

Notice is hereby given that an ordinary meeting of the Horowhenua District Council will be held on:

Date: Wednesday 16 November 2022
Time: 10.00am
Meeting Room: Council Chambers
Venue: 126-148 Oxford St
Levin

Council
OPEN ATTACHMENTS
ATTACHMENTS UNDER SEPARATE COVER

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Preface

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

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

These standing orders have been designed specifically for local authorities, their committees, subcommittees and subordinate decision-making bodies, and local and community boards. They fulfil the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 with regard to the conduct of meetings.

It is mandatory that councils adopt standing orders for the conduct of their meetings and the meetings of any subordinate bodies, such as committees and subcommittees (see cl. 27 Schedule 7 of the Local Government Act 2002).

For clarity's sake whenever a question about the interpretation or application of these standing orders is raised, particularly where a matter might not be directly provided for, it is the responsibility of the Chairperson of each meeting to make a ruling.

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

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

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1. Introduction

These standing orders have been prepared to enable the orderly conduct of local authority meetings. They incorporate the legislative provisions relating to meetings, decision making and transparency. They also include practical guidance on how meetings should operate so that statutory provisions are complied with and the spirit of the legislation fulfilled.

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

- Part 1 deals with general matters.
- Part 2 deals with pre-meeting procedures.
- Part 3 deals with meeting procedures.

The Appendix, which follows Part 3, provides templates and additional guidance for implementing provisions within the standing orders. Please note, the Appendix is an attachment to the standing orders and not part of the standing orders themselves, consequently amendments to the Appendix do not require the agreement of 75% of those present. In addition, the 'Guide to Standing Orders' provides additional advice on the application of the standing orders and are also not part of the standing orders.

1.1 Principles

Standing orders are part of the framework of processes and procedures designed to ensure that our system of local democracy and in particular decision-making within local government is transparent and accountable. They are designed to give effect to the principles of good governance, which include that a local authority should:

- conduct its business in an open, transparent and democratically accountable manner;
- give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- make itself aware of, and have regard to, the views of all of its communities;
- take account, when making decisions, of the diversity of the community, its interests and the interests of future communities as well;
- ensure that any decisions made under these standing orders comply with the decision-making provisions of Part 6 of the LGA; and
- ensure that decision-making procedures and practices meet the standards of natural justice.

These principles are reinforced by the requirement that all local authorities act so that "governance structures and processes are effective, open and transparent" (s. 39 LGA 2002).

1.2 Statutory references

The standing orders consist of statutory provisions about meetings along with guidance on how those provisions should be applied in practice. Where a statutory provision has been augmented with advice on how it might be implemented the advice (so as not to confuse it with the statutory obligation) is placed below the relevant legislative reference. In some cases, the language in the statutory provision has been modernised for ease of interpretation or amended to ensure consistency with more recently enacted statutes.

It is important to note that statutory references in the standing orders apply throughout the period of a meeting, regardless of whether or not parts or all of the standing orders have been suspended. These provisions must also be carried through into any amendment of the standing orders that might be made. Please note, where it is employed the word 'must', unless otherwise stated, identifies a mandatory legislative requirement.

1.3 Acronyms

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

1.4 Application

For the removal of any doubt these standing orders do not apply to workshops or meetings of working parties and advisory groups unless specifically included in their terms of reference.

2. Definitions

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

Advisory group means a group of people convened by a local authority for the purpose of providing advice or information that is not a committee or subcommittee. These standing orders do not apply to such groups. This definition also applies to workshops, working parties, working group, panels, forums, portfolio groups, briefings and other similar bodies.

Agenda means the list of items for consideration at a meeting together with reports and other attachments relating to those items in the order in which they will be considered. It is also referred to as an 'order paper'.

Amendment means any change of proposed change to the original or substantive motion.

Audio link means facilities that enable audio communication between participants at a meeting when one or more of the participants is not physically present at the place of the meeting.

Audio visual link means facilities that enable audiovisual communication between participants at a meeting when one or more of them is not physically present at the place of the meeting.

Chairperson means the person presiding at a meeting – the presiding member.

Chief executive means the chief executive of a territorial authority or regional council appointed under section 42 of the LGA 2002, and includes, for the purposes of these standing orders, any other officer authorized by the chief executive.

Clear working days means the number of working days (business hours) prescribed in these standing orders for giving notice and excludes the date of the meeting and date on which the notice is served.

Committee includes, in relation to a local authority:

- (a) A committee comprising all the members of that authority;
- (b) A standing committee or special committee appointed by that authority;
- (c) A joint committee appointed under clause 30A of Schedule 7 of the LGA 2002; and
- (d) Any subcommittee of a committee described in (a), (b) and (c) of this definition.

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

Contempt means being disobedient to, or disrespectful of, the chair of a meeting, or disrespectful to any members, officers or the public.

Council means, in the context of these standing orders, the governing body of a local authority.

Deputation means a request from any person or group to make a presentation to the local authority which is approved by the Chairperson and which may be made in English, te reo Māori or New Zealand Sign Language.

Electronic link means both an audio and audio visual link.

Emergency meeting has the same meaning as defined in cl. 22A of Schedule 7 of the LGA 2002.

Extraordinary meeting has the same meaning as defined in cl. 22 of Schedule 7 of the LGA 2002.

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

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

Joint committee means a committee in which the members are appointed by more than one local authority in accordance with clause 30A of Schedule 7 of the LGA 2002.

Karakia timatanga means an opening prayer.

Karakia whakamutunga means a closing prayer.

Lawfully excluded means a member of a local authority who has been removed from a meeting due to behaviour that a Chairperson has ruled to be contempt.

Leave of absence means a pre-approved absence for a specified period of time consistent with the council policy should one be in place.

Local authority means in the context of these standing orders a regional council or territorial authority, as defined in s. 5 of the LGA 2002, which is named in these standing orders, and any subordinate decision-making bodies established by the local authority.

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

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

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

Mihi whakatau means a brief welcome typically delivered by one person without any further formalities.

Minutes means the record of the proceedings of any meeting of the local authority.

Motion means a formal proposal to a meeting.

Mover means the member who initiates a motion.

Newspaper means a periodical publication published (whether in New Zealand or elsewhere) at intervals not exceeding 40 days, or any copy of, or part of any copy of, any such publications; and this includes every publication that at any time accompanies and is distributed along with any newspaper.

Notice of motion means a motion given in writing by a member in advance of a meeting in accordance with, and as provided for, in these standing orders.

Open voting means voting that is conducted openly and in a transparent manner (i.e. *enables an observer to identify how a member has voted on an issue*) and may be conducted by electronic means. The result of the vote must be announced immediately it has concluded. Secret ballots are specifically excluded.

Order paper means the list of items for consideration at a meeting together with reports and other attachments relating to those items set out in the order in which they will be considered. An order paper is also referred to as an agenda.

Ordinary meeting means any meeting, other than the first meeting, of a local authority publicly notified in accordance with sections 46(1) and (2) of LGOIMA.

Petition means a request to a local authority which contains at least 20 signatures.

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

Present at the meeting to constitute quorum means the member is to be physically present in the room.

Presiding member means the person chairing a meeting.

Procedural motion means a motion that is used to control the way in which a motion or the meeting is managed as specified in standing orders 24.1 – 24.7.

Public excluded information refers to information which is currently before a public excluded session, is proposed to be considered at a public excluded session, or had previously been considered at a public excluded session and not yet been released as publicly available information. It includes:

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

Public excluded session, also referred to as confidential or in-committee session, refers to those meetings or parts of meetings from which the public is excluded by the local authority as provided for in LGOIMA.

Public forum refers to a period set aside usually at the start of a meeting for the purpose of public input.

Public notice in relation to a notice given by a local authority, means one that is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority's Internet site. And in addition, is published in at least one daily newspaper circulating in the region or district of the local authority, or one or more other newspapers that have a combined circulation in that region or district which is at least equivalent to that of a daily newspaper circulating in that region or district.

Publicly notified means notified to members of the public by a notice contained in a newspaper circulating in the district of the local authority, or where there is no such newspaper, by notice displayed in a public place. The notice may also be replicated on a council's website.

Qualified privilege means the privilege conferred on member by s. 52 and s. 53 of LGOIMA.

Quasi-judicial means a meeting involving the consideration of issues requiring the evaluation of evidence, the assessment of legal argument and/or the application of legal principles.

Quorum means the minimum number of members required to be present in order to constitute a valid meeting.

Regional Council Chairperson means the member of the governing body of a regional council elected as Chairperson of that regional council under cl.25 Schedule 7 LGA 2002.

Resolution means a motion that has been adopted by the meeting.

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

Second means the member who seconds a motion.

Sub judice means under judicial consideration and therefore prohibited from public discussion elsewhere.

Subordinate decision-making body means committees, subcommittees, and any other bodies established by a local authority that have decision-making authority, but not local or community boards or joint committees.

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

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

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

Working day means a day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day. If Waitangi Day or Anzac Day falls on a Saturday or a Sunday, then the following Monday;
- (b) The day observed in the appropriate area as the anniversary of the province of which the area forms a part; and
- (c) A day in the period commencing 20 December in any year and ending 10 January in the following year.

Should a local authority wish to meet between 20 December and 10 January of the following year any meeting must be notified as an extraordinary meeting, unless there is sufficient time to notify an ordinary meeting before the commencement of the period.

Working party means a group set up by a local authority to achieve a specific objective that is not a committee or subcommittee and to which these standing orders do not apply.

Workshop, means in the context of these standing orders, a gathering of elected members for the purpose of considering matters of importance to the local authority at which no decisions are made and to which these standing orders do not apply. Workshops may include non-elected members. See definition of "advisory group". Workshops are also described as briefings.

General matters

3. Standing orders

3.1 Obligation to adopt standing orders

A council is required to operate in accordance with standing orders for the conduct of its meetings and the meetings of its committees and subcommittees. Local boards and community boards must also adopt standing orders. Standing orders must not contravene any Act.

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

3.2 Process for adoption and alteration of standing orders

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

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

3.3 Members must obey standing orders

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

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

3.4 Application of standing orders

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

3.5 Temporary suspension of standing orders

Any member of a council, committee, subcommittee and subordinate body, and local and community board, may move a motion to suspend specified standing orders at a meeting of which they are a member. Any such motion must also include the reason for the suspension. If seconded, the Chairperson must put the motion without debate and at least 75 per cent of the members present and voting must support the motion for it to be carried.

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

A motion to suspend standing orders may also identify the specific standing orders to be suspended. In the event of suspension those standing orders prescribed in statute will continue to apply, such as the quorum requirements.

3.6 Quasi-judicial proceedings

For quasi-judicial proceedings the local authority or a local or community board may amend meeting procedures. For example, committees hearing applications under the RMA 1991 have additional powers under the Commissions of Inquiry Act 1908.

3.7 Physical address of members

Every member of a local authority, local board and community board must give to the chief executive a physical residential or business address within the district or region of the local authority and, if desired, an electronic or other address, to which notices and material relating to meetings and local authority business may be sent or delivered. Members are to provide their address within five (5) working days of the publication of the declaration of the election results.

4. Meetings

4.1 Legal requirement to hold meetings

The local authority must hold meetings for the good government of its city, district or region. The same requirement applies to local boards and community boards in respect of their communities. Meetings must be called and conducted in accordance with:

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

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

4.2 Meeting duration

A meeting cannot continue more than six (6) hours from when it starts (including any adjournments) or after 10.30pm, unless the meeting resolves to continue. If there is no such resolution any business on the agenda that has not been dealt with must be adjourned, transferred to the next meeting or transferred to an extraordinary meeting.

No meeting can sit for more than two (2) hours continuously without a break of at least ten minutes unless the meeting resolves to extend the time before a break.

4.3 Language

A member may address a meeting in English, te reo Māori or New Zealand Sign Language. A Chairperson may require that a speech is translated and printed in English or te reo Māori.

If a member intends to address the meeting in New Zealand Sign Language, or in te reo Māori when the normal business of the meeting is conducted in English, they must give prior notice to the Chairperson not less than two (2) working days before the meeting.

Where the normal business of the meeting is conducted in te reo Māori then prior notice of the intention to address the meeting in English must also be given to the Chairperson not less than two (2) working days before the meeting.

4.4 Webcasting meetings

Webcast meetings should be provided in accordance with the protocols contained in Appendix 5.

4.5 First meeting (inaugural)

The first meeting of a local authority following a local authority triennial general election must be called by the chief executive as soon as practicable after the results of the election are known. The chief executive must give elected members not less than seven (7) days' notice of the meeting. However, in the event of an emergency the chief executive may give notice of the meeting as soon as practicable.

cl. 21(1) - (4), Schedule 7, LGA 2002.

4.6 Requirements for the first meeting

The chief executive (or, in the absence of the chief executive, their nominee) must chair the first meeting until the Chairperson has made an oral declaration and attested the declaration (see cl. 21(4), Schedule 7 (LGA 2002)).

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

- (a) The making and attesting of the declarations required of the mayor (if any) and members under cl.14, Schedule7, (LGA 2002);
- (b) The election of the Chairperson (if any) and the making and attesting of the declaration required of the Chairperson under cl. 14 Schedule7, (LGA 2002);
- (c) A general explanation, given or arranged by the chief executive, of:
 - i. LGOIMA; and
 - ii. Other laws affecting members, including the appropriate provisions of the Local Authorities (Members Interests) Act 1968; and sections 99, 105, and 105A of the Crimes Act 1961; and the Secret Commissions Act 1910; and the Financial Markets Conduct Act 2013.
- (d) The fixing of the date and time of the first meeting of the local authority, or the adoption of a schedule of meetings; and
- (e) The election of the deputy Mayor or deputy Chairperson in accordance with cl.17 Schedule7, (LGA 2002).

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

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

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

5. Appointments and elections

5.1 Mayoral appointment of deputy Mayor, committee chairs and members

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

s. 41A (3) LGA 2002.

5.2 Council Discharge of a Mayoral Appointment

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

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

cl. 31, Schedule 7 LGA 2002.

5.3 Establishment of committees by the Mayor

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

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

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

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

5.4 Elections of regional Chairpersons, deputy Mayors and deputy Chairpersons

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

- the Chairperson and deputy Chairperson of a regional council;
- the deputy Mayor;
- the Chairperson and deputy Chairperson of a committee; and
- a representative of a local authority.

Please note, this provision does not apply in situations where a Mayor has used their appointment powers under s.41A to appoint a deputy Mayor or committee chairs. See Appendix 9.

cl. 25 Schedule 7, LGA 2002.

5.5 Removal of a deputy Mayor

A deputy Mayor, whether appointed by the Mayor under Standing Order 5.1 or elected by the council, can only be removed in accordance with cl. 18, Schedule 7, of the LGA 2002. See Appendix 10.

cl. 18, Schedule 7, LGA 2002.

5.6 Voting system for chairs, deputy Mayors and committee chairs

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

System A

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

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

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

System B

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

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

cl. 25 Schedule 7, LGA 2002.

6. Delegations

6.1 Limits on delegations

Unless clearly stated in the LGA or any other Act, a council may, for the purposes of efficiency and effectiveness, delegate to a committee, subcommittee, subordinate decision-making body, community board, local board, member, or officer of the local authority, any of its responsibilities, duties, or powers except:

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

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

6.2 Committees may delegate

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

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

6.3 Use of delegated powers

The committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, duties are delegated may, without confirmation by the council, committee or body or person

that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them.

cl. 32(2) & (3)(4) Schedule 7, LGA 2002.

6.4 Decisions made under delegated authority cannot be rescinded or amended

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

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

6.5 Committees and sub committees subject to the direction of the local authority

A committee, subcommittee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given to them.

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

6.6 Duty to consider delegations to community boards

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

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

Please note: A council is advised to delegate a range of decision-making responsibilities to its chief executive to cover the period from the day following the Electoral Office's declaration until the new council is sworn in. See the 2019 Guide to Standing Orders for further information.

7. Committees

7.1 Appointment of committees and subcommittees

A council may appoint the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate. A committee may appoint the subcommittees that it considers appropriate, unless it is prohibited from doing so by the council.

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

7.2 Discharge or reconstitution of committees and subcommittees

Unless expressly provided otherwise in legislation or regulation:

- (a) a local authority may discharge or reconstitute a committee or subcommittee, or other subordinate decision-making body; and
- (b) a committee may discharge or reconstitute a subcommittee.

A committee, subcommittee, or other subordinate decision-making body is, unless a council resolves otherwise, discharged when members elected at a subsequent triennial general election come into office.

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

Please note: s.12 (2) of the Civil Defence and Emergency Management Act 2002 states that a Civil Defence and Emergency Management Group is not deemed to be discharged following a triennial election. This may also apply to District Licensing Committees (see SO Guide).

7.3 Appointment or discharge of committee members and subcommittee members

A council may appoint or discharge any member of a committee and, if established by the council, a subcommittee. A committee may appoint or discharge any member of a subcommittee appointed by the committee unless directed otherwise by the council.

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

7.4 Elected members on committees and subcommittees

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

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

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

7.5 Local authority may replace members if committee not discharged

If a local authority resolves that a committee, subcommittee or other subordinate decision-making body is not to be discharged under cl. 30 (7) Schedule 7, LGA 2002, the local authority may replace the members of that committee, subcommittee or subordinate decision-making body after the next triennial general election of members.

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

7.6 Membership of Mayor

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

s. 41A (5), LGA 2002.

7.7 Decision not invalid despite irregularity in membership

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

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

cl. 29, Schedule 7, LGA 2002.

7.8 Appointment of joint committees

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

- (a) the number of members each party may appoint;
- (b) how the Chairperson and deputy Chairperson are to be appointed;
- (c) the terms of reference of the committee;
- (d) what responsibilities, if any, are to be delegated to the committee by each party;
and
- (e) how the agreement may be varied.

The agreement may also specify any other matter relating to the appointment, operation, or responsibilities of the committee agreed by the parties.

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

7.9 Status of joint committees

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

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

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

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

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

Pre-meeting

8. Giving notice

Please note; the processes described in this section (standing orders 8.1 – 8.13) apply as appropriate to local boards and community boards.

8.1 Public notice – ordinary meetings

All meetings scheduled for the following month must be publicly notified not more than fourteen (14) days and not less than five (5) days before the end of the current month, together with the dates, the times and places at which those meetings are to be held. In the case of meetings held on or after the 21st day of the month public notification may be given not more than ten (10) nor less than five (5) working days before the day on which the meeting is to be held. (See Guide to Standing Orders for more information).

s. 46, LGOIMA.

8.2 Notice to members - ordinary meetings

The chief executive must give notice in writing to each member of the local authority of the date, time and place of any meeting. Notice must be given at least fourteen (14) days before the meeting unless the council has adopted a schedule of meetings, in which case notice must be given at least fourteen (14) days before the first meeting on the schedule.

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

8.3 Extraordinary meeting may be called

An extraordinary council meeting may be called by:

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

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

8.4 Notice to members - extraordinary meetings

The chief executive must give notice, in writing, of the time and place of an extraordinary meeting called under standing order 8.3, as well as the general nature of business to be considered to each member of the council at least three (3) working days before the day appointed for the meeting. If the meeting is called by a resolution then notice must be provided within such lesser period as is specified in the resolution, as long as it is not less than 24 hours.

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

8.5 Emergency meetings may be called

If the business a council needs to deal with requires a meeting to be held at a time earlier than is allowed by the notice requirements for holding an extraordinary meeting and it is not practicable to call the meeting by resolution, an emergency meeting may be called by:

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

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

8.6 Process for calling an emergency meeting

The notice of the time and place of an emergency meeting, and of the matters in respect of which the emergency meeting is being called, must be given by the person calling the meeting or by another person on that person's behalf.

The notice must be given, by whatever means is reasonable in the circumstances, to each member of the local authority, and to the chief executive, at least 24 hours before the time appointed for the meeting.

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

8.7 Public notice – emergency and extraordinary meetings

Where an emergency or extraordinary meeting of a local authority is called but the notice of the meeting is inconsistent with these standing orders, due to the manner in which it was called, the local authority must cause that meeting and the general nature of business to be transacted at that meeting:

- (a) To be publicly notified as soon as practicable before the meeting is to be held; or
- (b) If it is not practicable to publish a notice in newspapers before the meeting, to be notified as soon as practicable on the local authority's Internet site and in any other manner that is reasonable in the circumstances.

s. 46 (3) LGOIMA.

8.8 Meetings not invalid

The failure to notify a public meeting under these standing orders does not of itself make that meeting invalid. However, where a local authority becomes aware that a meeting has been incorrectly notified it must, as soon as practicable, give public notice stating:

- that the meeting occurred without proper notification;
- the general nature of the business transacted; and
- the reasons why the meeting was not properly notified.

s. 46 (6), LGOIMA.

8.9 Resolutions passed at an extraordinary meeting

A local authority must, as soon as practicable, publicly notify any resolution passed at an extraordinary meeting of the local authority unless:

- (a) the resolution was passed at a meeting or part of a meeting from which the public was excluded; or
- (b) the extraordinary meeting was publicly notified at least five (5) working days before the day on which the meeting was held.

s. 51A, LGOIMA.

8.10 Meeting schedules

Where the local authority adopts a meeting schedule it may cover any period that the council considers appropriate and may be amended. Notification of the schedule, or an amendment, will constitute notification to members of every meeting on the schedule or the amendment. This does not replace the requirements under LGOIMA to also publicly notify each meeting.

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

8.11 Non-receipt of notice to members

A meeting of a local authority is not invalid if notice of that meeting was not received, or not received in due time, by a member of the local authority or board unless:

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

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

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

8.12 Meeting cancellations

The Chairperson of a scheduled meeting may cancel the meeting if, in consultation with the chief executive, they consider this is necessary for reasons that include lack of business, lack of quorum or clash with another event.

The chief executive must make a reasonable effort to notify members and the public as soon as practicable of the cancellation and the reasons behind it.

9. Meeting agenda

9.1 Preparation of the agenda

It is the chief executive's responsibility to prepare an agenda for each meeting listing and attaching information on the items of business to be brought before the meeting so far as is known, including the names of the relevant members.

When preparing business items for an agenda the chief executive should consult the Chairperson.

9.2 Process for raising matters for a decision

Requests for reports may be made by a resolution of the council, committee, subcommittee, subordinate decision-making body, local boards or community board and, in the case of all decision-making bodies other than the council, must also fall within the scope of their specific delegations. A process for requesting reports is described in Appendix 12.

9.3 Chief executive may delay or refuse request

The chief executive may delay commissioning any reports that involve significant cost or are beyond the scope of the committee that made the request. In such cases the chief executive will discuss options for meeting the request with the respective Chairperson and report back to a subsequent meeting with an estimate of the cost involved and seek direction on whether the report should still be prepared.

If a member makes a direct request to a chief executive asking that a report is prepared the chief executive may refuse. In such cases an explanation should be provided to the member.

9.4 Order of business

The order of business for Council, its Committees and the Foxton Community Board shall be:

Procedural

1. Apologies
2. Public Participation
3. Late Items
4. Declarations of Interest
5. Confirmation of Minutes
6. Announcements
7. Proceedings of Committees

Reports

In Committee

At the meeting, the business is to be dealt with in the order in which it stands on the agenda unless the Chairperson, or the meeting, decides otherwise.

The order of business for an extraordinary meeting must be limited to items that are relevant to the purpose for which the meeting has been called.

9.5 Chairperson's recommendation

A Chairperson, either prior to the start of the meeting and/or at the meeting itself, may include a recommendation regarding any item on the agenda brought before the meeting. Where a Chairperson's recommendation varies significantly from an officer's recommendation the reason for the variation must be explained.

9.6 Chairperson's report

The Chairperson of a meeting has the right, through a report, to direct the attention of a meeting to any matter which is on the agenda or which falls within the responsibilities of that meeting, as described in its terms of reference.

9.7 Public availability of the agenda

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

s. 5 & 46A, LGOIMA.

9.8 Public inspection of agenda

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

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

s. 46A (1), LGOIMA.

9.9 Withdrawal of agenda items

If justified by circumstances an agenda item may be withdrawn by the chief executive. In the event of an item being withdrawn the chief executive should inform the Chairperson.

9.10 Distribution of the agenda

The chief executive must send the agenda to every member of a meeting at least three (3) clear working days before the day of the meeting, except in the case of an extraordinary meeting or an emergency meeting (see Standing Orders 8.4 and 8.5).

The chief executive may send the agenda, and other materials relating to the meeting or other council business, to members by electronic means.

9.11 Status of agenda

No matter on a meeting agenda, including recommendations, may be considered final until determined by formal resolution of that meeting.

9.12 Items of business not on the agenda which cannot be delayed

A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:

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

s. 46A (7), LGOIMA.

Items not on the agenda may be brought before the meeting through a report from either the chief executive or the Chairperson.

Please note that nothing in this standing order removes the requirement to meet the provisions of Part 6, LGA 2002 with regard to consultation and decision-making.

9.13 Discussion of minor matters not on the agenda

A meeting may discuss an item that is not on the agenda only if it is a minor matter relating to the general business of the meeting and the Chairperson explains at the beginning of the public part of the meeting that the item will be discussed. However, the meeting may not make a resolution, decision or recommendation about the item, except to refer it to a subsequent meeting for further discussion.

s. 46A (7A), LGOIMA.

9.14 Public excluded business on the agenda

Items that are likely to be discussed under public excluded must be indicated on each agenda and state the general subject of the item. The chief executive, however, may exclude public access to any reports, or parts of reports, which are reasonably expected to be discussed with the public excluded.

s. 46A (9), LGOIMA.

9.15 Qualified privilege relating to agenda and minutes

Where any meeting is open to the public and a member of the public is supplied with a copy of the agenda, or the minutes of that meeting, the publication of any defamatory matter included in the agenda or in the minutes is privileged. This does not apply if the publication is proved to have been made with ill will or improper advantage has been taken of the publication.

s. 52, LGOIMA.

Meeting Procedures

10. Opening and closing

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

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

11. Quorum

11.1 Council meetings

The quorum for a meeting of the council is:

- (a) half of the members physically present, where the number of members (including vacancies) is even; and
- (b) a majority of the members physically present, where the number of members (including vacancies) is odd.

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

11.2 Committees and subcommittee meetings

A council sets the quorum for its committees and subcommittees, either by resolution or by stating the quorum in the terms of reference. Committees may set the quorums for their subcommittees by resolution provided that it is not less than two members. (See also 7.4).

In the case of subcommittees, the quorum will be two members unless otherwise stated. In the case of committees at least one member of the quorum must be a member of the council, or if established by a local board or community board, the relevant board.

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

11.3 Joint Committees

The quorum at a meeting of a joint committee must be consistent with Standing Order 11.1. Local authorities participating in the joint committee may decide, by agreement, whether or not the quorum includes one or more members appointed by each local authority or any party.

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

11.4 Requirement for a quorum

A meeting is constituted where a quorum of members is present, whether or not they are all voting or entitled to vote. In order to conduct any business at a meeting, a quorum of members must be present for the whole time that the business is being considered.

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

11.5 Meeting lapses where no quorum

A meeting must lapse, and the Chairperson vacate the chair, if a quorum is not present within 30 minutes of the advertised start of the meeting. Where members are known to be travelling to the meeting, but are delayed due to extraordinary circumstance, the Chairperson has discretion to wait for a longer period.

No business may be conducted while waiting for the quorum to be reached. Minutes will record when a meeting lapses due to a lack of a quorum, along with the names of the members who attended.

Should a quorum be lost the meeting will lapse if the quorum is not present within 15 minutes.

11.6 Business from lapsed meetings

Where meetings lapse the remaining business will be adjourned and be placed at the beginning of the agenda of the next ordinary meeting, unless the Chairperson sets an earlier meeting and this is notified by the chief executive.

12. Public access and recording

12.1 Meetings open to the public

Except as otherwise provided by Part 7 of LGOIMA, every meeting of the local authority, its committees, subcommittees, local boards and community boards, must be open to the public.

s.47 & 49(a), LGOIMA.

12.2 Grounds for removing the public

The Chairperson may require any member of the public whose conduct is disorderly, or who is creating a disturbance, to be removed from the meeting.

12.3 Local authority may record meetings

Meeting venues should contain clear signage indicating and informing members, officers and the public that proceedings may be recorded by the local authority and may be subject to direction by the Chairperson.

12.4 Public may record meetings

The filming and recording of Council and all Committee meetings (including In Committee) and Council briefings is not permitted by Elected Members or members of the public unless resolved otherwise by the Council or the Committee on a case by case basis.

13. Attendance

13.1 Members right to attend meetings

A member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee.

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

If the member of the local authority is not an appointed member of the meeting at which they are in attendance they may not vote on any matter at that meeting. However, they may, with the leave of the chair, take part in the meeting's discussions.

A member attending a meeting of which they are not an appointed member is not a member of the public for the purpose of s.48 LGOIMA. Consequently, if the meeting resolves to exclude the public any members of the local authority who are present may remain unless they are lawfully excluded.

Please note: this section does not confer any rights to non-elected members appointed to committees of a local authority.

13.2 Attendance when a committee is performing judicial or quasi-judicial functions

When a committee is performing judicial or quasi-judicial functions, members of the local authority who are not members of that committee are not entitled to take part in the proceedings.

13.3 Leave of absence

A council may grant a member leave of absence following an application from that member. The council may delegate the power to grant a leave of absence to the Mayor in order to protect a member's privacy.

The Mayor may approve a member's application, and the Council may approve an application from the Mayor. The Mayor will advise all members of the council whenever a member has been granted leave of absence under delegated authority. Meeting minutes will record that a member has leave of absence as an apology for that meeting.

13.4 Apologies

A member who does not have leave of absence may tender an apology should they be absent from all or part of a meeting. The Mayor (or acting chair) must invite apologies at the

beginning of each meeting, including apologies for lateness and early departure. The meeting may accept or decline any apologies. Members may be recorded as absent on council business where their absence is a result of a commitment made on behalf of the council.

For clarification, the acceptance of a member's apology constitutes a grant of 'leave of absence' for that meeting.

13.5 Recording apologies

The minutes will record any apologies tendered before or during the meeting, including whether they were accepted or declined and the time of arrival and departure of all members.

13.6 Absent without leave

Where a member is absent from four (4) consecutive meetings of the council, local board or community board without leave of absence or an apology being accepted (not including extraordinary or emergency meetings) then the office held by the member will become vacant. A vacancy created in this way is treated as an extraordinary vacancy.

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

13.7 Right to attend by audio or audio visual link

Provided the conditions in standing orders 13.11 and 13.12 are met members of the local authority and its committees (and members of the public for the purpose of a deputation approved by the Chairperson), have the right to attend meetings by means of an electronic link, unless they have been lawfully excluded.

13.8 Member's status: quorum

Members who attend meetings by electronic link will not be counted as present for the purposes of a quorum.

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

13.9 Member's status: voting

Where a meeting has a quorum, determined by the number physically present, the members attending by electronic link can vote on any matters raised at the meeting.

13.10 Chairperson's duties

Where the technology is available and a member is attending a meeting by audio or audio visual link, the Chairperson must ensure that:

- (a) the technology for the link is available and of suitable quality; and
- (b) procedures for using the technology in the meeting will ensure that:
 - i. everyone participating in the meeting can hear each other;

- ii. the member's attendance by audio or audio visual link does not reduce their accountability or accessibility of that person in relation to the meeting;
- iii. the requirements of Part 7 of LGOIMA are met; and
- iv. the requirements in these standing orders are met.

If the Chairperson is attending by audio or audio visual link then chairing duties will be undertaken by the deputy chair or a member who is physically present.

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

13.11 Conditions for attending by audio or audio visual link

Noting standing order 13.7, the Chairperson may give approval for a member to attend meetings by electronic link, either generally or for a specific meeting. Examples of situations where approval can be given include:

- (a) where the member is at a place that makes their physical presence at the meeting impracticable or impossible;
- (b) where a member is unwell; and
- (c) where a member is unable to attend due to an emergency.

13.12 Request to attend by audio or audio visual link

Where possible, a member will give the Chairperson and the chief executive at least two (2) working days' notice when they want to attend a meeting by audio or audio visual link. Should, due to illness or emergency, this is not possible the member may give less notice.

Where such a request is made and the technology is available, the chief executive must take reasonable steps to enable the member to attend by audio or audio-visual link. However, the council has no obligation to make the technology for an audio or audio-visual link available.

If the member's request cannot be accommodated, or there is a technological issue with the link, this will not invalidate any acts or proceedings of the local authority or its committees.

13.13 Chairperson may terminate link

The Chairperson may direct that an electronic link should be terminated where:

- (a) use of the link is increasing, or may unreasonably increase, the length of the meeting;
- (b) the behaviour of the members using the link warrants termination, including the style, degree and extent of interaction between members;
- (c) it is distracting to the members who are physically present at the meeting; and
- (d) the quality of the link is no longer suitable.

13.14 Giving or showing a document

A person attending a meeting by audio or audio visual link may give or show a document by:

- (a) transmitting it electronically;

- (b) using the audio visual link; or
- (c) any other manner that the Chairperson thinks fit.

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

13.15 Link failure

Where an audio or audio visual link fails, or there are other technological issues that prevent a member who is attending by link from participating in a meeting, that member must be deemed to be no longer attending the meeting.

13.16 Confidentiality

A member who is attending a meeting by audio or audio visual link must ensure that the meeting's proceedings remain confidential during any times that the public are excluded. At such times, the Chairperson may require the member to confirm that no unauthorised people are able to view or hear the proceedings.

14. Chairperson's role in meetings

14.1 Council meetings

The Mayor must preside at meetings of the council unless they vacate the chair for a part or all of a meeting. If the Mayor is absent from a meeting or vacates the chair, the deputy Mayor must act as chairperson. If the deputy Mayor is also absent the local authority members who are present must elect a member to be the Chairperson at that meeting. This person may exercise the meeting responsibilities, duties and powers of the Mayor for that meeting.

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

14.2 Other meetings

In the case of committees, subcommittees and subordinate decision-making bodies, the appointed Chairperson must preside at each meeting unless they vacate the chair for all or part of a meeting. If the Chairperson is absent from a meeting or vacates the chair, the deputy Chairperson (if any) will act as Chairperson. If the deputy Chairperson is also absent, or has not been appointed, the committee members who are present must elect a member to act as Chairperson. This person may exercise the meeting responsibilities, duties and powers of the Chairperson.

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

14.3 Addressing the Chairperson

Members will address the Chairperson in a manner that the Chairperson has determined.

14.4 Chairperson's rulings

The Chairperson will decide all procedural questions where insufficient provision is made by these standing orders and with regard to all points of order. Any refusal to obey a Chairperson's ruling or direction constitutes contempt.

14.5 Chairperson standing

Whenever the Chairperson stands during a debate members are required to sit down (if required to stand to address the meeting) and be silent so that they can hear the Chairperson without interruption.

14.6 Member's right to speak

Members are entitled to speak in accordance with these standing orders. Members should address the Chairperson when speaking. They may not leave their place while speaking, unless they have the leave of the Chairperson.

14.7 Chairperson may prioritise speakers

When two or more members want to speak the Chairperson will name the member who may speak first. Other members who wish to speak have precedence where they intend to:

- (a) raise a point of order, including a request to obtain a time extension for the previous speaker; and/or
- (b) move a motion to terminate or adjourn the debate; and/or
- (c) make a point of explanation; and/or
- (d) request the Chair to permit the member a special request.

15. Public Participation

15.1 Requests to speak to Agenda items

There is an opportunity for people to speak to items on a Council or Foxton Community Board Agenda. A request must be lodged with the Chairperson, Chief Executive or other appropriate officer of Council, or via email public.participation@horowhenua.govt.nz by 12 noon on the day of the meeting and must identify the specific item to which a person wishes to speak. Requests will not be accepted for:

- matters that do not appear on a meeting agenda;
- proceedings of committees that do not have a substantive resolution for adoption;
- procedural items and reports which are for information only.

15.2 Approval by Chairperson

In all cases the request to speak shall be referred to the Chairperson of the meeting to confirm acceptance.

15.3 Applicant Advised of Outcome

The person requesting to speak shall be advised whether or not their request has been accepted. If declined, the applicant shall be advised of the reasons why. The author of any report to which there are requests to speak shall also be advised.

15.4 Time Limits

Unless the meeting determines otherwise, a limit of five (5) minutes is placed on each speaker.

16. Deputations

The purpose of a deputation is to enable a person, group or organisation to make a presentation to a meeting on a matter or matters covered by that meeting's terms of reference. Deputations should be approved by the Chairperson, or an official with delegated authority, five (5) working days before the meeting. Deputations may be heard at the commencement of the meeting or at the time that the relevant agenda item is being considered.

16.1 Time limits

Speakers can speak for up to five (5) minutes, or longer at the discretion of the Chairperson. No more than two speakers can speak on behalf of an organisation's deputation.

16.2 Restrictions

The Chairperson has the discretion to decline to hear or terminate a deputation at any time where:

- a speaker is repeating views presented by an earlier speaker at the meeting;
- the speaker is criticising elected members and/or staff;
- the speaker is being repetitious, disrespectful or offensive;
- the speaker has previously spoken on the same issue;
- the matter is subject to legal proceedings; and
- the matter is subject to a hearing, including the hearing of submissions where the local authority or committee sits in a quasi-judicial capacity.

16.3 Questions of a deputation

At the conclusion of the deputation members may, with the permission of the Chairperson, ask questions of any speakers. Questions are to be confined to obtaining information or clarification on matters raised by the deputation.

16.4 Resolutions

Any debate on a matter raised in a deputation must occur at the time at which the matter is scheduled to be discussed on the meeting agenda and once a motion has been moved and seconded.

17. Petitions

17.1 Form of petitions

Petitions may be presented to the local authority or any of its committees, local boards or community boards, as long as the subject matter falls within the terms of reference of the intended meeting.

Petitions must contain at least twenty (20) signatures and consist of fewer than 150 words (not including signatories). They must be received by the chief executive at least five (5) working days before the date of the meeting at which they will be presented.

Petitions must not be disrespectful, use offensive language or include malicious statements (see standing order 20.9 on qualified privilege). They may be written in English or te reo Māori. Petitioners planning to present their petition in te reo or sign language should advise the chief executive in time to allow translation services to be arranged.

17.2 Petition presented by petitioner

A petitioner who presents a petition to the local authority or any of its committees and subcommittees, local boards or community boards, may speak for five (5) minutes (excluding questions) about the petition, unless the meeting resolves otherwise. The Chairperson must terminate the presentation of the petition if he or she believes the petitioner is being disrespectful, offensive or making malicious statements.

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

17.3 Petition presented by member

Members may present petitions on behalf of petitioners. In doing so, members must confine themselves to presenting:

- (a) the petition;
- (b) the petitioners' statement; and
- (c) the number of signatures.

18. Exclusion of public

18.1 Motions and resolutions to exclude the public

Members of a meeting may resolve to exclude the public from a meeting. The grounds for exclusion are those specified in section 48 of LGOIMA (see Appendix 1).

Every motion to exclude the public must be put while the meeting is open to the public, and copies of the motion must be available to any member of the public who is present. If the motion is passed the resolution to exclude the public must be in the form set out in schedule 2A of LGOIMA (see Appendix 2). The resolution must state:

- (a) the general subject of each matter to be excluded;
- (b) the reason for passing the resolution in relation to that matter; and
- (c) the grounds on which the resolution is based.

The resolution will form part of the meeting's minutes.

s. 48 LGOIMA.

18.2 Specified people may remain

Where a meeting resolves to exclude the public, the resolution may provide for specified persons to remain if, in the opinion of the meeting, they will assist the meeting to achieve its purpose. Any such resolution must state, in relation to the matter to be discussed, how the knowledge held by the specified people is relevant and be of assistance.

No such resolution is needed for people who are entitled to be at the meeting, such as relevant staff and officials contracted to the council for advice on the matter under consideration.

s.48 (6) LGOIMA.

18.3 Public excluded items

The chief executive must place in the public-excluded section of the agenda any items that he or she reasonably expects the meeting to consider with the public excluded. The public excluded section of the agenda must indicate the subject matter of the item and the reason the public are excluded.

s.46A (8) LGOIMA.

18.4 Non-disclosure of information

No member or officer may disclose to any person, other than another member, officer or person authorised by the chief executive, any information that has been, or will be, presented to any meeting from which the public is excluded, or proposed to be excluded.

This restriction does not apply where a meeting has resolved to make the information publicly available or where the chief executive has advised, in writing, that one or both of the following apply:

- (a) there are no grounds under LGOIMA for withholding the information; and
- (b) the information is no longer confidential.

18.5 Release of information from public excluded session

A local authority may provide for the release to the public of information which has been considered during the public excluded part of a meeting.

Each public excluded meeting must consider and agree by resolution, what, if any, information will be released to the public. In addition, the chief executive may release information which has been considered at a meeting from which the public has been excluded where it is determined the grounds to withhold the information no longer exist. The chief executive will inform the subsequent meeting of the nature of the information released.

19. Voting

19.1 Decisions by majority vote

Unless otherwise provided for in the LGA 2002, other legislation or standing orders, the acts of and questions before a local authority (or local and community boards) must be decided at a meeting through a vote exercised by the majority of the members of that meeting voting.

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

19.2 Open voting

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

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

19.3 Chairperson does not have a casting vote

The Mayor, Chairperson or any other person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, does not have a casting vote.

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

19.4 Method of voting

The method of voting must be as follows:

- (a) the Chairperson in putting the motion must call for an expression of opinion on the voices or take a show of hands, the result of either of which, as announced by the Chairperson, must be conclusive unless such announcement is questioned immediately by any member, in which event the Chairperson will call a division;
- (b) the Chairperson or any member may call for a division instead of or after voting on the voices and/or taking a show of hands; and

- (c) where a suitable electronic voting system is available that system may be used instead of a show of hands, vote by voices, or division, and the result publicly displayed and notified to the Chairperson who must declare the result.

19.5 Calling for a division

When a division is called, the chief executive must record the names of the members voting for and against the motion and abstentions and provide the names to the Chairperson to declare the result. The result of the division must be entered into the minutes and include members' names and the way in which they voted.

The Chairperson may call a second division where there is confusion or error in the original division.

19.6 Request to have votes recorded

If requested by a member immediately after a vote the minutes must record the member's vote or abstention. Recording any other matters e.g. reason for the vote or abstention is not permitted.

19.7 Members may abstain

Any member may abstain from voting.

20. Conduct

20.1 Calling to order

When the Chairperson calls members to order they must be seated and stop speaking. If the members fail to do so, the Chairperson may direct that they should leave the meeting immediately for a specified time.

20.2 Behaviour consistent with Code of Conduct

No member, at any meeting, may act inconsistently with their Code of Conduct or speak or act in a manner which is disrespectful of other members, staff or the public.

20.3 Retractions and apologies

In the event of a member or speaker who has been disrespectful of another member or contravened the council's Code of Conduct, the Chairperson may call upon that member or speaker to withdraw the offending comments, and may require them to apologise. If the member refuses to do so the Chairperson may direct that they should leave the meeting immediately for a specified time and/or make a complaint under the Code of Conduct.

20.4 Disorderly conduct

Where the conduct of a member is disorderly or is creating a disturbance the Chairperson may require that member to leave the meeting immediately for a specified time.

If the disorder continues the Chairperson may adjourn the meeting for a specified time. At the end of this time the meeting must resume and decide, without debate, whether the meeting should proceed or be adjourned.

The Chairperson may also adjourn the meeting if other people cause disorder or in the event of an emergency.

20.5 Contempt

Where a member is subject to repeated cautions by the Chairperson for disorderly conduct the meeting may, should it so decide, resolve that the member is in contempt. Any such resolution must be recorded in the meeting's minutes.

20.6 Removal from meeting

A member of the police or authorised security personnel may, at the Chairperson's request, remove or exclude a member from a meeting.

This standing order will apply where the Chairperson has ruled that the member should leave the meeting and the member has refused or failed to do so; or has left the meeting and attempted to re-enter it without the Chairperson's permission.

20.7 Financial conflicts of interests

Every member present at a meeting must declare any direct or indirect financial interest that they hold in any matter being discussed at the meeting, other than an interest that they hold in common with the public.

No member may vote on, or take part in, a discussion about any matter in which they have a direct or indirect financial interest unless an exception set out in s.6 LAMIA applies to them, or the Auditor-General has granted them an exemption or declaration under s.6.

Members with a financial interest should physically withdraw themselves from the table unless the meeting is in public excluded in which case they should leave the room.

Neither the Chairperson nor the meeting may rule on whether a member has a financial interest in the matter being discussed. The minutes must record any declarations of financial interests and the member's abstention from any discussion and voting on the matter.

s. 6 & 7 LAMIA.

20.8 Non-financial conflicts of interests

Non-financial interests always involve questions of judgement and degree about whether the responsibility of a member of a local authority (or local or community board) could be affected by some other separate interest or duty of that member in relation to a particular matter. If a member considers that they have a non-financial conflict of interest in a matter they must not take part in the discussions about that matter or any subsequent vote.

The member must leave the table when the matter is considered, but does not need to leave the room. The minutes must record the declaration and member's subsequent abstention from discussion and voting.

Neither the Chairperson nor the meeting may rule on whether a member has a non-financial interest in the matter being discussed.

20.9 Qualified privilege for meeting proceedings

Any oral statement made at any meeting of the local authority in accordance with the rules adopted by the local authority for guiding its proceedings is privileged, unless the statement is proved to have been made with ill will or took improper advantage of the occasion of publication.

s. 53, LGOIMA.

20.10 Qualified privilege additional to any other provisions

The privilege referred to above is in addition to any other privilege, whether absolute or qualified, that applies as a result of any other enactment or rule of law applying to any meeting of the local authority.

s. 53, LGOIMA.

20.11 Electronic devices at meetings

Electronic devices and phones can only be used to advance the business of a meeting.

Personal use may only occur at the discretion of the chair. A Chairperson may require that an electronic device is switched off if its use is likely to distract a meeting from achieving its business or a member is found to be receiving information or advice from sources not present at the meeting which may affect the integrity of the proceedings.

21. General rules of debate

21.1 Chairperson may exercise discretion

The application of any procedural matters in this section of the standing orders, such as the number of times a member may speak or when a chair can accept a procedural motion to close or adjourn a debate, is subject to the discretion of the Chairperson.

21.2 Time limits on speakers

The following time limits apply to members speaking at meetings:

- (a) movers of motions when speaking to the motion – not more than five (5) minutes;
- (b) movers of motions when exercising their right of reply – not more than five (5) minutes; and
- (c) other members – not more than five (5) minutes.

Time limits can be extended if a motion to that effect is moved, seconded and supported by a majority of members present.

21.3 Questions to staff

During a debate, members can ask staff questions about the matters being discussed. Questions must be asked through the Chairperson and how the question should be dealt with is at the Chairperson's discretion.

21.4 Questions of clarification

At any point of a debate a member may ask the Chairperson for clarification about the nature and content of the motion which is the subject of the debate and the particular stage the debate has reached.

21.5 Members may speak only once

A member may not speak more than once to a motion at a meeting of the council, except with permission of the Chairperson. Members can speak more than once to a motion at a committee or subcommittee meeting with the Chairperson's permission.

21.6 Limits on number of speakers

If three speakers have spoken consecutively in support of, or in opposition to, a motion, the Chairperson may call for a speaker to the contrary. If there is no speaker to the contrary, the Chairperson must put the motion after the mover's right of reply.

Members speaking must, if requested by the Chairperson, announce whether they are speaking in support of, or opposition to, a motion.

21.7 Secunder may reserve speech

A member may second a motion or amendment without speaking to it, reserving the right to speak later in the debate.

21.8 Speaking only to relevant matters

Members may speak to any matter before the meeting; a motion or amendment which they propose; and to raise a point of order arising out of debate, but not otherwise. Members must confine their remarks strictly to the motion or amendment to which they are speaking.

The Chairperson's rulings on any matters arising under this standing order are final and not open to challenge.

21.9 Restating motions

At any time during a debate a member may ask, for their information, that the Chairperson restate a motion and any amendments; but not in a manner that interrupts a speaker.

21.10 Criticism of resolutions

A member speaking in a debate may not unduly criticise the validity of any resolution except by a notice of motion to amend or revoke the resolution.

21.11 Objecting to words

When a member objects to any words used by another member in a speech and wants the minutes to record their objection, they must object at the time when the words are used and before any other member has spoken. The Chairperson must order the minutes to record the objection.

21.12 Right of reply

The mover of an original motion has a right of reply. A mover of an amendment to the original motion does not. In their reply, the mover must confine themselves to answering previous speakers and not introduce any new matters.

A mover's right of reply can only be used once. It can be exercised either at the end of the debate on the original, substantive or substituted motion or at the end of the debate on a proposed amendment.

However, the original mover may reserve their right of reply and speak once to the principal motion and once to each amendment without losing that right of reply. If a closure motion is carried the mover of the motion has the right of reply before the motion or amendment is put to the vote.

21.13 No other member may speak

In exercising a right of reply, no other member may speak:

- (a) after the mover has started their reply;
- (b) after the mover has indicated that they want to forego this right; and
- (c) where the mover has spoken to an amendment to the original motion and the Chairperson has indicated that he or she intends to put the motion.

21.14 Adjournment motions

The carrying of any motion to adjourn a meeting must supersede other business still remaining to be disposed of. Any such business must be considered at the next meeting. Business referred to, or referred back to, a specified committee or local or community board, is to be considered at the next ordinary meeting of that committee or board, unless otherwise specified.

21.15 Chairperson's acceptance of closure motions

The Chairperson may only accept a closure motion where there have been at least two speakers for and two speakers against the motion that is proposed to be closed, or the Chairperson considers it reasonable to do so.

However, the Chairperson must put a closure motion if there are no further speakers in the debate. When the meeting is debating an amendment, the closure motion relates to the amendment. If a closure motion is carried, the mover of the motion under debate has the right of reply after which the Chairperson puts the motion or amendment to the vote.

22. General procedures for speaking and moving motions

22.1 Options for speaking and moving

This subsection provides three options for speaking and moving motions and amendments at a meeting of a local authority, its committees and subcommittees, and any local or community boards.

The Horowhenua District Council has resolved that the default option for speaking and moving motions is Option C.

22.2 Option A

- The mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- Only members who have not spoken to the original or substituted motion may move or second an amendment to it.
- The mover or seconder of an amendment whether it is carried or lost cannot move or second a subsequent amendment.
- Members can speak to any amendment and, provided they have not spoken to the motion or moved or seconded an amendment, they can move or second further amendments.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.3 Option B

- The mover and seconder of a motion cannot move or second an amendment. (This does not apply when the mover or seconder of a motion to adopt a report of a committee wants to amend an item in the report. In this case the original mover or seconder may also propose or second the suggested amendment).
- Any members, regardless of whether they have spoken to the original or substituted motion, may move or second an amendment to it.
- The mover or seconder of an amendment that is carried can move or second a subsequent amendment. A mover or seconder of an amendment which is lost cannot move or second a subsequent amendment.
- Members can speak to any amendment.

- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.4 Option C

- The mover and seconder of a motion can move or second an amendment.
- Any members, regardless of whether they have spoken to the original or substituted motion, may move or second an amendment to it.
- The mover or seconder of an amendment whether it is carried or lost can move or second further amendments.
- Members can speak to any amendment.
- The meeting by agreement of the majority of members present may amend a motion with the agreement of the mover and seconder.

22.5 Procedure if no resolution reached

If no resolution is reached the Chairperson may accept a new motion to progress the matter under discussion.

23. Motions and amendments

23.1 Proposing and seconding motions

All motions and amendments moved during a debate must be seconded (including notices of motion). The Chairperson may then state the motion and propose it for discussion.

Amendments and motions that are not seconded are not valid and are not entered in the minutes.

23.2 Motions in writing

The Chairperson may require movers of motions and amendments to provide them in writing, signed by the mover.

23.3 Motions expressed in parts

The Chairperson, or any member, can require a motion that has been expressed in parts to be decided part by part.

23.4 Substituted motion

Where a motion is subject to an amendment the meeting may substitute the motion with the amendment, provided the mover and seconder of the original motion agree to its withdrawal. All members may speak to the substituted motion.

23.5 Amendments to be relevant and not direct negatives

Every proposed amendment must be relevant to the motion under discussion. Proposed amendments cannot be similar to an amendment that has already been lost. An amendment cannot be a direct negative to the motion or the amended motion.

Please note that amendments that are significantly different must comply with the decision-making provisions of the Part 6, LGA 2002.

23.6 Chairperson may recommend amendment

A Chairperson, when moving the adoption of a recommendation from a committee or sub-committee to the council can include in the motion an amendment to the committee or sub-committee's recommendation.

23.7 Foreshadowed amendments

The meeting must dispose of an existing amendment before a new amendment can be foreshadowed. However, members may notify the Chairperson that they intend to move further amendments as well as the nature of the content of those amendments.

23.8 Lost amendments

Where an amendment is lost, the meeting will resume the debate on the original or substituted motion. Any member who has not spoken to that motion may speak to it, and may move or second a further amendment.

23.9 Carried amendments

Where an amendment is carried the meeting will resume the debate on the original motion as amended. This will now be referred to as the substantive motion. Members who have not spoken to the original motion may speak to the substantive motion, and may move or second a further amendment to it.

23.10 Where a motion is lost

In a situation where a motion that recommends a course of action is lost a new motion, with the consent of the Chairperson, may be proposed to provide direction.

23.11 Withdrawal of motions and amendments

Once a motion or amendment which has been seconded has been put to the meeting by the Chairperson the mover cannot withdraw it without the consent of the majority of the members who are present and voting.

The mover of an original motion, which has been subject to an amendment that has been moved and seconded, cannot withdraw the original motion until the amendment has either been lost or withdrawn by agreement, as above.

23.12 No speakers after reply or motion has been put

A member may not speak to any motion once:

- (a) the mover has started their right of reply in relation to the motion; and
- (b) the Chairperson has started putting the motion.

24. Revocation or alteration of resolutions

24.1 Member may move revocation of a decision

A member may give the chief executive a notice of motion for the revocation or alteration of all or part of a previous resolution of the council, subordinate body, local or community board. The notice must set out:

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

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

24.2 Revocation must be made by the body responsible for the decision

If a resolution is made under delegated authority by a committee, subcommittee or subordinate decision-making body, or a local or community board, only that body may revoke or amend the resolution, assuming the resolution is legally made.

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

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

24.3 Requirement to give notice

A member must give notice to the chief executive at least five (5) working days before the meeting at which it is proposed to consider the motion. The notice is to be signed by not less than one third of the members of the local authority, including vacancies. Notice can be sent via email and include the scanned electronic signatures of members. If the notice of motion is lost, no similar notice of motion which is substantially the same in purpose and effect may be accepted within the next twelve months.

24.4 Restrictions on actions under the affected resolution

Once a notice of motion to revoke or alter a previous resolution has been received no irreversible action may be taken under the resolution in question until the proposed notice of motion has been dealt with.

Exceptions apply where, in the opinion of the Chairperson:

- (a) the practical effect of delaying actions under the resolution would be the same as if the resolution had been revoked;
- (b) by reason of repetitive notices, the effect of the notice is an attempt by a minority to frustrate the will of the local authority or the committee that made the previous resolution.

In either of these situations, action may be taken under the resolution as though no notice of motion had been given to the chief executive.

24.5 Revocation or alteration by resolution at same meeting

A meeting may revoke or alter a previous resolution made at the same meeting where, during the course of the meeting, it receives fresh facts or information concerning the resolution. In this situation 75 per cent of the members present and voting must agree to the revocation or alteration.

24.6 Revocation or alteration by recommendation in report

The local authority, on a recommendation in a report by the Chairperson, chief executive, or any committee or subcommittee, local or community board, may revoke or alter all or part of a resolution passed by a previous meeting. The chief executive must give at least two (2) clear working days' notice of any meeting that will consider a revocation or alteration recommendation.

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

25. Procedural motions

25.1 Procedural motions must be taken immediately

A procedural motion to close or adjourn a debate will take precedence over other business, except points of order and rights of reply. If the procedural motion is seconded, the Chairperson must put it to the vote immediately, without discussion or debate. A procedural motion to close or adjourn debate can be taken after two speakers have spoken for the motion and two against or, in the Chairperson's opinion, it is reasonable to accept the closure motion.

25.2 Procedural motions to close or adjourn a debate

Any member who has not spoken on the matter under debate may move any one of the following procedural motions to close or adjourn a debate:

- (a) that the meeting be adjourned to the next ordinary meeting (unless the member states an alternative time and place);
- (b) that the motion under debate should now be put (a closure motion);
- (c) that the item being discussed should be adjourned to a specified time and place and not be further discussed at the meeting;
- (d) that the item of business being discussed should lie on the table and not be further discussed at this meeting; (items lying on the table at the end of the triennium will be deemed to have expired); and
- (e) that the item being discussed should be referred (or referred back) to the relevant committee or local or community board.

A member seeking to move a procedural motion must not interrupt another member who is already speaking.

25.3 Voting on procedural motions

Procedural motions to close or adjourn a debate must be decided by a majority of all members who are present and voting. If the motion is lost no member may move a further procedural motion to close or adjourn the debate within the next 15 minutes.

25.4 Debate on adjourned items

When debate resumes on items of business that have been previously adjourned all members are entitled to speak on the items.

25.5 Remaining business at adjourned meetings

Where a resolution is made to adjourn a meeting, the remaining business will be considered at the next meeting.

25.6 Business referred to the council, committee or local or community board

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

25.7 Other types of procedural motions

The Chairperson has discretion about whether to allow any other procedural motion that is not contained in these standing orders.

26. Points of order

26.1 Members may raise points of order

Any member may raise a point of order when they believe these standing orders have been breached. When a point of order is raised, the member who was previously speaking must stop speaking and sit down (if standing).

26.2 Subjects for points of order

A member who is raising a point of order must state precisely what its subject is. Points of order may be raised for the following subjects:

- (a) Disorder – to bring disorder to the attention of the Chairperson;
- (b) Language – to highlight use of disrespectful, offensive or malicious language;
- (c) Irrelevance – to inform the chair that the topic being discussed is not the matter currently before the meeting;
- (d) Misrepresentation – to alert the chair of a misrepresentation in a statement made by a member, an officer or a council employee;
- (e) Breach of standing order – to highlight a possible breach of a standing order while also specifying which standing order is subject to the breach; and
- (f) Recording of words – to request that the minutes record any words that have been the subject of an objection.

26.3 Contradictions

Expressing a difference of opinion or contradicting a statement by a previous speaker does not constitute a point of order.

26.4 Point of order during division

A member may not raise a point of order during a division, except with the permission of the Chairperson.

26.5 Chairperson's decision on points of order

The Chairperson may decide a point of order immediately after it has been raised, or may choose to hear further argument about the point before deciding. The Chairperson's ruling on any point of order, and any explanation of that ruling, is not open to any discussion and is final.

27. Notices of motion

27.1 Notice of intended motion to be in writing

Notice of intended motions must be in writing signed by the mover, stating the meeting at which it is proposed that the intended motion be considered, and must be delivered to the chief executive at least five (5) clear working days before such meeting. [Notice of an

intended motion can be sent via email and include the scanned electronic signature of the mover].

Once the motion is received the chief executive must give members notice in writing of the intended motion at least two (2) clear working days' notice of the date of the meeting at which it will be considered.

27.2 Refusal of notice of motion

The Chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) is disrespectful or which contains offensive language or statements made with malice; or
- (b) is not related to the role or functions of the local authority or meeting concerned; or
- (c) contains an ambiguity or a statement of fact or opinion which cannot properly form part of an effective resolution, and where the mover has declined to comply with such requirements as the chief executive officer may make; or
- (d) is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned; or
- (e) fails to include sufficient information as to satisfy the decision-making provisions of s.77-82 LGA 2002; or
- (f) concerns a matter where decision-making authority has been delegated to a subordinate body or a local or community board.

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

27.3 Mover of notice of motion

Notices of motion may not proceed in the absence of the mover unless moved by another member authorised to do so, in writing, by the mover.

27.4 Alteration of notice of motion

Only the mover, at the time the notice of motion is moved and with the agreement of a majority of those present at the meeting, may alter a proposed notice of motion. Once moved and seconded no amendments may be made to a notice of motion.

27.5 When notices of motion lapse

Notices of motion that are not moved when called for by the Chairperson must lapse.

27.6 Referral of notices of motion

Any notice of motion received that refers to a matter ordinarily dealt with by a committee of the local authority or a local or community board must be referred to that committee or board by the chief executive.

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

27.7 Repeat notices of motion

When a motion has been considered and rejected by the local authority or a committee, no similar notice of motion which, in the opinion of the Chairperson, may be accepted within the next 12 months, unless signed by not less than one third of all members, including vacancies.

Where a notice of motion has been adopted by the local authority no other notice of motion which, in the opinion of the Chairperson has the same effect, may be put while the original motion stands.

28. Minutes

28.1 Minutes to be evidence of proceedings

The local authority, its committees, subcommittees and any local and community boards must keep minutes of their proceedings. These minutes must be kept in hard or electronic copy, authorised by a Chairperson's manual or electronic signature once confirmed by resolution at a subsequent meeting. Once authorised the minutes are the *prima facie* evidence of the proceedings to which they relate.

cl. 28 Schedule 7, LGA 2002.

28.2 Matters recorded in minutes

The chief executive must keep the minutes of meetings. The minutes must record:

- (a) the date, time and venue of the meeting;
- (b) the names of the members present;
- (c) the Chairperson;
- (d) any apologies or leaves of absences;
- (e) the arrival and departure times of members;
- (f) any failure of a quorum;
- (g) a list of any external speakers and the topics they addressed;
- (h) a list of the items considered;
- (i) the resolutions and amendments related to those items including those that were lost, provided they had been moved and seconded in accordance with these standing orders;
- (j) the names of all movers, and seconders;
- (k) any objections made to words used;
- (l) all divisions taken and, if taken, a record of each members' vote;
- (m) the names of any members requesting that their vote or abstention be recorded;

- (n) any declarations of financial or non-financial conflicts of interest;
- (o) the contempt, censure and removal of any members;
- (p) any resolutions to exclude members of the public;
- (q) the time at which the meeting concludes or adjourns; and
- (r) the names of people permitted to stay in public excluded.

Please Note: hearings under the RMA, Dog Control Act 1996 and Sale and Supply of Alcohol Act 2012 may have special requirements for minute taking.

28.3 No discussion on minutes

The only topic that may be discussed at a subsequent meeting, with respect to the minutes, is their correctness.

28.4 Minutes of last meeting before election

The chief executive and the relevant Chairpersons must sign, or agree to have their digital signature inserted to, the minutes of the last meeting of the local authority and its committees, subcommittees and local and community boards before the next election of members.

29. Keeping a record

29.1 Maintaining accurate records

A local authority must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice, including the records of any matter that is contracted out to an independent contractor.

All public records that are in its control must be maintained in an accessible form, so as to be able to be used for subsequent reference.

s. 17 Public Records Act 2005.

29.2 Method for maintaining records

Records of minutes may be kept in hard copy (Minute Books) and/or in electronic form. If minutes are stored electronically the repository in which they are kept must meet the following requirements:

- (a) the provision of a reliable means of assuring the integrity of the information is maintained; and
- (b) the information is readily accessible so as to be usable for subsequent reference.

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

29.3 Inspection

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

s. 51 LGOIMA.

29.4 Inspection of public excluded matters

The chief executive must consider any request for the minutes of a meeting, or part of a meeting, from which the public was excluded as if it is a request for official information in terms of the Local Government Official Information and Meetings Act 1987.

Referenced documents

- Commissions of Inquiry Act 1908
- Crimes Act 1961
- Contract and Law Act 2017
- Financial Markets Conduct Act 2013
- Local Authorities (Members' Interests) Act 1968 (LAMIA)
- Local Electoral Act 2001 (LEA)
- Local Government Act 1974 and 2002 (LGA)
- Local Government Official Information and Meetings Act 1987 (LGOIMA)
- Marine Farming Act 1971
- Public Records Act 2005
- Resource Management Act 1991 (RMA)
- Sale and Supply of Alcohol Act 2012
- Secret Commissions Act 1910
- Securities Act 1978

Appendix 1: Grounds to exclude the public

A local authority may, by resolution, exclude the public from the whole or any part of the proceedings of any meeting only on one or more of the following grounds:

- A1** That good reason exists for excluding the public from the whole or any part of the proceedings of any meeting as the public disclosure of information would be likely:
- (a) to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
 - (b) to endanger the safety of any person.
- A2** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information where the withholding of the information is necessary to:
- (a) Protect the privacy of natural persons, including that of deceased natural persons; or
 - (b) Protect information where the making available of the information would:
 - i. disclose a trade secret; or
 - ii. be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.
 - (ba) In the case only of an application for a resource consent, or water conservation order, or a requirement for a designation or heritage order, under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu; or
 - (c) Protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would:
 - i. be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied; or
 - ii. be likely otherwise to damage the public interest.
 - (d) Avoid prejudice to measures protecting the health or safety of members of the public; or
 - (e) Avoid prejudice to measures that prevent or mitigate material loss to members of the public; or
 - (f) Maintain the effective conduct of public affairs through –the protection of such members, officers, employees, and persons from improper pressure or harassment; or
 - (g) Maintain legal professional privilege; or
 - (h) Enable any Council holding the information to carry out, without prejudice or disadvantage, commercial activities; or
 - (i) Enable any Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
 - (j) Prevent the disclosure or use of official information for improper gain or improper advantage.

See s.7 LGOIMA 1987.

Where A2 of this Appendix applies the public may be excluded unless, in the circumstances of a particular case, the exclusion of the public is outweighed by other considerations which render it desirable and in the public interest, that the public not be excluded.

- A3** That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information, the public disclosure of which would:
- (a) Be contrary to the provisions of a specified enactment; or
 - (b) Constitute contempt of Court or of the House of Representatives.
- A4** That the purpose of the whole or the relevant part of the proceedings of the meeting is to consider a recommendation made to that Council by an Ombudsman under section 30(1) or section 38(3) of this Act (in the case of a Council named or specified in Schedule 1 to this Act).
- A5** That the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the Council to deliberate in private on its decision or recommendation in:
- (a) Any proceedings before a Council where:
 - i. a right of appeal lies to any Court or tribunal against the final decision of the Council in those proceedings;
 - ii. the Council is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings; and
 - iii. proceedings of a local authority exist in relation to any application or objection under the Marine Farming Act 1971.

See s. 48 LGOIMA.

Appendix 2: Sample resolution to exclude the public

In accordance with section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by section 6 or section 7 of that Act (or sections 6, 7 or 9 of the Official Information Act 1982, as the case may be), it is **moved**:

1 that the public is excluded from:

- The whole of the proceedings of this meeting; *(deleted if not applicable)*
- The following parts of the proceedings of this meeting, namely; *(delete if not applicable)*

The general subject of the matters to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds for excluding the public, as specified by s 48(1) of the Local Government Official Information and Meetings Act 1987, are set out below:

Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To prevent the disclosure of information which would— <ul style="list-style-type: none"> i. be contrary to the provisions of a specified enactment; or ii. constitute contempt of court or of the House of Representatives (s.48(1)(b)).
		To consider a recommendation made by an Ombudsman (s. 48(1)(c)).
		To deliberate on matters relating to proceedings where: <ul style="list-style-type: none"> i. a right of appeal lies to a court or tribunal against the final decision of the councils in those proceedings; or ii. the council is required, by an enactment, to make a recommendation in respect of the matter that is the subject of those proceedings (s.48(1)(d)).
		To deliberate on proceedings in relation to an application or objection under the Marine Farming Act 1971 (s.48(1)(d)).

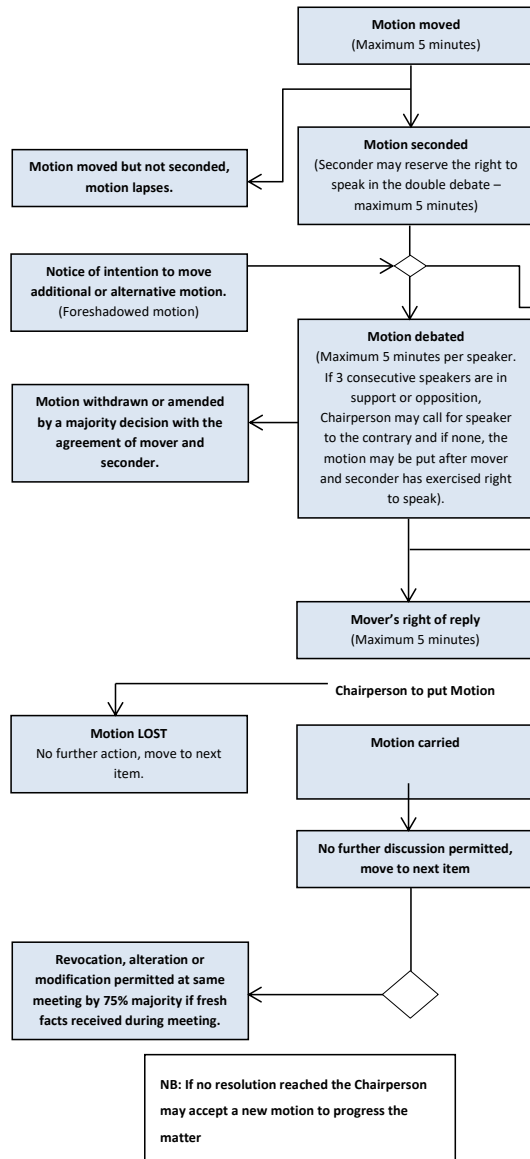
Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations) (s 7(2)(i)).
		To protect the privacy of natural persons, including that of deceased natural persons (s 7(2)(a)).
		To maintain legal professional privilege (s 7(2)(g)).
		To prevent the disclosure or use of official information for improper gain or advantage (s. 7(2)(j)).
		To protect information which if public would; i. disclose a trade secret; or ii. unreasonably prejudice the commercial position of the person who supplied or who is the subject of the information (s 7(2)(b)).
		To avoid serious offence to Tikanga Māori, or the disclosure of the location of waahi tapu in relation to an application under the RMA 1991 for; <ul style="list-style-type: none"> • a resource consent, or • a water conservation order, or • a requirement for a designation or • an heritage order, (s 7(2)(ba)).
		To protect information which is subject to an obligation of confidence where the making available of the information would be likely to: i. prejudice the supply of similar information, or information from the same source, where it is in the public interest that such information should continue to be supplied; or ii. would be likely otherwise to damage the public interest (s 7(2)(c)).

Meeting Item No. and subject	Reason for excluding the public	Grounds for excluding the public
		To avoid prejudice to measures protecting the health or safety of members of the public (s 7(2)(d)).
		To avoid prejudice to measures that prevent or mitigate material loss to members of the public (s 7(2)(e)).
		To maintain the effective conduct of public affairs by protecting members or employees of the Council in the course of their duty, from improper pressure or harassment (s 7(2)(f)(ii)).
		To enable the council to carry out, without prejudice or disadvantage, commercial activities (s 7(2)(h)).

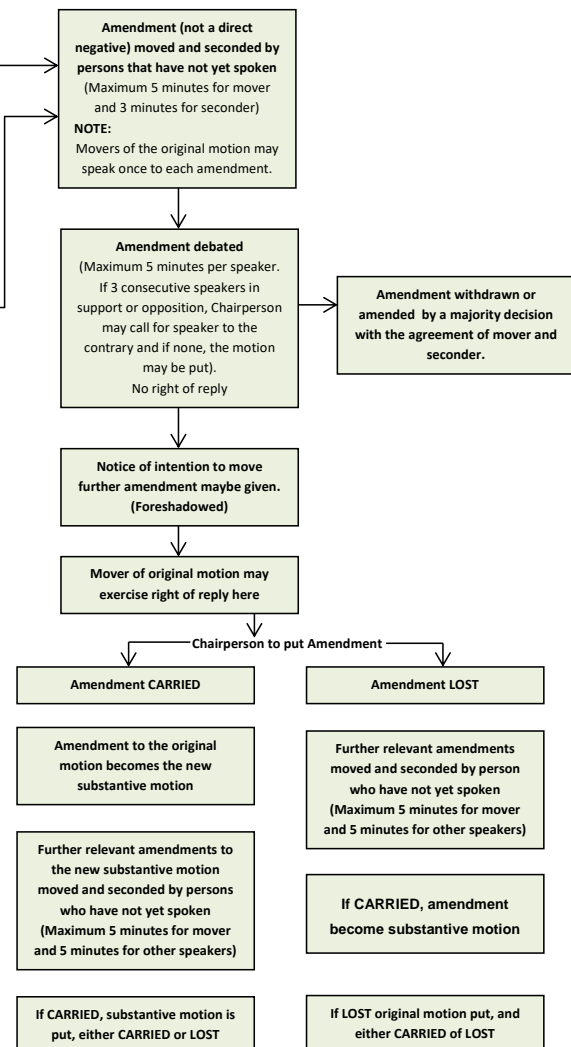
2. That *(name of person(s))* is permitted to remain at this meeting after the public has been excluded because of their knowledge of *(specify topic under discussion)*. This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because *(specify)*.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

Appendix 3: Motions and amendments (Option A)

Motions without amendments

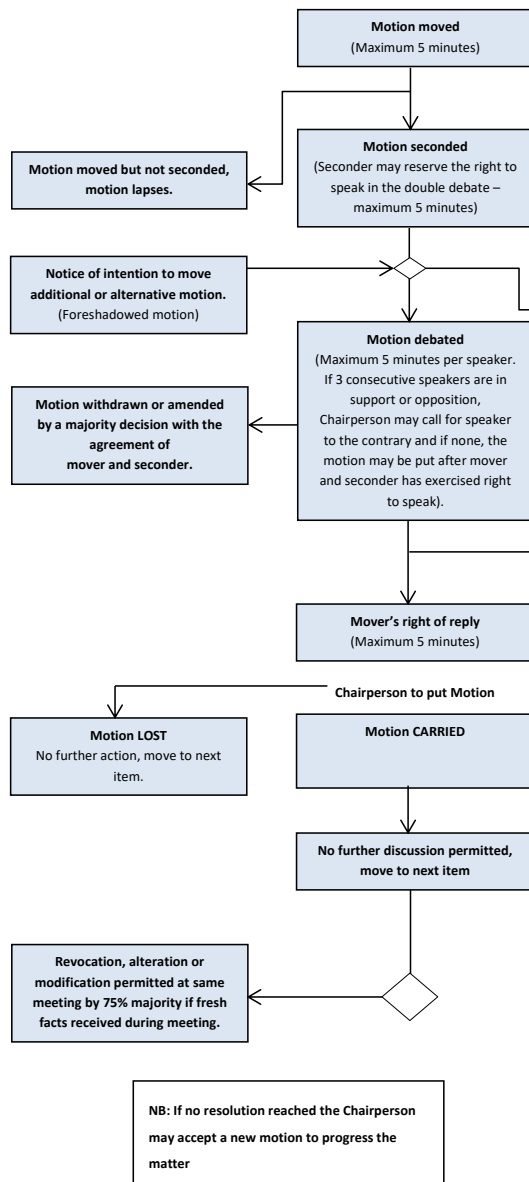


Motions with amendments

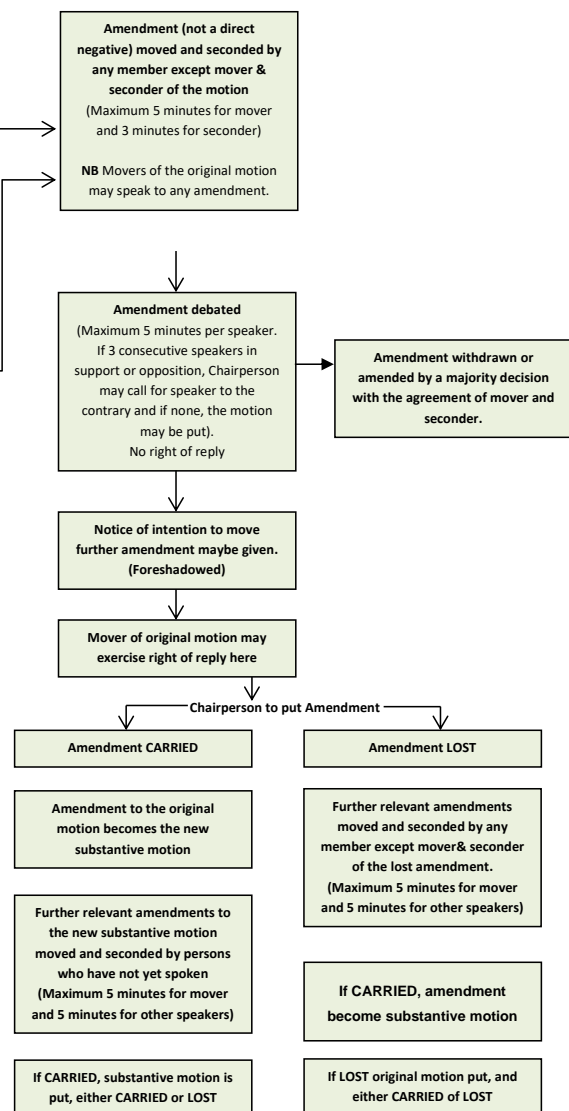


Appendix 4: Motions and amendments (Option B)

Motions without amendments

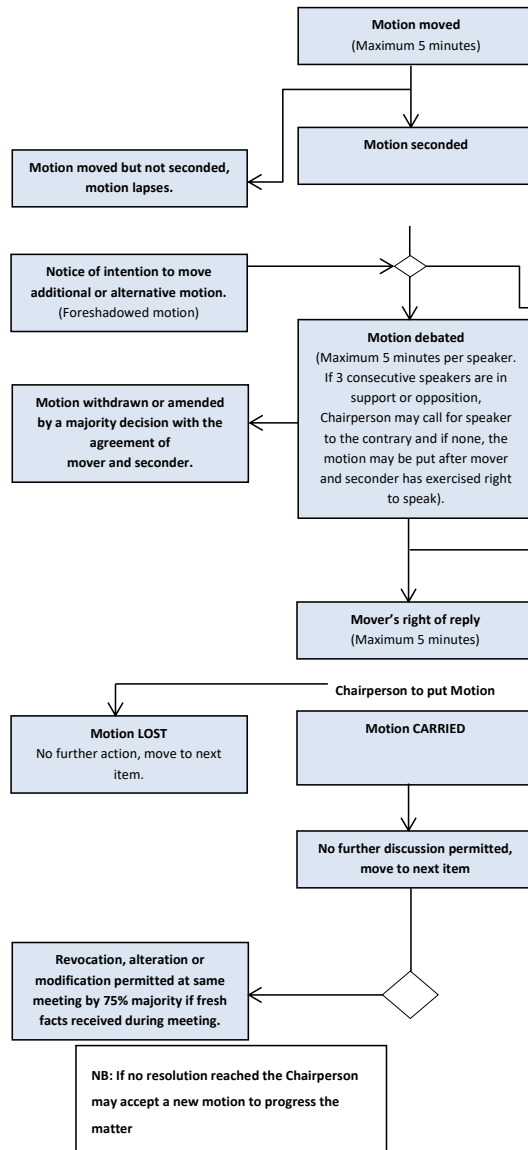


Motions with amendments

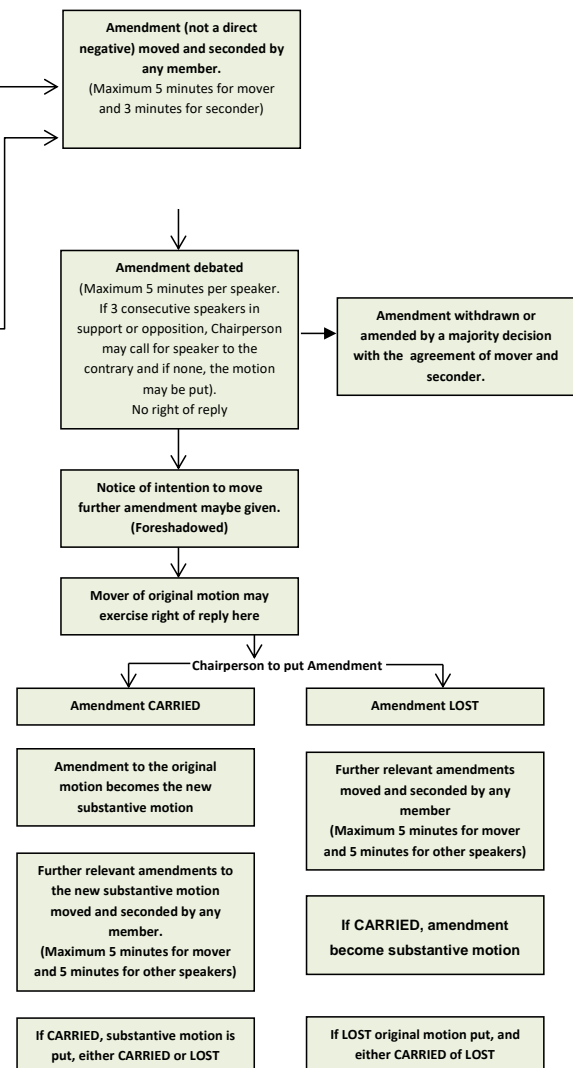


Appendix 5: Motions and amendments (Option C)

Motions without amendments



Motions with amendments



Appendix 6: Table of procedural motions

Motion	Has the Chair discretion to refuse this Motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
(a) "That the meeting be adjourned to the next ordinary meeting, or to a stated time and place"	No	Yes	No	As to time and date only	No	No	No	Yes – 15 minutes	If carried, debate on the original motion and amendment are adjourned	If carried, debate on the original motion and procedural motion are adjourned	On resumption of debate, the mover of the adjournment speaks first. Members who have spoken in the debate may not speak again
(b) "That the motion under debate be now put (closure motion)"	No	Yes	No	No	No	No	No	Yes – 15 Minutes	If carried, only the amendment is put	If carried, only the procedural motion is put	The mover of the motion under debate is entitled to exercise a right of reply before the motion or amendment under debate is put
(c) "That the item of business being discussed be adjourned to a stated time and place"	No	Yes	No	As to time and date only	No	No	No	Yes – 15 minutes	If carried, debate on the original motion and amendment are adjourned	If carried, debate on the original motion and procedural motion are adjourned	

Motion	Has the Chair discretion to refuse this Motion?	Is seconder required?	Is discussion in order?	Are amendments in order?	Is mover of procedural motion entitled	Are previous participants in debate entitled to move this motion?	Can a speaker be interrupted by the mover of this motion?	If lost, can motion be moved after an interval?	Position if an amendment is already before the Chair	Position if a procedural motion is already before the Chair	Remarks
(d) "That the item of business being discussed does lie on the table and not be discussed at this meeting"	No	Yes	No	No	No	No	No	Yes – 15 minutes	If carried, the original motion and amendment are both laid on the table	Motion not in order	
(e) "That the item of business being discussed be referred (or referred back) to the local authority or to the relevant committee"	No	Yes	No	As to committee, time for reporting back etc only	No	No	No	Yes – 15 minutes	If carried, the original motion and all amendments are referred to the committee	If carried, the procedural motion is deemed disposed of	
(f) "Points of order"	No – but may rule against	No	Yes – at discretion of Chairperson	No	No	Yes	Yes	No	Point of order takes precedence	Point of order takes precedence	See standing order 3.14

Appendix 7: Webcasting protocols

The provisions are intended as a good practice guide to local authorities that are webcasting meetings or planning to do so.

1. The default shot will be on the Chairperson or a wide-angle shot of the meeting room.
2. Cameras will cover a member who is addressing the meeting. Cameras will also cover other key participants in a meeting, including staff when giving advice and members of the public when addressing the meeting during the public input time.
3. Generally, interjections from other members or the public are not covered. However, if the Chairperson engages with the interjector, the interjector's reaction can be filmed.
4. PowerPoint presentations, recording of votes by division and other matters displayed by overhead projector may be shown.
5. Shots unrelated to the proceedings, or not in the public interest, are not permitted.
6. If there is general disorder or a disturbance from the public gallery, coverage will revert to the Chairperson.
7. Appropriate signage will be displayed both in and outside the meeting room alerting people that the proceedings are being web cast.

Appendix 8: Powers of a Chairperson

This Appendix sets out the specific powers given to the Chairperson contained in various parts of these Standing Orders.

Chairperson to decide all questions

The Chairperson is to decide all questions where these standing orders make no provision or insufficient provision. The Chairperson's ruling is final and not open to debate.

Chairperson to decide points of order

The Chairperson is to decide any point of order and may do so immediately after it has been raised or may first hear further argument before deciding. The ruling of the Chairperson upon any point of order is not open to any discussion and is final. No point of order may be raised during a division except by permission of the Chairperson.

Items not on the agenda

Major items not on the agenda may be dealt with at that meeting if so resolved by the local authority and the Chairperson explains at the meeting at a time when it is open to the public the reason why the item was not listed on the agenda and the reason why discussion of the item cannot be delayed until a subsequent meeting.

Minor matters not on the agenda relating to the general business of the local authority may be discussed if the Chairperson explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at that meeting, but no resolution, decision or recommendation may be made in respect of that item except to refer it to a subsequent meeting.

Chairperson's report

The Chairperson, by report, has the right to direct the attention of the local authority to any matter or subject within the role or function of the local authority.

Chairperson's recommendation

The Chairperson of any meeting may include on the agenda for that meeting a Chairperson's recommendation regarding any item brought before the meeting. The purpose of such a recommendation is to focus debate on a suggested motion.

Chairperson's voting

The Chairperson at any meeting has a deliberative vote and, in the case of equality of votes, has a casting vote where standing orders make such provision.

Motion in writing

The Chairperson may require the mover of any motion or amendment to submit it in writing signed by the mover.

Motion in parts

The Chairperson may require any motion expressed in parts to be decided part by part.

Notice of motion

The Chairperson may direct the chief executive to refuse to accept any notice of motion which:

- (a) is disrespectful or which contains offensive language or statements made with malice; or
- (b) is not within the scope of the role or functions of the local authority; or
- (c) contains an ambiguity or statement of fact or opinion which cannot properly form part of an effective resolution, and the mover has declined to comply with such requirements as the chief executive may have made; or
- (d) is concerned with matters which are already the subject of reports or recommendations from a committee to the meeting concerned.

Reasons for refusing a notice of motion should be provided to the proposer.

Where a notice of motion has been considered and agreed by the local authority, no notice of any other motion which is, in the opinion of the Chairperson, to the same effect may be put again whilst such original motion stands.

Action on previous resolutions

If, in the opinion of the Chairperson the practical effect of a delay in taking action on a resolution which is subject to a notice of motion, would be equivalent to revocation of the resolution; or if repetitive notices of motion are considered by the Chairperson to be an attempt by a minority to frustrate the will of the meeting, action may be taken as though no such notice of motion had been given.

Repeat notice of motion

If in the opinion of the Chairperson, a notice of motion is substantially the same in purport and effect to any previous notice of motion which has been considered and rejected by the local authority, no such notice of motion may be accepted within six months of consideration of the first notice of motion unless signed by not less than one third of the members of the local authority, including vacancies.

Revocation or alteration of previous resolution

A Chairperson may recommend in a report to the local authority the revocation or alteration of all or part of any resolution previously passed, and the local authority meeting may act on such a recommendation in accordance with the provisions in these standing orders.

Chairperson may call a meeting

The Chairperson:

- (a) may call a meeting to dispose of the business to be transacted following the lapsing of a meeting due to failure of a quorum, if such business cannot be delayed until the next meeting; and
- (b) may requisition an extra meeting to be held at a specified time and place, in order to conduct specified business.

Irrelevant matter and needless repetition

The Chairperson's ruling preventing members when speaking to any motion or amendment from introducing irrelevant matters or indulging in needless repetition is final and not open to challenge.

Taking down words

The Chairperson may order words used and objected to by any member, to be recorded in the minutes, provided such objection is made at the time the words are used and not after any other members have spoken.

Explanations

The Chairperson may permit members to make a personal explanation in addition to speaking to a motion, and members who have already spoken, to explain some material part of a previous speech in the same debate.

Chairperson rising

Whenever the Chairperson rises during a debate any member then speaking or offering to speak is to be seated and members are to be silent so that the Chairperson may be heard without interruption.

Members may leave places

The Chairperson may permit members to leave their place while speaking.

Priority of speakers

The Chairperson must determine the order in which members may speak when two or more members indicate their wish to speak.

Minutes

The Chairperson is to sign the minutes and proceedings, either manually or electronically, of every meeting once confirmed. The Chairperson and chief executive are responsible for confirming the correctness of the minutes of the last meeting of a local authority prior to the next election of members.

Questions of speakers

The Chairperson may permit members to ask questions of speakers under public forum or deputations/presentations by appointment, for the purpose of obtaining information or clarification on matters raised by the speaker.

Withdrawal of offensive or malicious expressions

The Chairperson may call upon any member to withdraw any offensive or malicious expression and may require the member to apologise for the expression.

Any member who refuses to withdraw the expression or apologise, if required by the Chairperson, can be directed to withdraw from the meeting for a time specified by the Chairperson.

Chairperson's rulings

Any member who refuses to accept a ruling of the Chairperson, may be required by the Chairperson to withdraw from the meeting for a specified time.

Disorderly behaviour

The Chairperson may:

- (a) require any member or member of the public whose conduct is disorderly or who is creating a disturbance, to withdraw immediately from the meeting for a time specified by the Chairperson.
- (b) ask the meeting to hold in contempt, any member whose conduct is grossly disorderly and where the meeting resolves to find the member in contempt, that resolution must be recorded in the minutes.

Failure to leave meeting

If a member or member of the public who is required, in accordance with a Chairperson's ruling, to leave the meeting, refuses or fails to do so, or having left the meeting, attempts to re-enter without the permission of the Chairperson, any member of the police or officer or employee of the local authority may, at the Chairperson's request, remove or exclude that person from the meeting.

Audio or audio visual attendance

Where the technology is available and a member is attending a meeting by audio or audio-visual link, the Chairperson must ensure that:

- (a) The technology for the link is available and of suitable quality; and
- (b) Procedures for using the technology in the meeting will ensure that:
 - i. everyone participating in the meeting can hear each other;
 - ii. the member's attendance by audio or audio-visual link does not reduce their accountability or accessibility in relation to the meeting;
 - iii. the requirements of Part 7 of LGOIMA are met; and
 - iv. the requirements in these standing orders are met.

If the Chairperson is attending by audio or audio visual link then chairing duties will be undertaken by the deputy chair or a member who is physically present.

Appendix 9: Mayors' powers to appoint under s.41A

The role of a Mayor is:

- (a) to provide leadership to councillors and the people of the city or district.
- (b) to lead development of the council's plans (including the long term and annual plans), policies and budgets for consideration by councillors.

The Mayor has authority to:

- (a) appoint the deputy Mayor.
- (b) establish Council committees, their terms of reference, appoint the Chairperson of each of those committees and the members.
- (c) appoint themselves as the Chairperson of a committee.
- (d) decline to exercise the powers under clause (a) and (b) above but may not delegate those powers to another person.

The Council retains the ability to:

- (a) remove a deputy Mayor appointed by the Mayor.
- (b) discharge or reconstitute a committee established by the Mayor.
- (c) discharge a committee Chairperson who has been appointed by the Mayor.

The Mayor is a member of each committee of the Council.

Appendix 10: Process for removing a Chairperson or deputy Mayor from office

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

cl. 18 Schedule 7, LGA 2002.

Appendix 11: Workshops

Definition of workshop

Workshops, however described, provide opportunities for members to discuss particular matters, receive briefings and provide guidance for officials. Workshops are not meetings and cannot be used to either make decisions or come to agreements that are then confirmed without the opportunity for meaningful debate at a formal meeting.

Application of standing orders to workshops

Standing orders do not apply to workshops and briefings. The Chairperson or workshop organisers will decide how the workshop, briefing or working party should be conducted.

Calling a workshop

Workshops, briefings and working parties may be called by:

- (a) a resolution of the local authority or its committees
- (b) the Mayor,
- (c) a committee Chairperson or
- (d) the chief executive.

Process for calling workshops

The chief executive will give at least 24 hours' notice of the time and place of the workshop and the matters to be discussed at it. Notice may be given by whatever means are reasonable in the circumstances. Any notice given must expressly:

- (a) state that the meeting is a workshop;
- (b) advise the date, time and place; and
- (c) confirm that the meeting is primarily for the provision of information and discussion, and will not make any decisions or pass any resolutions.

Public notice of a workshop is not required and workshops can be either open to the public or public excluded.

Record of workshop

A written record of the workshop should be kept and include:

- Time, date, location and duration of workshop;
- those present; and
- General subject matter covered.

Appendix 12: Process for raising matters for a decision

Matters requiring a decision may be placed on an agenda of a meeting by a:

- Report of chief executive;
- Report of a Chairperson;
- Report of a committee;
- Report of a community and/or local board; or
- Notice of motion from a member.

Where a matter is urgent and has not been placed on an agenda, it may be brought before a meeting as extraordinary business by a:

- Report of chief executive; or
- Report of Chairperson.

Although out of time for a notice of motion, a member may bring an urgent matter to the attention of the meeting through the meeting chair.



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1. Introduction

The Code of Conduct (the Code) sets out the standards of behavior 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, including the members of any local boards as well as the members of any community boards that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- each other;
- the Chief Executive and staff;
- the media; and
- the general public.

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

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

3. Values

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

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

3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability. Members will respect the impartiality and integrity of officials.
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.¹

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 district. Good governance requires that the complementary roles of the governing body and the administration are understood and respected. These roles involve:

4.1 Members

The role of the governing body includes:

- representing the interests of the people of the 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:

¹ See Code of Conduct Guide for examples.

- 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;
- 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 and Mayor;

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

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

5.3 Relationship with the public

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

- ensure their interactions with citizens are fair, honest and respectful;
- be available to listen and respond openly and honestly to citizens' concerns;
- represent the views of citizens and organisations accurately, regardless of the member's own opinions of the matters raised; and
- ensure their interactions with citizens and communities upholds 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, committee or community board, or are expressing a personal view.
2. Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:
 - comments shall be consistent with the Code;
 - comments must not purposefully misrepresent the views of the Council or the views of other members;

- social media pages controlled by members and used for making observations relevant to their role as an elected member should be open and transparent, except where abusive or inflammatory content is being posted; and
- social media posts about other members, council staff or the public must be consistent with section five of this Code. (See **Appendix A** for guidelines on the personal use of social media).

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 can be 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 the Council. The declaration must include information on the nature and extent of any interest, including:

- a) any employment, trade or profession carried on by the member or the 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.²
- 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, district or region.

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;

² A self-assessment template is provided in the Guidance to the code.

- 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/Chair or, where the Mayor/Chair 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/Chair

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

- Interview the complainant to assess the full extent of the complaint.
- The member or members subject to the complaint will be advised by the Mayor or Chair, acknowledging the right of the member(s) to decline to respond or participate.
- Interview the member(s) subject to the complaint.
- Assess the complaint to determine materiality.
- Where a complaint is assessed by the Mayor/Chair 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.
- Where a complaint is found to be material, or no mutually agreed solution can be reached, the Mayor/Chair will refer the complaint back to the Chief Executive who will forward it, along with any recommendations made by the Mayor/Chair, to the Council or an adjudicative body established by the Council to assess and rule on complaints made under the Code.³

If the Mayor/Chair 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/Chair, or from the Mayor/Chair 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.⁴ The process, following receipt of a complaint, will follow the steps outlined in **Appendix C**.

³ Advice on establishing adjudication bodies can be found in the Guide to the Code of Conduct.

⁴ 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

12.3 Materiality

An alleged breach under the Code is material if, in the opinion of the Mayor/Chair 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/Chair 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;
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

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.

- 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 media⁵

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.

⁵ Based on the Ruapehu District Council Code of Conduct.

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

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

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (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.

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

The following process is a guide only and Councils are encouraged to adapt this to their own specific circumstances.

Step 1: Chief Executive receives complaint

On receipt of a complaint under the Code, whether from a member (because the complaint involves the Mayor/Chair) or from the Mayor/Chair 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 and 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/Chair for guidance; and/or
- That the respondent attends appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.

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.

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.