GUIDE TO THE 2025 LGNZ STANDING ORDERS TEMPLATES

HE ARATOHU I TE ANGA TIKANGA WHAKAHAERE HUI A LGNZ

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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[1] 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.

[1] All standing order references refer to the territorial authority standing orders template. Numbers may vary slightly in the regional council and community boards templates.

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

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)." [2]

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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[2] 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.

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.

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

Ko Tātou LGNZ.

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.

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.

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.

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

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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 S41A 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

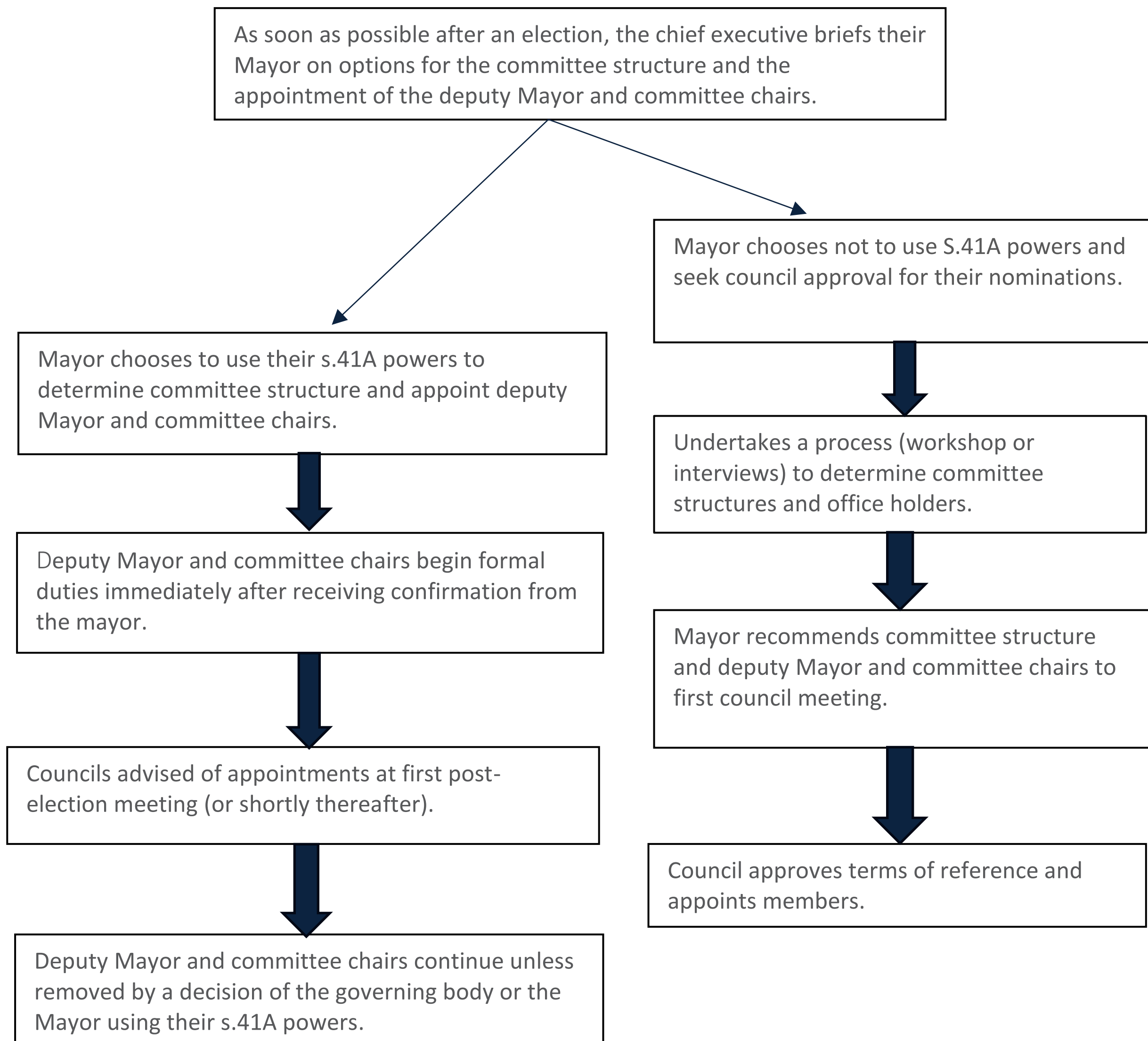
whether it would be appropriate for a Council to recommend the appointment of commissioners to be the DLC chair (instead of elected members).

- 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.

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.*

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.

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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.

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.*

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.

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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
Called by	A resolution of the local authority or requisition in writing delivered to the chief executive and signed by: • the Mayor or Chair, or • not less than one-third of the total membership of the local authority (including vacancies).	The Mayor or Chair; or if they are unavailable, the chief executive
Process	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.
Period	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.
Notification of resolutions	With two exceptions, a local authority must as soon as practicable publicly notify any resolution passed at an extraordinary meeting.[3]	No similar provision exists for emergency meetings however good practice would suggest adoption of the same process that applies to extraordinary meetings.

[3] 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.

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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.

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

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

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(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).

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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.[4]

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

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.

[4] 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.

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.

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

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.[5]

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.

[5] 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 statuary 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.

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.

Ko Tātou LGNZ.

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.

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.

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

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

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[6].

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

[6] See Authority to retain public records in electronic form only – Archives New Zealand

- 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.

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.[7]

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

[7] 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.[8]
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.

[8] 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.

Ko Tātou LGNZ.

Appendix 3: Parental leave of absence policy: notes and guidance
Āpitihanga 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,

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.