



If calling, please ask for Democratic Services

Council

Friday 28 October 2022, 10.00am

Taumata Kōrero, Council Chamber, Greater Wellington Regional Council,
100 Cuba St, Te Aro, Wellington

Members

Cr Bassett

Cr Duthie

Cr Kirk-Burnnand

Cr Lee

Cr Ponter

Cr Saw

Cr Woolf

Cr Connelly

Cr Gaylor

Cr Laban

Cr Nash

Cr Ropata

Cr Staples

Recommendations in reports are not to be construed as Council policy until adopted by Council

Council

Inaugural Council meeting for the 2022-2025 triennium
 Friday 28 October 2022 at 10.00am
 Taumata Kōrero, Council Chamber, Greater Wellington Regional Council
 100 Cuba St, Te Aro, Wellington

Public Business

No.	Item	Report	Page
1.	Pōwhiri		
2.	Apologies		
3.	Declaration by Councillors	22.463	3
4.	Process for the election of the Council Chairperson and Deputy Chairperson	22.465	6
	4.1 Election process adopted		
	4.2 Election of Chairperson		
	4.3 Declaration by Chairperson	22.461	11
	4.4 Newly-elected Chairperson to take the Chair		
	4.5 Election of Deputy Chairperson		
5.	Laws Affecting Councillors	22.456	14
6.	Adjournment – Council to adjourn until 24 November 2022		

Council
28 October 2022
Report 22.463



For Information

DECLARATION BY COUNCILLORS

Te take mō te pūrongo

Purpose

1. For each Councillor to make the declaration required by clause 14 of Schedule 7 to the Local Government Act 2002.

Declaration

2. Each Councillor will come forward to make their oral declaration. Councillors may make their oral declaration in Te Reo Māori, New Zealand Sign Language, or English.
3. After making the oral declaration, each Councillor and the Chief Executive will sign the written declaration. This will then be provided to the Councillor following the meeting.
4. The English and Te Reo Māori versions are set out below.

Te Reo Māori declaration

5. Ko [FULL NAME] ahau, ko taku kupu tēnei. Ka tutuki i ahau, ki tāku e pono nei, ngā kawenga katoa, hei painga mō te rohe i raro i te mana kua riro mai ki ahau, hei mema o Te Pane Matua Taiao, i raro i te Ture Kāwanatanga ā-Rohe, rua mano mā rua, te Ture Pārongo, Huinga Ōkawa Kāwanatanga ā-Rohe, kotahi mano, iwa rau, waru tekau mā whitu, me ētahi atu ture hoki.

English declaration

6. I, [FULL NAME], declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the Wellington Region, the powers, authorities, and duties vested in, or imposed upon, me as a member of the Wellington Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

**Ngā kaiwaitohu
Signatories**

Writer	Lucas Stevenson – Kaitohutohu Advisor, Democratic Services
Approvers	Alex Smith – Kaitohutohu Matua Senior Advisor, Democratic Services Francis Ryan – Kaiwhakahaere Matua Manager, Democratic Services Luke Troy – Kaiwhakahaere Matua Rautaki General Manager Strategy

<p style="text-align: center;">He whakarāpopoto i ngā huritaonga Summary of considerations</p>
<p><i>Fit with Council's roles or with Committee's terms of reference</i> Councillors are required to make the declaration to act.</p>
<p><i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i> Not applicable</p>
<p><i>Internal consultation</i> Officers consulted with Te Hunga Whiriwhiri on Te Reo Māori translation.</p>
<p><i>Risks and impacts - legal / health and safety etc.</i> A Councillor not making the declaration will be unable to act.</p>

Council
28 October 2022
Report 22.465



For Decision

PROCESS FOR THE ELECTION OF THE COUNCIL CHAIRPERSON AND DEPUTY CHAIRPERSON

Te take mō te pūrongo

Purpose

1. To advise Council on the procedure and options to elect the Council Chairperson and Deputy Chairperson.

He tūtohu

Recommendations

That Council:

1. **Adopts**, in accordance with Schedule 7 to the Local Government Act 2002) *either*:
 - a. Statutory voting system A; *or*
 - b. Statutory voting system B.
2. **Agrees** that any voting round that requires a resolution by 'lot' to exclude any person/s will use the procedure where the candidates' names (with the same number of votes) are placed in a container and the name of the person drawn out by an independent person is deemed the winner (i.e. elected or not excluded from the next round).
3. **Adopts** the system and procedure outlined in recommendations 1 and 2 for the election of the Chairperson and Deputy Chairperson.

Te tāhū kōrero

Background

2. The election of the Chairperson and Deputy Chairperson of the Regional Council must be conducted at the first meeting of the Council for the triennium (clause 21 of Schedule to the Local Government Act 2002 (LGA)). The first Council meeting of the 2022-25 triennium is 28 October 2022.
3. For the election of the Chairperson and Deputy Chairperson, Council must choose one of two statutory voting, as outlined in clause 25 of Schedule 7 to the LGA:
 - A. Election by the majority of members present and voting; *or*
 - B. Election by receiving a greater number of votes than any other candidate.

Te tātaritanga Analysis

Characteristics of Voting system A - election by majority

4. The characteristics of this system are:
 - a The person who is elected received the votes of a majority of the Council members present and voting
 - b There is a first round of voting for all candidates
 - c If no candidate is elected in that round, there is a second round of voting from which the candidate with the fewest votes in the first round is excluded
 - d If no candidate is successful in the second round, there is a third round, and so on. Each time the candidate with the fewest votes in the previous round is excluded
 - e If, in any round, two or more candidates tie for the lowest number of votes, the person excluded from the next round is excluded by lot
 - f Rounds of voting will only be required where there are more than two candidates.

Characteristics of Voting system B – election by greatest number of votes

5. The characteristics of this system are:
 - a A person is elected if they receive more votes than any other candidate
 - b There is only one round of voting
 - c If two more candidates tie for the most votes, the tie is resolved by lot.

Determining by 'lot' when there is a tie

6. Both voting systems A and B require a resolution by 'lot' if two or more candidates receive an equal number of votes and no one else is elected. The most common procedure is for the names of the candidates with the same number of votes to be placed in a container and the name of the person drawn out by an independent person is deemed the winner (i.e. elected or not excluded from the next round). It is recommended that this process be used in the event that there is a tie between candidates.

Nga kōwhiringa Options

7. Council must choose either of the two voting systems described above to elect the Chairperson and Deputy Chairperson. Council is entitled to adopt different systems for the election of the Chairperson and Deputy Chairperson; however, for reasons of ease and practicability, it is recommended that Council adopt the same system for both elections.

Option One – Voting system A - Election by the majority of members

Advantages	Disadvantages
The winning candidate is elected by a majority of Council members.	There may be multiple voting rounds.

8. Voting system A is recommended if Council wants to guarantee that the winning candidate receives the votes of a majority of the members of Council.

Option Two – Voting system B – Election by the greatest number of votes

Advantages	Disadvantages
There is only one round of voting.	The winning candidate may not have the majority support of Council members.

**Ngā hua ahumoni
Financial implications**

9. There are no financial implications arising from this decision.

**Ngā tikanga whakatau
Decision-making process**

10. The matters requiring decision in this report were considered by officers against the decision-making requirements of the LGA.

**Te hiranga
Significance**

11. Officers considered the significance (as defined in Part 6 of the LGA) of the matters for decision, taking into account Council’s *Significance and Engagement Policy* and Greater Wellington’s *Decision-making Guidelines*. Officers recommend that the matters are of low significance, given their administrative nature.

**Te whakatūtakitaki
Engagement**

12. No external engagement was considered necessary.

**Ngā tūāoma e whai ake nei
Next steps**

13. Once the voting system is decided, the Chief Executive will call for nominations for the office of Council Chairperson. Once elected, the Chairperson must make the declaration prescribed in clause 14 of Schedule 7 to the LGA (refer to Declaration by Chairperson – Report 22.461). After making the declaration, the newly elected Chairperson shall take the chair for the rest of the meeting.

14. The newly elected Chairperson will then call for nominations for the officer of Deputy Chairperson. No declaration is required by the newly elected Deputy Chairperson.

**Ngā kaiwaitohu
Signatories**

Writer	Lucas Stevenson – Kaitohutohu Advisor, Democratic Services
Approvers	Alex Smith – Kaitohutohu Matua Senior Advisor, Democratic Services Francis Ryan – Kaiwhakahaere Matua Manager, Democratic Services Luke Troy – Kaiwhakahaere Matua Rautaki General Manager, Strategy

He whakarāpopoto i ngā huritaonga Summary of considerations
<i>Fit with Council's roles or with Committee's terms of reference</i> Council is required to have a Chairperson and Deputy Chairperson in accordance with the LGA.
<i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i> Not applicable.
<i>Internal consultation</i> There was no internal consultation.
<i>Risks and impacts - legal / health and safety etc.</i> There are no known risks or impacts.

Council
28 October 2022
Report 22.461



For Information

DECLARATION BY CHAIR

Te take mō te pūrongo

Purpose

1. For the newly-elected Chairperson to make the declaration required by clause 14 of Schedule 7 to the Local Government Act 2002.

Declaration

2. The Chairperson is required to make a declaration (oral and written) to be able to act. The oral declaration can be made in Te Reo Māori, New Zealand Sign Language, or English.
3. After the Chairperson has made the oral declaration, they and the Chief Executive will then sign the written declaration. This will then be provided to the Chair following the meeting.
4. The English and Te Reo Māori versions of the declaration are set out below.

Te Reo Māori declaration

5. Ko [FULL NAME] ahau, ko taku kupu tēnei. Ka tutuki i ahau, ki tāku e pono nei, ngā kawenga katoa, hei painga mō te rohe i raro i te mana kua riro mai ki ahau, hei Tiamana o Te Pane Matua Taiao, i raro i te Ture Kāwanatanga ā-Rohe, rua mano mā rua, te Ture Pārongo, Huinga Ōkawa Kāwanatanga ā-Rohe, kotahi mano, iwa rau, waru tekau mā whitu, me ētahi atu ture hoki.

English declaration

6. I, [FULL NAME], declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the Wellington Region, the powers, authorities, and duties vested in, or imposed upon, me as Chairperson of the Wellington Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

**Ngā kaiwaitohu
Signatories**

Writer	Lucas Stevenson – Kaitohutohu Advisor, Democratic Services
Approvers	Alex Smith – Kaitohutohu Matua Senior Advisor, Democratic Services Francis Ryan – Kaiwhakahaere Matua Manager, Democratic Services Luke Troy – Kaiwhakahaere Matua Rautaki General Manager Strategy

<p style="text-align: center;">He whakarāpopoto i ngā huritaonga Summary of considerations</p>
<p><i>Fit with Council's roles or with Committee's terms of reference</i></p> <p>The Chairperson is required to make the declaration to act.</p>
<p><i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i></p> <p>Not applicable.</p>
<p><i>Internal consultation</i></p> <p>Officers consulted with Te Hunga Whiriwhiri on the Te Reo translation.</p>
<p><i>Risks and impacts - legal / health and safety etc.</i></p> <p>If the Chairperson does not make the declaration, they will be unable to act.</p>

Council
28 October 2022
Report 22.456



For Information

LAWS AFFECTING COUNCILLORS

Te take mō te pūrongo

Purpose

1. To explain generally the key legislation that regulates the conduct of elected members.

Te horopaki

Context

2. Clause 21(5)(c) of Schedule 7 to the Local Government Act 2002 (the LGA) requires that, at the first meeting of Council following a triennial general election, the Chief Executive must give or arrange for a general explanation of certain laws affecting elected members. Councillors should be aware of these laws as breaching the related requirements may result in loss of office, fines, and/or imprisonment.
3. The required explanations cover the:
 - a Secret Commissions Act 1910
 - b Crimes Act 1961
 - c Local Authorities (Members' Interests) Act 1968
 - d Local Government Official Information and Meetings Act 1987
 - e Financial Markets Conduct Act 2013.
4. In addition, officers have included information on similar duties, obligations, and offences under the Local Government Act 2002 (the LGA) and the Health and Safety at Work Act 2015.
5. The following sections summarise briefly the related provisions that govern the conduct of Councillors and Council's affairs.

Secret Commissions Act 1910

6. Under section 16(1)(b) of the Secret Commissions Act 1910, Councillors are deemed to be agents of Council and can be criminally liable for bribery and corruption offences. Under this Act, Councillors may be liable for:
 - a Corruptly accepting, obtaining, or soliciting from any person (for the Councillor or any other person) any gift, inducement or reward for doing or forbearing to do something in relation to Council's affairs or business (section 4(1))

- b Showing or having shown favour or disfavour to any person in relation to Council's affairs or business (section 4(1))
 - c Diverting, obstructing, or interfering with the proper course of Council's affairs or business with intent to obtain (for the Councillor or any other person) any gift or other consideration from any person interested in such affairs or business (section 4(2))
 - d Failing to use due diligence in the prosecution of Council's affairs or business with intent to obtain (for the Councillor or any other person) any gift or other consideration from any person interested in such affairs or business (section 4(2))
 - e Not disclosing to Council, at the time of making a contract on behalf of Council, his or her pecuniary interest (this includes any pecuniary interest which a parent, spouse or partner, or child has) in making that contract (section 5 and the explanation below of the Local Authorities (Members' Interests) Act 1968)
 - f Aiding or abetting, or being in any way directly or indirectly concerned in, or privy to, the commission of any offence against the Act (section 9).
7. There are also offences for giving (with the intent to deceive) a Greater Wellington officer a false receipt, invoice, or document (section 6), receiving secret reward for procuring contracts (section 8), and aiding and abetting offences under this Act (section 9).
8. Conviction of an offence under this Act carries a penalty of imprisonment for a term not exceeding seven years. Such a conviction also results in the Councillor's disqualification from acting in their role for the term of that conviction (Clause 1 of Schedule 7 to the LGA).

Crimes Act 1961

9. Both a Councillor and a Greater Wellington officer are defined as an 'official' under section 99 of the Crimes Act 1961. Section 105(1) of that Act states that:
- Every official is liable to imprisonment for a term not exceeding 7 years who, whether within New Zealand or elsewhere, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or herself or any other person in respect of any act done or omitted, or to be done or omitted, by him or her in his or her official capacity.*
10. Put simply, it is an offence to seek or obtain a reward for performing one's official duties as a Councillor.
11. The application of section 105A of that Act provides that it is an offence for an official to corruptly use or disclose any information acquired by him or her in their official capacity to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or herself or any other person.
12. It is also an offence, under section 105B of that Act, for a Councillor to use or disclose information that he or she knows was disclosed in contravention of section 105A (e.g. by another Councillor or a Greater Wellington officer) to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or herself or any other person.

13. Conviction of an offence under sections 105 to 105B carries a penalty of imprisonment for a term not exceeding seven years.

Local Authorities (Members' Interests) Act 1968

14. The Local Authorities (Members' Interests) Act 1968 (the LAMIA) has two main aspects:

- a A Councillor must not hold interests in Council contracts with a separate or combined value greater than \$25,000 (GST inclusive) in any financial year, unless this holding has prior approval from the Office of the Auditor-General (section 3(1)).

This Act includes contracts made by Council directly with the person concerned, and those contracts in which the Councillor is concerned or interested. Special provisions deal with companies in which a Councillor (or his or her spouse or partner) is interested either as a shareholder, or as a member of the company, or by virtue of certain management positions.

- b Councillors must not vote or take part in a Council or committee discussion if they have a direct or indirect pecuniary interest in the discussion (section 6(1)).

Again, there are special provisions dealing with a pecuniary interest in the context of the interest of the member or his or her spouse/partner in a company.

15. There are exceptions to these rules. If there is any doubt, a Councillor should refer the matter to the Office of the Auditor-General or seek independent legal advice.
16. The penalties for breach through a disqualifying contract (under section 3) include immediate loss of office (section 4) and the possibility of a fine not exceeding \$200 (section 5). The penalties for breach by discussing or voting when there is a pecuniary interest (section 6) are a fine not exceeding \$100 and loss of office upon conviction of an offence (section 7).
17. Related to these statutory provisions is the common law principle of natural justice, which includes obligations to listen to both sides and not to be a judge in one's own cause.

Local Government Official Information and Meeting Act 1987

18. The Local Government Official Information and Meetings Act 1987 (the LGOIMA) governs the custody and release of official information, as well as access to local authority meetings.

Information

19. The LGOIMA's fundamental principle is that information held by Council and Greater Wellington is publicly available (section 5), unless one or more specified withholding grounds apply. Information held by any Councillor in their official capacity is deemed to be held by Greater Wellington.
20. The LGOIMA sets out a framework for dealing with requests for information and provides that requesters may complain to the Ombudsman if they have concerns about our response to their request.

Meetings

21. Local authority meetings must be open to the public (section 47), unless there are statutory reasons for Council excluding the public (section 48). Conclusive reasons exist where the public conduct of the whole or any relevant part of the meeting would be likely to:
 - a Prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
 - b Endanger the safety of any person (section 48(1)(a)(i)).
22. The public may also be excluded where the subject matter of discussion is one in respect of which a right of appeal exists to any court or tribunal against Council's final decision (section 48(2)(a)(i)). Other reasons for excluding the public are provided in section 7.
23. In excluding the public, Council must resolve (in the form set out in Schedule 2A) stating the general subject of each matter to be considered while the public is excluded, the reason for passing this resolution, and the specific statutory grounds for passing the resolution.

Other matters

24. The LGOIMA also importantly provides on the following matters of availability and privilege at Council and committee meetings:
 - a Items not on the meeting agenda may be dealt with at the meeting if:
 - i Council or the committee so resolves; and
 - ii The meeting Chair explains when the meeting is open to the public why the item is not on the agenda and why the discussion item cannot be delayed until a subsequent meeting (section 46A(7))
 - b If the item is a minor matter relating to general business:
 - i The meeting Chair explains when the meeting is open to the public, the item may be discussed, and
 - ii No resolution, decision or recommendation may be made except to refer the item to a subsequent meeting for further discussion (section 46A(7)).
 - c All statements made at meetings of Council and any publications resulting from a meeting of Council (i.e. agendas and minutes) are 'privileged'. A statement that is regarded as 'privileged' cannot support a cause of action for defamation (even though that statement might be untrue or misleading). An exception to this rule exists if the statement, or defamatory publication, is proven to have been predominantly motivated by ill will (sections 52 and 53).

Local Government Act 2002

25. The Local Government (Pecuniary Interests Register) Amendment Act 2022 (the 2022 Act) amended the LGA by inserting a new subpart 3 to Part 4. The purpose of the 2022 Act¹ is to increase the transparency, trust and confidence in local government by making publicly available information about elected members' pecuniary interests. The 2022 Act was enacted on 20 May 2022 and takes effect on 20 November 2022.

Key obligations

26. The 2022 Act's key obligations are:
- a Each council is required to keep a register of elected members' pecuniary interests and to make a summary of the register publicly available
 - b Each council must appoint a Registrar to compile and maintain the register and to provide related advice and guidance to elected members
 - c Each elected member must:
 - i Make an annual return on the specified pecuniary interests to the Registrar within the statutory timeframe
 - ii Ensure the information contained in any return is accurate
 - iii Subsequently advise the Registrar (as soon as practicable) after the elected member becomes aware of any error or omission in their returns
 - d Each elected member is personally responsible for ensuring they fulfil their obligations, and failure to comply with these obligations is an offence punishable by a fine of up to \$5,000
 - e Each council ensuring the information contained in the register is:
 - i Only used or disclosed in accordance with the purpose of the register (see paragraph 2 above)
 - ii Retained for seven years after the date on which the elected member provides the information and is then removed from the register.
27. Officers are currently revising Greater Wellington's systems, processes, and guidance to provide clarity on the operation of the 2022 Act and the current interest disclosure arrangements under the LAMIA and common law.

Financial Markets Conduct Act 2013

28. Under the Financial Markets Conduct Act 2013, elected members are in a similar position to company directors if Council issues financial products under its borrowing powers (such as equity or debt securities). Elected members may therefore be personally liable if product disclosure statements to investors contain untrue information, and may be liable for civil action or criminal prosecution if the requirements of the Act (such as keeping an audited register of financial products issued) are not met.

¹ Section 54B of the 2022 Act.

29. The Act also prohibits any elected member who has information about a listed company that is not generally available to the market, from trading in the company’s shares or from disclosing that information.
30. The penalties for providing false or misleading statements in disclosure documents and insider trading carry the possibility of imprisonment.

Health and Safety at Work Act 2015

31. Under the Health and Safety at Work Act 2015, a local authority is termed a Person Conducting a Business or Undertaking (PCBU). All involved in the PCBU’s work, including Councillors, have a primary duty of care to workers (section 36).
32. Councillors are “officers” under the Act and must exercise a duty of due diligence to ensure that the PCBU complies with its duties (which also include the management of risks to health and safety (section 30)). The key matters to be mindful of are:
 - a Stepping up and being accountable
 - b Identifying and managing your risks
 - c Making health and safety part of Greater Wellington’s culture
 - d Getting workers involved.
33. A Councillor does not have a duty to exercise due diligence for any council-controlled organisation (e.g. WRC Holdings Ltd) unless that Councillor is also appointed as a director of that council-controlled organisation (section 44(3)).
34. The Act provides offences, with penalties of significant fines, for reckless conduct in respect of a duty (section 47), failing to comply with a duty that exposes an individual to risk of death or serious injury or serious illness (section 48), and failing to comply with a duty (section 49). Councillors cannot be prosecuted if they fail to exercise their duty of due diligence (section 52(2)(b)), unless they are acting as a director of a council-controlled organisation.

**Ngā kaiwaitohu
Signatories**

Writer	Will Ogier – Kaitohutohu Matua Principal Advisor, Democratic Services
Approvers	Francis Ryan – Kaiwhakahaere Matua Manager, Democratic Services Luke Troy – Kaiwhakahaere Matua Rautaki General Manager, Strategy

He whakarāpopoto i ngā huritaonga Summary of considerations
<i>Fit with Council's roles or with Committee's terms of reference</i> This report meets the requirements on the Chief Executive under clause 21(5) of Schedule 7 to the LGA.
<i>Contribution to Annual Plan / Long Term Plan / Other key strategies and policies</i> Not applicable.
<i>Internal consultation</i> The Company Portfolio & Economic Development, and the Health, Safety and Wellbeing departments were consulted in preparing this report.
<i>Risks and impacts - legal / health and safety etc.</i> There are no known risks arising from this report.