

S O L G M

NZ SOCIETY OF LOCAL GOVERNMENT MANAGERS



CODE OF GOOD PRACTICE

For the Management of Local Authority
Elections and Polls

Part 1 Overview on the Management of Elections and Polls

Produced by the
SOLGM Electoral Working Party

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Introduction

- 1.1 The legislative framework within which local authority elections and polls are conducted is established through a number of Acts and Regulations but primarily:
 - the Local Electoral Act 2001 (the Act);
 - the Local Electoral Regulations 2001 (the Regulations); and
 - the Local Government Act 2002.
- 1.2 District health boards and licensing trusts are also deemed to be local authorities for the purposes of the Local Electoral Act and therefore other important Acts are the:
 - the New Zealand Public Health and Disability Act 2000; and
 - the Sale of Liquor Act 1979.
- 1.3 In addition, some specific provisions of the Electoral Act 1993 apply in respect of local authority elections.
- 1.4 This Code brings together the legislative provisions for the management of local elections and polls and identifies recommended good practice for giving effect to this legislation. The Code is designed to assist electoral officers and other electoral staff in the carrying out of their statutory duties. It does not, however, replace the legislation and electoral officers and electoral staff are expected to have a full understanding of the legislation.
- 1.5 Key general provisions of the legislation are set out in this Part. The more detailed legislative provisions and requirements are set out in the relevant Part of the Code.

Roles of electoral officer and local authority

- 1.6 It is important to note that section 14(1) of the Act provides that once appointed, the electoral officer and other electoral officials, with specified exceptions, are not subject to the direction of the local authority in the exercise of powers or the carrying out of duties under the Act or Regulations.
- 1.7 The areas where the local authority has a prescribed role and, as appropriate, is able to direct the electoral officer are:
 - the appointment of the electoral officer (see Part 3);
 - directions to the electoral officer to conduct an election not required under the Act (see Part 3);
 - directions to the electoral officer to conduct a poll, not otherwise required, as a poll under the Act (see Parts 3 and 6);
 - decisions on the choice of electoral system (see Part 4);
 - decisions on the choice of establishing Māori wards/constituencies (see Part 5);
 - representation reviews (see Part 5);
 - decisions on whether to fill an extraordinary vacancy occurring within 12 months of the next triennial general election of members (see Part 19);
 - decisions on the choice of voting method (see Part 12);
 - decisions on the order of candidates on voting documents (see Part 12); and
 - decisions on processing of voting documents before the close of voting (see Part 15).

- 1.8 Electoral officers may wish to provide a copy of this Part of the Code, on general roles and responsibilities, to elected members and the local authority chief executive for their information. They could also provide the relevant Part of the Code to the chief executive or other appropriate officer of the local authority (e.g. policy adviser) for assistance in respect of the particular powers and duties of the local authority in the above areas.

Contents of Code

- 1.9 **Part 2: Electoral Timetables** sets out the timetables for the 2008 to 2010 period relating to the electoral system, Māori representation, reviews of representation arrangements and the 2010 triennial elections.
- 1.10 **Part 3: Electoral Officers and Electoral Staff** sets out the relevant legislative provisions, requirements and recommended good practice relating to the appointment and role of the electoral officer and other electoral staff. Issues include: appointment and accountability of electoral officers, declarations, conduct, duties, delegations, contracting, reporting of complaints and offences, and insurance. Templates for a draft electoral officer job description, model declarations and memoranda of understanding between local authorities and their electoral officers are also included.
- 1.11 **Part 4: Electoral Systems** sets out the relevant legislative provisions, requirements and recommended good practice relating to processes for changing the electoral system (i.e. first past the post or single transferable voting) for elections for territorial authorities, regional councils and licensing trusts. (District health boards must use the single transferable voting system.) Issues include: change options, poll demands and timetables, and information on electoral systems.
- 1.12 **Part 5: Representation Arrangements** sets out the relevant legislative provisions, requirements and recommended good practice relating to reviews of representation arrangements for territorial authorities and regional councils. Issues include: representation review parameters, preliminary considerations, review steps and process (e.g. elections by wards or constituencies, at large or combined at large and wards, community boards), requirements for Māori wards/constituencies including poll demands and timetables, and information on Māori representation.
- 1.13 **Part 6: Polls** sets out the relevant legislative provisions, requirements and recommended good practice relating to local polls. Issues include: how polls arise, petitions, demands and requirements to conduct a poll, and the conduct of polls.
- 1.14 **Part 7: Electoral Rolls** sets out the relevant legislative provisions, requirements and recommended good practice relating to residential, ratepayer and Māori electoral rolls. Issues include: compilation of rolls including licensing trust and district health board rolls, display and sale of rolls, marked rolls, unpublished rolls and 'gone no address' information.
- 1.15 **Part 8: Candidate Information** sets out recommended good practice relating to the provision of information for prospective candidates to facilitate achievement of the principle of 'all qualified persons have a reasonable and equal opportunity to nominate or accept nomination as a candidate' at local elections. Issues include: candidate information packs (CIPs), statutory conflict of interest requirements for district health board candidates, candidate workshops, advertising and publicity by local authorities, and dealing with the media. The Part includes a model CIP.
- 1.16 **Part 9: Candidacy and Nominations** sets out the relevant legislative provisions, requirements and recommended good practice relating to candidacy and nomination

requirements. Issues include: candidate electoral qualifications, nomination requirements and procedures, candidate profile statements, deposits, candidate advertising and offences. The Part includes a model nomination paper with attachments covering candidate qualifications and candidate profile statements.

- 1.17 **Part 10: Campaign Expenses and Advertising** sets out the relevant legislative provisions, requirements and recommended good practice relating to candidate campaign expenses and advertising. Issues include: electoral activities and expenses, advertisements for candidates, apportionment of expenses, (anonymous) donations, electoral expense returns, inspection of returns and offences.
- 1.18 **Part 11: Elector Information and Education** sets out the relevant legislative provisions, requirements and recommended good practice relating to elector information to facilitate achievement of the principle of 'all qualified persons have a reasonable and equal opportunity to cast an informed vote, nominate and be nominated as a candidate'. Issues include: elector enrolment information, voting rights, meet the candidate events, national advertising campaigns and multi-lingual information.
- 1.19 **Part 12: Voting** sets out the relevant legislative provisions, requirements and recommended good practice relating to voting at local elections and polls. Issues include: voting method, voting documents formats including order of candidates' names, layout and production of documents, completion and return of documents by voters, and offences.
- 1.20 **Part 13: Special Voting** sets out the relevant legislative provisions, requirements and recommended good practice relating to special voting at elections and polls. Issues include: special voting premises, communication and advertising, issue of special voting documents, form of special voting document, declaration and processing of documents.
- 1.21 **Part 14: Scrutineers** sets out the relevant legislative provisions, requirements and recommended good practice relating to the appointment, role and conduct of scrutineers. The Part includes a model handbook for scrutineers.
- 1.22 **Part 15: Vote Processing and Counting** sets out the relevant legislative provisions, requirements and recommended good practice from the receipt of returned voting documents to the processing and counting of votes. Issues include: roll scrutiny, early processing, security of premises, appointment of JPs, vote counting, information technology factors, risk management and offences. The Part includes Appendices on assurance of electoral processing and counting, managing electronic information and the STV calculators.
- 1.23 **Part 16: Release of Results** sets out the relevant legislative provisions, requirements and recommended good practice relating to the release of election and poll results. Issues include: preliminary results, declaration of official results, influences on official results and amended declarations.
- 1.24 **Part 17: Post Election or Poll Tasks** sets out the relevant legislative provisions, requirements and recommended good practice relating to electoral officer tasks following an election or poll. Issues include: forfeiture and refund of candidates' deposits, securing and handling of electoral records and post-election/poll reporting.
- 1.25 **Part 18: Disputed Elections and Polls** sets out the relevant legislative provisions, requirements and recommended good practice relating to disputed elections and polls. Issues include: recount of votes and inquiries into elections and polls.

- 1.26 **Part 19: Term of Elected Members and Extraordinary Vacancies** sets out the relevant legislative provisions, requirements and recommended good practice relating to the term of elected members and occurrence of extraordinary vacancies. Issues include: when members come into office and leave office, and procedures for filling extraordinary vacancies.
- 1.27 **Part 20: Lodgement of Election Information** sets out recommended good practice relating to the lodgement of election information on Local Government Online.

Legislation

Local Government Act 2002

- 1.28 The purpose of local government, the role of the local authority and the principles for performing this role, set out in sections 10, 11 and 14 of the Local Government Act 2002, establish the framework within which local authorities are to operate.
- 1.29 The purpose of local government includes “to enable democratic decision-making and action, by and on behalf of, communities”. The role of the local authority is to give effect to this purpose. Local authorities must act in accordance with certain principles in performing this role including:
- conducting its business in an open, transparent and democratically accountable manner;
 - making itself aware of, and having regard to, the views of all of its communities;
 - when making decisions, taking account of the diversity of the community and the community’s interests and the impact on community well-being;
 - providing opportunities for Māori to contribute to decision-making processes.
- 1.30 Section 41 requires regional councils and territorial authorities to have governing bodies whose members are to be elected in accordance with the Local Electoral Act 2001.
- 1.31 Sections 49 and 50 provide for the establishment of community boards and their membership including members being elected under the Local Electoral Act 2001.
- 1.32 Section 76(5) applies the decision-making requirements of the Local Government Act to decisions made under other enactments to the extent they are not inconsistent with the other enactment. These requirements are particularly relevant to local authority decision-making in areas such as reviews of representation arrangements.

Local Electoral Act 2001

- 1.33 Section 3 sets out the purpose of the Act as follows:
- to modernise the law governing the conduct of local elections and polls;
 - to accommodate new technologies and processes;
 - to adopt uniform rules in relation to:
 - the timing of local elections,
 - the right of individuals to vote, stand for election and nominate candidates for election,

- the appointment, powers and duties of electoral officers and other electoral officials,
- the compilation of electoral rolls,
- the procedures for the conduct of elections and polls,
- offences and penalties,
- disputed elections and polls,
- electoral expenses,
- extraordinary vacancies;
- to allow diversity (through local decision-making) in relation to:
 - the electoral system to be used,
 - representation arrangements,
 - the voting method to be used;
- to implement the principles of the Act.

1.34 Section 4 sets out the principles of the Act as follows:

- fair and effective representation for individuals and communities;
- all qualified persons have a reasonable and equal opportunity to:
 - cast an informed vote,
 - nominate one or more candidates,
 - accept nomination as a candidate;
- public confidence in, and public understanding of, local electoral processes through:
 - a regular election cycle,
 - election management independent from the elected body,
 - protection of the freedom of choice of voters and the secrecy of the vote,
 - transparent electoral systems and voting methods and certainty in electoral outcomes,
 - impartial mechanisms for resolving disputed elections and polls.

1.35 Section 5 provides interpretation of key election and representation terms including “local authority”.

1.36 Section 6 provides that the Act binds the Crown.

1.37 Section 7 provides that the Act applies to:

- every election of:
 - mayor and one or more members of a territorial authority,
 - one or more members of a regional council,
 - one or more members of a community board,
 - one or more members of a licensing trust,
 - one or more members of a district health board;
- any other election to which this Act, or its predecessors, is applied by any other Act;
- every poll required by any Act to be taken under this Act or its predecessors;
- any other election as directed by a local authority;
- any referendum deemed to be a poll under this Act.

- 1.38 Section 10 relates to triennial general elections and provides that a general election of the members of a local authority or community board must (with one exception set out in section 11) be held on the second Saturday of October in every third year from 2001. Section 11 provides an exception to this where a general election for a local authority or community board is held within 12 months before the date of the next triennial general election.
- 1.39 Sections 139-143 relate to regulations and provide that the Governor-General may, by Order in Council, make regulations relating to certain prescribed matters. The Local Electoral Regulations 2001 apply in respect of local elections and polls.
- 1.40 Section 148 provides that the Governor-General may, by Order in Council, do certain things to validate irregularities. These provisions relate generally to the timing of certain actions under the Act or Regulations and matters of form.

New Zealand Public Health and Disability Act 2000

- 1.41 Schedule 2 of the New Zealand Public Health and Disability Act 2000 provides for the election of members of district health boards including that these elections be held in conjunction with local authority triennial general elections under the provisions of the Local Electoral Act 2001 (clauses 8 and 9).
- 1.42 Clause 10 prohibits the holding of any by-election for a member of a district health board.

Sale of Liquor Act 1989

- 1.43 Sections 192 and 194 of the Sale of Liquor Act 1989 provide for the election of members of licensing trusts to be held in conjunction with local authority triennial general elections under the provisions of the Local Electoral Act 2001.