



TEMUKA COMMUNITY BOARD MEETING

Commencing at 5.00pm

on

Monday 22 May 2017

**Meeting Room
Temuka Library/Service Centre
King Street
Temuka**

TIMARU DISTRICT COUNCIL

Notice is hereby given that a meeting of the Temuka Community Board will be held in the Meeting Room, Temuka Library/Service Centre, King Street, Temuka on Monday 22 May 2017, at 5.00pm.

LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968

Board members are reminded that if you have a pecuniary interest in any item on the agenda, then you must declare this interest and refrain from discussing or voting on this item, and are advised to withdraw from the meeting table.

Bede Carran
CHIEF EXECUTIVE

TEMUKA COMMUNITY BOARD

22 MAY 2017

AGENDA

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TEMUKA COMMUNITY BOARD
FOR THE MEETING OF 22 MAY 2017

Report for Agenda Item No 5

Prepared by Joanne Brownie
Council Secretary

Confirmation of Minutes

Minutes of the April Temuka Community Board meeting.

Recommendation

That the minutes of the Temuka Community Board meeting, held on 10 April 2017, be confirmed as a true and correct record.

TIMARU DISTRICT COUNCIL

MINUTES OF THE MEETING OF THE TEMUKA COMMUNITY BOARD, HELD IN THE MEETING ROOM, TEMUKA LIBRARY/SERVICE CENTRE, KING STREET, TEMUKA ON MONDAY 10 APRIL 2017 AT 5.00PM

PRESENT Cllr Paddy O'Reilly (Chairperson), Cllr Richard Lyon, Lloyd McMillan, Stephanie McCullough, Charles Scarsbrook and Alison Talbot

APOLOGY Noeline Clarke

IN ATTENDANCE Cllr Tracy Tierney, Communications Manager (Stephen Doran), Council Secretary (Joanne Brownie)

1 IDENTIFICATION OF URGENT BUSINESS

The Board agreed to consider noisy engine brakes at the north end of Temuka, as an item of urgent business.

2 IDENTIFICATION OF MATTERS OF A MINOR NATURE

The Board agreed to consider the following minor nature items from trucks travelling through this meeting –

- Anzac services
- Growth Management Strategy
- Hally Terrace road upgrading
- Community Board conference.

3 CHAIRPERSON'S REPORT

The Chairperson reported on meetings he had attended and duties he had carried out on behalf of the Board since the last meeting, including meeting with a Council officer and a representative of Temuka District Lions to progress the new Christmas lights, introduction of Talbot Forest Cheese owner to Council and Aoraki Development representatives, Long Term Plan, District Plan, Growth Management Strategy and Donations and Loans workshops, Annual General Meeting of the Temuka and District Historical Society and a Pakeke Lions issue regarding parking.

The Board was advised that Sergeant Van der Heyden was unable to attend the meeting as planned but will provide an update to the May Board meeting.

4 CONFIRMATION OF MINUTES

Proposed Lloyd McMillan
Seconded Stephanie McCullough

"That the minutes of the Temuka Community Board meeting held on 6 March 2017 be confirmed as a true and correct record."

MOTION CARRIED

5 PUBLIC FORUM

Removal of Trees on Land Beside St Johns, King Street

Callum Bartlett advised that he is proposing to purchase the property alongside St Johns, to develop an office and workshop for the Murry the Plumber business. There are two trees on the road reserve adjacent to the property and he would like the trees removed as they will impose on the structure to be built. Trimming the trees would result in them looking unattractive and leaving them will probably result in them dying. He is seeking the Board's approval to remove the trees. Mr Bartlett said he would be prepared to plant replacement trees at his cost.

6 RICHARD PEARSE DRIVE DRAIN

The Board considered a report by the Group Manager Infrastructure providing background information to a letter from Mrs Johnston regarding a drain at Richard Pearse Drive. The Board agreed that the drain is not ideal and requested a report on options for improvement.

The Board suggested that the speed limit should be reduced in the area from 70km/hr to 50km/hr. The Chairperson will investigate this possibility further.

Proposed Charles Scarsbrook
Seconded Ali Talbot

- 1 "That the report be received and noted.
- 2 That the Temuka Community Board requests that the Richard Pearse Drive roadside drain improvement options be investigated via the 2018-28 Long Term Plan."

MOTION CARRIED

7 CONSIDERATION OF PUBLIC FORUM ISSUE

Trees on Road Reserve

The Board considered the issue raised at the public forum in regard to the removal of two trees on the road reserve bordering the property adjacent to St Johns on King Street. The Board had no specific objection to the removal of the trees if they are not on the protected tree list.

Proposed Cllr Richard Lyon
Seconded Lloyd McMillan

"That it be recommended to Mr Bartlett that he proceed with the appropriate building and planning consents process for his proposed development and he be advised that the Board has no specific objection to the removal of the trees as long as the trees are not protected and the owner of the property replaces the trees with a species approved by the Land Transport Unit."

MOTION CARRIED

8 CONSIDERATION OF URGENT BUSINESS

Engine Brakes King Street

The Chairperson advised that he has received two complaints from residents at the north end of King Street regarding noisy brakes from heavy vehicles travelling through Temuka. While the Board could request that a sign be erected asking drivers not to use their engine brakes in the built-up area, this is difficult to

enforce. Alternatively the Board could write to the Road Transport Association to request their members to not use their engine brakes while driving through the town. This option was favoured by the Board.

9 CONSIDERATION OF MINOR NATURE ITEMS

Temuka and Districts Historical Society Annual Report

The Chairperson tabled the Temuka and Districts Historical Society Annual Report for the year ending 31 December 2016.

Growth Management Strategy

The Board was reminded of the public drop-in sessions for the Growth Management Strategy and the need to encourage people to make themselves aware of the strategy and make a submission.

Anzac Day Arrangements

The Chairperson advised that he will be attending the Winchester and Temuka Anzac Day commemorations and will be reading a speech from the Mayor of 100 years ago. The Board discussed possible ways to enhance the current Temuka dawn service.

Hally Terrace Upgrading

The meeting was informed that undersurfacing work will be carried out at Hally Terrace with initial work due to commence this week, following a delay due to rain. The road will be upgraded to a higher standard in order to cope with the heavy vehicles using this road.

Community Board Conference

Stephanie McCullough advised that she will be attending the Community Boards conference in Methven on 10/11 May.

The meeting concluded at 6pm.

Chairperson

TEMUKA COMMUNITY BOARD
FOR THE MEETING OF 22 MAY 2017

Report for Agenda Item No 6

Prepared by **Tina Rogers**
 Group Manager Corporate Services

Code of Conduct of Elected Members Policy

Purpose of Report

- 1 The purpose of this report is to present the Code of Conduct of Elected Members policy for approval.

Background

- 2 The Code of Conduct is required by the Local Government Act 2002. Schedule 7, Clause 15 states:
- “(1) A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.*
- (2) The code of conduct must set out—*
- (a) understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including—*
- (i) behaviour toward one another, staff, and the public; and*
- (ii) disclosure of information, including (but not limited to) the provision of any document, to elected members that—*
- (A) is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and*
- (B) relates to the ability of the local authority to give effect to any provision of this Act; and*
- (b) a general explanation of—*
- (i) the Local Government Official Information and Meetings Act 1987; and*
- (ii) any other enactment or rule of law applicable to members.*
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.*
- (4) A member of a local authority must comply with the code of conduct of that local authority.*
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.*

(6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.

(7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

- 3 This policy was last adopted in February 2016. Subsequently a review of Conflicts of Interests for Elected Members and staff has been completed, and Local Government New Zealand (LGNZ) has provided guidance on Codes of Conduct. This has informed the changes that are proposed in this review. Changes to the Code of Conduct are tracked.

- 4 Changes to the Code of Conduct require support from 75% of Councillors.

Options

- 5 The options are:
- The proposed Code of Conduct is recommended to Council for approval.
 - That amendments are proposed to Council.

Identification of relevant legislation, Council policy and plans

- 6 Local Government Act 2002

Assessment of Significance and Engagement

- 7 This matter is not deemed significant under the Council's Significance and Engagement Policy.

Consultation

- 8 No public consultation has occurred regarding the Code of Conduct.

Other Considerations

- 9 There are no other considerations relevant to this matter.

Funding Implications

- 10 There are no funding implications associated with the Code of Conduct.

Conclusion

- 11 The Code of Conduct has been revised based on an external review and LGNZ guidelines.

Recommendation

That the Code of Conduct for Elected Members Policy be recommended to Council for adoption.

Code of Conduct for Elected Members Policy



Approved by:

Council

**Date
Approved:**

23 February 2016

Keywords:

Conduct, Behaviour, Elected Members

1.0 Purpose

This code of conduct provides guidance on the standards of behaviour that are expected from the Mayor and elected members of Timaru District Council. The code applies to elected members in their dealings with:

- each other
- Council staff
- the general public
- the media.

The objective of the code is to enhance:

- the effectiveness of the council as the autonomous local authority with statutory responsibilities for the good local governance of the Timaru District
- the credibility and accountability of the council within its community
- mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.

This code of conduct seeks to achieve its objectives by recording:

- an agreed statement of roles and responsibilities
- agreed general principles of conduct
- specific codes of conduct applying to particular circumstances or matters.

2.0 Background

Legislative Requirements

The Local Government Act 2002 (the Act) includes a requirement that each local authority adopt a code of conduct. Schedule 7, clause 15 of the Act is repeated as follows:

15 Code of conduct

- (1) A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.

- (2) The code of conduct must set out –
 - a) understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members including –
 - i) behaviour toward one another, staff, and the public; and
 - (a) is received by, or in the possession of, an elected member in his or her capacity as an elected member; and
 - (b) relates to the ability of the local authority to give effect to any provision of this Act; and
 - b) a general explanation of –
 - i) the Local Government Official Information and Meetings Act 1987; and
 - ii) any other enactment or rule of law applicable to members.
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.
- (4) A member of a local authority must comply with the code of conduct of that local authority.
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

Review

Once adopted, a code of conduct 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. Once adopted, amendments to the code of conduct require a resolution supported by 75 per cent or more of the members of the council present.

Elected members are primarily accountable to the electors of the district through the democratic process. However members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

Legislative Summary

This is a summary of the legislative requirements that have some bearing on the duties and conduct of elected members.

Local Authority (Members' Interests) Act 1968

This Act regulates situations where a members' personal interests impinge, or could be seen as impinging on their duties as an elected member.

The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 (including GST) in any financial year.

Additionally, elected members are prohibited from participating in any council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

Members may also contact the Office of the Auditor General for guidance as to whether that member has 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. Approval must be from the Office of the Auditor General for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authority (Members' Interests) Act 1968. In the event of a conviction, elected members can be ousted from office.

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. Of particular importance for the roles and conduct of elected members is the fact that the chair 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
- use offensive language about the council, other councillors, any employee of the council or any member of the public.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected member, or officers, 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 2 years, or fines up to \$1000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 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 officers 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
- use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment. Elected members convicted of these offences will also be automatically ousted from office.

Financial Markets Conduct Act 2013

The Financial Markets Conduct Act 2013 (FMC Act) essentially places elected members in the same position as company directors whenever council offers financial products to the public. Elected members may be personally liable if investment documents contain untrue statements and may be liable for criminal prosecution if the requirements of the FMC Act are not met.

3.0 Key Definitions

Elected Member – all those members elected to the Timaru District Council and Community Boards.

4.0 Policy

4.1 General Principles

The code of conduct is based on the following general principles of good governance:

- **Accountability**
Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.
- **Duty to uphold the law**
Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.
- **Honesty and integrity**
Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Leadership**
Members should promote and support these principles by example, and should always endeavour to act in the best interests of the community.
- **Objectivity**
Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. **Elected members** should also note that, once elected, their primary duty is to the interests of the entire district, not the ward that elected them.

- **Openness**
Members should be as open as possible about their actions and those of the council, and should be prepared to justify their actions.
- **Personal judgment**
Members can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.
- **Public interest**
Members should serve only the interests of the district as a whole and should never improperly confer an advantage or disadvantage on any one person.
- **Respect for others**
Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect the impartiality and integrity of council staff.
- **Stewardship**
Members must ensure that the council uses resources prudently and for lawful purposes, and that the council maintains sufficient resources to meet its statutory obligations.

4.2 Roles and Responsibilities

This part of the code describes the roles and responsibilities of elected members, the additional roles of the Mayor, Deputy Mayor and Chairpersons, and the role of the Chief Executive.

Elected Members

Elected members, acting as the council, are responsible for:

- the development and adoption of council policies, plans and budgets
- monitoring the performance of the council against its stated objectives and policies
- prudent stewardship of council resources
- employment of the Chief Executive
- ensuring the council fulfils its responsibilities to be a "good employer" and meets the requirements of the Health and Safety at Work Act 2015
- representing the interests of the residents and ratepayers of the Timaru District Council. On election, the members' first responsibility is to the district as a whole.

Unless otherwise provided in the Local Government Act 2002 or in Standing Orders, the council can only act by majority decisions at meetings. Each member has one vote, provided however that the Mayor shall also have a casting vote if such vote is specifically authorised by Council's legally adopted and approved Standing Orders. Any individual member, including the Mayor, has no authority to act on behalf of the council unless the council has expressly delegated such authority.

Mayor

The Mayor is elected by the district as a whole and as one of the elected members shares the same responsibilities as other members of council. Under section 41A of the Local Government Act, the Mayor also has powers regarding leading the development of Council plans, policies and budgets, appointing a Deputy Mayor, establishing committees and appoint chairperson's to each committee.

The Mayor also has the following roles:

- A presiding member at council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings, as determined in standing orders;
- An advocate on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the council;
- A ceremonial head of council;
- A Justice of the Peace, while the Mayor holds office; and
- To provide leadership and feedback to other elected members on teamwork and chairmanship of committees

The Mayor must follow the same rules as other elected members about making public statements and committing the council to a particular course of action, unless acting in accordance with the rules for media contact on behalf of the council under a delegation of authority from the council.

Deputy Mayor

The Deputy Mayor must either be appointed by the Mayor or be elected by the members of council, at the first meeting of the council. The Deputy Mayor exercises the same roles as other elected members, and if the Mayor is absent or incapacitated, the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the powers, of the Mayor, as summarised above. The Deputy Mayor may be removed from office by resolution of council.

Committee Chairpersons

The council may create one or more committees of council. A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by council, and as set out in the council's Delegations Manual.

Committee chairpersons may be called on to act as official spokesperson on a particular issue. They may be removed from office by resolution of council.

Chief Executive

The Chief Executive is appointed by the council in accordance with Section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the council's policies and objectives within the budgetary constraints established by the council. In terms of Section 42 of the Act, the responsibilities of the Chief Executive are:

- implementing the decisions of the council
- providing advice to the council and community boards

- ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised
- managing the activities of the local authority effectively and efficiently
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority
- providing leadership for the staff of the local authority
- employing staff on behalf of the local authority, including negotiation of the terms of employment for the staff of the local authority.

4.3 Relationships and Behaviours

This part of the code sets out the council's agreed standards of behaviour. Some of the matters described in this part of the code reflect other legislation such as the Local Authorities (Members' Interests) Act 1968. The majority of the code is material that the council has decided to include of its own initiative.

Relationships with Other Elected Members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind elected members will conduct their dealings with each other in ways that:

- ~~maintain public confidence in the office to which they have been elected~~
- ~~are open and honest~~
- ~~focus on issues rather than personalities~~
- ~~avoid aggressive, offensive or abusive conduct.~~
 - maintains public confidence;
 - is open and honest;
 - is 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, offensive or abusive conduct, including the use of disrespectful or malicious language.

Relationships with Staff

The effective performance of council also requires a high level of cooperation and mutual respect between elected members and staff. To ensure that level of cooperation and trust is maintained, elected members will:

- recognise that the Chief Executive is the employer, on behalf of council, of all council employees, and as such only the Chief Executive may hire, dismiss or instruct or censure an employee
- make themselves aware of the obligations that the council and the Chief Executive have as employers and observe those requirements at all times
- treat all employees with courtesy and respect, including the avoidance of aggressive, offensive or abusive conduct towards employees
- observe any guidelines that the Chief Executive puts in place regarding contact with employees
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor.

Elected members should be aware that failure to observe this portion of the code of conduct may compromise the council's obligations to act as a good employer and may expose the council to civil litigation ~~and Office of the Auditor General audit sanctions or affect the risk assessment of council's management and governance control processes undertaken as part of the council's audit.~~

Relationships with the Community

Effective council decision-making depends on productive relationships between elected members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with the council, have their concerns listened to, and deliberated on in accordance with the requirements of the Act.

Members should act in a manner that encourages and values community involvement in local democracy.

Given that the performance of the council requires the trust and respect of individual citizens, members will:

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; and
- act in a way that upholds the reputation of the local authority.

Contact with the Media

The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of council. From time to time, individual members will be approached to comment on a particular issue either on behalf of council, or as an elected member in their own right. This part of the code deals with the rights and duties of councillors when speaking to the media on behalf of council, or in their own right.

The following rules apply for media contact ***on behalf of council***:

- the Mayor is the first point of contact for the official view on any issue. Where the Mayor is absent, any matters will be referred to the Deputy Mayor or relevant committee chairperson
- the Mayor may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment
- no other member may comment on behalf of council without having first obtained the approval of the Mayor.

Elected members are free to express a ***personal view*** in the media, at any time, provided the following rules are observed:

- media comments must not state or imply that they represent the views of council
- where an elected member is making a statement that is contrary to a council decision or council policy, the member must not state or imply that his or her statements represent a majority view. Media comments must observe the other requirements of the code of conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff
- media comments must not be misleading and should be accurate within the bounds of reasonableness.-

Confidential Information

In the course of their duties members will receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.

Members will disclose to other members and, where appropriate the chief executive, any information received in their capacity as an elected member that concerns the council's ability to give effect to its responsibilities.

Members who are offered information on the condition that it remains confidential will inform the provider of the information that it is their duty to disclose the information and will decline the offer if that duty is likely to be compromised.

Elected members should be aware that failure to observe these provisions will impede the performance of council by inhibiting information flows and undermining public confidence in the council. Failure to observe these provisions may also expose council to prosecution under the Privacy Act 1993 and/or civil litigation.

Conflicts of Interest

A conflict of interest arises when the personal interest of an Elected Member of the Council conflicts with their responsibilities as an Elected Member. Put simply, a conflict occurs where a member serves or attempts to serve two or more interests that are not compatible.

Personal interests may be pecuniary or non-pecuniary:

- **Pecuniary:**
A pecuniary interest refers to an actual or potential financial gain or loss for the person, their family, friends or close associates.
- **Non-Pecuniary:**
A non-pecuniary interest refers to an interest that is not financial or monetary but arises from such things as personal relationships, beliefs or involvement in social, cultural, religious or sporting activities.

A conflict of interest may be actual, perceived or potential:

- **Actual:**
An actual conflict of interest occurs when there is a conflict between a person's official duties and responsibilities in serving the public interest, and their personal interest.
- **Perceived:**
A perceived conflict of interest occurs when a reasonable person, knowing the facts, would consider that a conflict of interest may exist, whether or not this is the case. A perceived conflict is just as important as an actual conflict.
- **Potential:**
A potential conflict of interest occurs where a person has a personal interest that could conflict with their official duties in the future.

A conflict of interest extends to family members and close associates:

- **Family member:**
Spouse/partner, parents, siblings and children
- **Close associates**
Questions of judgement and degree arise when considering friends and other associates. Simply being acquainted with someone, or having worked with them, or having had official dealings with them, will not usually create any problem. However, a longstanding, close, or very recent association or dealing might. The key test is to consider how a reasonably informed third party would view the situation.

Elected members must be careful that they maintain a clear separation between their personal interests and their duties as an elected member. This is to ensure that people who fill positions of authority carry on their duties free from bias whether real or perceived. Members therefore need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which is about financial interests, and other legal requirements concerning non-financial conflicts of interest.

The Act provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 (including GST) in any financial year.

Additionally, elected members are prohibited from participating 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. The same rules also apply where the member's spouse-family member, or a close associate contracts with the authority or has a pecuniary interest. Members must declare their interests at council meetings where matters in which they have a pecuniary interest arise.

Members shall annually make a general declaration of interest as soon as practicable after becoming aware of any such interests. These declarations are recorded in a register of interests maintained by council. The declaration must notify the council of the nature and extent of any interest, including:

- any employment, trade or profession carried on by the member or the member's spouse for profit or gain
- any company, trust, partnership etc for which the member or their spouse is a director, partner, trustee or beneficiary
- the address of any land in which the member has a beneficial interest and which is in the Timaru District
- the address of any land where the landlord is the Timaru District Council and:
 - the member or their spouse is a tenant, or
 - the land is tenanted by a firm in which the member or spouse is a partner, or a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary
- 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 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*.

Speaking broadly, there are five main actions that can be taken:

Remove: Remove the Elected Member from all involvement with the conflict;

Restrict: Restrict an Elected Member's involvement to certain tasks or responsibilities; and

Relinquish:	<u>Relinquish the private interest that is creating the conflict</u>
Review:	<u>Review of task completed by third party</u>
Retain:	<u>Retain the conflict (i.e. simply being aware the conflict exists but not action required) by recording in the interests register</u>

Some situations will need to be the subject of discretionary judgements as and when they arise. Conflicts of interest sometimes cannot be avoided, and can arise without anyone at fault. But they need to be managed carefully. When a conflict arises Elected Members should contact the Chief executive immediately to discuss further action.

When exercising judgement the Council needs to consider the significance of the conflict (likelihood and consequence of the conflict occurring) and the range of mitigating options available.

Members may also contact the Office of the Auditor General for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member 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. Approval must be sought from the Office of the Auditor General for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by council.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction, elected members can be ousted from office.

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 should focus 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).

Standing Orders

Elected members must adhere to the standing orders adopted by council under the Local Government Act 2002.

Ethics

Timaru District Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will:

- claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of council developed in accordance with that determination
- not influence, or attempt to influence, any council employee to take actions that may benefit the member, or the member's family or business interests
- not use council resources for personal business
- not solicit, demand, or request any gift, reward or benefit by virtue of their position
- notify the Chief Executive if gifts are accepted
- where a gift to the value of \$50.00 or more is offered to a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Disqualification of Members from Office

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be or lose their status as an elector or of certain breaches of the Local Authorities (Members' Interests) Act 1968.

Undischarged Bankrupt

The Council requires a member, or newly elected member who is an undischarged bankrupt to declare that fact to the Chief Executive.

4.4 Compliance with Elected Members Code of Conduct

Compliance

Elected members must note that they are bound to comply with the provisions of this code of conduct, as stated in the Local Government Act 2002, Schedule 7, Section 15(4).

Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Financial Markets Conduct Act 2013.

The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members.

Responses to Breaches of the Code

All alleged breaches of the code will be reported to the Mayor or Chief Executive. Any allegation of a breach of a code of conduct must be in writing, make a specific allegation of a breach of the code of conduct, and provide corroborating evidence.

The Mayor or Chief Executive will investigate the alleged breach and prepare a report for the consideration of council. Before beginning any investigation, the Mayor and Chief Executive will notify the elected member(s) in writing of the complaint and explaining when and how they will get the opportunity to put their version of events.

The council will consider the report in open meeting of council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

The exact nature of the action the council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

- breaches relating to members' interests render members liable for prosecution by the Auditor General under the Local Authority (Member's Interests) Act 1968
- breaches which result in the council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in the member having to make good the loss or damage
- breaches as a results of the elected member committing a criminal offence may leave the elected member liable for criminal prosecution.

In these cases the council may refer an issue to the relevant body.

Any member of the public may make a complaint, or an authorised body itself may take action of its own initiative.

Where there are no statutory provisions, the council may take the following action:

- censure
- removal of the elected member from council committees and/or other representative type bodies
- dismissal of the elected member from a position as Deputy Mayor or Chairperson of a committee.

5.0 Delegations, References and Revision History					
<i>5.1 Delegations - Identify here any delegations related to the policy for it to be operative or required as a result of the policy</i>					
<i>5.2 Related Documents - Include here reference to any documents related to the policy (e.g. operating guidelines, procedures)</i>					
<i>5.3 Revision History - Summary of the development and review of the policy</i>					
5.1 Delegations					
Delegation					Delegations Register Reference
None					
5.2 References					
Title					Document Reference
5.3 Revision History					
Revision #	Policy Owner	Date Approved	Approval by	Date of next review	Document Reference
1	Group Manager Corporate Services		Council	November 2019	#829872

TEMUKA COMMUNITY BOARD
FOR THE MEETING OF 22 MAY 2017

Report for Agenda Item No 7

Prepared by **Tina Rogers**
 Group Manager Corporate Services

Review of Local Government Elected Members Remuneration – Consultation Document

Purpose of Report

- 1 This report is to present the Remuneration Authority Consultation Document on Local Government remuneration.

Background

- 2 The Remuneration Authority set the remuneration for all elected members.
- 3 The Remuneration Authority has concluded that there is an opportunity to make short term improvements to be effective from July 2017 and more complex changes effective from 2019.
- 4 The Consultation Document is set out in 2 parts to reflect the 2 different start dates. Feedback on the first part is required by 19 June 2017 and is for discussion at this meeting. Feedback on the second part is due by 20 October 2017 and will be considered at a meeting later in the year once the Remuneration Authority has made presentations to elected members at events over the coming months.
- 5 Changes noted in part 1 include:
- Hourly rate payments to Councillors who are members of RMA hearing panels.
 - Ability for leave of absence to be granted for up to 6 months.
 - Standardised expenses policies.
 - Provision of ICT equipment to all elected members (currently this is only to Councillors and an allowance to Community Board Members)
 - Removal of travel time allowance and changes to travel allowances.

Options

- 6 The issues and options are outlined in the Consultation Document.

Identification of relevant legislation, Council policy and plans

- 7 Not Applicable.

Assessment of Significance

- 8 This matter is not deemed significant under the Council's Significance and Engagement Policy.

Consultation

- 9 No public consultation has been undertaken by the Council. It is not known if the Remuneration Authority will seek views of other parties outside of elected members.

Other Considerations

- 10 There are no other considerations relevant to this matter.

Funding Implications

- 11 There could be funding implications for the Council as a result of changes outlined in Part 1 of the Consultation Document. These could include changes to the amount of remuneration and allowances paid to elected members as well as costs associated with IT equipment and support to all elected members. These costs will need to be absorbed into existing budgets for 2017.

Conclusion

- 12 Changes are proposed to the remuneration for elected members. The Remuneration Authority is undertaking this consultation with affected parties.

Recommendation

That the Board considers the issues identified in Part 1 of the Consultation Document attached and makes recommendation to the Policy and Development Committee.



Remuneration Authority

CONSULTATION DOCUMENT

LOCAL GOVERNMENT REVIEW

Part One - General Introduction

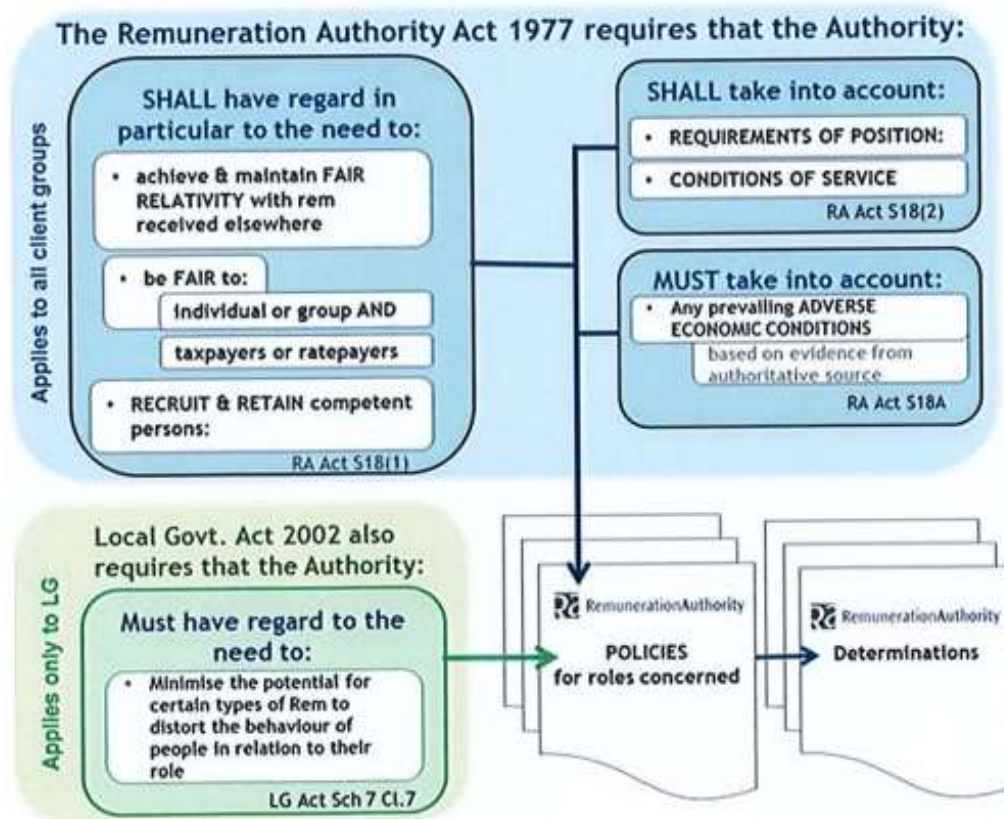
Introduction

1. The Remuneration Authority (the Authority) is required to issue a new determination, taking effect from 1st July 2017, covering local government elected members. In considering how we should approach this in future, we have concluded that there is an opportunity for both short term improvements to the system, including some clarification of current policies, as well as some deeper changes which we propose introducing in 2019.
2. Hence this paper has two substantive sections – Part Two covering proposals for this year and Part Three covering the longer term. We are seeking views of councils on both. The timetable for responses on the shorter-term proposals is unfortunately short. This is because as we got deeper into our review we saw the need for more fundamental change which, had we waited till we had all detail finalised, would have delayed our release of this paper. However, we feel that the issues in Part Two are sufficiently familiar for councils that they will be able to provide reasonably rapid responses. In contrast, Part Three contains more fundamental change proposals and we believe that the local government sector needs time to contemplate these. We have provided a window of several months and during that time we would anticipate attending either zone or sector meetings to discuss the proposals with you.
3. Recently the issue of the potential provision of child care subsidies or services has been raised. We have not addressed it in this paper but will be consulting the sector shortly about this issue.
4. The Authority would like to thank a number of people who have assisted us with the review so far. We commissioned ErnstYoung to provide facilitation, research and analysis. The following people also provided assistance and we very much appreciated their insights and information:
 - Local Government Leadership Group:
 - David Ayers, Mayor, Waimakariri District
 - Jan Barnes, Mayor, Matamata-Piako District
 - Brendan Duffy, Independent Consultant and former Vice-President LGNZ
 - Justin Lester, Mayor, Wellington City
 - Jane Nees, Deputy Chair, Bay of Plenty Regional Council
 - Rachel Reese, Mayor, Nelson City
 - Local Government New Zealand:

- Lawrence Yule, President
- Mike Reid, Principal Policy Advisor
- Local Government Commission:
 - Suzanne Doig, Chief Executive Officer
 - Donald Riezebos, Principal Advisor
- Local Government Officials:
 - Dennis Bush-King, Tasman District Council
 - Miranda Cross, Greater Wellington Regional Council
 - John O'Shaughnessy, Hastings District Council
- Central Government Officials
 - Deborah Brunning, Statistics New Zealand
 - Sarah Lineham, Office of the Auditor-General
 - James Stratford, Department of Internal Affairs
- Alistair Gray, Statistics Research Associates Limited

Legal requirements for the Authority when setting remuneration

5. The work of the Authority is governed by the Remuneration Authority Act 1977, which has had several amendments since it was first enacted. This act and the Local Government Act 2002 contain the statutory requirements which the Authority must follow when making determinations for local government elected members. They are summarised below:



Role of local government

6. In undertaking this review the Authority has looked at past thinking on local government remuneration. One particular document¹, issued by Local Government NZ in 1997, contained a thoughtful summary of the role of local government.

7. The document said:

"The strength of representative democracy ultimately depends on two factors. One is the level of citizen participation and trust in democratic institutions. The other is the ability and commitment of elected representatives and their role in encouraging participation and promoting levels of trust.

Local government constitutes one of the underpinning structures of democratic society, providing 'voice and choice' to citizens and communities, and the mechanism for making decisions about local needs and preferences. It also provides a forum to debate issues of mutual interest and concern.

Good local government depends upon the goodwill and understanding of its citizens, and the quality of its staff. Most of all, however, it depends on the ability of those elected to govern. Attracting people with the capacity to lead and govern at local level involves a number of factors. These include:

- The opportunity to contribute effectively, be professionally valued and receive a sense of satisfaction at achieving a job well done*
- The existence of structures and processes to support and professionally advise elected members and enable them to contribute constructively on matters of community importance*
- The presence of consultative and participative arrangements that strengthen relationships between and with their communities*
- The existence of a remuneration system that enables people from all sectors of the community to commit time and effort necessary to fulfil their responsibilities as elected members without being unduly disadvantaged."*

8. In our view, this characterisation of local government has not changed since it was written twenty years ago.

¹ Options for Setting Elected Members' Remuneration – A Discussion Document for Local Government and Stakeholders, prepared by the Local Government New Zealand Elected Members' Remuneration Working Party (1997)

Part Two – Proposed Immediate Changes (2017 Determination)

Introduction

9. The Authority is seeking the views of local government (i.e. territorial authorities, unitary councils and regional councils) on the proposals set out below in this section of the paper. These changes will affect elected mayors, chairs and councillors from each council including Auckland (councillors and local board members). Part of it will also affect community board members.
10. Please note that we are seeking the views of councils, not of individual elected members or staff.
11. We would appreciate any feedback that councils wish to give to be emailed to us by **5pm Monday 19th June 2017** or earlier if you can. Please email to info@remauthority.govt.nz

RMA Plan hearing fees

12. Current practice is that those elected representatives who are undertaking resource consent hearings can receive an hourly fee which is determined three-yearly by the Authority and which is not included in the council's pool of money to cover payment for additional positions of responsibility. This has not applied to other hearings conducted under the Resource Management Act (RMA). Nor does it apply to hearings for a plethora of other plans or policies developed by councils under different pieces of legislation.
13. The Authority has received many enquiries and suggestions from councils on this issue. In particular, there is growing concern about the treatment of often-protracted hearings of District Plans, Regional Policy Statements and other land, air, coastal and water plans under the RMA.
14. We have looked at the range of council plans that involve hearings and believe that many of them could be considered part of "business as usual" for councillors.
15. However, of particular concern is that councillors who sit on RMA plan hearings are required to be accredited commissioners. This means that they must have undertaken *the Making Good Decisions* course and they must renew their credentials every three years. The requirements for councillors are in this respect the same as for non-councillor commissioners and there is a cost in both time and money to gain and maintain the accreditation.
16. Because of the technical and legal nature of plan hearings, they tend to take months and, in some cases, can span an election period. This is especially the case if the hearing covers a review of the whole plan.

17. The Authority is aware of the increasing trend for councils to engage external commissioners as members of the panel for these plan hearings. This use of external contractors is being driven by several considerations, including time requirements, unavailability of sufficient numbers of councillors who are qualified commissioners, or a view that because councillors have developed the plans as part of their core business, the hearings should be conducted by a different set of independent commissioners. External commissioners are paid an hourly rate for the work. In some cases, a council will use a mixed panel of external commissioners and councillors, which clearly creates a disparity between panel members.
18. Because of these factors, we agree that any such hearings should be treated in the same way as resource consent hearings under the RMA insofar as councillor remuneration is concerned.
19. The Authority is proposing that an hourly rate should be paid to councillors who are members of such hearing panels.
20. The rate would be set every three years by the Authority, as with payments for consent hearings. It will apply to site visits, reading (not to exceed the hearing time) and, in the case of an elected person chairing such a committee, the hourly rate would also cover the time spent in writing the decisions. For clarity, we also propose that this last provision be included for elected members who are chairing resource consent hearings.

- **Do you agree that elected members who are sitting on plan hearings under the RMA should be remunerated in the same way as elected members who are sitting on resource consent hearings?**
- **Do you agree that elected members who chair such hearings should be remunerated for time spent writing up decisions?**

Leave of absence for elected members and acting mayor/chair payments

21. From time to time a councillor or mayor/chair needs extended leave of absence from council work. This could be for personal reasons such as family/ parental leave, extended holiday, illness or, in some cases, when standing for another public office. On these occasions the Authority is asked whether or not a council can grant such leave and, if it involves a mayor or chair, whether an additional payment can be made to the person (legally prescribed as the deputy) who is acting in place of the mayor/chair.

22. We have looked at the rules for governance boards in the state sector for guidance and adapted those rules for local government elected members. Rather than an ad hoc approach, we propose the following:

Councillors:

- Leave of absence without pay can be granted for a period of up to six months (maximum) by formal resolution of the council.
- The leave must involve total absence. The councillor cannot be present for any duties either formal or informal – this includes council meetings, meetings with external parties and constituent work. Nor can the councillor speak publicly on behalf of the council or represent it on any issues.
- The councillor's remuneration and allowances ceases during the period for which leave of absence is granted.

Mayors/Chairs:

- Leave of absence without pay can be granted for a period of up to six months (maximum) by formal resolution of the council.
- Notwithstanding the above, the period must be longer than a single cycle of council meetings, whether that be monthly or six weekly or whatever. This is because we consider that one of the key roles of a deputy mayor/chair is to cover for short absences by the mayor/chair, but that a longer absence would necessarily put an unexpected extended work burden on the deputy.
- If the deputy is to be paid extra remuneration for the period concerned, the leave must involve total absence. The mayor/chair cannot be present for any duties either formal or informal – this includes council meetings, meetings with external parties and constituent work. Nor can the mayor/chair speak publicly on behalf of the council or represent it on any issues.
- The remuneration to mayor/chair ceases during the whole of the period for which leave of absence is granted and the deputy is acting in the role.
- Allowances including a mayor/chair vehicle will also be unavailable to the mayor/chair during that period, but would be available to the acting mayor/chair.
- We propose that under these circumstances the council may pay that deputy a sum up to the normal remuneration of the mayor/chair in place of the normal remuneration received by the deputy.

23. Councils may make decisions within the parameters of these rules but must inform the Authority as soon as possible.

24. We have reflected on the proposed six-month period and consider that it is likely to require exceptional circumstances for an absence of that period to be granted, especially to someone in a leadership position on a council. It would mean that the constituents who elected that person would be unrepresented or, under a multiple-member ward, less represented, than would normally be the case. This would be an electoral risk that the

person concerned would need to consider carefully. However there may be circumstances where it is appropriate so we are proposing that the maximum period would be six months.

25. A further issue is the extension of an acting role beyond the anticipated length of time – for example, if the incumbent were elected to another role and there needed to be a by-election. Under those circumstances, if the incumbent is the mayor or chair, and the deputy was acting in the role, that the acting role may need to be extended for a further period, perhaps up to three months. In that case, we advise that councils make a new, separate decision regarding the remuneration and allowances.

- **Do you agree that there should be provision for elected members to be granted up to six months leave of absence without pay? If not, what should be the maximum length of time?**
- **Do you agree that additional remuneration can be made to the deputy mayor or chair to act in the role under the circumstances outlined?**
- **If you disagree with any of the conditions, please state why.**
- **Are there any other conditions that should apply?**

Approach to expense policies

26. The current approach is for each council to send in their policy to the Authority every three years for approval. In between we often receive requests for assistance in interpreting the provisions in the determination. We are aware of the need for policies to be more transparent and for greater clarity in the explanatory notes, both in determination and on our website.
27. We have looked at many council expense policies and it is clear that some are struggling to develop them, possibly because small staff size does not provide any depth of expertise in this area. On the other hand, some policies are highly developed and contain clear guidance as to what is permitted and under what circumstances.
28. We are thus proposing that instead of each council needing to develop a policy from scratch and then gain approval from us, we work with local government to develop a prototype policy that could be adopted by all councils.

29. The metrics in such a prototype would obviously be the top (maximum) of the allowed range, so any council wanting to pay/reimburse less (or even nothing at all) would be free to do so.
30. With respect to the current role of the Authority in authorising or checking such policies, this is enabled by the legislation and has been required in our previous determinations. However, the Authority proposes that such compliance audits should be part of the role of local government auditors who should check council expenses policies to ensure conformity to the Determination. Auditors should also be assessing whether councils are actually following their own agreed policies in this area.

- **Do you agree that the Remuneration Authority should supply a prototype expenses policy that will cover all councils and that councils should be able to adopt any or all of it to the upper limit of the metrics within the policy?**
- **Do you agree that each council's auditor should review their policy and also the application of the policy?**

Provision of and allowances for information and communication technology and services

31. A communications allowance has been included in the determination since 2008, and was introduced to bring some equity across the country in the reimbursement of costs and the provision of such support to elected members.
32. The continuing development of information and communication technology (ICT) has led the Authority to reconsider the allowance. Our view is that elected members should not carry the costs of communicating with councils or with residents.
33. Mobile technology is now ubiquitous and so much business is now conducted digitally that mobile phones and tablets are considered tools of trade in many businesses, in both the private and public sectors. It is no longer considered to be a personal benefit for a person to have her/his basic technology integrated with that of the business.
34. The Authority's preferred approach in the past was that councils provided the necessary equipment, consumables and servicing, as well as reimbursement (on proof of expenditure) of other costs that might occur. However, there was also provision for hardware costs incurred by elected members to be partly reimbursed.
35. Given recent changes in both the business environment and in technology, we are now of the view that all councils should provide an appropriate council-owned technology suite for their elected members. The two exceptions to this are payment for the use of broadband,

which can vary greatly depending on the nature of the household of the elected member, and payment for phone usage.

36. The complexities of ensuring that security is kept up to date mean that elected members are likely to find it increasingly difficult to manage the technical demands of being part of a larger organisation, which may have more stringent standards than they would have for their own personal technology. For the councils, there should be a major benefit in having all elected members using identical technology and systems, managed efficiently and effectively by the council's ICT officials. Councils often have complex software driving different parts of their systems (e.g. water plants) and possess large databases of residents and ratepayers. Managing these systems in a robust way and decreasing the possibility of cyber-attack is a challenge and will be assisted if there are fewer different entry points into the main system. This is also a protection for both the council and for residents/ratepayers who may have privacy concerns.

ICT hardware

37. It is the responsibility of each council to decide the communications equipment needed to carry out its business effectively and efficiently. Decisions about equipment for individual councillors should flow from that. We note that councils should be able to get good purchasing leverage on equipment and on usage plans to keep costs down.
38. We propose that councils provide all elected members with the following equipment:
- a mobile phone
 - a tablet or laptop
 - a monitor and keyboard if required, plus the hardware to connect the various pieces of equipment
 - a printer
 - a connection to the internet.
39. Consumables such as paper and ink should also be supplied by the council as required by the elected member.
40. In the past, there has been a desire by some elected members to utilise their own communication equipment to undertake council business, possibly because of unwillingness to segregate personal and council usage on the same device. Now it is commonplace for people to have more than one account on one computer, so the issue of carrying round an additional tablet should no longer apply.
41. Equipment would remain the property of the council and be replaced or updated as part of the council's asset renewal programme – presumably triennially. This would allow councils to obtain the advantages of bulk purchase and ensure maximum efficiency by providing equipment that is consistent across the organisation, fit for purpose and adequately protected to provide security and privacy for ratepayers, elected members and staff.

42. Where there is a strong reason for the council not to supply the technology, the Authority would need to make a decision allowing that council to put in place a reimbursement system. We note that there is a cost in time and money to all parties in managing such a system and it would have the inherent technology security weaknesses described above. In such cases, exceptional circumstances would need to exist before the Authority was prepared to move to a reimbursement system. In addition, in the interests of efficiency, the reimbursement system would need to apply to the whole council, not just to a few councillors.
43. Where council decided to provide an allowance for the use of personal ICT hardware, it should cover all ICT equipment used by members and the Authority would prescribe an upper limit for expenditure. This would represent three years' depreciation on the hardware (mobile phone, tablet/laptop, printer, monitor, keyboard, installation of an internet connection) plus an assumption that half the usage would be on council business. The allowance can be paid monthly or at the beginning of a triennium.

Internet usage and phone plans

44. Previously the Authority considered the extent to which the costs of data and phone use were apportioned between council and elected member. This can be complex and will reflect differing household usage as well as council usage. For example, in a household which already has personal usage close to their broadband cap, the increased traffic required to move to electronic papers may require an increase in monthly band usage, even though the data transmitted is modest compared to other internet and electronic traffic.
45. With regard to home broadband, we propose that elected members should be responsible for their own plan. The Authority previously determined that no more than 25% of the usage charges could be regarded as bona fide additional costs incurred by an elected member in carrying out council business. We accept that this is still the case but note that there is now a huge variety and combination of plans available for home broadband, so arriving at an "average" is simply not possible. We therefore propose that councils continue to reimburse up to 25% of a maximum dollar amount to each elected member to cover internet usage costs, on production of receipts. The Authority would review the percentage and the maximum amount every three years.
46. The use of mobile phones as a primary form of communication is increasing exponentially. Alongside this is a proliferation of different types of plans for mobile phones, paralleling what is happening in home broadband connections. The difference between home internet use and phone use is that for the home broadband, anyone else in the household can access the internet connection, whereas a phone is a personal device. We therefore consider that, except for mayors and chairs, elected members should receive reimbursement of up to half the cost of their personal mobile phone usage up to a maximum dollar amount, on production of receipts. If the council owns the plan, the same rule would apply as for home broadband use - the council would pay for half the annual

usage cost with a capped dollar amount and the elected member would need to reimburse the council for the rest. Elected members would be charged for all private international calls.

47. For mayors and chairs the council should cover the total cost of the plan, except that the user will be charged for private international calls.

Unusual circumstances

48. Over the years the Authority has occasionally been approached to cover the one-off costs of providing connection access or non-standard equipment where regular landline or mobile coverage is not available. We propose to continue the current policy, which is that where such circumstances exist, the council may put a costed recommendation to the Authority for approval to make a one-off payment for installation and either a reimbursement or allowance for on-going maintenance and support reflecting the costs involved. It is anticipated this allowance will normally reflect no more than 75% of the costs involved.

- **Do you agree that it should be common policy for councils to provide the ICT hardware proposed above for all elected members?**
- **Do you agree that exemptions to this policy would be limited to exceptional circumstances?**
- **Do you agree that a proportion of the ongoing cost of the use of home internet and personal mobile phones should be reimbursed as outlined above?**
- **If you disagree with either of these proposals, please give reasons and outline your alternatives.**
- **Do you agree with the “unusual circumstance” provision in para 49 above?**

Travel time allowance

49. We do not propose to make any changes to the approach on travel time allowances. This provides for all elected members who are not full time to be eligible for an hourly allowance when travelling on business for the council or community board in respect of any travel exceeding an hour and assuming the fastest form of transport. The rate is set by the Authority and is reviewed each three years.

- **Do you agree that the current policy on travel time allowance should be continued?**
- **If not, please state reasons for change.**

Mileage claims

50. About two thirds of all mayors/chairs take up their entitlement to have a dedicated vehicle provided for them by the council. Others choose to use their own vehicle for a variety of reasons but often, we understand, because of a belief that their constituents will not approve of them having the “perk” of a council vehicle. Our view is that for mayors/chairs, who normally travel great distances each year, the car is a “tool of trade” and an entitlement rather than a “perk”. In any other occupation, people who travelled the distances clocked up by most mayors/chairs would be provided with a company car rather than having to use their own.
51. We have checked the distances travelled annually by mayors/chairs. The average and the median are both around 22,000 to 23,000km a year. Unsurprisingly the distances vary greatly – from 35,000km down to a few thousand – though we wonder if the lower level reflects the fact that some who use their own vehicles claim very little. In fact at least three make no claims whatsoever.
52. Currently we utilise NZ Automobile Association metrics regarding the cost of running a vehicle and we use IRD formula for mileage rate reimbursement. We propose to continue to use these benchmarks, which will be updated as appropriate. The one exception is that in recognition of the fact that mayors/chairs using their private vehicles are likely to be in the medium/high group of users of their own cars for work purposes, we propose to alter the formula around the application of the higher and lower IRD rates.
53. At present the higher rate (currently 74 cents per km) applies to the first 5000km travelled on council business and the remaining distance on council business is reimbursed at a rate of 37 cents per km. We propose that above that first 5000km, which would act as a base, mayors/chairs using their own vehicles should be reimbursed at the higher rate for the first 25% of the remaining distance they travel on council business.
54. We have no data about councillor use of personal vehicles on council business and we assume that distances travelled would normally be less than that of a mayor - but not always, especially in the case of a “distant” ward. Regardless, we propose that the formula outlined above also applies to councillor travel reimbursement.

- **Do you agree with the proposed change to the current 5000km rule?**
- **If not, what should it be and why?**

55. The other issue which we are frequently asked to clarify is the “30km rule”. We propose to keep this approach. Basically it recognises that virtually all New Zealanders have to pay the cost of their own transport to and from their work place. However, elected members also have other work in other places. The 30 km rule is based on an assessment that most people would live within 15 km of their work place. That means that a “round trip” to and from the “work place” – i.e. the normal council meeting place – can be claimed only if it is above 30km. If the trip to and from the council’s normal meeting place is above 30km, the first 30km are always deducted. This means that if an elected member lives closer than 15km, then no claim can be made for attending a meeting at the council office. If a member must come to the office twice in one day, if she/he is not simply taking the opportunity to go home for lunch, then the whole of the distance for the second trip may be claimed. This assumes that most workers travel to and from work only once per day, but recognises that elected members may have a formal meeting, say in the morning, then another meeting much later in the afternoon. We expect common sense to prevail in councils when authorising such claims.

56. With regard to work of elected members outside of the normal council meeting place, the full mileage can be claimed. That means that the elected member may claim from her or his home to the address of the meeting or event and back again by the shortest route.

57. If an elected member has an additional place of residence (e.g. a holiday home) the primary place of residence, normally identified by being her/his address on the electoral role, will be considered the official residence.

58. If a council is holding one of its normal meetings in a different venue - for example in an outlying town - then the full mileage can be claimed. However, we expect common sense to prevail. If the exceptional meeting place is just down the road from the normal venue then the 30km rule would apply.

- **Do you agree with the proposal to retain the 30km rule in its current form?**
- **If not, what should this rule be?**

Mayor/chair car valuations

59. We do not propose to make any changes to the valuation of the mayor/chair motor vehicle at this stage. The formula is consistent with the methodologies applied to valuing motor vehicles for full private use in public sector roles. The Authority's formula goes one step further in that it recognises that a greater proportion of vehicle usage by a mayor/chair is spent on council business rather than on personal use.
60. The formula and associated variables used to value mayor/chair motor vehicles will be reviewed with the main determination triennially. Any changes will be applied in election year.

Annual changes in remuneration

61. The main local government determination will usually be applied in election year, then in the intervening two years we propose to change remuneration to reflect changes in the Labour Market Statistics (LMS) – (see Part Three for more details on the timetable).

Changes following an election

62. The Authority is aware that there has been some confusion in the past regarding the exact days on which payment ceases for outgoing elected representatives and commences for those who are newly elected, and around remuneration continuing for those who are re-elected.
63. The following outlines the legal situation:
- All newly elected and re-elected local government members come into office the day after the results are publicly notified under S.86 of the Local Electoral Act 2001.
 - All sitting members vacate office on the same day.

Part Three – Longer Term Proposals

Introduction

64. The Authority is seeking the views of local government (i.e. territorial authorities, unitary councils and regional councils) on the proposals set out below in this section of the paper. These changes will affect elected mayors, chairs and councillors, as well as community board members, from every council except Auckland. Later this year we will be issuing an additional consultation paper on the Auckland Council, following the completion of its governance review. However, we are proposing that the general principles outlined in this paper around council sizing should apply to Auckland.
65. Please note that we are seeking the views of councils, not of individual elected members or staff.
66. We would appreciate feedback to info@remauthority.govt.nz by Friday October 20th 2017. Please email to info@remauthority.govt.nz

Recent history of local government remuneration setting by the Authority

67. In late 2011 the Authority issued a discussion document - *Review of Local Authority Remuneration Setting*. This was followed in November 2012 by a further document - *Remuneration Setting Proposals for Local Authorities* - which outlined the system that the Authority was proposing to institute from the 2013 election. A copy of that document is attached as *Appendix 1*. It transpired that for a variety of reasons in the years 2014 to 2016 the Authority did not completely implement the proposed process. However, significant elements are in place. Importantly, the work which the Authority commissioned from the Hay Group in 2015 remains current in our view and has provided useful data to assist with our current considerations.
68. To assist with context, the main elements of the 2013 proposal are summarised below. They were:
- a) Moving away from the traditional salary/meeting fee mix for local government remuneration.
 - b) Creating a size index for councils derived from population and council expenditure.
 - c) Basing the remuneration for councillors/mayors/chairs on:
 - the relative place of the council in the size index;
 - the job size of the positions as assessed for sample councils;
 - the proportion of full time work as demonstrated by survey results;
 - the Authority's pay scale.
 - d) Providing a pool for each council equivalent to one councillor's remuneration to be allocated for additional positions of responsibility.

- e) Reviewing local government remuneration approximately two years after each election and setting the base remuneration for councillor and mayor/chair roles at the beginning of each election year, together with provision for changes in positions of responsibility within each council.
 - f) Recalculating annually each council's place on the size index and, in the following July determination, automatically applying any increase warranted, with the proviso that any reductions in the base remuneration would not be implemented during the term of that council.
 - g) Providing a loading of 12.5% for unitary council remuneration to recognise their additional regional responsibilities.
 - h) Retaining arrangements for resource consent hearings whereby elected members can be paid an hourly fee in addition to their base remuneration.
 - i) Requiring councils to confirm their expenses policies only in election year rather than annually.
 - j) Retaining valuation methodology for mayor/chair vehicles with adjustments made each year on July 1 to coincide with the determination.
 - k) Various changes to community board remuneration setting.
69. The new system was in place for the 2013 Determination in which the Authority made the following comment: *"Aware of its responsibility of fairness to both elected members and ratepayers, the Authority moderated both increases and decreases to smooth the transition to the new system"*.
70. In the 2014 Determination, the same comment was made with the additional comment that *"this approach was continued, with moderation to reflect wage growth, this year"*.
71. In 2015 the same comment was again made. However, in issuing that Determination the Authority said the following: *"The relationships between council size and remuneration, as well as any necessity for moderation of large increases or decreases, will be reassessed during the 2015/16 year ready for implementation at the time of the 2016 local body elections"*.
72. During 2015 the Authority reviewed the framework again, including job-sizing the positions of a representative group of councils and assessing workloads. In issuing its 2016 Determination the Authority made the following comment: *"The Authority found clear evidence regarding the size of positions but has less confidence in the evidence relating to workload. Given that uncertainty, the Authority has not proceeded to fully or partially implement increases that would in many cases have been well in excess of 10%. It has instead applied increases to the base remuneration payable to councillors ranging from 1.5% to 3% depending on the size of the council. This reflects at the higher level the movements in the public sector remuneration more generally."* The following comment was also made: *"The Authority is also concerned that the expectations placed on local representatives continue to increase and remuneration does not in all circumstances reflect the skill and effort required from members. It will therefore begin further work this year to*

establish an ongoing basis for remuneration that treats both the ratepayer and the elected member fairly".

Rationale behind current proposal

73. While the legal requirements are set out above in paragraph 2 of Part One (above), the Authority members have also decided that these legal requirements (including attraction and retention of competent people) should be aimed at attracting a wide variety of competent people and balanced by the need to have a local government remuneration system that is accepted in the wider community. To enable this, we require a robust process that is as transparent as possible, intuitively plausible and sustainable for the foreseeable future.
74. We recognise that whether or not the level of financial reward matches the personal contribution of any elected member is not necessarily a significant determinant of the willingness of many people to stand for election. However, remuneration may be an issue for some, depending on personal circumstances, and it may also become an issue for an incumbent deciding whether or not to continue.
75. In considering this proposal, the Authority has decided to maintain a number of existing approaches. The principal ones are:
- a) Maintaining a "total remuneration" approach rather than meeting fees.
 - b) Using a size index to determine relativity between various councils.
 - c) Adopting a "pay scale" for local government that is fair and seen to be fair.
 - d) Reviewing the components of the council size index every three years and applying appropriate factors to territorial authorities and regional authorities.
 - e) Recognising that unitary councils have dual responsibilities and sizing them accordingly.

Council Sizing

76. Overview

We define council size as the accumulated demands on any council resulting from its accountability for its unique mix of functions, obligations, assets and citizenry. The size of councils varies considerably. The most obvious difference is in the size of population with the biggest council (Auckland) having 1,614,300 citizens and the smallest (the Chatham Islands) just 610 at the last census. Even outside of these two, there still a wide population range from Christchurch (375,000) to Kaikoura (3,740).

77. However, despite their differences, there are also many similarities between different councils and the roles of elected representatives.

78. All local government representatives have a basic workload that includes decision-making around local plans, policies and regulations; civic representation; assisting constituents; and

working with other organisations (public and private sector). Importantly, councils are also tasked with employing a chief executive and monitoring performance and delivery.

79. With regard to differences, as noted above, the starkest is in population, but even then there is not an exact connection between population and work load. We have taken account of several characteristics in addition to population to compare the size of each council. We are limited by the ready availability of information. However, with the information that is available, we have been able to use statistical methods to identify several factors that are significant influences on the workload of Councils.
80. We can identify councils that are most likely to be comparable in size, despite differences in what brings this about. Such comparisons can never be exact, because amongst all the councils there are influences on their size that are either unique or unable to be quantified using existing evidence. The analytical approach taken this year by the Authority will be further developed whenever the information base is able to reflect such situations.
81. We considered a variety of factors that could be used for sizing councils and, after consultation and further analysis, we are proposing several factors, with some differences between territorial authorities and regional/unitary councils. The indicators for each factor came from official statistics and departmental reports, and they were analysed by standard statistical methods which enabled the variety of demands on councils from different sources to be compared and accumulated. The initial list of factors and the modelling was identified with a representative group of elected local authority leaders, and then developed further by the Authority.
82. The strong direct effects on size from population, assets and operational expenditure were modified by differences in guest night stays, social deprivation levels and physical size.

Factors proposed to be used in sizing

83. Territorial authorities:

- a) **Population.** This factor not only determines the scale of services that a council will provide, but also the rating base by which activities are funded. Population is most likely to be the indicator that most New Zealanders would use when asked to distinguish between various councils. The statistics we are using are the most recent population estimates by Statistics New Zealand.
- b) **Operational expenditure.** In many cases, operational expenditure correlates with population, but there are also some differences - in particular when a council may be in the midst of a specific expansion programme in a particular area of activity. Our data is taken from the annual accounts of councils.
- c) **Asset size.** This represents the capital base of the council that the council is required to manage, providing essential service such as water, wastewater, roads and flood protection, and also social infrastructure. One of the challenges in asset management is to ensure that assets do not lose value. In recent years there has been greater focus on asset management in the sector, requiring (if it is undertaken rigorously) a higher degree

of attention to detail on the part of elected members, not just the asset managers in the organisation. The data on asset size is also extracted from the consolidated annual accounts of councils and includes the value of their council controlled organisations (CCOs).

We acknowledge that there are different degrees of assets held by local government. Some have highly commercial assets with commercial boards comprising directors selected for their relevant competencies and business experience. Others have land holdings that are long-term and more “passive” investments. Others again are assets such as ports which although highly commercial and competitive are often also strategic assets for their local government owners.

There are also different degrees of oversight. Some councils are extremely “hands on” with their assets and others are more arms-length in their relationships, particularly with CCOs. We recognise that whatever measure of asset size is used, its relevance will differ somewhat among councils to a greater extent than is likely with other factors.

- d) **Social deprivation.** This measures the differences between councils in their need to take account of economic disadvantage among citizens. We recognise that in many council districts the high level of social deprivation in some areas is counterbalanced by a higher economic status in others. However, we believe there are some councils that do not have this balance and that, given the reliance of many councils on rates income, for those councils a high level of social deprivation will have a significant impact. Data is drawn from the third quartile of the NZDEP index prepared from the last population census.
- e) **Number of guest nights.** This represents the demands on councils (e.g. infrastructure development and service provision) resulting from visitors. We recognise that this is a current issue which may in future years be resolved and that it is but one sector in New Zealand’s economy which is of concern to local government. However, it has been raised with us on many occasions and we believe it is relevant to allow for such demands being faced by council at present. It may be that it is replaced by another factor in future years. For this factor we use the Monthly Accommodation Survey of Statistics New Zealand. We were unable to find any data on visitors who may pass through a district and use facilities but not stay overnight, or on the current vexed issue of freedom campers.

84. Regional councils:

Although all councils (territorial, regional and unitary) have a power of general competence, the legal responsibilities of regional councils and unitary councils differ from those of territorial authorities. The breadth of their mandate in national legal instruments (such as the Resource Management Act) requires regional and unitary councils to operate at a different scale from that of territorial authorities, especially in their focus on regulating and managing land and water. For example, regional and unitary councils must develop and administer Regional Plans and Unitary Plans, and territorial authorities must give effect to these plans, which drives behaviour around issues such as water quality (i.e. storm water

and waste water). In contrast, regional councils do not have the significant focus on social issues that is required from either unitary or territorial councils. Hence **land size** is inherently important to the work of a regional or unitary council. In measuring size, we are proposing to eliminate the deprivation index factor for regional councils and add a land area factor.

85. Unitary councils:

For some years, the Authority has added a loading of 12.5% to account for the additional regional council responsibilities of the four smaller unitary councils – Gisborne, Marlborough, Nelson and Tasman. This did not include Auckland, even though it is also a unitary council, because the remuneration for Auckland was considered separately when it was set up.

We are uncertain as to the basis for the 12.5%, and are thus proposing that this loading now be removed and that instead the size of these four unitary councils be measured by both the regional and the territorial authority factors. Thus the factors by which we measure the size of unitary councils would include both land area and social deprivation.

The Authority believes that with the additional regional council factor of land area included, this is a fairer way of sizing unitary councils.

With regard to the proposed factors to be used for sizing councils

- **Are there significant influences on council size that are not recognised by the factors identified?**
- **Are there any factors that we have identified that you believe should not be used and why?**
- **When measuring council assets, do you support the inclusion of all council assets, including those commercial companies that are operated by boards?**
- **If not, how should the Authority distinguish between different classes of assets?**

Weighting

86. The weight given to each factor was assessed intuitively by the Local Government Leadership Group, drawing on their knowledge and experience. These weights were then further refined by formal statistical analysis. The Authority has not yet completed this part of the exercise and, before we do, we would like to hear views on the proposed factors. Nevertheless, in our work to date, the following “order of magnitude” listing indicates what

we consider to be the relative importance of the various factors in determining size. They are listed here in terms of our current view of the highest to lowest influence on size.

87. Territorial authorities:

- Population; operational expenditure
- Assets
- Deprivation index; visitor nights

88. Regional councils:

- Operational expenditure; geographic size
- Assets; population
- Visitor nights

89. Unitary authorities:

- Population; operational expenditure; geographic size
- Assets
- Deprivation index; visitor nights

90. When the weighting exercise is completed, the size of each council estimated in this way will become the size index.

- **Are you aware of evidence that would support or challenge the relativity of the factors for each type of council?**
- **If you believe other factors should be taken into account, where would they sit relative to others?**

Mayor/chair remuneration

91. The work that the Authority commissioned from the HayGroup in 2015 included a review and evaluation of the roles of mayor, regional council chair, committee chair and councillor across 20 councils.

92. The evidence reported by Hay was that mayor and regional council chair roles generally require a full-time commitment, though this is not true in absolutely all cases. Even in smaller authorities where the mayor's role may not be full time, the nature of the job means that it is usually difficult to get another job to supplement what might not be a fulltime income. From the knowledge of members of the Authority and advice from a range of participants in local government, including the Advisory Panel, the Authority accepts that mayors/chairs are full time and we propose that mayor/chair remuneration be determined on this basis.

93. We are also proposing that there should be a “base pay” for all mayors/chairs. Additional remuneration would then be on top of this, depending on the size of the council.

- **Should mayor/chair roles should be treated as full time?**
- **If not, how should they be treated?**
- **Should there be a “base” remuneration level for all mayors/chairs, with additional remuneration added according to the size of the council?**
- **If so, what should determine this “base remuneration”?**

Councillor remuneration

94. The relativity between mayor/chair and councillors is somewhat more difficult to determine and we note that in 2015 the Authority suggested that although there was evidence about the size of positions, there was less evidence about workload.

95. We are aware that there are clear differences in both the job size and the workload of councillors on different councils for a several reasons. There can also be significant differences in workloads of councillors within a single council. The influences on a councillor workload obviously include measurable factors such as population and the other indicators we have outlined above in paragraph 5, as well as the number of councillors, which varies from council to council.

96. However, other influences include current issues within a council area and individual councillor interest in or affiliation to different interest groups. The latter also applies to workload differences amongst councillors on a single council, as does the appetite for work amongst different councillors. The Authority is not able to take account of such differences in our determinations. Nor are we able to provide for “performance pay”. This means that on any single council the remuneration of the hardest working councillor will be the same as that of the lowest contributor.

97. Having looked carefully at the sizing factors, and discussed mayor/chair and councillor relativity with a variety of people, we have formed a view that we are unable to accommodate the differences between councillors on different councils with sufficient granularity to have a single national approach. The large metropolitan councils, for example, seem to have a higher councillor workload than of smaller rural and provincial councils, though this is not a universal rule. Additionally, there are differences between

similar sized councils which are addressed at council level by the allocation of committee and portfolio responsibilities.

98. We are also conscious of the discrepancies amongst councils in the current relationships between councillor remuneration and that of the mayor/chair. The range is from 54% down to 21%, and in some cases the proportion appears to be arbitrary. Discrepancies are also evident where councils of similar size (population) show variances of up to 10% in the ratio between councillors and mayors/chairs remuneration. Some of this may be historical - the legacy of previous approaches - or the result of councils having decreased or increased the number of councillors over time.
99. The Authority is looking at a new approach that, while providing a fiscal framework, would put the decisions round the details of councillor remuneration into the hands of the local council, which we believe is better able to understand and reflect community needs than we are on a national basis.
100. We are looking at setting a total "governance/representation pool" that each council would distribute. The pool would be linked to the size of the council and thus be irrespective of the number of elected members. Because we are now proposing formally that all mayor/chair roles be considered full time, the Authority would be in a position to set the salary for that position. Thus the mayor/chair remuneration would be separately allocated by the Authority, but included in the governance/representation pool allocated to each council. However, remuneration for all other positions – councillors, deputy mayor/chair, chairs of committees, portfolio holders etc and community board members – would be allocated from its own pool by each council. The council's proposed allocations would be forwarded to the Authority for inclusion in the Determination.
101. The pool proposal was included as one alternative in the 1997 LGNZ consultation paper, albeit the remuneration framework then was very different from how it has evolved today.
102. The advantages of this approach are that it focusses on the total governance and representation cost for each council (minus the mayor/chair) and that it allows each council to decide its own councillor and community board remuneration levels, including for positions of responsibility, reflecting its priorities for the current triennium. The total pool would be relative to the size of the council rather than to the number of elected members. Consequentially, if a council wished to increase its numbers via a representation review, and thus spread the workload, the allocated pool would need to be spread amongst more people. The reverse would also apply. It should be noted that if the workload for the whole council increased because of a change in the metrics of any factor(s) by which the council is sized, then the council would move to a higher ranking on the scale which would provide overall higher total remuneration pool.
103. The disadvantage is that no council is necessarily the master of its own destiny in terms of numbers of councillors. It must convince the Local Government Commission of the need to increase or decrease numbers. However, we do note that where representation changes

reflect changes in what we call the “size” of the council (as described above in para 77-91), any changes should also be reflected in the remuneration pool available to the council so there would then be a direct connection.

104. The pool approach provides councils with the flexibility to provide differences in positions of responsibility in a nuanced way. Because each council varies in terms of its committee/portfolio structure, this is an area where councils need discretion to decide. Current practice is for the Authority to set the councillor remuneration for each council, then to provide each council a “pool” equivalent to twice the base remuneration of one of its councillors to allocate to those undertaking specific positions of responsibility. These may include deputy mayor, committee chair, portfolio holder or other specifically designated roles. We have had no significant advice that the size of this extra pool is inadequate. However, we are aware that the provisions are applied in slightly different ways by different councils and that there are some councils that find the current provisions restrictive.
105. For example, there has been some confusion in the past as to whether every single councillor on a council can receive part of this additional pool by being allocated a position of responsibility. Generally, the Authority has not agreed to this when the council has proposed sharing the additional pool equally because this has simply amounted to a pay-rise for all councillors to move them above the level applied in the Determination. However, we have had enquiries about this and also observed current practice.
106. We propose that under the new regime (i.e. a total governance/representation pool for each council) the following rules should apply:
- a) All roles and remuneration levels will need to be agreed by formal resolution of the council, with a 75% majority.
 - b) A remuneration rate must be set for the base councillor role
 - c) The council needs to have a formal written role description for each additional position of responsibility above that of the base councillor role.
 - d) The Authority will expect that any such roles within a council will have different levels of additional remuneration, depending on the nature and workload involved. In particular this needs to apply where every single councillor is allocated an additional position (as distinct from a more usual practice of having a deputy mayor/chair and a handful of committee chairs).

- **Should councillor remuneration be decided by each council within the parameters of a governance/representation pool allocated to each council by the Remuneration Authority?**
- **If so, should each additional position of responsibility, above a base**

councillor role, require a formal role description?

- **Should each council be required to gain a 75% majority vote to determine the allocation of remuneration across all its positions?**

107. We also note that elected members are increasingly being appointed to represent their council on various outside committees and bodies. We propose that if any council wishes to do so, such appointments can also be captured under the process outlined above.

- **Should external representation roles be able to be remunerated in a similar way to council positions of responsibility?**

108. The issue of director's fees for elected members who are appointed to CCOs is a difficult one. On the one hand it could be said that a councillor sitting on a CCO is doing work that is similar to that of another councillor who may have a specified position of responsibility – or even less if the second councillor is, for example, a committee chair. However, the legal liabilities of CCO directors have become more onerous in recent years and may be more than those of elected members.

109. Those appointed as directors of CCOs need to be aware of the specific legislative duties and regulatory obligations that are imposed on them, in their capacity as directors, by the various acts, including the Local Government Act 2002, the Companies Act 1993, the Health and Safety at Work Act 2015, the Charities Act 2005 and the Public Audit Act 2001.

110. It is not for the Authority to determine whether or not elected members should be directors of a CCO, but we do recognise the additional responsibility that is taken on in those cases and that it may require developing capabilities to meet obligations that are different from those required of other elected members. We also observe the increasing trend towards the appointment of external professional directors to such roles.

- **Do the additional demands placed on CCO board members make it fair for elected members appointed to such boards to receive the same director fees as are paid to other CCO board members?**

Community Board remuneration

111. We note that 40 councils (more than half the territorial authorities) have community boards. We also note that there is a huge variety in the nature of the work undertaken by community boards and in the powers delegated to them. Some undertake substantial and substantive governance work on behalf of the council, whereas others are more in the nature of community representatives and advocates.
112. We are also aware that in some places community board members are doing work that elsewhere might be undertaken by council officers. However, assuming that community boards are part of the governance/representation structure of a council, then this means that, all else being equal, the current cost of governance and representation for these councils could be relatively higher than that of councils which do not have them. Some councils fund the boards out of a targeted rate applied to the area that the board represents, whereas others use a general rate – i.e. the same as for funding the remuneration of councillors.
113. We suggest that if a council wishes to not cover remuneration for its community board members from the proposed governance/representation pool, then a targeted rate should apply to the area represented by the particular community board. However, councillors appointed to represent the council on the community board would be paid from the governance/representation pool.
114. We also consider that it is important that the functions undertaken by any community board are clearly and transparently defined by the council concerned and consider that all community board delegations should be by way of a formal council resolution.

- **Should community board remuneration always come out of the council governance/representation pool?**
- **If not, should it be funded by way of targeted rate on the community concerned?**
- **If not, what other transparent and fair mechanisms are there for funding the remuneration of community board members?**

A local government pay scale

115. Local government has no exact equivalent. The nearest that we have in New Zealand is central government, yet even that is not an exact match.

116. Section 2 of this paper sets out the legal requirements that the Authority is required to consider in making determinations. The first of those requires that the Authority “shall have regard in particular to the need to achieve and maintain fair relativity with remuneration received elsewhere”. This is particularly difficult in determining the remuneration for local government elected members because there is no obviously relevant comparator group. The Authority considered and rejected as inappropriate the following:

a) Local government senior managers’ salaries.

Information on local government management remuneration is readily available in market salary surveys and through councils’ annual reports. However employees of councils are selected for the knowledge, skills and experience they hold relative to the needs of the employment role. Elected members do not fit that profile at all. They are democratically chosen by the electors to represent the interests of the people of a particular area and provide governance over the council’s operations. There is no logical alignment that would connect the remuneration of the two groups.

b) Central government sector senior managers’ remuneration.

Information on public sector management remuneration is readily available in market salary surveys and the State Services Commission’s annual reports but this option suffers from exactly the same difficulties as option (a) above.

c) Remuneration of directors on boards, including public sector boards, commercial boards and large not-for-profit boards.

A significant part of the work of elected members consists of representational activities of one sort or another. Most boards of directors do not have this role. Those that do are often in the not-for-profit or NGO sector and, even there, the nature and time requirements of the representational work, including managing constituency issues, is different. Further, most boards are governing an enterprise that is essentially focused on a single group of goods or services within one industry, whereas councils have a significant array of services that are not necessarily similar in any manner – for example, providing building consents compared to social services.

117. Other aspects of local government elected roles which differ from the above are:

- The sheer “visibility” of the people involved, resulting in a lack of privacy. In some cases where the elected person is very high profile or important in a community, or

when the community is very small, this is extreme and often their close family members are also impacted by this.

- This visibility is associated with the need for publicly elected representatives to “front” on difficult issues. This is less common amongst other boards members and managers. When something goes wrong on a council the councillors and mayor/chair are held to account by the public, whereas on a board it would normally (though we recognise not always) be the CEO.
- The meeting requirements on local government are more onerous than they are in other sectors. The Local Government Official Information and Meetings Act 1987 and public expectation is that meetings will be held in public and that information behind decisions and actions will be readily available.
- Finally, and perhaps related to all the above, local government entities hold far more frequent meetings/workshops than do other governance boards and the distinction between governance and management is less clear than it is in most other models.

118. In the light of this, the Authority looked at a possible alignment with parliamentary remuneration for comparative purposes. Even though (as we note above) local government is not an exact match to central government, parliamentarians are also democratically elected to represent sections of the populace, and those who are members of the Government of the day also exercise governance over the public service. Within the parliamentary group there are different levels of remuneration between backbenchers, ministers and some other identifiable roles.

119. Given the obvious difference between central and local government elected members, any remuneration alignment could not be a direct one-on-one relationship. However, the nature of the roles is such that there are also similarities and this is the closest the Authority can find to “fair relativity with remuneration received elsewhere”. As in other areas of our work, this decision involved a degree of judgement – there is no exact science here and we would observe that the utility and value of any elected person is in the eye of the beholder.

120. We therefore propose that mayor/chair remuneration be related to that of MPs, but capped so that the highest remuneration for any individual mayor or chair cannot be more than that of a cabinet minister. All other mayor/chair roles would be provided with a relative alignment below that upper limit.

- **Is it appropriate for local government remuneration to be related to parliamentary remuneration, but taking account of differences in job sizes?**
- **If so, should that the relativity be capped so the incumbent in the biggest role in local government cannot receive more than a cabinet minister?**

- **If not, how should a local government pay scale be determined?**

Timetable

121. The current practice of the Authority – major three-yearly reviews with annual updating in non-review years – has been a sensible approach. We propose to continue it in the interests of efficiency and also to reflect the fact that the data we are using for sizing is not necessarily available annually.

122. In the intervening years, we propose that any change in local government remuneration reflect the change in the salary and wage rates for the public sector as shown in Statistics NZ's Labour Market Statistics (LMS) which are produced quarterly. In 2014 the LMS replaced the Quarterly Employment Survey (QES), which was the mechanism chosen as the reference index when Parliament passed the Remuneration Authority (Members of Parliament Remuneration) Amendment Act 2015. Therefore, changes in MP remuneration are also tied to the change in salary and wage rates as published in the LMS. In addition to salary and wage rates, the LMS contain information on New Zealand's official employment and unemployment statistics, number of filled jobs by industry group, total hours worked, levels of income, total gross earnings and paid hours, and average hourly rates by sector.

123. The cycle adopted by the Authority for setting local government remuneration will be as follows:
 - The first year of the cycle will be the local government election year. In that year the Authority will undertake a full review of council sizes, utilising the indicators described above. Prior to applying the result of the review, the Authority will apply the LMS changes to all local government remuneration, and the council sizing results will then be applied.
 - This determination will be issued on or about July 1 for implementation from the date the council formally takes office following the local government election later that year. At that time the Mayor/chair remuneration will be applied but the remuneration for all other positions to be decided out of the "governance/representation pool" will be applied on the day following the day on which the council formally resolves its remuneration policy for that triennium. Until then, from the day of assuming office, all councillors will be paid the base councillor remuneration that applied in the preceding triennium. The new determination will apply till the council ceases to formally hold office at the next local government election.
 - Meeting fees for RMA plan or consent hearings, as well as the parameters for expense reimbursement, will also be assessed at that time and any changes will apply to all councils at the same time as the remuneration changes.
 - In the subsequent two years, the determination will again be issued on or about July 1 but on these occasions for immediate implementation. For all councils, it will

contain adjustments reflecting the change in the LMS. There will be no changes in plan or consent hearing fees or expenses policies at this time.

This consultation process from now on

124. This proposal is being circulated to all councils to obtain feedback on the approach. The Authority would need to receive any written feedback that councils wish to make by **30 October 2017**. We look forward to hearing from you.
125. For this year (2017) the Authority proposes to change remuneration according to the LMS change and we also propose to introduce the new provisions outlined in Section Two of this paper. All other changes would be introduced for the year 2019. This timetable allows time for councils to fully discuss the proposals and give us their responses. It allows us to then refine and test our final model for the “governance/representation pool” prior to implementation.
126. **We are conscious that 2019 is three years after the local government sector would have been expecting changes. However, with our proposal to change the model for sizing councils and to radically change the way councillor remuneration is decided, we believe that such a time period is justified.**

TEMUKA COMMUNITY BOARD
FOR THE MEETING OF 22 MAY 2017

Report for Agenda Item No 8

Prepared by Matt Ambler
Property Manager

Units at 64 Rayner Street, Temuka

Purpose of Report

- 1 The purpose of the report is to seek the Board's recommendation that Council promotes the surrender of the conditions of the leases which require the Council to insure the buildings, maintain the grounds, and to receive notification of the owners' intention to sell and whether Council wish to exercise its right of purchase in regard to units at 64 Rayner Street, Temuka.

Background

- 2 The subject buildings are depicted marked edged blue on the attached aerial photograph. The land was acquired by the Borough as one parcel, subdivided for a three lot development in 1982, then the land titles were re-amalgamated into one, to achieve a higher concentration of housing units.
- 3 The six units were constructed by the Temuka Borough Council about 1985. They consist of 2 bedrooms, with double garages. They were sold on the open market, subject to cross leases for 999 years, from 1 April 1985. The cross leases were created to enable the units to be built on the one title, as creating individual lots was not possible under the applicable subdivision rules.
- 4 Each unit is subject to registered leases, and each lease is recorded on individual certificates of title. The original lease agreements were set up in 1985 with the Council being both the lessor and lessee, prior to each unit being sold to the public.
- 5 The cross leases attached to each unit have a clause requirement, for the lessee to keep a comprehensive insurance policy in place, for full insurable value (cl. 13 (a)).
- 6 Clause 32 requires the lessor, lessee, and their subsequent assigns (future owners of the units) to firstly offer the units to the Council for re-purchase, for a period of 3 months to consider whether Council wishes to exercise the right.
- 7 Clause 33 of the agreement requires the same original parties to maintain the land areas between the units, and to call upon each lessee to pay one sixth of such costs.

- 8 A copy of an example of the titles, and the subject clauses, highlighted yellow, are attached for reference.
- 9 The 6 units were sold shortly after completion, and there have been occasions when ownership has passed. Council has not exercised its right to purchase, nor has it continued to maintain the grounds, or maintain the insurance. This particular requirement usually passes to the mortgagor as a requirement for finance.
- 10 Recently, a solicitor acting for a party to a sale approached Council to see if consideration could be given to formally agreeing to uplift the three specific clauses, subject to the tenants supporting the changes through a variation to their respective leases. Such a change is seen as a more accurate reflection of the current position.

Options

- 11 There are three identified options for achieving the objective.
- 12 One is to do nothing and leave the lease clauses as they are.
- 13 The second is to support the proposal that Council relinquishes the rights to require all vendors to initially seek Council's decision as to whether it wishes to re-purchase, which it has not exercised to date, and to fully pass the responsibility for insurance and maintenance to the unit owners.
- 14 The third option is a variation on the above, whether the variations are completed as one process, or to obtain each variation as the occasions of potential ownership arises.
- 15 Option one is not considered desirable, as it does not accurately reflect the current situation. Altering the clauses is the desired outcome proposed by the solicitor also.
- 16 The second and third options both provide ways to achieve the outcomes for affected parties. Option 3 would promote and achieve the outcome over time, however clearance prior to a sale would expedite the process for the vendor, although it could be a condition of future consents to require their removal.
- 17 Option 3 is the preferred option.

Identification of Relevant Legislation, Council Policy and Plans

- 18 There are no relevant Council plans, policy applicable. To achieve the desired outcome, individual memorandums of variation will be required to register the change of conditions, to comply with the conditions relevant to such titles, under the Land Transfer Act 1952.

Assessment of Significance

- 19 This matter is not deemed significant under the Council's Significance Policy.

Consultation

- 20 Consultation has been undertaken with the solicitor who raised the query, and also with Council's solicitors, as to the practicality and achievability of the process. There is no ability to insist upon the change. No discussion has been entered into with the unit owners at this time, pending Council's resolution.

Other Considerations

- 21 All other Council units are either 1 bedroom (approx.190) or bedsits (approx. 45). There are currently no 2 bedroom units in the portfolio, as our stock is intended for singles or couples only. There are no other identified considerations relevant to this matter.

Funding Implications

- 22 There is no current plan to expand the number of social housing units in Temuka. As an indicator, the current Quotable Value assessment has the range of values for 5 of the 6 units at between \$165,000 - \$170,000, including land. One has a lesser value of \$150,000.

Conclusion

- 23 On previous occasions, Council has not shown an interest in re-acquiring any of the units, and given our current focus for the social housing stock, is unlikely to alter in the foreseeable future. Although the waiting list for units in Temuka is about 20, the subject units do not fit with our current tenant mix requirements.

Recommendations

1. That the Community Board considers the report, and supports the recommended Option 3.
2. That the Community Board recommends to the Policy and Development Committee that the Chief Executive be given the authority to negotiate with the unit owners to remove the subject obligations from the cross lease agreements as appropriate.



13(a) The Temuka Borough Council shall comprehensively insure the said demised premises for its full insurable value and the Lessee will pay to the Temuka Borough Council his proportionate share of the premiums in accordance with Clause 2 hereof and all moneys received by the Temuka Borough Council under any such policy of Insurance shall be expended in repair and reinstatement pursuant to provisions of Clause 20 hereof.

32. The Lessor and the Lessee Hereby Covenant so as to bind themselves their Executors Administrators and lawful assigns that they will not sell, transfer, assign or otherwise dispose of the estates created by this Lease without first having offered the same to the Temuka Borough Council or its nominee which body shall by itself or by its nominee within three (3) calendar months of receiving written notice of the lessor and lessee desire to sell, transfer, assign or otherwise dispose of the said estates either enter into a binding agreement to purchase the said estates at a price to be fixed by a single valuer to be appointed by the lessor, lessee and the Temuka Borough Council or its nominee and failing agreement by them as to a single valuer then by a single valuer appointed by the president of the South Canterbury Law Society or give consent in writing to the sale to be to any person other than the Temuka Borough Council or its nominee PROVIDED HOWEVER that should the Temuka Borough Council give such written consent then such consent shall be subject to the lessor and the lessee obtaining a like covenant to this covenant as a condition of any such sale, transfer, assignment or other disposition. In the event of purchase by the Temuka Borough Council or its nominee the price shall be based upon a valuation of the Flat and Garage for mortgage purposes in terms of the Trustee Act, 1956.

33. The lessor and the lessee do Hereby Acknowledge that the Temuka Borough Council shall be responsible for the maintenance of the mutual areas defined as land with Flat 1 - 4 and land with Flat 5 and 6 on the Flats Plan and the lessor and the lessee shall when called upon from time to time to do so pay the Council a one-sixth (1/6th) part of the costs of such maintenance.

David M. M. M.
MAYOR
Andrew
ASSISTANT
TOWN CLERK





COMPOSITE COMPUTER REGISTER
UNDER LAND TRANSFER ACT 1952

Search Copy



Identifier **CB27F/663**
Land Registration District **Canterbury**
Date Issued **07 August 1985**

Prior References
CB26F/329

Estate Fee Simple - 1/6 share
Area 1928 square metres more or less
Legal Description Lot 1 Deposited Plan 47638

Proprietors

Mary Ann Frances Procter and Tracey Lee Roberts as to a 1/2 share
Mary Ann Frances Procter as to a 1/2 share

Estate	Leasehold	Instrument	L 560057.3
		Term	999 years from 1.4.1985

Legal Description Flat 3 Deposited Plan 48569

Proprietors

Mary Ann Frances Procter and Tracey Lee Roberts as to a 1/2 share
Mary Ann Frances Procter as to a 1/2 share

Interests

560057.1 Lease of Flat 1 DP 48569 Term 999 years from 1.4.1985 Composite CT CB27F/661 issued - 7.8.1985 (affects fee simple)
560057.2 Lease of Flat 2 DP 48569 Term 999 years from 1.4.1985 Composite CT CB27F/662 issued - 7.8.1985 (affects fee simple)
560057.3 Lease of Flat 3 DP 48569 Term 999 years from 1.4.1985 Composite CT CB27F/663 issued - 7.8.1985 (affects fee simple)
560057.4 Lease of Flat 4 DP 48569 Term 999 years from 1.4.1985 Composite CT CB27F/664 issued - 7.8.1985 (affects fee simple)
560057.5 Lease of Flat 5 and Garage 5 DP 48569 Term 999 years from 1.4.1985 Composite CT CB27F/665 issued - 7.8.1985 (affects fee simple)
560057.6 Lease of Flat 6 and Garage 6 DP 48569 Term 999 years from 1.4.1985 Composite CT CB27F/666 issued - 7.8.1985 (affects fee simple)

Transaction Id 49460776
Client Reference procter & roberts 12411.1

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Register Only

TEMUKA COMMUNITY BOARD
FOR THE MEETING OF 22 MAY 2017

Report for Agenda Item No 12

Prepared by Joanne Brownie
Council Secretary

Exclusion of the Public

Recommendation

That the Board resolves to exclude the public on the grounds contained in Section 48(1) of the Local Government Official Information and Meetings Act:

Temuka Oxidation Ponds
Section 7(2)(b)(ii)

The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.

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