



SOLGM

NEW ZEALAND SOCIETY OF
LOCAL GOVERNMENT MANAGERS

PART 1 ROLE OF LOCAL AUTHORITY IN LOCAL ELECTIONS AND POLLS

CODE OF GOOD PRACTICE
FOR THE MANAGEMENT OF LOCAL AUTHORITY ELECTIONS AND POLLS 2013



OBJECTIVE OF PART

All local authorities are aware of their responsibilities relating to the conduct of local authority elections and polls.

Awareness of these responsibilities will assist achievement of the *Local Electoral Act* principle of public confidence in and understanding of local electoral processes.

KEY MESSAGES

Every local authority:

- must ensure it has an electoral officer in place at all times
 - needs to be aware that, once appointed, the electoral officer is required to act independently from the local authority
 - needs to ensure elected members and staff are aware of requirements relating to communications and conduct during the pre-election period
 - must apply the *Local Electoral Act* and *Local Government Act* principles and decision-making requirements to decisions made under the *Local Electoral Act*.
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INTRODUCTION

- 1.1 The legislative framework within which local authority elections and polls are conducted is established primarily by the:
- *Local Government Act 2002*
 - *Local Government (Auckland Council) Act 2009*
 - *Local Electoral Act 2001 (LEA)*
 - *Local Electoral Regulations 2001 (LER)*.
- 1.2 District health boards and licensing trusts are deemed to be local authorities for the purposes of the *LEA* and therefore other important Acts are the:
- *New Zealand Public Health and Disability Act 2000*
 - *Sale of Liquor Act 1989* (NB new *Sale and Supply of Alcohol Act 2012* provisions relating to licensing trust elections will not apply for the October 2013 elections).
- 1.3 Some provisions of the *Electoral Act 1993* also apply in respect of local authority elections and polls.
- 1.4 The application of this legislative framework (particularly *sections 7, 8, 9, 10 and 11 LEA*) requires elections to be held on the second Saturday in October every three years for:
- the Mayor and members of territorial authorities
 - members of regional councils
 - members of local boards and community boards
 - members of district health boards
 - members of licensing trusts.
- In addition, the local authority may agree to conduct certain other elections or polls in conjunction with the triennial election of members.
- 1.5 This Part of the Code sets out the role and responsibilities of the local authority in relation to the conduct of elections and polls along with recommended good practices. The issues covered are:
- (a) appointment of the electoral officer
 - (b) independent role of the electoral officer
 - (c) local authority communications and other responsibilities during the pre-election period
 - (d) other electoral-related decisions for the local authority.
- 1.6 The remaining Parts of this Code cover the role, responsibilities and statutory duties of the electoral officer, once appointed, and other electoral officials in relation to the conduct of elections and polls.

LEGISLATION

- 1.7 The general statutory provisions relating to the conduct of local elections and polls and the particular responsibilities of the local authority are set out in:

[Local Government Act 2002](#)

Section 4 *Treaty of Waitangi*
Section 10 *Purpose of local government*

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| Section 11 | <i>Role of local authority</i> |
| Section 11A | <i>Core services to be considered in performing role</i> |
| Section 12 | <i>Status and powers</i> |
| Section 13 | <i>Performance of functions under other enactments</i> |
| Section 14 | <i>Principles relating to local authorities</i> |
| Section 41 | <i>Governing bodies</i> |
| Section 49 | <i>Establishment of community boards</i> |
| Section 50 | <i>Membership of community boards</i> |
| Section 76 | <i>Decision-making</i> |
| Section 77 | <i>Requirements in relation to decisions</i> |
| Section 78 | <i>Community views in relation to decisions</i> |
| Section 79 | <i>Compliance with procedures in relation to decisions</i> |
| Section 80 | <i>Identification of inconsistent decisions</i> |
| Section 81 | <i>Contributions to decision-making processes by Māori</i> |

Local Government (Auckland Council) Act 2009

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| Section 5 | <i>Relationship between this Act and Local Government Act 2002, Local Government Act 1974, Local Electoral Act 2001, and Land Transport Act 2003</i> |
| Section 8 | <i>Governing body of Auckland Council</i> |
| Section 11 | <i>Membership of local boards</i> |
| Section 103 | <i>Review of representation arrangements under Local Electoral Act 2001</i> |

Local Electoral Act 2001

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| Section 4 | <i>Principles</i> |
| Section 5 | <i>Interpretation</i> |
| Section 7 | <i>Application</i> |
| Section 8 | <i>Holding of other elections</i> |
| Section 9 | <i>Holding of referendum</i> |
| Section 10 | <i>Triennial general election</i> |
| Section 11 | <i>Triennial general election not necessary in certain cases</i> |
| Section 12 | <i>Electoral officer</i> |
| Section 13 | <i>Deputy electoral officer</i> |
| Section 14 | <i>Rules applying to electoral officers, deputy electoral officers, and other electoral officials</i> |

New Zealand Public Health and Disability Act 2000

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| Schedule 2: | |
| Clause 8 | <i>Elections governed by Local Electoral Act 2001 and any regulations made under that Act</i> |
| Clause 9 | <i>Timing of elections</i> |
| Clause 9B | <i>Related amendments to New Zealand Public Health and Disability Act 2000</i> |

Sale of Liquor Act 1989

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| Section 190 | <i>Election of members</i> |
| Section 191 | <i>First election of members</i> |
| Section 192 | <i>Second and subsequent election of members</i> |
| Section 194 | <i>Conduct of elections</i> |

REQUIREMENTS AND RECOMMENDED PRACTICES

(a) Appointment of electoral officer

- 1.8 *Section 12 LEA* requires all local authorities to have an appointed electoral officer in place at all times. It provides that, unless the electoral officer dies, resigns or is dismissed from office, or becomes incapable of acting, he or she remains in office until his or her successor comes into office.
- 1.9 *Section 14(4)* provides that a candidate or member of any local authority or local/community board for whom an election or poll is to be conducted, must not be appointed or act as an electoral officer, deputy electoral officer or electoral official. *Section 14(5)* provides that the chief executive of a local authority must not be appointed as an electoral officer, deputy electoral officer or electoral official unless the local authority is satisfied that no other course of action is reasonably practicable in the circumstances. At this time, no local authority chief executive is appointed as an electoral officer.
- 1.10 *Clause 9B of Schedule 2 of the New Zealand Public Health and Disability Act 2000* requires that the person appointed as electoral officer for a district health board (DHB) must also be the electoral officer of a territorial authority in the district of the DHB.
- 1.11 Apart from the above provisions, there are no other restrictions on the appointment of an electoral officer. The appointee may be a local authority officer or a contractor to the local authority. An important consideration in this choice is whether the local authority wishes to, or is in a position to, retain in-house knowledge and experience of electoral processes a core component of the democratic function of local government. Because of the importance of continuity of experience and familiarity with electoral legislative requirements, it will be hard to rebuild this after a decision is made to contract out the position of electoral officer.
- 1.12 One way for local authorities to retain knowledge and experience is the option of sharing electoral officer with other local authorities. A good example of this is the New Plymouth District Council electoral officer who is also the electoral officer for the other two territorial authorities in the Taranaki region, the Taranaki Regional Council and the Taranaki DHB. As such, he is responsible for the conduct of all local authority elections in the Taranaki region. This regional shared services model works well and should be considered in other areas.
- 1.13 Given the importance of the electoral officer position, careful consideration needs to be given to appointing a person with the necessary attributes, characteristics and competencies. Briefly, an electoral officer should be able to demonstrate the following attributes and competencies:
- integrity
 - honesty
 - impartiality
 - ability to deal with difficult issues
 - ability to deal with the public and the media
 - ability to attend to detail
 - common sense
 - not easily ruffled
 - methodical
 - approachable
 - available.

- 1.14 For detail on key responsibilities, skills and competencies, refer to the draft job description for electoral officers in *Appendix A*.
- 1.15 The SOLGM Electoral Working Party has considered the matter of standards of performance for electoral officers. This is challenging given the statutory independence of electoral officers once appointed. The Working Party believes, however, a statement relating to legislative compliance and the robustness to challenge of official results is appropriate for inclusion in the contract between the local authority and electoral officer.
- 1.16 *Section 13* requires that every electoral officer must appoint a deputy electoral officer. If required, the deputy will act as electoral officer until a successor is appointed and comes into office. Neither the electoral officer nor the deputy electoral officer (or other electoral officials) can act until they have made the required declaration. Requirements for declarations are set out in Part 3 of the Code.
- 1.17 Given the requirement for a local authority to have an electoral officer in place at all times, it is vitally important that appropriate training is undertaken by the deputy electoral officer to enable him or her to step up as electoral officer if the need arises at any time. It is also important over the longer term that appropriate succession planning is undertaken to ensure a replacement electoral officer can be appointed. Chief executives should ensure electoral officers have an appropriate succession planning programme in place. Training and succession planning are addressed in Part 3 of the Code.

1 Recommended good practice on the appointment of electoral officers is that:

- (i) all local authority chief executives develop administrative procedures to ensure that at all times the local authority has an electoral officer in place as required by *section 12 LEA*
- (ii) when considering the appointment of the electoral officer, territorial authority chief executives note that the electoral officer may also be the electoral officer for the DHB or any licensing trust in the area
- (iii) when considering the appointment of the electoral officer, chief executives approach neighbouring local authority chief executives to discuss council officer or service provider appointment options, and possible shared service arrangements
- (iv) when considering the appointment of the electoral officer, chief executives consider people who demonstrate appropriate skills and competencies required for this important appointment as set out in the draft job description in *Appendix A*
- (v) when chief executives recommend to their local authority the appointment of a suitable person as electoral officer, the local authority be advised that the *LEA* requires that the electoral officer not be the chief executive, unless it is satisfied that no other course is reasonably practicable in the circumstances
- (vi) the contract between the local authority and electoral officer includes the following statement in relation to assessment of performance: "All elections and polls are held in full compliance with the relevant legislation, and the official results declared by the electoral officer are capable of being upheld in the event of either a recount or an inquiry by the District Court held pursuant to the *Local Electoral Act 2001*".

(b) Independent role of electoral officer

- 1.18 Public confidence in, and public understanding of, local electoral processes is fundamental to healthy local democracy. Accordingly the *LEA* identifies this as one of the principles the Act is designed to implement by, amongst other things, stipulating that elections are to be managed independently from the elected body. This is achieved through the provision (*section 14(1)*) that the electoral officer and other electoral officials, with specified exceptions, are not subject to the direction of the local authority or local/community board in the exercise of powers or the carrying out of duties under the *LEA* or *LER*.
- 1.19 The specified exceptions are directions under sections 8(1) and 9(1) *LEA* requiring the electoral officer to conduct:
- an election (whether on behalf of some other person or body or otherwise) that is not required to be held under the *Local Electoral Act* or any other Act; or
 - a referendum that is not required to be held under the *Local Electoral Act* or any other Act.
- 1.20 Once having been directed under sections 8(1) or 9(1) to hold an election or poll, the electoral officer is no longer subject to direction by the local authority and acts independently to run the election or poll and comply with the relevant legislation.
- 1.21 The electoral officer is responsible, in the first instance, for all matters relating to a particular local election or poll. Accordingly, and to reinforce the independence of the electoral officer from the elected body, complaints received by the local authority relating to the election or poll should not be responded to by the local authority but be referred to the electoral officer for referral to the Police as prescribed in the *LEA*.
- 1.22 It is important that the local authority understands the responsibilities of the electoral officer and the independent nature of the electoral officer role. The local authority chief executive needs to take all practicable steps to promote the necessary understanding and at the same time provide support for the electoral officer, through the election period, in what can be a lonely and stressful position. If the electoral officer is a contractor to the local authority, the chief executive should ensure a senior officer is designated as the local authority contact person for the electoral officer.

2 Recommended good practice for supporting the important and independent role of the electoral officer is that chief executives:

- (i) inform elected members and staff of the local authority, as well as members of the public, that the electoral officer is independent of the local authority and that neither the chief executive nor the local authority or any local/community board can direct the electoral officer in undertaking his/her role, other than under *sections 8(1) or 9(1) LEA*
- (ii) provide practical ongoing support for the electoral officer throughout the election period
- (iii) if the electoral officer is a contractor, designate a senior local authority officer as contact person for the electoral officer.

(c) Local authority communications and other responsibilities during the pre-election period

- 1.23 In addition to understanding and acknowledging the role of the electoral officer and other electoral officials, the local authority must also be very aware of the limited nature of its role during the pre-election period. It is important, in particular, that the local authority maintains and is seen to maintain a neutral political position during this period. This will ensure that sitting members do not, and are not seen to, have an advantage over other candidates.
- 1.24 Examples of where it is important that sitting members do not get an electoral advantage over other candidates are in the preparation and publication of the local authority's annual report and summary report in election year, and the new requirement under the *Local Government Act 2002*, coming into force for the 2013 elections, for the preparation and publication of a pre-election report. Other examples include the local authority's and/or elected members' regular communications mechanisms with the community.
- 1.25 A guide prepared by the Controller and Auditor-General entitled *Good Practice for Managing Public Communications by Local Authorities* (April 2004) addresses the issue of local authority communications in the pre-election period. The guide identifies the following principles:
- "Principle 11 –
Care should be exercised in the use of council resources for communications that are presented in such a way that they raise, or could have the effect of raising, a member's personal profile in the community."*
- Principle 12 –
A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of council resources for re-election purposes is unacceptable and possibly unlawful."*
- "Principle 13 –
A council's communications policy should also recognise the risk that communications by or about members, in their capacities as spokespersons for council, during a pre-election period could result in the member achieving electoral advantage at ratepayers' expense. The chief executive (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law."*
- 1.26 The guide states that, in particular, photos or information that may raise the profile of a sitting member in the electorate should not be used during the pre-election period. The Controller and Auditor-General wrote to local authorities prior to the 2007 triennial elections urging careful management of this issue. He drew attention in particular to the need to ensure that summary annual reports published prior to the triennial October elections are a fair representation of the major matters in the annual report and are set out impartially without providing a platform for political promotion.
- 1.27 The 2004 guide recommends that all local authorities consider adopting a formal communications policy framed to suit their particular needs. It states that the policy should embrace the Auditor-General's guidelines (or a variation of them appropriate to the circumstances) and clearly direct elected members, communications staff and advisers on how the policy is to be applied in particular circumstances (e.g. during the pre-election period).

- 1.28 A local authority communications policy should address, amongst other things, issues such as:
- members' use of local authority communications facilities (e.g. stationery, postage, internet, social media, e-mail, iphones, ipads, telephones etc.) during the pre-election period
 - members' use of local authority communications channels (e.g. local authority-funded newsletters to constituents, mayoral or members' columns in local authority publications) during the pre-election period
 - local authority dealings with the media.
- 1.29 Local authorities need to consider carefully their relationship with the media during the pre-election period. Some may wish to leave the electoral officer as the local authority spokesperson, others may wish their communications staff to play an active role in promoting the election and the importance of voting. If local authority communications staff are to play an active role, it is vital that they understand the nature of the electoral officer's role and particularly his or her statutory independence.
- 1.30 It is recommended that local authorities consider the option of establishing an elections communications, planning and co-ordination team to operate during the pre-election period. This team should include electoral, communications, media liaison and information technology staff. It is further recommended that this team prepare an elections communications plan covering such matters as election timelines (including key statutory deadlines), communication strategies and initiatives, local authority website information, and officer responsibilities.
- 1.31 One useful way to publicise local elections, including candidate information, and to promote consistency of electoral information and messages across the country, is for local authorities to use the Local Government Online (LGOL) elections website www.vote.co.nz (which replaces the www.elections2010.co.nz website). The site aims to provide free public access to standardised candidate and election information across the country. It can be seen as being at arm's length from the local authority and use of the site is another way to address any possible perceptions of lack of independence of the local authority. The service is free to both local authorities and candidates.
- 1.32 Full use of the www.vote.co.nz website by electoral officers may relieve them and other local authority staff from having to respond to some of the numerous standard questions about the local elections. LGOL has a nominated contact person for election information and it is recommended that local authorities nominate a member of their elections co-ordination team to be responsible, in conjunction with the electoral officer, for providing election information to LGOL in addition to any automated information provision offered by election service providers.
- 1.33 Local authorities need to ensure that all staff are aware of particular requirements and responsibilities relating to local elections. *Section 41(5) Local Government Act 2002* provides that an employee of a local authority, if elected to the governing body of that local authority or to a local board, must resign as an employee (N.B. this does not apply in respect of being elected to a community board or another local authority that he or she is not an employee of). Staff who have dealings with the public, candidates and the media need to be aware of the need for neutrality during the pre-election period. Staff must also not be involved in campaign activities for particular candidates.

1.34 A number of local authorities have prepared election protocols for staff to outline responsibilities and recommended good practice for staff and it is recommended that all local authorities prepare such protocols. A model set of staff protocols is attached as *Appendix B*.

3 Recommended good practice on local authority communications and other responsibilities during the pre-election period is that chief executives:

- (i) ensure elected members and staff of the local authority are aware of the limited prescribed role for the local authority in relation to local elections and polls
- (ii) ensure local authority documents such as annual reports, summary annual reports and pre-election reports do not, and cannot be seen to, provide an electoral advantage to sitting members particularly in election years
- (iii) consider the need for the local authority to adopt a communications policy embracing the Controller and Auditor-General's guidelines on *Good Practice for Managing Public Communications by Local Authorities* including such issues as members' use of local authority communications facilities and channels during the pre-election period
- (iv) ensure, in the absence of a formal policy, members seeking re-election are aware of the Controller and Auditor-General's guidelines on public communications by local authorities during the pre-election period
- (v) take appropriate steps to ensure that any local authority advertising or publicity in relation to elections is not in conflict with the local authority's policy on these activities or the Controller and Auditor-General's guidelines
- (vi) appoint an elections communications, planning and co-ordination team to operate during the pre-election period comprising electoral, communications, media liaison and information technology staff
- (vii) arrange for preparation of an elections communications plan covering election timelines (including statutory deadlines), communication strategies and initiatives, local authority website information and officer responsibilities such as media spokesperson and for the lodging of information on the LGOL elections website
- (viii) prepare protocols for local authority staff, based on *Appendix B*, to ensure staff are aware of requirements and responsibilities relating to local elections, and ensure those who have contact with, or provide information to, the public, election candidates and the media during the pre-election period are aware of the need for political neutrality during this period.

(d) Other electoral-related decisions for the local authority

1.35 Apart from the appointment of the electoral officer and directions relating to the conduct of other elections or polls under *sections 8(1) or 9(1) LEA*, the role of the local authority on electoral matters is limited to decisions on:

- the choice of electoral system (described in Part 4 of the Code)

- the choice of establishing Māori wards/constituencies (described in Part 5 of the Code)
- representation arrangements (described in Part 5 of the Code)
- the choice of voting method (described in Part 12 of the Code)
- the choice of the order candidates are to appear on voting documents (described in Part 12 of the Code)
- whether or not to fill an extraordinary vacancy occurring within 12 months of the next triennial general election by way of appointment (described in Part 19 of the Code).

1.36 *Section 4(2) LEA* requires local authorities, when making decisions under this Act, to take into account the principles specified in *section 4(1)* that are applicable so far as is practicable in the circumstances. These principles are:

- 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 process.

1.37 In addition, *section 76(5) Local Government Act 2002* applies the decision-making requirements of that Act to decisions made under other enactments, such as the *LEA*, to the extent they are not inconsistent with the other enactment. These requirements are relevant, therefore, to local authority decision-making on the issues set out in paragraph 1.35. These requirements include local authorities must act in accordance with the principles set out in *section 14 Local Government Act 2002* 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, including the interests of future generations, and the likely impact of decisions on those interests
- providing opportunities for Māori to contribute to decision-making processes.

4 **Recommended good practice** for local authority decision-making on other electoral-related issues is that chief executives:

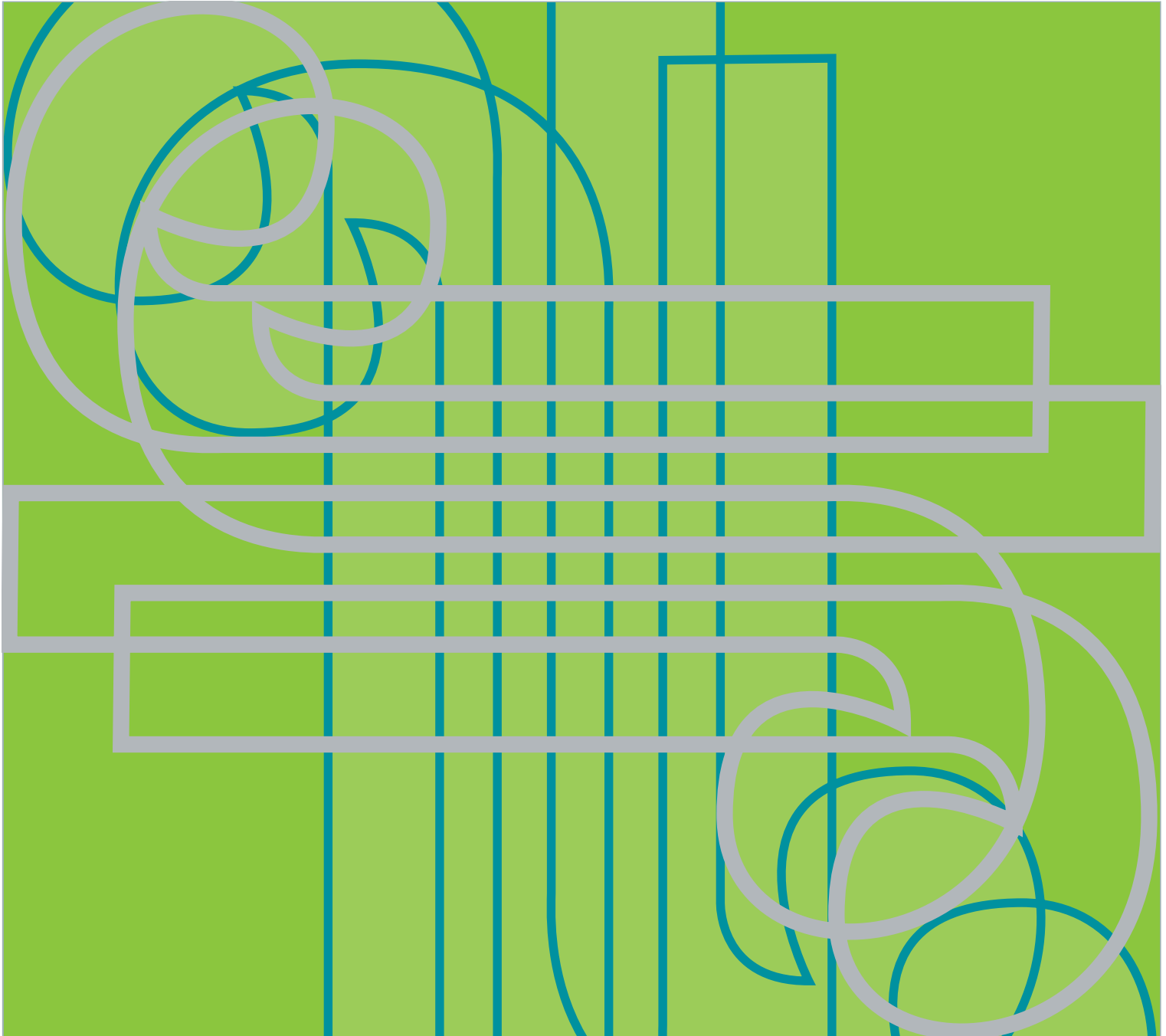
- (i) arrange for the preparation of orientation packs/sessions for elected members to ensure awareness of the principles and decision-making requirements set out in the *LEA* and *Local Government Act 2002*
- (ii) take the necessary steps to ensure the local authority applies the statutory principles and decision-making requirements when the local authority makes decisions on the electoral system, Māori representation, representation arrangements, voting methods, order of candidates on voting documents and filling extraordinary vacancies.



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LOCAL GOVERNMENT MANAGERS

PART 1 - APPENDIX A DRAFT JOB DESCRIPTION



Position:

(Electoral officer, local authority)

Purpose of the Role:

To exercise the powers and carry out the duties conferred on an electoral officer by the *Local Electoral Act 2001* and any other enactment, in relation to the local authority.

Reports to:

While acting independently, and neither the chief executive nor the local authority can direct the electoral officer in undertaking his/her role, the electoral officer is responsible to the local authority for his/her performance and to the Courts in any recount of votes or inquiry.

Key Relationships:

Electoral staff
 Local authority and local boards or community boards
 Local authority chief executive/s
 District health board
 Licensing trust
 Regional council
 Current elected members
 Potential candidates
 Candidates
 Electors
 Local community groups
 Political parties
 Election service providers
 Police
 Media
 Other local authority staff
 Schools for 'Kids Voting'
 Electoral Commission (including Enrolment Services section)
 Society of Local Government Managers
 Department of Internal Affairs
 Local Government Commission
 Ministry of Health

| RESPONSIBILITIES | EXPECTED RESULTS |
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| Primary responsibility | |
| To conduct every election or poll for the local authority in its area. | <p>Elections and polls comply with provisions of the <i>Local Electoral Act 2001</i> and <i>Local Electoral Regulations 2001</i> and any other relevant legislation with timely outcomes and no successful petitions for inquiry where the issue relates to the actions of the electoral officer.</p> <p>Takes full responsibility and ownership of the total electoral process including any functions that may be contracted out. Familiar with and follows the “Code of Good Practice for the Management of Local Authority Elections and Polls” produced by the SOLGM Electoral Working Party.</p> |
| Key responsibilities | |
| Resolutions in respect of local authority options permitted under the <i>Local Electoral Act 2001</i> | <p>Appropriate reports provided to local authority outlining options provided under the Act to enable the local authority to make informed decisions, in accordance with statutory timeframes, in relation to:</p> <ul style="list-style-type: none"> • choice of electoral system • voting method • order of candidates’ names on voting documents. |
| Compilation and certification of electoral rolls | <p>Residential electoral rolls published and available for inspection in accordance with statutory timeframes.</p> <p>Ratepayer roll enrolment confirmation forms sent to electors, required public notice and insert with rates assessments on ratepayer qualifications and processes prepared, and ratepayer electoral roll prepared in accordance with statutory timeframes.</p> |
| Publication of notices in relation to conduct of elections and polls | All public notices accurate, informative and user friendly and comply with legislation with respect to content and timeframes. |
| Receiving nominations, candidate profile statements and deposits | Establishment of processes and systems that accurately record all candidate details and ensure compliance with statutory requirements, and enable timely reports and information to be provided to the community and media. |
| Processing information on candidates | Timeframes met and accurate voting packs produced. |

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| Dealing with applications for the cancellation of nominations | Promptly determining whether a candidate has become incapacitated after the close of nominations and informing the applicant of the determination. |
| Issuing and receiving ordinary and special voting documents and other official documents | All documents issued in accordance with statutory timeframes and processes in place for efficient receipt of returned documents. |
| Appointment of Justice(s) of the Peace | One or more JPs appointed through the local JP association, present at all times during early processing of voting documents and required JP certificate received. |
| Processing and counting of votes | Establishment and use of systems and processes that have received independent assurance around scrutiny of the roll, receipt and processing of voting documents, vote counting and reporting of election results. |
| Declaration of results | Timely release of accurate preliminary and final results to meet the reasonable expectations of the community, candidates and local authority. |
| Receiving returns of electoral expenses | Candidates' expenses and donations returns received in accordance with statutory timeframes. Prompt refund of deposits to candidates who are eligible for a refund. |
| Investigating and reporting on offences | Any written complaints received investigated, where necessary, and reported to the Police without delay. |
| Staff and training | Appointment of deputy electoral officer. Employment of the number of staff required from time to time to carry out all tasks required to run the election or poll. All required declarations signed. Training of all staff, including provision of appropriate training aids and reference material. |
| Security and confidentiality | Work accommodation/environment ensures security and confidentiality of voting documents and processes, and complies with health and safety standards. |

KEY SKILLS AND COMPETENCIES

It is essential that the electoral officer:

- maintains the integrity, honesty and impartiality of the entire electoral process. The electoral officer should be politically neutral and offer no comment (public or private) about any candidate
- has a high level of communication skills in order to respond to candidates and electors and report to the local authority when required
- establishes a good rapport with the media and maintains a professional approach to all electors who question aspects of the process
- has an ability to deal with difficult people and issues, and to determine appropriate solutions
- has an ability to deal with people of all ethnicities
- has the ability to work under pressure and meet deadlines when required
- is methodical and demonstrates attention to detail with all aspects of the electoral process
- uses common sense and has an approachable demeanour
- is available to respond promptly to all queries directed to him/her and to visits from electors
- has a high standard of computer literacy and can become familiar with the electoral software
- has an in-depth knowledge of and is able to accurately interpret local electoral law and regulations
- demonstrates strong leadership skills and is able to manage a team of electoral staff
- ensures the deputy electoral officer and other electoral staff are trained in electoral processes
- maintains, in an orderly fashion, the records required to be kept pursuant to the *Local Electoral Act* and *Local Electoral Regulations*.



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PART 1 - APPENDIX B MODEL PROTOCOLS FOR LOCAL AUTHORITY STAFF IN PRE-ELECTION PERIOD



Introduction

Election Day for local authorities is Saturday 12 October 2013. Nominations open on 19 July 2013 and voting packs will be mailed out from 20 September 2013 to all electors on the electoral roll.

It is important that all local authority officers remain politically neutral at this time in their dealings with both elected members and the public in general. This becomes even more crucial as the election period approaches.

It is not appropriate and is not acceptable conduct for officers to align themselves with or support particular candidates, in any way, whether the candidates are incumbents or aspiring candidates.

Any action that leaves an officer open to an allegation of bias could potentially cause serious problems for both themselves, personally, and for the local authority as an organisation.

The business of the local authority must continue as usual in the pre-election period (11 July to 11 October 2013). However there must be a heightened awareness of the need for political neutrality in this period. This requires additional care to be taken with activities such as media relations, LGOIMA requests and interactions with elected members, so that these are seen at all times as being treated in a politically neutral manner.

To achieve these aims, all officers are required to adhere to these protocols. They are provided to assist officers with their responsibilities, and officers are requested to observe and, where necessary, use a commonsense approach to these protocols.

Context

The Controller and Auditor-General has published a best practice guide for managing public communications by local authorities. Below are the relevant extracts relating to local authority communications during the pre-election period. There are two key principles:

“Principle 12 –

A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.

Principle 13 –

A Council’s communication policy should also recognise the risk that communications by or about Members, in their capacities as spokespersons for Council, during a pre-election period could result in the Member achieving electoral advantage at ratepayers’ expense. The chief executive officer (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law.”

Political activity by local authority officers

Generally, local authority officers have the same rights as other members of the public to engage in political activities. They are entitled to their own political views, can be a member of a political party and may stand for election to a local authority. However there are some particular requirements they need to be aware of, given their position as local authority officers.

Standing for election

Nothing in the legislation prevents a local authority officer from standing as an election candidate for their or another local authority. There is, however, a possibility that a conflict of interest could develop, either during a campaign or afterwards, if elected. Therefore, an officer must register any such interest with their manager before standing for election.

Section 41(5) of the Local Government Act 2002 provides that "An employee of a local authority who is elected to be a member of the local authority's governing body must resign from his or her position as an employee of the local authority before taking up his or her position as a member of the local authority."

From this the following key points arise:

- A staff member can stand for election to their local authority, but must resign if elected. Importantly, notice of intention to stand should be provided at the earliest opportunity to avoid any potential conflict of interest issue being raised and to facilitate a change of duties where existing duties could raise potential conflict of interest issues. This will also ensure that an officer's actions are consistent with any Code of Conduct responsibilities.
- While there is no corresponding statutory restriction in the case of community boards, being both an officer and a member of a community board has the same potential to create difficulties. For these reasons, such an intention should also be notified early so that any appropriate arrangements can be made.

Taking part in political campaigns

It is suggested that officers, even in a private capacity, do not take part in political campaigns of individual local authority election candidates. Such activity may include:

- attendance at private campaign strategy meetings
- involvement in public meetings (unless they are meetings where competing candidates present themselves for scrutiny)
- taking part in any activity that could be seen to be a campaign activity (such as canvassing, or writing speeches)
- writing letters, media releases or speeches clearly linked to a particular candidate's campaign.

Officers are strongly advised not to sign nomination forms for any local authority election candidate as this could lead to accusations of bias.

If an officer does intend to engage in such activity, they should ensure their manager is aware of that fact. The manager may advise that, due to the officer's position in the organisation, it is inappropriate for involvement in such activity.

Some officers have regular duties which require writing media releases, letters, speeches and carrying out administrative tasks for current elected members. Extra care should be taken to ensure that such activities cannot be directly linked to any political campaign.

Attending candidate meetings

Officers are free to attend public meetings at which candidates are presenting themselves for election.

Provision of information to candidates

Where local authority information is requested by and supplied to a candidate (including a current elected member), it should be assumed that the information may be used for campaign purposes. The information should, therefore, be available to other candidates on request. It should also be publicly available on the local authority's website.

Any queries or questions from candidates or current elected members should be passed to a manager. Responses to candidates should be based on existing local authority policy and plans such as the long-term plan and/or annual plan.

Use of local authority resources for campaign purposes

No local authority resources (including computers, email, mobile phones, faxes, stationery, photocopiers, stamps, business cards, cars, venues or the local authority logo) should be used for campaign purposes.

Local authority-arranged or supported forums or meetings (such as local authority seminars, ward meetings, forums or staff meetings) must not be used for campaign purposes.

Officers must not send or forward emails either internally or externally which seek support for a particular candidate or candidates, or use a staff meeting as a platform for encouraging such support.

Local authority publication, website and other communication avenues

Care should be taken that local authority publications do not provide an inappropriately high profile to any current elected member. It is a matter of judgement as to what is inappropriate, taking into account the spokesperson roles of elected members and the on-going activities of the local authority.

All elected members should have access to the same communication avenues and photo/publicity opportunities etc, and these should relate to the local authority's regular activities.

Application of protocols

These protocols are of general application and apply to all campaign activities, whether before, during or after a triennial election.

Above all, it is a matter of common sense. If any officer is unsure about their role with regard to local authority elections or whether a particular request or activity breaches the protocols, they should contact

Breaches of protocols

Any breach of these protocols may result in disciplinary action being taken.

Review

These protocols will be reviewed every three years before the election nomination period opens.