must elect a member to act as Chairperson. This person may exercise the meeting responsibilities, duties and powers of the Chairperson.

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

### **14.3 Addressing the Chairperson**

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

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

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

### **14.5 Chairperson standing**

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

### **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 a meeting, which, at the discretion of a meeting, is put aside for the purpose of public input. Public forums are designed to enable members of the public to bring matters, not necessarily on the meeting's agenda, to the attention of the local authority.

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



### 15.1 Time limits

A period of time that is set at the discretion of the Chairperson, 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 on behalf of an organisation or topic can speak for up to 5 minutes in total.

### 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 staff;
- the speaker is being repetitious, disrespectful or offensive;
- the speaker has previously spoken on the same issue;
- the matter is subject to legal proceedings;
- the matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

### 15.3 Questions 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 2019 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. 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 on behalf of a deputation can speak for up to 5 minutes in total. 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 staff
- the speaker is being repetitious, disrespectful or offensive;
- the speaker has previously spoken on the same issue;
- the matter is subject to legal proceedings;
- the matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

## 16.3 Questions of a deputation

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

## 16.4 Resolutions

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

# 17. Petitions

## 17.1 Form of petitions

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

Petitions must not be disrespectful, use offensive language or include malicious statements (see standing order 19.9 on qualified privilege). They may be written in English or te reo Māori. Petitioners planning to present their petition in te reo Māori or sign language should advise the chief executive in time to allow translation services to be arranged.

## 17.2 Petition presented by petitioner

A petitioner who presents a petition to the local authority or any of its committees and subcommittees may speak for 10 minutes (excluding questions) about the petition, unless the meeting resolves otherwise. The Chairperson must terminate the presentation of the petition if he or she believes the petitioner is being disrespectful, offensive or making malicious statements.

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

### 17.3 Petition presented by member

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

- (a) the petition;
- (b) the petitioners' statement; and
- (c) the number of signatures.

## 18. Exclusion of public

### 18.1 Motions and resolutions to exclude the public

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

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

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

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

*s. 48 LGOIMA.*

### 18.2 Specified people may remain

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

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

*s.48 (6) LGOIMA.*

### 18.3 Public excluded items

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

*s.46A (8) LGOIMA.*

#### **18.4 Non-disclosure of information**

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

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

- (a) there are no grounds under LGOIMA for withholding the information;
- (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. The chief executive will inform the subsequent meeting of the nature of the information released.

### **19. Voting**

#### **19.1 Decisions by majority vote**

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

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

#### **19.2 Open voting**

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

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

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

The 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.

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

#### **19.4 Method of voting**

The method of voting must be as follows:

- (a) the Chairperson in putting the motion must call for an expression of opinion on the voices or take a show of hands, the result of either of which, as announced by the Chairperson, must be conclusive unless such announcement is questioned immediately by any member, in which event the Chairperson will call a division;

- (b) the Chairperson or any member may call for a division instead of or after voting on the voices and/or taking a show of hands; and
- (c) where a suitable electronic voting system is available, that system may be used instead of a show of hands, vote by voices or division, and the result publicly displayed and notified to the Chairperson who must declare the result.
- (d) when vote is unanimous, record as “carried unanimously”
- (e) when vote is not unanimous, the names of the members voting for and against the motion and abstentions are to be recorded in the minutes and the Chairperson is to read out the names for the audio recording of the meeting.

### **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 e.g. reason for the 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 leave the meeting immediately for a specified time.

### **20.2 Behaviour at meetings**

No member at any meeting shall 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 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.

## **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.

## **20.6 Removal from meeting**

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

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

## **20.7 Financial conflicts of interests**

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

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

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

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

s. 6 & 7 LAMIA.

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

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

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

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

## **20.9 Qualified privilege for meeting proceedings**

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

*s. 53, LGOIMA.*

## **20.10 Qualified privilege additional to any other provisions**

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

*s. 53, LGOIMA.*

## **20.11 Electronic devices at meetings**

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

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

# **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 Questions to staff**

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

## **21.3 Questions of clarification**

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

#### **21.4 Members may speak only once**

A member may not speak more than once to a motion at a meeting of a local authority 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.

#### **21.5 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.

#### **21.6 Seconder may reserve speech**

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

#### **21.7 Speaking only to relevant matters**

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

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

#### **21.8 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.

#### **21.9 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.

#### **21.10 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.

#### **21.11 Right of reply**

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

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



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

### **21.12 No other member may speak**

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

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

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

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

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

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

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

### **22.1 Options for speaking and moving**

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

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

### **22.2 Option A (Refer Appendix 3)**

- The mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- Only members who have not spoken to the original or substituted motion may move or second an amendment to it.
- The mover or seconder of an amendment whether it is carried or lost cannot move or second a subsequent amendment.

- Members can speak to any amendment and, provided they have not spoken to the motion or moved or seconded an amendment, they can move or second further amendments.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

### **22.3 Option B (Refer Appendix 4)**

- 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 (Primary Option) (Refer Appendix 5)**

- 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.

### **22.5 Procedure if no resolution reached**

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

## **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.

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

### **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. Any amendment cannot be a direct negative to the motion or the amended motion.

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

### **23.6 Foreshadowed amendments**

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

### **23.7 Lost amendments**

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

### **23.8 Carried amendments**

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

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

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

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

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

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

### **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 or subordinate body. The notice must set out:

- (a) The resolution or part of the resolution which the member proposes to revoke or alter;
- (b) The meeting date when the resolution was passed;
- (c) The motion, if any, which the member proposes to replace it with; and
- (d) Sufficient information to satisfy the decision-making provisions of sections 77-82 of 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, only that body may revoke or amend the resolution, assuming the resolution is legally made.

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

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

### **24.3 Requirement to give notice**

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

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

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

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

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

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

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

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

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

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

### **25. Procedural motions**

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

A procedural motion to close or adjourn a debate will take precedence over other business, except points of order and rights of reply. If the procedural motion is seconded the Chairperson must put it to the vote immediately, without discussion or debate. A procedural motion to close or adjourn debate can be taken after two speakers have spoken for the motion and two against or, in the chairperson's opinion, it is reasonable to accept the closure motion.

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

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

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

A member seeking to move a procedural motion must not interrupt another member who is already speaking. A table of procedural motions is set out in Appendix 6.

### **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 and committee**

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

### **25.7 Other types of procedural motions**

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

## **26. Points of order**

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

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

### **26.2 Subjects for points of order**

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

- (a) disorder – to bring disorder to the attention of the Chairperson;
- (b) language – to highlight use of disrespectful, offensive or malicious language;
- (c) irrelevance – to inform the chairperson that the topic being discussed is not the matter currently before the meeting;

- (d) misrepresentation – to alert the chairperson of a misrepresentation of any 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.

## **27. Notices of motion**

### **27.1 Notice of intended motion to be in writing**

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

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

### **27.2 Refusal of notice of motion**

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

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

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

### **27.3 Mover of notice of motion**

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

### **27.4 Alteration of notice of motion**

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

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

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

### **27.6 Referral of notices of motion**

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

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

### **27.7 Repeat notices of motion**

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

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

## **28. Minutes**

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

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

*cl. 28 Schedule 7, LGA 2002.*

### **28.2 Matters recorded in minutes**

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

- (a) the date, time and venue of the meeting;
- (b) the names of the members present;
- (c) the Chairperson;



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

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

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

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

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

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

## **29. Keeping a record**

### **29.1 Maintaining accurate records**

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

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

*s. 17 Public Records Act 2005.*

### **29.2 Method for maintaining records**

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

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

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

### **29.3 Inspection**

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

*s. 51 LGOIMA.*

### **29.4 Inspection of public excluded matters**

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

**Referenced documents**

- Commissions of Inquiry Act 1908
- Crimes Act 1961
- Contract and Law Act 2017
- Financial Markets Conduct Act 2013
- Local Authorities (Members' Interests) Act 1968 (LAMIA)
- Local Electoral Act 2001 (LEA)
- Local Government Act 1974 and 2002 (LGA)
- Local Government Official Information and Meetings Act 1987 (LGOIMA)
- Marine Farming Act 1971
- Public Records Act 2005
- Resource Management Act 1991 (RMA)
- Sale and Supply of Alcohol Act 2012
- Secret Commissions Act 1910
- Securities Act 1978

## Appendix 1: Grounds to exclude the public

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

- A1** That good reason exists for excluding the public from the whole or any part of the proceedings of any meeting as the public disclosure of information would be likely:
- (a) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
  - (b) to endanger the safety of any person.
- A2** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:
- (a) Protect the privacy of natural persons, including that of deceased natural persons; or
  - (b) Protect information where the making available of the information would:
    - i. disclose a trade secret; or
    - ii. be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information; or,
  - (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; or
  - (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.

(See s 7 LGOIMA 1987)

Where A2 of this Appendix applies 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; or
    - ii. The Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings; and
    - iii. Proceedings of a local authority exist in relation to any application or objection under the Marine Farming Act 1971
  - (b) Any proceedings of a Council in relation to any application or objection under the Marine Farming Act 1971.

## Appendix 2: Sample resolution to exclude the public

**THAT** the public be excluded from the following parts of the proceedings of this meeting

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
1 <i>Put in name of report</i>	Good reason to withhold exists under Section 7.	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)
2	Good reason to withhold exists under Section 7.	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)
3	Good reason to withhold exists under Section 7.	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists. Section 48(1)(a)

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48(1) for the passing of this resolution
4 <i>Regulatory or Hearings Committee</i>	<p>To enable the Committee to consider the application and submissions.</p> <p>OR</p> <p>To enable the Committee to consider the objection to fees and charges.</p> <p>OR</p> <p>To enable the Committee to.</p>	<p>That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council/Committee to deliberate in private on its decision or recommendation in any proceedings where:</p> <p>i) a right of appeal lies to any Court or tribunal against the final decision of the Council/Committee in those proceedings; or</p> <p>ii) the local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.</p> <p>Use (i) for the RMA hearings and (ii) for hearings under LGA such as objections to Development Contributions or hearings under the Dog Control Act s. 48(1)(d).</p>

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

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

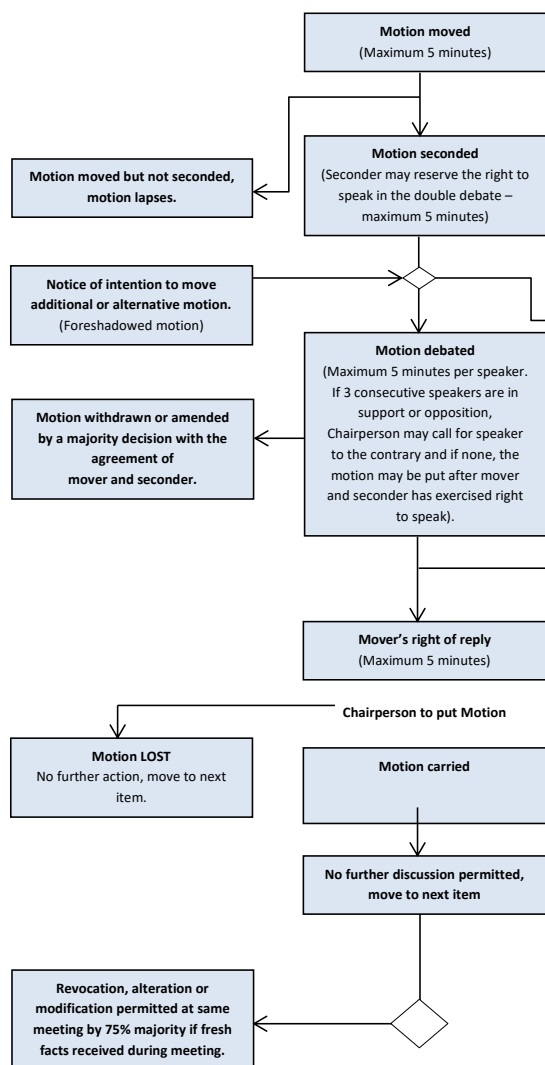
Item No	Interest
	Protect information where the making available of the information (i) would disclose a trade secret; or (ii) would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information (Schedule 7(2)(b))
	In the case only of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

**THAT** (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)

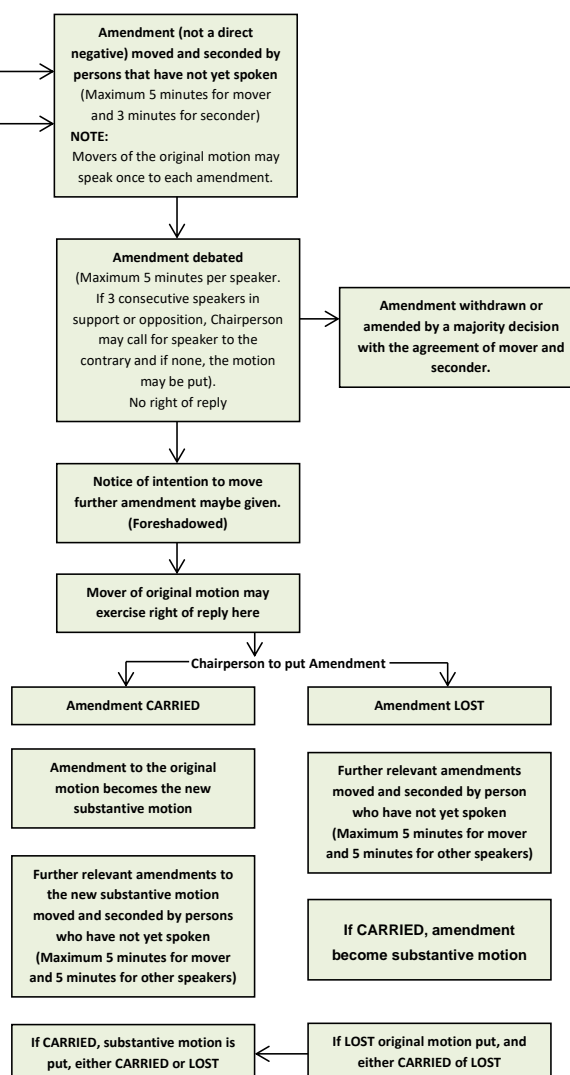


### Appendix 3: Motions and amendments (Option A)

#### Motions without amendments

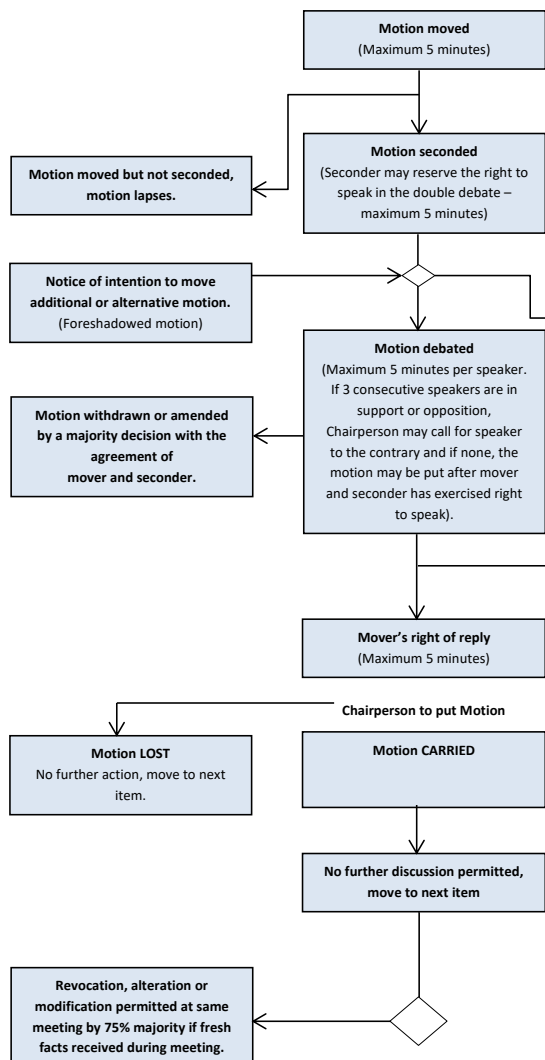


#### Motions with amendments

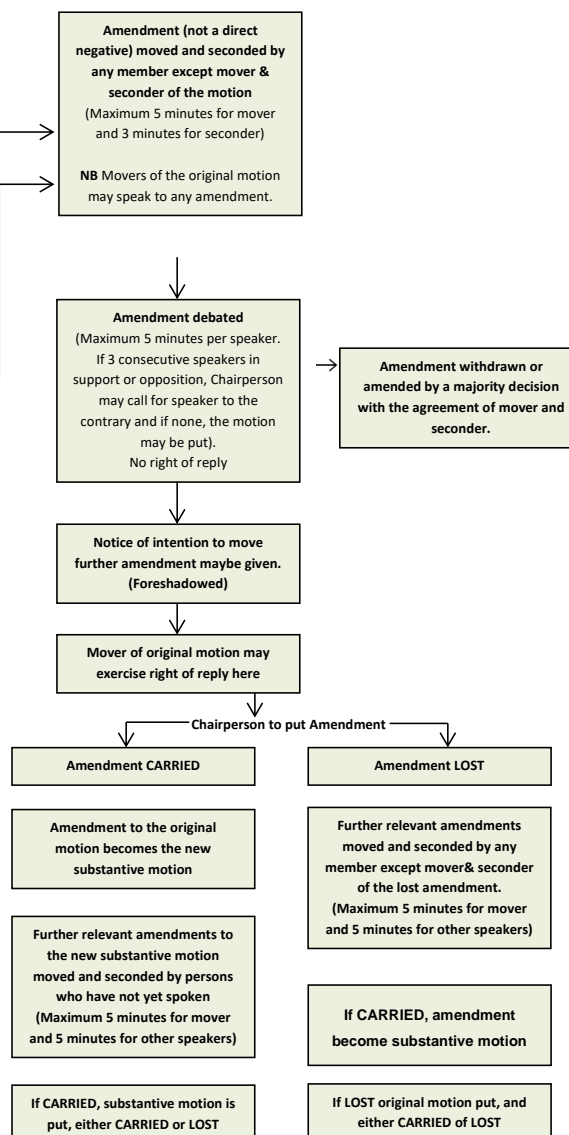


## Appendix 4: Motions and amendments (Option B)

### Motions without amendments

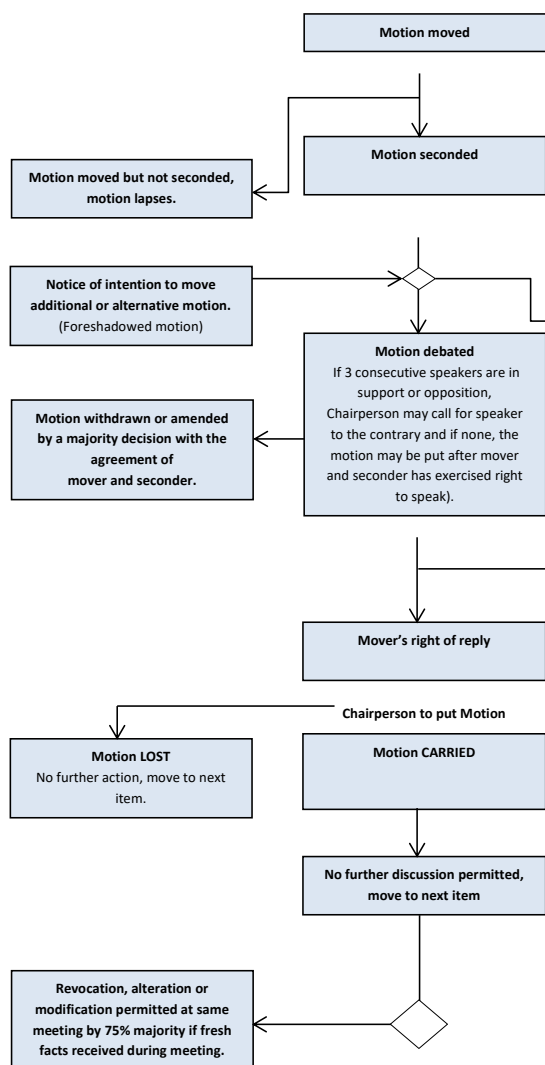


### Motions with amendments

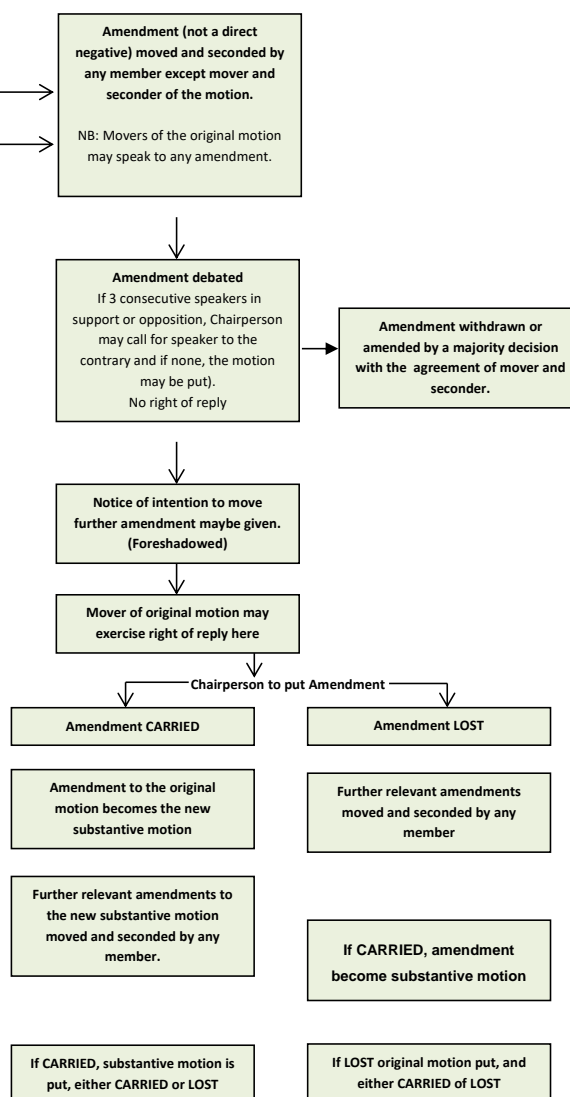


## Appendix 5: Motions and amendments (Option C)

### Motions without amendments



### Motions with amendments



**Appendix 6: Table of procedural motions**

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

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

## Appendix 7: Webcasting protocols

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

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

## **Appendix 8: Powers of a Chairperson**

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

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

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

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

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

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

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

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

### **Chairperson's report**

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

### **Chairperson's recommendation**

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

### **Chairperson's voting**

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

### **Motion in writing**

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

**Motion in parts**

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

**Notice of motion**

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

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

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

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

**Action on previous resolutions**

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

**Repeat notice of motion**

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

**Revocation or alteration of previous resolution**

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

**Chairperson may call a meeting**

The Chairperson:

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



**Irrelevant matter and needless repetition**

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

**Taking down words**

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

**Explanations**

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

**Chairperson rising**

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

**Members may leave places**

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

**Priority of speakers**

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

**Minutes**

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

**Questions of speakers**

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

**Withdrawal of offensive or malicious expressions**

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

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

**Chairperson's rulings**

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

**Disorderly behaviour**

The Chairperson may:

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

**Failure to leave meeting**

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

**Audio or audio visual attendance**

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

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

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

**Appendix 9: Mayors' powers to appoint under s.41A**

The role of a Mayor is:

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

The Mayor has authority to:

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

The Council retains the ability to:

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

The Mayor is a member of each committee of the Council unless specific legislation provides otherwise, for example a committee established under s. 189 of the Sale and Supply of Alcohol Act 2012.

**Appendix 10: 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.

*cl. 18 Schedule 7, LGA 2002.*

## Appendix 11: Workshops

### Definition of workshop

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

### Application of standing orders to workshops

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

### Calling a workshop

Workshops, briefings and working parties may be called by:

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

### Process for calling workshops

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

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

All workshops will be open to the public except for when good reason is provided. Good reason to exclude the public being broadly consistent with those outlined in Part 1 of the Local Government Official Information and Meetings Act 1987.'

All workshops, including those held in Public Excluded session, will be publicly notified via council's scheduled meetings webpage and include the topic and/or purpose of the workshop.

### Record of workshop

A written record of the workshop should be kept and include:

- Time, date, location and duration of workshop;
- Person present; and
- General subject matter covered

## Appendix 12: Sample order of business

### Open section

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

### Public excluded section

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

**Appendix 13: Process for raising matters for a decision**

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

- report of chief executive
- report of a Chairperson
- report of a committee
- notice of motion from a member.

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

- report of chief executive
- report of Chairperson

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