

Notice of the inaugural meeting of

Nelson City Council

Te Kaunihera o Whakatū

Date:	31 October 2019
Time:	1.30p.m.
Location:	Council Chamber, Civic House 110 Trafalgar Street Nelson

Agenda

Rārangi take

Mayor	Her Worship the Mayor Rachel Reese
Members	Cr Judene Edgar
	Cr Yvonne Bowater
	Cr Trudie Brand
	Cr Mel Courtney
	Cr Kate Fulton
	Cr Matt Lawrey
	Cr Brian McGurk
	Cr Gaile Noonan
	Cr Rohan O'Neill-Stevens
	Cr Pete Rainey
	Cr Rachel Sanson
	Cr Tim Skinner

Quorum 7

Pat Dougherty
Chief Executive Officer

Nelson City Council Disclaimer

Please note that the contents of these Council and Committee agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision. For enquiries call (03) 5460436.

Council Values

Following are the values agreed during the 2016 – 2019 term:

- A. Whakautetanga: respect
- B. Kōrero Pono: integrity
- C. Māiatanga: courage
- D. Whakamanatanga: effectiveness
- E. Whakamōwaitanga: humility
- F. Kaitiakitanga: stewardship
- G. Manaakitanga: generosity of spirit

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1. Karakia	
2. Statutory Declarations	9 - 10
3. Mayor's Speech	

Adjournment for afternoon tea with invited guests

4. Apologies	
4.1 An apology has been received from Councillor Elect Yvonne Bowater	
5. Confirmation of Order of Business	
6. Interests	
6.1 Updates to the Interests Register	
6.2 Identify any conflicts of interest in the agenda	
7. Statutory Responsibilities of Members	11 - 18
Document number R12511	
Recommendation	

That the Council

- 1. Receives the report Statutory Responsibilities of Members (R12511).***

8. Mayor's Report

19 - 23

Document number R12551
Recommendation

That the Council

- 1. Receives the report Mayor's Report (R12551); and***
- 2. Appoints Judene Edgar as Deputy Mayor; and***
- 3. Establishes five Governing Committees as follows:***

Committee	Chair	Deputy Chair	Membership
Infrastructure	Brian McGurk	Rohan O'Neill-Stevens	Trudie Brand Yvonne Bowater Mel Courtney Judene Edgar Kate Fulton Matt Lawrey Gaile Noonan Pete Rainey Rachel Sanson Tim Skinner
Governance and Finance	Rachel Sanson	Gaile Noonan	Trudie Brand Yvonne Bowater Mel Courtney Judene Edgar Kate Fulton Matt Lawrey Brian McGurk Rohan O'Neill-Stevens Pete Rainey Tim Skinner External Appointees x 2
Environment	Kate Fulton	Brian McGurk (Nelson Plan Lead Role)	Trudie Brand Yvonne Bowater Mel Courtney Judene Edgar Matt Lawrey Gaile Noonan Rohan O'Neill-Stevens Pete Rainey Rachel Sanson Tim Skinner External Appointee x 1

Community Services	Matt Lawrey	Yvonne Bowater	Trudie Brand Mel Courtney Judene Edgar Kate Fulton Brian McGurk Gaile Noonan Rohan O'Neill-Stevens Pete Rainey Rachel Sanson Tim Skinner
Sports and Recreation	Tim Skinner	Trudie Brand	Yvonne Bowater Mel Courtney Judene Edgar Kate Fulton Matt Lawrey Brian McGurk Gaile Noonan Rohan O'Neill-Stevens Pete Rainey Rachel Sanson

4. Appoints the following elected members to Single Purpose Committees:

Committee	Chair	Deputy Chair	Membership
Regional Transport	Brian McGurk	Judene Edgar	Mayor Rachel Reese Rohan O'Neill-Stevens NZTA Representative
Chief Executive Employment Committee	Mayor Rachel Reese	Deputy Mayor	Gaile Noonan Pete Rainey
Joint Committee	Alternates between Mayors of each district	None appointed	All Councillors
Civil Defence Emergency Management Group	Alternates between Mayors of each district	None appointed	Mayor Deputy Mayor

5. Appoints the following elected members to a Single Purpose Subcommittee:

Subcommittee	Chair	Deputy Chair	Membership
Audit and Risk	External Appointee	External Appointee	Mayor Deputy Mayor Chair of Governance

6. Appoints the following elected members to the City Centre Revitalisation Group:

Group	Chair	Deputy Chair	
City Centre Revitalisation Group	Pete Rainey	Mel Courtney	Mayor Rachel Reese Gaile Noonan Matt Lawrey Trudie Brand

9. Annual Report 2018/19

24 - 41

Document number R11504

Recommendation

That the Council

- 1. Receives the report Annual Report 2018/19 (R11504) and its attachments (A2280336 and A2288268); and**
- 2. Adopts the Annual Report for the year ended 30 June 2019 (A2280336) in accordance with s98 of the Local Government Act 2002; and**
- 3. Receives the draft Audit New Zealand Opinion; and**
- 4. Delegates the Mayor and Chief Executive to approve minor editorial changes as necessary.**

10. Elected Members' Code of Conduct

42 - 70

Document number R12553

Recommendation

That the Council

- 1. Receives the report Elected Members' Code of Conduct (R12553) and its attachment (A1745031); and***
- 2. Adopts the Nelson City Council Code of Conduct (A1745031); and***
- 3. Directs the Chief Executive to develop a panel of independent investigators for approval by Council; and***
- 4. Notes that a Code of Conduct Committee will be established as part of the process to appoint Elected Members to committees.***

11. Elected Members' Remuneration

71 - 77

Document number R12555

Recommendation

That the Council

- 1. Receives the report Elected Members' Remuneration (R12555); and***
- 2. Approves the allocation of Elected Member Remuneration from the Pool in accordance with the Remuneration Authority Local Government Members (2019/2020) Determination Part 2 outlined in Scenario 1:***
 - Deputy Mayor: \$62,662***
 - Chair Infrastructure, Regional Transport Committees, Deputy Chair Environment Committee (Nelson Plan Lead): \$62,662***
 - Chair: \$52,143***
 - Deputy Chair: \$44,900***
 - Councillor: \$44,900.***

12. Next meeting date

78 - 78

Document number R12545

Recommendation

That the Council

- 1. Confirms the next meeting of the Nelson City Council will be held on Thursday 14 November 2019, commencing at 9.00am.***

REPORT R12544

Statutory Declarations

The hearing and attesting of the written versions of Statutory Declarations by the Mayor and Councillors, pursuant to Clause 14 of Schedule 7 of the Local Government Act 2002, is required before elected members may act as members of the Nelson City Council.

The Mayor and Councillors are required to read aloud and sign the Declaration. A copy of the Declaration is attached.

Author: Robyn Byrne, Team Leader Governance

Attachments

Attachment 1: A2280294 Elected Member Declarations 2019 [↓](#)



Declaration

I declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of Nelson City, the powers, authorities, and duties vested in, or imposed upon, me as an elected member of the Nelson City Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Ko au, ko Ka whakapuaki ka mahi pono, tōtika hoki ahau, i ngā mea e mātāu e taea ana e au hei painga mō te rohe o Whakatū i runga i te mana kua riro mai i a au hei mema o Te Kaunihera o Whakatū i raro anō i te Ture Kāwanatanga ā-Rohe o te tau rua mano mā rua, te Ture Pārongo, Huinga Ōkawa ā-Kāwanatanga o te tau kotahi mano iwa rau waru tekau mā whitu, i raro rānei tētahi atu Ture.

Declared at Nelson this 31st day of October 2019.

Councillor

SIGNED IN THE PRESENCE OF:

Mayor

Statutory Responsibilities of Members

1. Purpose of Report

- 1.1 To provide a general explanation of some of the laws that directly affect the conduct of elected members and the business of Council, as required by the Local Government Act 2002.

2. Recommendation

That the Council

- 1. Receives the report Statutory Responsibilities of Members (R12511).***

3. Background

- 3.1 Schedule 7, clause 21(5)(c) of the Local Government Act 2002 requires that at the first meeting of the Council following a triennial election, a general explanation be given by the Chief Executive of:

- The Local Government Official Information and Meetings Act 1987;
- Other laws affecting members, including
 - The appropriate provisions of the Local Authorities (Members' Interests) Act 1968;
 - Section 99, 105 and 105A of the Crimes Act 1961;
 - The Secret Commissions Act 1910; and
 - The Financial Markets Conduct Act 2013.

- 3.2 Information on the Health and Safety at Work Act 2015, and Council's Standing Orders has also been included.

4. Discussion

The Local Government Official Information and Meetings Act 1987

4.1 The fundamental principle of availability is embodied in the Local Government Official Information and Meetings Act 1987 (LGOIMA) and provides that information should be made available unless there is good reason for withholding it. The purposes of LGOIMA include:

- To increase progressively the availability of information held by the Council to the public;
- To promote the open and public transaction of business at meetings of local authorities, to enable more effective participation by members of the public, and to promote accountability of local authority elected members and officials;
- To provide access by members of the public to their personal information; and
- To protect information and enable the deliberations of local authorities to be held in private where reason under LGOIMA exists for doing so.

Requests for information

The Council must consider all requests by the public for information, taking account of these principles. Reasons for withholding information are specified in sections 6 and 7. The decision on whether to withhold information rests with the Chief Executive, who must provide the reasons for doing so. If a decision is made to withhold information, the applicant may request the Office of the Ombudsman to investigate and review the decision.

Local Authority Meetings

4.2 LGOIMA also contains provisions relating to the conduct of Council meetings, additional to those contained in Schedule 7 of the Local Government Act 2002 and in Council's Standing Orders. These provisions apply to all meetings of Council, its Committees and Subcommittees. These provisions provide as follows:

- All Council meetings are to be publicly notified (section 46);
- Members of the public can obtain Council meeting agendas, including all reports and other information that has been provided to elected members for consideration and decision at the meeting (section 46A), except for information that is confidential under the provisions of LGOIMA;

Item 9: Statutory Responsibilities of Members

- Members of the public, including the media, have the right to attend Council meetings (section 47), unless the public have been excluded on one of the grounds specified in the Act (section 48).

4.3 LGOIMA requires the Chairperson of the meeting to maintain order at the meeting (section 50). The Chairperson has the ability to require members of the public to leave the meeting if they believe the behaviour of any member of the public is likely to prejudice the orderly conduct of the meeting.

Notice required for meetings

4.4 Clause 19 of Schedule 7 of the Local Government Act 2001 provides for notice of meetings to be given as follows:

- 14 days' notice must be given for all ordinary meetings unless advance schedules of meetings have been adopted;
- Extraordinary meetings can be held with three working days' notice, or on 24 hours' notice if a Council resolution is passed or a requisition is prepared in accordance with Council's Standing Orders.

Agendas

4.5 All business dealt with at the meeting must be listed on the agenda for the meeting.

4.6 Items not on an agenda for a meeting may be dealt with if the meeting resolves to do so and the Chairperson explains in the public part of the meeting why the item is not on the agenda and why consideration of it cannot be delayed to a subsequent meeting (Section 46A LGOIMA).

Public Excluded Business

4.7 Section 48 of LGOIMA outlines the reasons for which members of the public may be excluded from meetings of Council, its committees, subcommittees or subordinate decision-making bodies.

4.8 A meeting must be open to the public when a resolution to exclude the public is passed, and the resolution must include the general subject matter to be considered. Where it is proposed that a person be allowed to remain after the public has been excluded, such provision must be incorporated into the resolution, stating the names of the persons concerned and the reasons for their remaining.

4.9 These meeting requirements only apply to meetings of a local authority committee or subcommittee at which resolutions or decisions are made. They do not apply to informal workshops or briefings at which no decisions are made.

Item 9: Statutory Responsibilities of Members

The Local Authorities (Members' Interests) Act 1968

- 4.10 The Local Authorities (Members' Interests) Act 1968 (LAMIA) deals with the positions of elected members who may have an interest in contracts to be let by the Council. It also prohibits elected members from voting or taking part in any matter in which they have a direct or indirect financial interest.
- 4.11 The purpose of LAMIA is to ensure that elected members follow high ethical standards in their public obligations, ensuring that elected members are not affected by personal motives when they participate in decisions of Council, and preventing elected members, in contracting situations, from using their position to obtain preferential treatment from Council.
- 4.12 Section 3 of LAMIA restricts elected members, and their spouses or partners, from having entered into contracts for payment by the Council exceeding \$25,000 (including GST), except with the express approval of the Office of Auditor General.
- 4.13 Section 6 of LAMIA restricts elected members from discussing or voting on issues in which they have, directly or indirectly, a pecuniary interest, other than an interest in common with the public.
- 4.14 Failure to abide by these provisions can lead to automatic disqualification from office.
- 4.15 LAMIA also applies to the pecuniary interests of elected member's business activities. A member is deemed to have a pecuniary interest in a matter before Council where the member, or the member's spouse or partner holds:
- More than 10% of the issued capital in a company; and
 - A pecuniary interest in, and/or is a director of an incorporated company that is involved in a contract with the Council.
- 4.16 Where a matter is raised at a Council meeting in which a member has a pecuniary interest, the member is prohibited from discussing and voting on the matter, and must declare a conflict of interest. Best practice, and the practice encouraged at Council, is for members to clearly declare an interest in the matter and to leave the meeting room for the duration of the matter, especially where the matter is to be considered during public excluded session.
- 4.17 Elected members must be careful that they maintain a clear separation between their personal interests and their duties as elected members. This is also to ensure that people who fill positions of authority carry out their duties free from bias (whether real or perceived). LAMIA deals with financial interests, both direct and indirect, that elected members (or their partner or spouse) may have; elected members also need to consider any non-pecuniary interests they have (for example, because of

Item 9: Statutory Responsibilities of Members

a relationship or role held) that could give rise to bias, or a perception of bias, in decision-making.

- 4.18 It is important to note that it is the responsibility of elected members to ensure compliance with LAMIA. Council has internal processes, such as the Elected Members' Interests Register, which assist elected members in clearly identifying any pecuniary and non-pecuniary interests. Elected members are encouraged to review their interests regularly, declare any interests as early as possible, and discuss with the Chief Executive any concerns regarding potential conflicts of interest prior to participating in decision-making at the Council table.

The Crimes Act 1961 (sections 99, 105 and 105A)

- 4.19 Under the Crimes Act 1961, elected members and employees of a local authority commit a crime if they corruptly accept or obtain any bribe for themselves or any other person in respect of an act done or omitted in their official capacity. A bribe is defined as meaning any money, valuable consideration, office or employment, or any benefit, whether direct or indirect.
- 4.20 Members and employees also commit a crime if they corruptly use any information acquired by them in their official capacity, to obtain an advantage or a pecuniary gain for themselves or any other person.
- 4.21 These provisions apply to all 'officials', which by definition includes any member or employee of any local authority.
- 4.22 These offences are punishable by a term of imprisonment of seven years or more. Elected members convicted of these offences will also be automatically disqualified from office.

The Secret Commissions Act 1910

- 4.23 Under this Act it is unlawful for an elected member (or officer) to:
- Corruptly give, or accept a gift, or other consideration in relation to the Council's affairs or business;
 - Use information gained in their capacity for their or another person's monetary gain or advantage;
 - Present a false receipt to Council;
 - Advise a person to enter into a contract with a third party and receive a gift or inducement as a result.
- 4.24 If convicted of any offence under this Act a person can be imprisoned for up to two years, or fined up to \$1,000, or both. Elected members convicted of these offences will also be automatically disqualified from office.

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Financial Markets Conduct Act 2013

- 4.25 The Financial Markets Conduct Act 2013 imposes on elected members the same responsibilities as company directors whenever Council offers securities (debt or equity) to the public.
- 4.26 Elected members may be personally liable if investment documents such as a disclosure statement contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.
- 4.27 The Act also prohibits any elected member who has information about a listed company that is not generally available to the market, from trading in that company's shares or from disclosing that information.
- 4.28 The penalties for certain offences under this Act (false or misleading statements in disclosure documents – 10 years; or insider trading – 5 years) are such that if an elected member were convicted, it would also result in automatic disqualification from office.
- 4.29 Nelson City Council does not offer any debt or equity to the public, only institutional investors.

The Health and Safety at Work Act 2015

- 4.30 The Health and Safety at Work Act 2015 allocates duties to those people who are in the best position to control risks to health and safety as appropriate to their role in the workplace, and for the person conducting a business or undertaking (PCBU) (i.e. the Council) to ensure, as far as is reasonably practicable, the safety of workers and others who may be impacted by the work the business undertakes.
- 4.31 The Act places responsibilities on "Officers", being any person occupying a position in relation to the business or undertaking in which they exercise significant influence over the management of the business or undertaking. Typically this refers to directors (or those holding equivalent governance roles), Chief Executive Officers, and it may also extend to other senior staff if they are held to exercise significant influence.
- 4.32 In the Council context, elected members are Officers, as is the Chief Executive, and members of the Senior Leadership Team. However, the Act exempts certain office holders from liability. This includes elected members who, when acting in that capacity, are exempt from prosecution for failing to fulfil the duty of an Officer.
- 4.33 An important aspect of the Health and Safety at Work Act 2015 is the obligation on Officers to undertake due diligence. This obligation includes taking reasonable steps:
 - a) to acquire, and keep up-to-date, knowledge of work health and safety matters; and

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- b) to gain an understanding of the nature of the operations of the business or undertaking of the PCBU, and generally of the hazards and risks associated with those operations; and
 - c) to ensure that the PCBU has available for use, and uses, appropriate resources and processes to eliminate or minimise risks to health and safety from work carried out as part of the conduct of the business or undertaking; and
 - d) to ensure that the PCBU has appropriate processes for receiving and considering information regarding incidents, hazards, and risks and for responding in a timely way to that information; and
 - e) to ensure that the PCBU has, and implements, processes for complying with any duty or obligation of the PCBU under this Act; and
 - f) to verify the provision and use of the resources and processes referred to in paragraphs (c) to (e).
- 4.34 The duties of the Officers and of the PCBU are independent of each other. This means if a PCBU has failed to meet its duty but the Officers exercised due diligence then they would not be personally liable for the health and safety failings.

Standing Orders

- 4.35 Clause 27 of Schedule 7 of the Local Government Act 2002 requires local authorities to adopt a set of Standing Orders for the conduct of its meetings and those of its committees. Standing Orders provide the Mayor or Chairperson of a meeting with a framework of rules to guide meetings through debate, and support decision-making in line with democratic principles.
- 4.36 Standing Orders remain in force continuously, and require a 75% majority vote of members present at a meeting in order to be changed.
- 4.37 Council's current Standing Orders have been distributed to elected members, and relevant training is scheduled as part of elected members' on-going induction programme.
- 4.38 Council's Standing Orders are based on Local Government New Zealand's (LGNZ) template. There have recently been updates made to LGNZ's Standing Orders template that Council will consider, and elected members may also have amendments they would like to propose.
- 4.39 A review of Standing Orders will take place in early 2020. Elected members will be asked to participate in this process, and it is anticipated that an updated copy will be presented to Council for adoption in the first half of 2020.

Item 9: Statutory Responsibilities of Members

5. Options

- 5.1 The presentation of this information is required under the Local Government Act 2002. It is recommended that this report be received.

Author: Pat Dougherty, Chief Executive

Attachments

Nil

REPORT R12551**Mayor's Report****1. Purpose of Report**

- 1.1 To recommend to Council the appointment of the Deputy Mayor, the establishment of a committee structure, the appointment of Committee Chairpersons, the membership of committees and subcommittees, and appointments to some key groups.

2. Recommendation***That the Council***

- 1. Receives the report Mayor's Report (R12551); and***
- 2. Appoints Judene Edgar as Deputy Mayor; and***
- 3. Establishes five Governing Committees as follows:***

Committee	Chair	Deputy Chair	Membership
Infrastructure	Brian McGurk	Rohan O'Neill-Stevens	Trudie Brand Yvonne Bowater Mel Courtney Judene Edgar Kate Fulton Matt Lawrey Gaile Noonan Pete Rainey Rachel Sanson Tim Skinner
Governance and Finance	Rachel Sanson	Gaile Noonan	Trudie Brand Yvonne Bowater Mel Courtney Judene Edgar Kate Fulton Matt Lawrey Brian McGurk Rohan O'Neill-Stevens

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			Pete Rainey Tim Skinner External Appointees x 2
Environment	Kate Fulton	Brian McGurk (Nelson Plan Lead Role)	Trudie Brand Yvonne Bowater Mel Courtney Judene Edgar Matt Lawrey Gaile Noonan Rohan O'Neill-Stevens Pete Rainey Rachel Sanson Tim Skinner External Appointee x 1
Community Services	Matt Lawrey	Yvonne Bowater	Trudie Brand Mel Courtney Judene Edgar Kate Fulton Brian McGurk Gaile Noonan Rohan O'Neill-Stevens Pete Rainey Rachel Sanson Tim Skinner
Sports and Recreation	Tim Skinner	Trudie Brand	Yvonne Bowater Mel Courtney Judene Edgar Kate Fulton Matt Lawrey Brian McGurk Gaile Noonan Rohan O'Neill-Stevens Pete Rainey Rachel Sanson

4. Appoints the following elected members to Single Purpose Committees:

Committee	Chair	Deputy Chair	Membership
Regional Transport	Brian McGurk	Judene Edgar	Mayor Rachel Reese Rohan O'Neill-Stevens NZTA Representative

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Chief Executive Employment Committee	Mayor Rachel Reese	Deputy Mayor	Gaile Noonan Pete Rainey
Joint Committee	Alternates between Mayors of each district	None appointed	All Councillors
Civil Defence Emergency Management Group	Alternates between Mayors of each district	None appointed	Mayor Deputy Mayor

5. Appoints the following elected members to a Single Purpose Subcommittee:

Subcommittee	Chair	Deputy Chair	Membership
Audit and Risk	External Appointee	External Appointee	Mayor Deputy Mayor Chair of Governance

6. Appoints the following elected members to the City Centre Revitalisation Group:

Group	Chair	Deputy Chair	
City Centre Revitalisation Group	Pete Rainey	Mel Courtney	Mayor Rachel Reese Gaile Noonan Matt Lawrey Trudie Brand

3. Background

- 3.1 Section 41A of the Local Government Act 2002 provides the Mayor with a discretionary power to appoint the Deputy Mayor, establish Committees, and to appoint Committee chairpersons. This section also states that the Mayor is a member of all committees of the local authority.
- 3.2 It is not intended to invoke the use of these mayoral powers. Instead, this report seeks the support of Council for the recommendations which have been formed through a series of prior discussions and meetings with councillors.

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4. Discussion

- 4.1 The people of Nelson have elected an enthusiastic, diverse and capable team of members who together are ready to deliver a good, strong council for the community. This group has worked hard to come up with a structure that will produce the best possible results for our Smart Little City.
- 4.2 Delegations to the Committees and Group will be the subject of a separate report to the next Council meeting.

5. Decision

Deputy Mayor

- 5.1 It is recommended that Judene Edgar is appointed as Deputy Mayor.
- 5.2 Judene brings a wealth of experience in local government and governance to the role of Deputy Mayor, having served as an elected member of Tasman District Council for nine years. She is a member of several Boards and has an excellent understanding of the needs for our broader region.

Committees

- 5.3 It is recommended that Council be governed by the establishment of five Governing Committees to streamline information and decision making processes.
- 5.4 The structure of these Committees will be Committees of the whole and the membership which will include all elected members. This will ensure the opportunity for all members to provide input.

City Centre Revitalisation Group

- 5.5 To help provide governance input into major projects such as the Library and the city centre development programme, it is proposed that a City Centre Revitalisation Group be established.

External appointments to committees

- 5.6 In considering the value of external appointments to committees, feedback from Councillors is that these appointments to specific committees continues to be valuable in informing policy development, providing specialised advice, increasing elected members' knowledge and capacity, and in applying best practice.
- 5.7 The value of the external appointment to the Environment Committee could be further enhanced by providing a Māori world view for input to Resource Management Act plan and policy development

Item 10: Mayor's Report

- 5.8 It is recommended that the external appointments to committees are retained.

Other appointments

- 5.9 Several appointments remain to be considered and will be presented via a report to the next Council meeting.
- 5.10 Traditionally Council has made appointments of elected members to various external groups and organisations. These appointments are currently under review and will be the subject of a future report to Council.

Author: Rachel Reese, Mayor of Nelson

Attachments

Nil

Annual Report 2018/19

1. Purpose of Report

- 1.1 To adopt the Annual Report for the year ending 30 June 2019 in accordance with section 98 of the Local Government Act 2002.

2. Summary

- 2.1 The audited Annual Report needs to be adopted by Council within four months of the end of the financial year (by 31 October 2019). Audit has completed its review and an unmodified audit report is expected. Some minor editorial adjustments may be required as part of the final proofing process.
- 2.2 The Annual Report 2018/19 presents a positive picture of the financial performance of the Council over the previous year. Council recorded an accounting surplus before revaluations for the year ended 30 June 2019 of \$5.2 million which was \$7.9 million less than budget. The surplus was \$10.8 million for the 2017/18 financial year. Borrowings net of cash and deposits were \$85.6 million, compared to a budget of \$109.9 million.

3. Recommendation

That the Council

- 1. Receives the report Annual Report 2018/19 (R11504) and its attachments (A2280336 and A2288268); and***
- 2. Adopts the Annual Report for the year ended 30 June 2019 (A2280336) in accordance with s98 of the Local Government Act 2002; and***
- 3. Receives the draft Audit New Zealand Opinion; and***
- 4. Delegates the Mayor and Chief Executive to approve minor editorial changes as necessary.***

4. Background

- 4.1 The purpose of the Annual Report (attachment one) is to compare the actual activities and performance of the local authority with those intended, as set out in the applicable Long Term Plan or Annual Plan (the Annual Report 2018/19 compares performance against the 2018/19 Annual Plan). It also aims to promote the local authority's accountability to the community for the decisions made throughout the year. An Annual Report is required under section 98 of the Local Government Act 2002.
- 4.2 Audit New Zealand commenced auditing of the draft Annual Report 2018/19 in mid-September 2019. Accordingly, Council signoff could not be requested until this process was completed, which was after the final Council meeting of the previous triennium.
- 4.3 The Annual Report includes both the parent (Nelson City Council) and the Nelson City Council Group – which consists of Nelson City Council, its subsidiaries (Nelmac Limited, Nelson Civic Trust, Bishop Suter Trust, Nelson Regional Development Agency) and its associates and joint ventures.
- 4.4 As Council does not have a controlling interests in its associates (Nelson Airport Limited, Tasman Bays Heritage Trust and Port Nelson Limited) these are equity accounted. Joint ventures (Nelson Regional Sewerage Business Unit, Nelson Tasman Regional Landfill Business Unit, and Nelson Tasman Combined Civil Defence organisation) are proportionately consolidated as these are not separate legal entities. Further detail of the accounting treatment is included in Note 1 to the accounts.
- 4.5 The Draft Annual Report 2018/19 was presented to the Audit Risk and Finance Subcommittee on 17 September 2019, where the following resolutions were passed:
- Notes the draft Annual Report 2018/19 has been prepared and will be audited before being presented to Council for adoption on 31 October 2019.*
- Notes that if there are any material changes to the draft Annual Report 2018/19 prior to the end of the triennium, these will be discussed with the Chairperson of the Audit, Risk and Finance Subcommittee.*
- 4.6 Several changes were made to the performance measure results subsequent to the 17 September 2019 Audit Risk and Finance Subcommittee meeting, as part of the audit process. Due to the audit timetable, discussion of these changes with the Chairperson of the Subcommittee did not take place.
- 4.7 The audited Annual Report needs to be adopted by Council within four months of the end of the financial year (i.e. by 31 October 2019). The

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attached Annual Report covers Council's financial and service performance for the period from 1 July 2018 to 30 June 2019.

- 4.8 Council is required to make publicly available a summary of the information contained in the Annual Report within one month of its adoption. As in previous years, it is proposed to include an article in Council's fortnightly Our Nelson publication, which is delivered to every Nelson household. A more comprehensive audited summary will also be available online, at Council's public libraries and at the Customer Service Centre.
- 4.9 Following adoption by Council, the Annual Report will be designed and formatted, then made available to the public.

5. Discussion

Highlights

- 5.1 Improvements to infrastructure carried out during the year included the completion of the water treatment plant membrane renewals project and the upgrade of stormwater pipes in Nile Street East, to increase capacity and alleviate flooding in the Nile Street/Clouston Terrace area. A works programme to reduce the inflow and infiltration in our wastewater system, including overflows into Tasman Bay, was commenced this year.
- 5.2 In addition to this, a number of transport projects were also advanced including footpath improvements to see 2,470 metres of footpath renewed and a further 1,425 metres added to the network, construction of stage one of the Tahunanui shared cycleway network, and completion of the LED streetlight conversion project.
- 5.3 This year also saw Nelson host its first All Blacks game, playing Argentina in the Investec Rugby Championship test match at Trafalgar Park in September 2018. Additionally, the Bay Dreams music festival was successfully delivered to 20,000 people in January 2019 and due to its success and popularity will be returning to Nelson in January 2020.
- 5.4 The Kotahitanga mō te Taiao Strategy was adopted in June 2019. The Strategy will help to align landscape-scale conservation efforts between Department of Conservation, the community, some Te Tauihu iwi, and all councils in the top of the South Island.
- 5.5 The Nelson Tasman Future Development Strategy (FDS) was also prepared during the 2018/19 year (and adopted in July 2019). The FDS provides a framework for planning for residential and business growth across the Nelson and Tasman regions, and also future investment in infrastructure.
- 5.6 974 building consents were received this year with the value of the work increasing significantly from \$165.52 million in 2017/18 to \$254.14 million in 2018/19. The work included the airport terminal, two new retirement villages and multiple townhouse applications.

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- 5.7 Nelson's population is changing and by 2043 it is expected that a third of Nelson's population will be 65 years and older. To assist with the challenges and opportunities this will bring, a Community Steering Group has begun work on developing a strategy to prepare for these changes. In July 2019 it launched the City For All Ages, a community-led project which Council is facilitating and supporting.
- 5.8 After some challenges, the Greenmeadows Community Centre in Stoke was completed, opening on 9 June 2019. It is now used by the public and number of community and sporting groups.

Non-financial performance

- 5.9 Council measures its performance each year against a core set of targets that are set through the Long Term Plan. The results present a high level view of performance. A number of targets are measured through the Annual Residents' Survey.
- 5.10 Council's non-financial performance was 71% achieved, compared with 58% in 2017/18. This is a significant improvement in achieving targets. Information on the achieved KPIs are included in the Annual Report. A discussion of the areas of non-performance is included below. The result is lower than the 75% result presented to the Audit, Risk and Finance Committee on 19 September 2019. The lower result, because of four measures reclassified from achieved, is because of difficulties in adequately verifying the results for particular KPIs (see paragraph 5.12). A review of the information systems for reporting on these KPIs will be undertaken in 2019/20.

Areas of non-performance

- 5.11 Social activities had the greatest percentage of measures where targets were not achieved (57%). Of the eight targets that were not met, three involved Nelson libraries. One of these was close to being achieved (target of 90% of residents satisfied with libraries, compared to the actual of 89%), the other two measures were lower door counts and membership than targeted. Two other social activity measures were in areas that Council funds but does not have direct management over – the Nelson Centre for Musical Arts and Theatre Royal – concerning total audience numbers and days of use. Founders Heritage Park also did not meet its targets for visitors or occupancy.
- Environment activities had three targets recorded as not achieved (23%), in relation to the issuing of resource and building consents within the timeframes for compliance. Technical issues with the new building and resource consents system AlphaOne (introduced this year) made it difficult to view consents by time elapsed, plus there were an unusually high number of consent applications received during the transition to AlphaOne. This resulted in a lower than expected overall compliance result (90% of building consents issued within 20 days, compared with 99% in 2017/18, 83% of non-notified resource consents were issued on time and 95% of

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fast-tracked resource consents were issued on time). All breaches have been reviewed and measures have been put in place to enable the level of compliance to return to expected levels next year.

- 5.12 Four Environment targets were reclassified during the audit as not measured (31%). A new contract with Environmental Inspections Limited was agreed in 2018/19. However, the reporting systems were not at a level that enabled the performance measures to be 100% verified. A review of how this information can be provided to substantiate performance in future years is being undertaken.
- 5.13 The Solid Waste activity area did not achieve one of its three targets (33%) due to a reduction in the uptake of e-waste recycling subsidies by the public this year. The reduction was influenced by an industry-led free e-waste recycling programme and the growth in providers' e-waste schemes. As a community Nelson has recycled a greater weight of e-waste in 2018/19, so the intent of the measure has been met. A review of the subsidy programme and the suitability of this performance measure will be undertaken prior to the next Long Term Plan.
- 5.14 One target was not met in Economic activities. This was a new target, to have Nelson's percentage increase in GDP per annum be equal to or better than the national average. Although Council does not have direct management of this target, significant ratepayer funding goes to the Nelson Regional Development Agency to promote economic development. Based on estimates for the Nelson region supplied by Infometrics economics firm, GDP grew by around 1.7% for the year to 30 June 2019 compared to 2.5% for NZ overall for the same period.
- 5.15 Corporate activities also had one target not achieved – to have 95% of Emergency Operations Centre (EOC) management and group roles staffed. Staffing in these roles is being increased to support EOC services, however, the EOC did meet the Ministry Civil Defence Emergency Management requirements at its recent review.
- 5.16 One of Wastewater's six measures was not achieved. The target was to comply with all requirements of the resource consent, concerning operation of the Nelson Wastewater Treatment Plant. A sudden collapse of the algae within the oxidation pond system in October 2018 resulted in 12 odour complaints, breaching the consent condition that allows zero odour complaints.
- 5.17 In the Transport activity, the target related to the percentage of people whose main mode of transport to work was walking, running or cycling was not achieved. This KPI is measured through the annual Residents' Survey. The target was 20%, and the result was 19%. Although this KPI was not met, the small variance result for 2018/19 showed a great improvement on the 14% result for 2017/18. Nelson has high scores for active transport which have historically been well above the national average, so this was a stretch target. It is encouraging to see a continued increase in active transport users.

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- 5.18 Under Parks and Active Recreation, the Trafalgar Centre did not meet its annual user target of 60,000 people. There were 51,901 users in 2018/19, which is still notable as an increase of 54% from 2017/18. The trend of growth in numbers is reflected by the growth in both the number and scale of events at Trafalgar Centre.
- 5.19 One Water Supply target was not met, by a very small margin. Real unaccountable water loss in the network was 25.7%, just over the target of less than 25%. This was an improvement from 2017/18 when unaccountable water loss was 28%. There is an ongoing programme of works to reduce unaccountable water losses within the network.
- 5.20 The Stormwater and Flood Protection activities achieved 100% of their performance measures.

Audit Report

- 5.21 Audit New Zealand is expected to issue a final unmodified audit report. The current audit report (attachment two) is draft as Council needs to adopt the annual report first, and the page numbers referred to in the opinion will need to be updated to match the final designed version. The final audit report will be issued once the annual report is adopted, and the printed version prepared.

Surplus

- 5.22 The Annual Report shows that Council recorded a net surplus before revaluations for the year ended 30 June 2019 of \$5.2 million which was \$7.9 million less than budget. The surplus was \$10.8 million for the 2017/18 financial year. The reasons for this variance are detailed below but are mainly due to:
- Development and subdivision reserve contributions better than budget (\$2.7 million).
 - Vested assets less than budget (\$3.9 million). Vested assets represent assets transferred to Council by developers. The timing of vested asset receipts is dependent on the development cycle of individual developers.
 - Unbudgeted non-cash loss on the derivatives revaluation (\$4.4 million). This item refers to the annual revaluation of Council's interest rate swap portfolio, which are used to minimise Council's exposure to interest rate movements.
 - Unbudgeted non-cash expenditure for abandoned assets (\$1.9 million). "Abandoned assets" refer primarily to assets which have been replaced earlier than anticipated. In this case, the residual book value of these assets is written off.
- 5.23 It should be noted that the word "surplus" is an accounting term, and is different from the rating surplus which is referred to in paragraph section titled Rating Surplus. The accounting surplus includes capital items such as roading subsidies and other grants related to capital projects,

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development contributions, revaluations and vested assets which are required to be treated as income for accounting purposes.

- 5.24 It also includes unbudgeted expenditure such as abandoned assets, impairments and losses on disposal relating to Council's \$1.5 billion of fixed assets.

Rating Surplus

- 5.25 Rating income was on target in 2018/19, including \$220,000 of unbudgeted expenditure approved by Council during the year. In essence Council rated what it required to fund its operations in 2018/19.
- 5.26 Rates required to fund operations were within 0% of rates collected, which is an improvement on the 0.4% recorded in 2017/18. This is positive as Council should only be rating for what it needs to operate in that particular year.

Variances to budget

- 5.27 From Note 40 to the financial statements, major variances are as follows:

Statements of comprehensive revenue and expense

- 5.28 The surplus before revaluation is \$7.9 million less than budgeted. The reasons for this variance are mainly due to:

Total operating income \$5.8 million less than budget:

- 5.29 Fees and charges are \$793,000 more than budget. More details can be seen in the activities section, however the most significant items are:
- Nelson Tasman Regional Landfill Business Unit (NTRLBU) income is over budget by \$1.1 million. The movement is the result of a change in the accounting treatment applied to NTRLBU.
 - Other fees and charges totalling \$307,000 under budget.
- 5.30 Other revenue is \$4 million less than budget. Significant items include:
- Dividend income is over budget by \$882,000. This relates to additional income of \$450,000 from Port Nelson Ltd, which includes a special dividend of \$750,000, offset by ordinary dividends being \$300,000 under budget due to timing difference between setting the budget and Port Nelson Ltd's Statement of Corporate Intent being received. An additional \$415,000 was received from the Airport, of which \$375,000 relates to a timing difference in receiving the prior year's dividend.
 - The value of assets vested to Council by developers is \$3.9 million less than budget. The timing of vested asset receipts is dependent

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on the development cycle of individual developers and is not within the control of Nelson City Council.

- NTRLBU income is under budget by \$1.1 million. The movement is the result of a change in the accounting treatment applied to NTRLBU.
- Other revenue items totalling \$118,000 over budget;

5.31 Development and subdivision reserves contributions are \$2.7 million higher than anticipated. The receipt of development contributions reflects the development cycle of individual developers and is not within the control of Nelson City Council.

5.32 Other gains of \$6.1 million less than budget reflect the following non-cash items:

- Losses on abandoned assets (\$1.9 million). "Abandoned assets" refer primarily to assets which have been replaced earlier than anticipated, resulting in the residual book value being written off.
- Interest rate swap valuations (\$4.4 million). Council utilises interest rate swaps to minimise exposure to interest rate movements. These derivatives are revalued annually.
- Other unbudgeted movements on the valuation of assets of \$200,000.

Total operating expenditure was \$2.1 million more than budget:

5.33 Personnel costs were \$211,000 less than budget, which relates to staff vacancies.

5.34 Finance costs were \$530,000 less than budget, due to lower levels of debt than budgeted and more favourable interest rates than anticipated.

5.35 Depreciation and amortisation expenses were \$452,000 greater than budget. This is the result of the revaluation of assets being higher than budgeted, which has resulted in a higher depreciation expense.

5.36 Other expenses were over budget by \$2.4 million. More details can be seen in the activities section, however the most significant items are:

- Temporary staff costs were \$533,000 more than budget, relating to the use of temporary staff to backfill vacancies.
- Unprogrammed expenditure of \$395,000 relating to the February 2018 storm event.
- Unprogrammed service delivery costs were over budget by \$315,000, including items such as the Brook Camp, Maire Stream remediation, provision of freedom camping amenities and the Bay Dreams festival. Most of these items have been offset by additional income.

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- An additional \$324,000 has been spent on preliminary feasibility studies. These items relate to infrastructure for the storm, water and flood protection capital programme.
- Venue hire expenses were more than budget by \$256,000. This variance relates to increased management costs and is offset by increased income.
- Unprogrammed asset maintenance costs were over budget by \$230,000, due to increased use of sports parks and drought related costs, as well as additional water reactive maintenance.
- Other expenditure items totalling \$347,000 over budget.

Other comprehensive income

- 5.37 The infrastructure assets are revalued every year to smooth out the large fluctuations, and land is revalued when its fair value diverges materially from its carrying value. The revaluation as at 30 June 2019 resulted in a total increase in asset value of \$40.8 million, \$23.3 million more than budget. Council revalued land as at 30 June 2019 which comprised \$25.6 million of the revaluation increase.

Statement of financial position

- 5.38 Current assets are \$28.9 million greater than budget. This relates to \$14 million of unbudgeted term deposits, which includes unbudgeted cash surpluses and a \$10 million deposit held to offset the prefunding of debt. \$10.9 million has also been transferred to assets held for sale to reflect the intention to sell Community Housing and the State Advances Building.
- 5.39 Current trade and other payables are \$4.3 million more than budget. \$2.3 million relates to higher than anticipated payables due at 30 June 2019. There is also an additional \$920,000 in accrued expenditure and \$662,000 held in deposits and bonds.

External Debt

- 5.40 The Council's external borrowings as at 30 June 2019 were \$101 million, which is \$9.6 million below budget. External borrowings are summarised in Note 28 of the financial statements. In 2018/19 Council also undertook to pre-fund \$10m of debt due to mature in July 2019 in order to take advantage of favourable interest rate margins at the time. There is an offsetting term deposit in place to match the pre-funding.
- 5.41 Borrowings net of deposits and cash were \$85.6 million, compared to a budget of \$109.9 million (and \$84 million at 30 June 2018). Council's overall debt usually increases primarily as a result of the capital expenditure program, however capital investment was lower than budgeted over the two year period. This has resulted in lower than budgeted opening debt levels, as well as less debt required to be drawn during the year.

Financial prudence results

- 5.42 Council is required to include information on financial performance in relation to various benchmarks in the annual report. Council continues to demonstrate prudent financial management and has met or achieved all benchmarks once again, continuing an enviable record in relation to these mandated benchmarks.
- 5.43 A summary of the information found on pages 103 to 110 in the Annual Report is included in the following table:

Measure	Result	Benchmark	
Rates (income) affordability	\$73.3m	< \$105m	Achieved
Rates (increases) affordability	3.8%	< 4.0%	Achieved
Balanced budget (revenue:expenditure)	107%	> 100%	Achieved
Debt affordability (% of revenue)	71%	< 150%	Achieved
Essential services (capital expenditure:depreciation)	140%	> 100%	Achieved
Debt servicing (interest:revenue)	3.8%	< 10%	Achieved
Debt control (actual:budget)	81%	< 100%	Achieved
Operational control (actual:budget net cashflow from operations)	105%	> 100%	Achieved

Material differences from draft Annual Report

- 5.44 The draft Annual Report went to the Audit Risk and Finance Subcommittee on 17 September. Since that time, the audit has been completed.
- 5.45 There have been some minor changes to the results of Council in the statement of comprehensive revenue and expense and in the balance sheet (and associated notes). Performance measure results have also been updated as outlined earlier in this report.

6. Options

- 6.1 Option 1 is the preferred option.

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Option 1: Accept the recommendations	
Advantages	<ul style="list-style-type: none">• Meets statutory timeframes• Allows timely production and distribution of the Annual Report
Risks and Disadvantages	<ul style="list-style-type: none">• There will be no further opportunity for Council to review any minor amendments prior to publishing.
Option 2: Not accept the recommendations	
Advantages	<ul style="list-style-type: none">• None
Risks and Disadvantages	<ul style="list-style-type: none">• Adoption of the Annual Report will not meet statutory timeframes.• Annual Report will not be available to the public in a timely manner• Not meeting statutory timeframes may be a consideration by Standard and Poor's for the Council credit rating.

7. Conclusion

7.1 It is recommended that Council adopt the Annual Report for the 2018/19 year.

8. Next Steps

8.1 Following adoption of the Annual Report, an article will be included in the next edition of Our Nelson. As Council is required to make publicly available a summary of the information contained in the Annual Report within one month of its adoption, the audited summary will also be made available online, as well as at Council's public libraries and at the Customer Service Centre.

8.2 Following adoption by Council, the Annual Report will be designed and formatted, then made available to the public.

Author: Mark Tregurtha, Manager Strategy

Attachments

Attachment 1: A2280336 Annual Report 2018/19 (*Circulated separately*) [↗](#)

Attachment 2: A2288268 Draft Nelson City Council Audit Opinion for 30 June 2019 [↓](#)

Important considerations for decision making
1. Fit with Purpose of Local Government The Annual Report is Council's major accountability document and is required under s98 of the Local Government Act.
2. Consistency with Community Outcomes and Council Policy The decision to adopt the Annual Report aligns with the following community outcome: <ul style="list-style-type: none">• Our Council provides leadership and fosters partnerships, a regional perspective and community engagement.
3. Risk The adoption of the Annual Report carries little risk as it is a procedural matter required under legislation. There is a risk that if Council does not adopt the Annual Report by 31 October Council would be mentioned in the Office of the Auditor General's report to Parliament as not meeting the statutory deadline.
4. Financial impact There is no immediate financial impact from this decision. If Council does not adopt the Annual Report before the statutory deadline of 31 October 2019 it may be a consideration for Standard and Poor's in its annual credit rating assessment. The Annual Report itself outlines the financial position of Council at the end of the 2018/19 financial year.
5. Degree of significance and level of engagement This decision is of low significance and does not require consultation. The Annual Report, once adopted, will be made available for the public to view and a summary of the Annual Report will also be prepared.
6. Inclusion of Māori in the decision making process No engagement with Māori has been undertaken in preparing this report.
7. Delegations The Audit, Risk and Finance Subcommittee has the following delegations to consider the adoption of the Annual Report. <i>Areas of Responsibility</i>

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- *Council's Annual Report*

Powers to Recommend:

- *Adoption of Council's Annual Report*

At its meeting on 17 September, the Audit, Risk and Finance Subcommittee referred all powers in relation to the adoption of Council's Annual Report to Council.

- *The adoption of the Annual Report is a decision of Council.*

Independent Auditor's Report

To the readers of Nelson City Council's annual report for the year ended 30 June 2019

The Auditor-General is the auditor of Nelson City Council (the City Council) and its subsidiaries and controlled entities (the Group). The Auditor-General has appointed me, Jacques Coetzee, using the staff and resources of Audit New Zealand, to report on the information in the City Council's annual report that we are required to audit under the Local Government Act 2002 (the Act). We refer to this information as "the audited information" in our report.

We are also required to report on:

- whether the City Council has complied with the requirements of Schedule 10 of the Act that apply to the annual report; and
- the completeness and accuracy of the City Council's disclosures about its performance against benchmarks that are required by the Local Government (Financial Reporting and Prudence) Regulations 2014.

We refer to this information as "the disclosure requirements" in our report.

We completed our work on 31 October 2019. This is the date on which we give our report.

Opinion on the audited information

In our opinion:

- the financial statements on pages 96 to 100 and pages 111 to 178:
 - present fairly, in all material respects:
 - the City Council and Group's financial position as at 30 June 2019;
 - the results of the operations and cash flows for the year ended on that date; and
 - comply with generally accepted accounting practice in New Zealand in accordance with Public Benefit Entity Reporting Standards;
- the funding impact statement on page 101 to 102, presents fairly, in all material respects, the amount of funds produced from each source of funding and how the funds were applied as compared to the information included in the City Council's Long-term plan;
- the City Council's activities on pages 18 to 91:

- presents fairly, in all material respects, the levels of service for each group of activities for the year ended 30 June 2019, including:
 - the levels of service achieved compared with the intended levels of service and whether any intended changes to levels of service were achieved;
 - the reasons for any significant variation between the levels of service achieved and the intended levels of service; and
- complies with generally accepted accounting practice in New Zealand; and
- the statement about capital expenditure for each group of activities on pages 24 to 90, presents fairly, in all material respects, actual capital expenditure as compared to the budgeted capital expenditure included in the City Council's Long-term plan; and
- the funding impact statement for each group of activities on pages 24 to 90, presents fairly, in all material respects, the amount of funds produced from each source of funding and how the funds were applied as compared to the information included in the City Council's Long-term plan.

Report on the disclosure requirements

We report that the City Council has:

- complied with the requirements of Schedule 10 of the Act that apply to the annual report; and
- made the disclosures about performance against benchmarks as required by the Local Government (Financial Reporting and Prudence) Regulations 2014 on pages 103 to 110, which represent a complete list of required disclosures and accurately reflects the information drawn from the City Council and Group's audited information and, where applicable, the City Council's long-term plan and annual plans.

Basis for our opinion on the audited information

We carried out our audit in accordance with the Auditor-General's Auditing Standards, which incorporate the Professional and Ethical Standards and the International Standards on Auditing (New Zealand) issued by the New Zealand Auditing and Assurance Standards Board. We describe our responsibilities under those standards further in the "Responsibilities of the auditor for the audited information" section of this report.

We have fulfilled our responsibilities in accordance with the Auditor-General's Auditing Standards.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion on the audited information.

Responsibilities of the Council for the audited information

The Council is responsible for meeting all legal requirements that apply to its annual report.

The Council's responsibilities arise under the Local Government Act 2002 and the Local Government (Financial Reporting and Prudence) Regulations 2014.

The Council is responsible for such internal control as it determines is necessary to enable it to prepare the information we audit that is free from material misstatement, whether due to fraud or error.

In preparing the information we audit the Council is responsible for assessing its ability to continue as a going concern. The Council is also responsible for disclosing, as applicable, matters related to going concern and using the going concern basis of accounting, unless there is an intention to amalgamate or cease all of the functions of the City Council and the Group or there is no realistic alternative but to do so.

Responsibilities of the auditor for the audited information

Our objectives are to obtain reasonable assurance about whether the audited information, as a whole, is free from material misstatement, whether due to fraud or error, and to issue an audit report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit carried out in accordance with the Auditor-General's Auditing Standards will always detect a material misstatement when it exists. Misstatements are differences or omissions of amounts or disclosures, and can arise from fraud or error. Misstatements are considered material if, individually or in the aggregate, they could reasonably be expected to influence the decisions of readers taken on the basis of this audited information.

For the budget information reported in the audited information, our procedures were limited to checking that the budget information agreed to the City Council's annual plan and long-term plan.

We did not evaluate the security and controls over the electronic publication of the audited information.

As part of an audit in accordance with the Auditor-General's Auditing Standards, we exercise professional judgement and maintain professional scepticism throughout the audit. Also:

- We identify and assess the risks of material misstatement of the audited information, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- We obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City Council and Group's internal control.

- We evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Council.
- We determine the appropriateness of the reported intended levels of service in the City Council's activities as a reasonable basis for assessing the levels of service achieved and reported by the City Council.
- We conclude on the appropriateness of the use of the going concern basis of accounting by the Council and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast a significant doubt on the City Council and Group's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our audit report to the related disclosures in the audited information or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our audit report. However, future events or conditions may cause the City Council and the Group to cease to continue as a going concern.
- We evaluate the overall presentation, structure and content of the audited information, including the disclosures, and whether the audited information represents, where applicable, the underlying transactions and events in a manner that achieves fair presentation.
- We obtain sufficient appropriate audit evidence regarding the entities or business activities within the Group to express an opinion on the consolidated audited information.

We communicate with the Council regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

Other Information

The Council is responsible for the other information included in the annual report. The other information comprises the information included on pages 1 to 204, but does not include the audited information and the disclosure requirements.

Our opinion on the audited information and our report on the disclosure requirements do not cover the other information.

Our responsibility is to read the other information. In doing so, we consider whether the other information is materially inconsistent with the audited information and the disclosure requirements, or our knowledge obtained during our work, or otherwise appears to be materially misstated. If, based on our work, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Independence

We are independent of the City Council and Group in accordance with the independence requirements of the Auditor-General's Auditing Standards, which incorporate the independence

requirements of Professional and Ethical Standard 1 (Revised): Code of Ethics for Assurance Practitioners issued by the New Zealand Auditing and Assurance Standards Board.

In addition to our audit of the audited information and our report on the disclosure requirements, we have audited the City Council's 2018-28 long term plan, and performed a limited assurance engagement related to the City Council's debenture trust deed. Other than these engagements, we have no relationship with, or interests in, the City Council or its subsidiaries and controlled entities.



Jacques Coetzee
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

DRAFT

Elected Members' Code of Conduct

1. Purpose of Report

- 1.1 To adopt an Elected Members' Code of Conduct.

2. Recommendation

That the Council

- 1. Receives the report Elected Members' Code of Conduct (R12553) and its attachment (A1745031); and***
- 2. Adopts the Nelson City Council Code of Conduct (A1745031); and***
- 3. Directs the Chief Executive to develop a panel of independent investigators for approval by Council; and***
- 4. Notes that a Code of Conduct Committee will be established as part of the process to appoint Elected Members to committees.***

3. Background

- 3.1 The Local Government Act 2002 (the LGA) requires Council to have an Elected Members' Code of Conduct (Schedule 7, Clause 15). The current Code of Conduct remains in force until a new code is adopted.
- 3.2 The 2006 Auditor General's Good Practice Guide for Local Authority Codes of Conduct recommends that councils re-adopt their codes after each triennial election. This ensures newly elected members understand and agree to be governed by the Code. It also allows the new Council an opportunity to review the principles and rules of the Code in line with best practice and experience in enforcing the Code.
- 3.3 Nelson City Council's current Code of Conduct was adopted on 10 August 2017. This Code was based on the Local Government New Zealand

Item 12: Elected Members' Code of Conduct

(LGNZ) template Code of Conduct that was developed in 2016, following consultation across the local government sector. It included some adaptation as supported by elected members at that time.

- 3.4 In 2019, LGNZ updated the template Code to reflect current good practice. The 2019 template Code now includes a section on social media and has a new process for dealing with trivial, minor and frivolous complaints.
- 3.5 The current Code, or any Code of Conduct subsequently adopted, may be amended or replaced at any meeting of the full Council, provided that the motion is supported by 75% of the members present.

4. Discussion

Why a Code of Conduct is required

- 4.1 The Code is an important part of the framework for building citizen confidence in local government processes. The 2019 template Code has four objectives:
- To enhance the effectiveness of the local authority and the provision of good local government of the community and city;
 - To promote effective decision-making and community engagement;
 - To enhance the credibility and accountability of the local authority to its communities; and
 - To develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.
- 4.2 The four objectives highlight the importance of achieving good local government, effective and inclusive decision-making, strengthened community credibility and a culture of trust and mutual respect within the local authority. They also contribute to making Council a more rewarding and satisfying place for Elected Members to work.

Considerations

- 4.3 The Code is designed to be a self-regulatory instrument and as a result complaints can only be made by members themselves and the Chief Executive.
- 4.4 Codes of Conduct are not a means of preventing elected members from expressing their views. Among other things, a Code should promote free and frank debate which should in turn result in good decision making. Codes of Conduct should not be used in such a way as to stifle robust debate.

Item 12: Elected Members' Code of Conduct

- 4.5 Codes of Conduct are ideally designed to provide rules of conduct that promote debate and make it clear that personal views, and the rights of all members to express personal views, are to be respected.
- 4.6 Applying a penalty or sanction under the Code should ideally be the last, rather than the first response. The template Code has been specifically designed to enable non-material breaches to be dealt with outside the formal process of a full investigation by Council or Committee.
- 4.7 Most of all, the principles of natural justice must apply to the investigation, assessment and resolution of complaints made under the Code.

Content

- 4.8 The template Code reinforces the Code of Conduct as a set of 'house rules' governing the relationships and behaviours of elected members. It recognises that the Code of Conduct should not be used as a tool against other elected members, and that complaints should only be brought where the complainant truly believes that the Code of Conduct has been breached.
- 4.9 The Code is an agreement between Elected Members. It sets out the standards of behaviour expected and is considered to be a statement of good governance practice. It is up to Council to decide the content of the Code, and as such it is appropriate for Council to amend the template Code in order to customise it to suit the requirements of Nelson City Council.
- 4.10 There are certain critical elements a good Code should contain. Taking into account the minimum requirements set out in the LGA 2002 (see Schedule 7, clause 15(2)), an effective Code of Conduct should include:
- Guidance for managing relationships and ensuring constructive behaviour, including processes for ensuring these are adhered to. This will ideally cover relationships with other members, staff, the media and the public;
 - A statement of the different roles and responsibilities of governance and management. The Code should complement and reinforce the rules and statutory provisions set out in Council's Standing Orders;
 - Provisions dealing with confidentiality of information received during the course of a members' duties, as well as situations when members are required to disclose information to the local authority and each other;
 - Provisions dealing with conflicts of interest;
 - Provisions dealing with ethical conduct, such as the way in which expenses may be claimed and soliciting or accepting gifts, rewards, or benefits;

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- An explanation of the importance of adhering to the Code of Conduct and details of the procedures for investigating and resolving alleged breaches;
- Provisions designed to encourage courteous and constructive behaviours and so reduce the risk of poor behaviour and alleged breaches;
- Details of penalties or sanctions, when they might be applied, and the processes for their application (where these processes are within the control of Council); and
- Provisions for the review of a Code of Conduct (both in terms of the statutory requirements and any processes the local authority has put in place).

4.11 These matters have been incorporated into the template Code.

Promoting a supportive governance culture

4.12 The template Code includes commitments designed to promote a supportive and inclusive governing environment and strengthen relationships at the governance level.

4.13 These provisions are intended to diminish the risk of conflict between members and between members and the public, and thereby avoid the likelihood of breaches. The new Code encourages members to review their collective performance and governance style in order to assess the degree to which their culture is both inclusive and supportive.

The Template Code

4.14 A copy of the template Code customised for Nelson City Council (the proposed Code) is included as Attachment 1 (A1745031). The proposed Code follows very closely the LGNZ best practice template with a few minor amendments to adapt it for Nelson City Council.

4.15 This report addresses the significant changes between the current Code and the proposed Code.

Values

4.16 The proposed Code includes the values from the template Code, listed within Section 3, but also includes the additional values established by Nelson City Council.

4.17 The Nelson City Council values do not contradict any of the values within the template Code, rather they are intended to enhance the proposed Code.

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Media

- 4.18 Section 6 of the proposed Code emphasises the important role the media play in the operation and efficacy of local democracy, and sets out clear expectations for Elected Member interaction with the media.
- 4.19 Appendix A, an entirely new section in the proposed Code, provides guidelines for the personal use of social media, providing principles designed to help elected members when engaging in personal or unofficial online communications.

Complaints - Resolving Matters 'In-house'

- 4.20 All complaints made under the Code must be made in writing and forwarded to the Chief Executive. On receipt of a complaint the Chief Executive must forward the complaint to the Mayor.

The current Code allows for a Conduct Review Panel to be convened to undertake a preliminary assessment of the complaint. Following the model of the template Code, the proposed code outlines that on receipt of the complaint, the Mayor will, as the situation allows:

- Interview the complainant to assess the full extent of the complaint;
 - Interview the member(s) subject to the complaint;
 - Assess the complaint to determine materiality;
 - Where a complaint is assessed by the Mayor to be trivial, frivolous or minor, the Mayor will either dismiss the complaint, require an apology or other course of action, or assist the relevant parties to find a mutually agreeable solution;
 - Where a complaint is found to be material, or no mutually agreed solution can be reached, the Mayor will refer the complaint back to the Chief Executive who will forward it, along with any recommendations made by the Mayor to the Council or an adjudicative body (e.g. Code of Conduct Committee) established by the Council to assess and rule on complaints made under the Code or to the independent investigator for assessment and to make recommendations to the adjudications body.
 - If the Mayor chooses they may, instead of undertaking an initial assessment, immediately refer the complaint to the independent investigator, via the Chief Executive.
- 4.21 If the Mayor is a party to the complaint the Chief Executive must forward it to the independent investigator.

Independent Investigators

- 4.22 Under the proposed Code, at the beginning of each triennium, the Chief Executive will prepare a panel of investigators in consultation with the Mayor and Council. Investigators may be drawn from inside or outside the district or region. In putting together the list, the Chief Executive may call for nominations, invite members of the public with appropriate skills (for example retired judges who may live within the district) to be investigators, or contract with an external organisation to provide the service.
- 4.23 If referred to an independent investigator, the process set out in the Code gives that investigator responsibility to determine, without challenge, whether a complaint is material or not. The rationale for giving the investigator this degree of authority is to ensure the process is free of any suggestion of bias. It is also intended to reduce the cost of the complaints process, by reducing the time spent by members and officials. It also ensures that the Code process itself is less likely to be brought into disrepute.
- 4.24 In adopting the Code, members of the governing body agree to abide by an investigator's preliminary assessment. Under the process set out in the Code, members are informed of the result of a preliminary assessment (if there are no grounds for confidentiality) and only if the finding is material will members have any involvement (and then only if there is no conflict of interest).
- 4.25 Keeping in mind that the Code is an agreement between members, solving any trivial, frivolous or minor breaches of the Code in-house reflects that the Code is, primarily, a set of 'house rules' governing the relationships and behaviours of elected members. Resolving these complaints 'in-house' may act to strengthen the agreement between members that underpins the Code.

Decision-making options

- 4.26 Where a complaint is found to be material, the investigator will prepare a report for the Council setting out the reasons why the allegation has been upheld and is material. This report is provided in the first instance to the Chief Executive. The Council needs to have a process in place for discussing and making a decision on the investigator's recommendations. The report can either be considered by Council or an adjudicative body established for considering reports on code of Conduct complaints, such as a Code of Conduct Committee.
- 4.27 A Code of Conduct Committee would consider any report from an independent investigator and determine appropriate responses. The Council will need to decide whether the Code of Conduct Committee should have delegated decision making or recommendatory powers.
- 4.28 The appointment of a Code of Conduct Committee with delegated authority to consider the report of an independent investigator would

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provide confidence that the complaint was being robustly and independently managed.

- 4.29 Whilst it is recommended that all Elected Members are appointed to the Code of Conduct Committee, it is appropriate that the decision regarding the specific membership of the Code of Conduct Committee is deferred at this point, so that it can be considered within the context of Elected Member appointments to committees and external organisations for the current triennium.

Procedures and Useful Information

- 4.18 Appendix C of the current Code includes procedures and other information that are not captured by other legislation or policy documents e.g. the procedures for Elected Members to follow in applying for a leave of absence, raising operational matters, the use of Council resources and the expected dress code for members. It is recommended that these matters are not added to the proposed Code, as they can be incorporated into other administrative documents.

5. Options

- 5.1 Council is required to have a Code of Conduct.
- 5.2 Option 1: Council could adopt the proposed Code (Attachment 1). This is the preferred option, as it is based on the updated LGNZ template Code, which has been recently reviewed and represents best practice in the local government sector.
- 5.3 Option 2: Council could amend the proposed Code before adopting it. In this case it is suggested that officers bring an amended Code to the next Council meeting so that there is an opportunity to reflect on the implications of any changes before adopting the Code.
- 5.4 Option 3: Council could choose not to adopt the updated Code, resulting in the current Code remaining operative (status quo).

Author: Mary Birch, Manager Governance and Support Services

Attachments

Attachment 1: A1745031 - Draft Code of Conduct Nelson City Council [↓](#)

<p>Important considerations for decision making</p>
<p>1. Fit with Purpose of Local Government</p> <p>The Local Government Act 2002 requires Council to have an Elected Members' Code of Conduct.</p>
<p>2. Consistency with Community Outcomes and Council Policy</p> <p>The community outcome that this matter most closely supports is <i>"Our Council provides leadership and fosters partnerships, a regional perspective, and community engagement"</i> which states <i>"Our leaders understand our community, are confident in our future, know how to drive success and to work with others to tackle the big issues facing Nelson."</i> The recommendation to adopt the Code is in line with this outcome in respect of taking responsibility for decisions.</p>
<p>3. Risk</p> <p>There is little to no risk in adopting the LGNZ template Code of Conduct with amendments to customise it to Nelson City Council.</p>
<p>4. Financial impact</p> <p>The proposed amendments to the LGNZ Code of Conduct are aimed at lessening the potential financial impact of complaints made under the Code, by reserving the use of an independent investigator for material breaches of the Code considered sufficiently serious to warrant an independent investigation.</p>
<p>5. Degree of significance and level of engagement</p> <p>This matter is of low significance because the Code of Conduct is an agreement between elected members. No engagement has taken place.</p>
<p>6. Climate Impact</p> <p>This decision will have no impact on the ability of the Council to proactively respond to the impacts of climate change now or in the future</p>
<p>7. Inclusion of Māori in the decision making process</p> <p>No engagement with Māori has been undertaken in preparing this report.</p>
<p>8. Delegations</p> <p>This is a matter for Council.</p>

DRAFT

Nelson City Council

Code of Conduct

Adopted on the

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1. Introduction

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

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

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

2. Scope

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

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

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

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

3. Values

Nelson City Council has established the following values:

- A. **Whakautetanga:** respect
- B. **Kōrero Pono:** integrity
- C. **Māiatanga:** courage
- D. **Whakamanatanga:** effectiveness
- E. **Whakamōwaitanga:** humility
- F. **Kaitiakitanga:** stewardship
- G. **Manaakitanga:** generosity of spirit

Our values give effect to our ways of working together for the good governance of Nelson:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively in an accountable and transparent manner;
3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by the Code of Conduct and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.

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

4. Role and responsibilities

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

4.1 Members

The role of the governing body includes:

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

4.2 Chief Executive

The role of the Chief Executive includes:

- Implementing the decisions of the Council;
- Ensuring that all responsibilities delegated to the Chief Executive are properly performed or exercised;
- Ensuring the effective and efficient management of the activities of the local authority;
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- Providing leadership for the staff of the Council; and
- Employing, on behalf of the Council, the staff of the local authority, (including negotiation of the terms of employment for those staff).

The Chief Executive is the only person *directly* employed by the Council itself (s.42 LGA 2002). All concerns about the performance of an individual member of staff must, in the first instance, be referred to the Chief Executive.

5. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

5.1 Relationships between members

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

- Maintains public confidence;

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

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

5.2 Relationships with staff

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

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

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

5.3 Relationship with the public

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

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

6. Media and social media

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

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

7. Information

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

7.1 Confidential information

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

7.2 Information received in capacity as an elected member

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

8. Conflicts of Interest

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

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

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

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

9. Register of Interests

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

- a) Any employment, trade or profession carried on by the member or the members' spouse/partner for profit or gain;
- b) Any company, trust, partnership etc for which the member or their spouse/partner is a director, business partner or trustee;
- c) A description of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) A description of any land owned by the local authority in which the member or their spouse/partner is:
 - A tenant; or
 - The land is tenanted by a firm in which the member or spouse/partner is a business partner; a company of which the member or spouse/partner is a director; or a trust of which the member or spouse/partner is a trustee.

- e) Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the Chief Executive).

Please note, where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable.

10. Ethical behaviour

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

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or families, personal or business interests;
- Only use the Council's resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

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

11. Creating a supportive and inclusive environment

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

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

12. Breaches of the Code

Members must comply with the provisions of the code (LGA 2002, schedule 7, cl. 15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member may

make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

12.1 Principles

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

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

12.2 Complaints

All complaints made under the code must be made in writing and forwarded to the Chief Executive. On receipt of a complaint the Chief Executive must forward the complaint to the Mayor or, where the Mayor is a party to the complaint, an independent investigator, drawn from a pool of names or agency agreed in advance.

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

Complaint referred to Mayor

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

- Interview the complainant to assess the full extent of the complaint;
- Interview the member(s) subject to the complaint;
- Assess the complaint to determine materiality;
- Where a complaint is assessed by the Mayor to be trivial, frivolous or minor, either dismiss the complaint, require an apology or other course of action, or assist the relevant parties to find a mutually agreeable solution; and
- Where a complaint is found to be material, or no mutually agreed solution can be reached, the Mayor will refer the complaint back to the Chief Executive who will forward it, along with

any recommendations made by the Mayor, to the Council or an adjudicative body established by the Council to assess and rule on complaints made under the Code.

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

Complaint referred to Independent Investigator

On receipt of a complaint from a member which concerns the Mayor, or from the Mayor after initial consideration, the Chief Executive will forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to be referred, with recommendations if necessary, to the Council or an adjudicative body for assessing and ruling on complaints.¹ The process, following receipt of a complaint, will follow the steps outlined in **Appendix C**.

12.3 Materiality

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

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

13. Penalties and actions

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

13.1 Material breaches

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

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

¹ On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as Equip.

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

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

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

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

13.2 Statutory breaches

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

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

14. Review

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

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

Appendix A: Guidelines on the personal use of social media

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

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

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

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

The Local Authorities (Members' Interests) Act 1968

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

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

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

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

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

Determining whether a pecuniary interest exists

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

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

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

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?

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- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor or Chief Executive, to determine if they should discuss or vote on an issue, but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are set out in the Council's Standing Orders.)

The contracting rule

A member is disqualified from office if he or she is "concerned or interested" in contracts with their Council if the total payments made, or to be made, by or on behalf of the Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the Council (or committee of the Council) while disqualified.

Non-pecuniary conflicts of interest

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

"Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?"

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

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Members focus should be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a "closed mind"); and
- Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform, then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of elected members is the fact that the chairperson has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- Create a disturbance or a distraction while another Councillor is speaking;
- Be disrespectful when they refer to each other or other people; or
- Use offensive language about the Council, other members, any employee of the Council or any member of the public.

See Standing Orders for more detail.

Secret Commissions Act 1910

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

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

Crimes Act 1961

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

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

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

Financial Markets Conduct Act 2013

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

The Local Government Act 2002

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

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

- a) Money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) An asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) A liability has been unlawfully incurred by the local authority; or
- d) A local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.⁸⁹⁰

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

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

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

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

Step 1: Chief Executive receives complaint

On receipt of a complaint under the Code, whether from a member (because the complaint involves the Mayor) or from the Mayor after an initial assessment, the Chief Executive will refer the complaint to an investigator selected from a list agreed at the start of the triennium. The Chief Executive will also:

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

Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

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

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

1. Where an investigator determines that a complaint is trivial or frivolous, inform the complainant, respondent and other members (if there are no grounds for confidentiality) of the investigator's decision.
2. In cases where the investigator finds that the complaint involves a potential legislative breach outside the scope of the Code, forward the complaint to the relevant agency and inform the Chief Executive who will then inform the complainant, the respondent and members.

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

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

- That the respondent is referred to the Mayor for guidance; and/or
- That the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.

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

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

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

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

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

Step 5: Process for considering the investigator's report

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

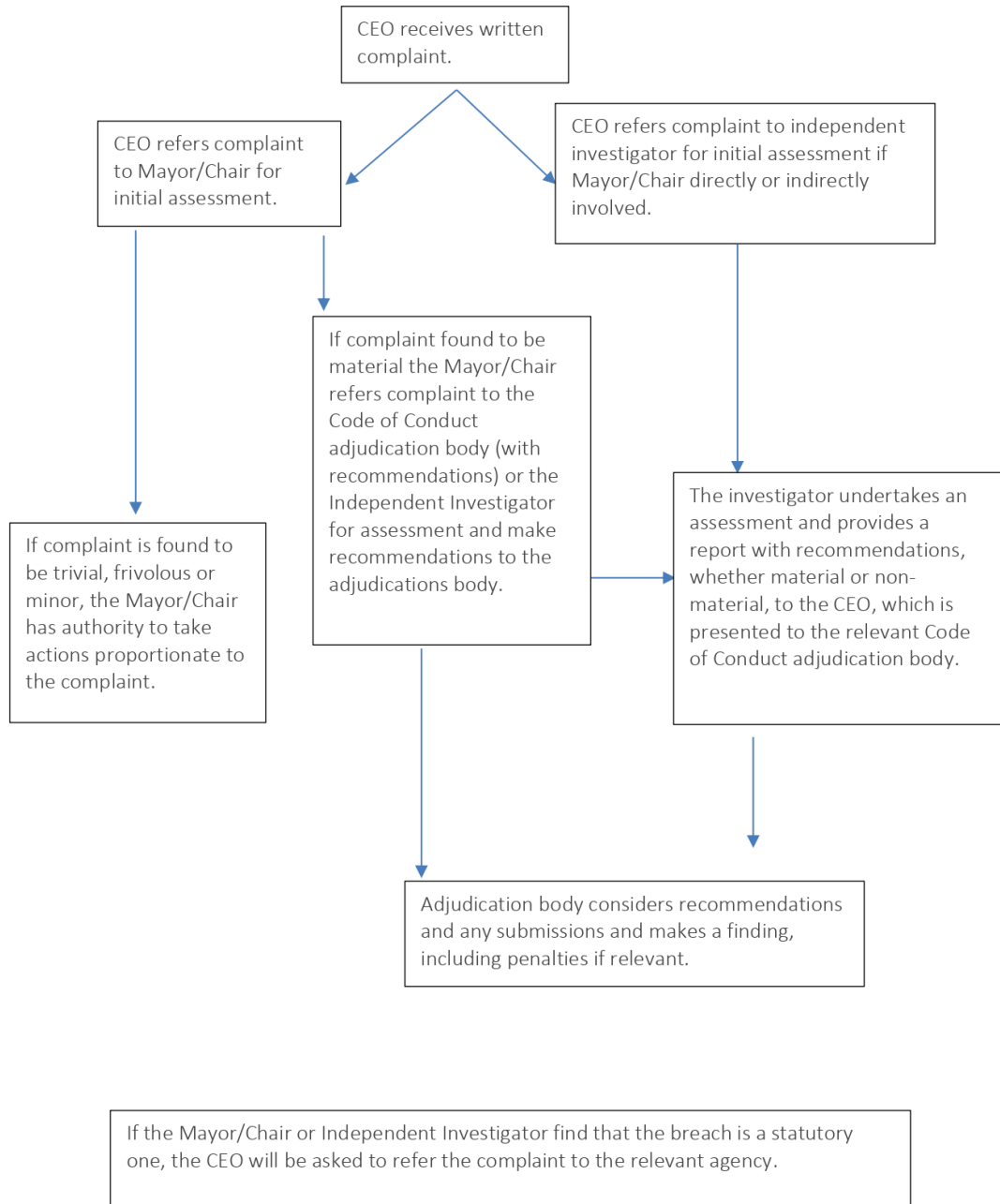
The Council, or adjudicative body, will consider the Chief Executive's report in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body will give the respondent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

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

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

Appendix D: Complaints Procedure – Flow Diagram



Elected Members' Remuneration

1. Purpose of Report

- 1.1 To decide on levels of Elected Member remuneration from the allocated pool of \$603,300 set by the Remuneration Authority in Part 2 of the 2019/2020 Determination.

2. Recommendation

That the Council

- 1. Receives the report Elected Members' Remuneration (R12555); and***
- 2. Approves the allocation of Elected Member Remuneration from the Pool in accordance with the Remuneration Authority Local Government Members (2019/2020) Determination Part 2 outlined in Scenario 1:***
 - Deputy Mayor: \$62,662***
 - Chair Infrastructure, Regional Transport Committees, Deputy Chair Environment Committee (Nelson Plan Lead): \$62,662***
 - Chair: \$52,143***
 - Deputy Chair: \$44,900***
 - Councillor: \$44,900.***

3. Background

- 3.1 The Remuneration Authority (the Authority) is the independent body set up by Parliament to handle the remuneration of key office holders such as Judges, Members of Parliament, local government representatives, some individual office holders and board members of independent statutory bodies.
- 3.2 In 2018, the Authority completed a comprehensive review of its approach to determining the remuneration and allowances for local

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government elected members. As a result, it resized each council and began adjusting the remuneration.

3.3 Unitary authorities' remuneration is now determined by the ranking of the council on a size index within the framework of the new local government pay scale. This ranking is determined by:

- Population
- Total operating expenditure
- Total assets
- Socioeconomic deprivation index
- Geographic size
- Public transport boardings

3.4 The Remuneration Authority Local Government Members (2019/2020) Determination, released in June 2019, was divided into two parts. Part 1 was effective from 1 July 2019 to 19 October, the day that the official result of the 2019 Local Government Election was declared.

3.5 Part 2 took effect from 20 October 2019, the day after the official result of the 2019 election was declared. The Remuneration Authority changed the process for Part 2 Determination. The Authority has moved from the partial pool approach (as for the 2016 -2019 triennium), whereby the Authority determined the Mayor's pay and councillor base pay and Council had a pool to top up the pay for councillors holding positions of responsibility. Post-election there is a full pool approach and Council is required to decide how to allocate the pool, including both base councillor remuneration and extra remuneration for positions of responsibility.

3.6 Important points to note regarding the full pool approach:

- In accordance with its rankings, Council has been allocated a pool of \$603,300.
- The Mayor's annual remuneration has been set at \$144,500 and is not taken from the pool but continues to be set by the Authority.
- Base remuneration for councillors must not be set below the minimum prescribed in the determination (\$39,686) but can be higher, if there are sufficient funds available in the pool.
- Positions of higher responsibility can also be recognised in the remuneration from the pool.
- The entire pool must be allocated.
- Once the pool is allocated, Council is required to propose to the Authority the councillor base pay and the additional pay for positions of responsibility.

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- Determinations for the base level of councillor remuneration will be backdated to the day after the official result of the election is declared by public notice.
- Remuneration for positions of responsibility will be backdated from the day after the Council formally votes to confirm the appointments (expected to be 31 October 2019).
- All councillors, regardless of any portfolio or appointment as Deputy Mayor or to Chairs or Deputy Chairs of committees will be in receipt of the minimum allowable base remuneration rate until the new Determination is published.

Timetable for Determination

- 3.7 Council will need to decide how it wants to allocate its pool, confirm this by resolution and advise the Authority of the proposal by 20 November 2019.
- 3.8 The Authority will check the proposal and include it in its formal Determination, which will be published by mid-December.
- 3.9 If the 20 November 2019 deadline is missed, the matter will be deferred until January 2020, being the next date for the Authority's Determination.

4. Discussion

Options for Remuneration

- 4.1 Assumptions underpinning the scenarios are as follows:
- The starting point for considering remuneration scenarios was the Part 1 determination.
 - The Mayor's salary, set by the Remuneration Authority increased by 3.2% from Part 1 Determination 2019/2020 to Part 2 Determination 2019/2020.
 - In considering possible scenarios, this percentage increase in remuneration was taken into account for all members of the Council.

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Scenario 1

This scenario incorporates a 3.2% increase for all Elected Members, except the Deputy Mayor.

2019/20 Determination				2018/19
	Quantity	Part 2 20 October 2019 to 30 June 2020	Part 1 1 July to 2019 October 2019	
Mayor (reference only)		144,500.00	140,079.00	137,869.00
Deputy Mayor	1	62,662.00	62,662.00	61,673.00
Chair Infrastructure, RTC, Deputy Chair Environment (NP Lead)	1	62,662.00	N/A	N/A
Chairperson	4	52,143.33	50,548.00	49,750.00
Deputy Chairperson			43,863.00	43,171.00
Councillor	6	44,900.44	41,774.00	41,115.00
Payment		603,299.96	572,313.00	575,610.00

Scenario 1 was presented to councillors for discussion purposes and members were invited to provide variations for consideration. The following variations were submitted.

Scenario 2 - Councillor proposed variation

Reduction in the level of remuneration Chair of Infrastructure/RTC by \$5,000, with this amount being distributed between the other Chairs only.

2019/20 Determination				2018/19
	Quantity	Part 2 20 October 2019 to 30 June 2020	Part 1 1 July to 2019 October 2019	
Mayor (reference only)		144,500.00	140,079.00	137,869.00
Deputy Mayor	1	62,662.00	62,662.00	61,673.00
Chair Infrastructure, RTC, Deputy Chair Environment (NP Lead)	1	57,662.00	N/A	N/A
Chairperson	4	53,393.00	50,548.00	49,750.00
Deputy Chairperson			43,863.00	43,171.00
Councillor	6	44,900.00		41,115.00
Payment		603,296.00	572,313.00	575,610.00

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4.2 Scenario 3 - Councillor proposed variation

Reduction in the level of remuneration Chair of Infrastructure/RTC by \$5,000, with this amount being distributed between the Deputy Chairs and Councillors only.

2019/20 Determination				
	Quantity	Part 2 20 October 2019 to 30 June 2020	Part 1 1 July to 2019 October 2019	2018/19
Mayor (reference only)		144,500.00	140,079.00	137,869.00
Deputy Mayor	1	62,662.00	62,662.00	61,673.00
Chair Infrastructure, RTC, Deputy Chair Environment (NP Lead)	1	57,662.00	N/A	N/A
Chairperson	4	52,143.54	50,548.00	49,750.00
Deputy Chairperson			43,863.00	43,171.00
Councillor	6	45,734.98		41,115.00
Payment		603,300.04	572,313.00	575,610.00

4.3 Scenario 4 - Councillor proposed variation

Reduction in the level of remuneration Chair of Infrastructure/RTC and re-allocated across the roles in varying proportions.

2019/20 Determination				
	Quantity	Part 2 20 October 2019 to 30 June 2020	Part 1 1 July to 2019 October 2019	2018/19
Mayor (reference only)		144,500.00	140,079.00	137,869.00
Deputy Mayor	1	62,662.00	62,662.00	61,673.00
Chair Infrastructure, RTC, Deputy Chair Environment (NP Lead)	1	57,406.00	N/A	N/A
Chairperson	4	52,669.00	50,548.00	49,750.00
Deputy Chairperson				43,171.00
Councillor	6	45,426.00	43,863.00	41,115.00
Payment		603,300.00	572,313.00	575,610.00

5. Options

5.1 Council is required to allocate the entire remuneration pool.

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- 5.2 Option 1 - Council allocates the remuneration pool as detailed in Scenario 1. This is the preferred option. It provides certainty for all elected members regarding remuneration levels and allows for the allocations to be provided to the Remuneration Authority within the timeframe.
- 5.3 Option 2 – Council could choose to amend Scenario 1, using one of the councillor proposed variations or an alternative allocation.
- 5.4 Option 3 – Council could choose to defer the allocation of the pool until the next Council Meeting and ask that officers work through alternative models for consideration. This could still meet the deadline of notifying the Authority by 20 November 2019.

Author: Mary Birch, Manager Governance and Support Services

Attachments

Nil

<p>Important considerations for decision making</p>	
<p>1. Fit with Purpose of Local Government</p>	<p>The Local Government Act 2002 requires the Remuneration Authority to set the remuneration for elected members balancing the needs of elected members and ratepayers whilst attracting and retaining appropriate elected members.</p> <p>Council is required to decide the allocation of the remuneration pool.</p>
<p>2. Consistency with Community Outcomes and Council Policy</p>	<p>The community outcome that this matter most closely supports is <i>"Our Council provides leadership and fosters partnerships, a regional perspective, and community engagement"</i> which states <i>"Our leaders understand our community, are confident in our future, know how to drive success and to work with others to tackle the big issues facing Nelson."</i> The recommendation to allocate the pool is in line with this outcome in respect of elected members taking responsibility for decisions.</p>
<p>3. Risk</p>	<p>There is little or no risk in allocating the remuneration pool, as the pool has been capped at \$603,000 per annum. Furthermore, any decision is subject to Remuneration Authority approval.</p>
<p>4. Financial impact</p>	<p>The immediate and long term costs have already been included within the budget adopted through the Long Term Plan.</p>
<p>5. Degree of significance and level of engagement</p>	<p>This matter is of low significance because the Council is required to make the decision and set the levels of elected member remuneration.</p>
<p>6. Climate Impact</p>	<p>Climate Impact advice.docx This decision will have no impact on the ability of the Council to proactively respond to the impacts of climate change now or in the future.</p>
<p>7. Inclusion of Māori in the decision making process</p>	<p>No engagement with Māori has been undertaken in preparing this report.</p>
<p>8. Delegations</p>	<p>This is a matter for Council.</p>

Next meeting date

1. Purpose of Report

- 1.1 The next meeting date of Council must be set at this meeting, pursuant to Clause 21(5)(d) of Schedule 7 of the Local Government Act 2002.

2. Recommendation

That the Council

- 1. Confirms the next meeting of the Nelson City Council will be held on Thursday 14 November 2019, commencing at 9.00am.***

Author: Robyn Byrne, Team Leader Governance

Attachments

Nil