

# **STRATFORD DISTRICT COUNCIL**

## **POSITION DESCRIPTION**

**POSITION:** Councillor

**REPORTS TO:** Stratford District Council

### **DIMENSIONS AND SCOPE:**

As a member of Stratford District Council you will set major policies and plans (including strategic, Long Term Council Community Plans, Annual and District plans, long-term financial strategies and funding policies).

Being a local Councillor is an honourable job which can be rewarding and enriching. You will be able, willing and prepared to take decisions on our communities' behalf about matters that affect the lives of citizens, and be prepared to be accountable for these. Democratic election gives local Councillors a special status in public life bringing with it opportunities to contribute to the well being of society, and in doing so, responsibilities to act fairly and within the law.

### **POSITION PURPOSE:**

As a member of Stratford District Council you will appoint and monitor the performance of the Chief Executive, approve the overall budget, determine the Council's committee structure, membership and delegations, build Iwi relationships and make decisions on matters that are not delegated to committees or Council staff.

### **ROLE OF COUNCILLORS:**

#### **1. Local government serves the people**

Providing public services is a prime function of local government. Local Councils are not the only providers of services to the public but no other public body provides the range of services that a local Council does.

Providing services to meet community needs and aspirations requires the development of policy about the nature of services to be provided, and the overview of the delivery and of those services. As a Councillor, you will therefore participate as:

- A policy maker
- A scrutineer of the effectiveness of the Council in delivering services

#### **2. Local government represents the people**

Councillors are elected and then have a democratic legitimacy. They represent the people of their communities (including those who did not vote for them). As a Councillor, you will therefore be:

- A representative of your constituents.
- A community leader providing a focus for the development of your community.

#### **3. Local government makes rules**

All societies need principles to which action conforms, if they are to safeguard the freedom, safety and well-being of their citizens.

At a national level there is a clear distinction between Parliament, which makes the rules, and Government on the one hand and the Courts (or other tribunals) on the other which have separately defined roles to administer these rules. A local Council, however, has three roles:

- It must administer certain rules which Parliament has laid down for it.
- It may make rules of its own.
- It must administer rules of its own which it makes.

By participating in the making or administering of rules which affect the rights and obligations of citizens, including the granting or refusal of permissions, as a Councillor, you will therefore:

- Pay attention to relevant considerations and ignore irrelevant ones.
- Consider and weigh evidence.
- Consider each issue on its merits.
- Act fairly and within the law.

#### 4. **Local government works with others**

Councils plan and deliver their own services. There is however, an increasing acceptance and expectation, (under the concept of Long Term Council Community Planning), that Councils should take the lead in drawing together the activities of the whole range of public bodies, business and voluntary sectors, to identify a common agenda and draw together the plans of the partners to address the needs of communities. Beyond that Councils work in a national framework with Government, Parliament and with other agencies. As a Councillor you will therefore:

- Fulfil an ambassadorial role on behalf of your own community in a local context.
- Represent the interests of Stratford District Council in a wider national arena.

#### **KEY TASKS:**

1. Regular attendance at meetings of the Council, and of any Committee, Sub-Committee and Working Party to which the Councillor is appointed.
2. Accept issues raised by constituents and make arrangements to facilitate access by constituents.
3. Be actively aware of issues, (inside and outside the Council) which affect the Councillor's electoral ward and the wider Stratford District community.
4. Work in partnership with other local organisations to identify and pursue local needs and aspirations and encourage community action.
5. Participate in local forums and events that collectively provide a focus for community activity and development.
6. Represent Stratford District Council on other organisations or agencies to which the Councillor may be appointed or nominated by the Council.

#### **COMMITTEES:**

Our Council delegates responsibility for some of its functions to standing committees. These committees monitor and assist in the effective discharging of specific responsibilities. The Committees are:

- Executive Committee
- Policy & Services Committee

- Citizens Award Committee
- SPARC Funding Committee
- Creative Communities Funding Committee

Councillors are appointed to committees. They make decisions on district-wide issues and activities and plan policy on the specific activity or function that the committee has responsibility for.

In addition to Council committees, Councillors often represent the Council in committees and boards on strategic and community organisations and partner groups which are:

**Strategic Organisations**

Eltham Drainage Committee

Regional  
Land  
Transport  
Committee

Sport Taranaki  
Stratford Business Association  
Stratford Health Trust  
Taranaki Regional Committee of Historic Places Trust  
Taranaki Regional Council Policy Committee

**Community Organisations**

Central Taranaki Palliative Care Committee  
Citizens Advice Bureau  
Marire Home Committee  
Stratford Combined Sports Club committee  
Stratford Community Arts Council  
Stratford District Community Centre  
Stratford High School community Education Committee  
Stratford Theatre Trust  
Taranaki Food Bank Groups  
Taranaki Pioneer Village  
Taratahi  
Taranaki Synthetic Turf Trust  
Te Wera Outdoor Recreation Trust

**Council Partnerships**

Youth Council  
Iwi Liaison

## **FUNCTIONAL RELATIONSHIPS:**

### **Internal**

- Mayor
- Committees
- Chief Executive
- Staff

### **External**

- Residents and ratepayers
- Local Government NZ
- Affiliated organisations

## **EXPECTATIONS OF A COUNCILLOR INCLUDE:**

- Undertaking the role of Councillor in accordance with the Stratford District Council Local Governance Statement and the Code of Conduct (attached).
- Participating in the development of a vision and strategic direction for the wider community.
- Representing the interests of the citizens.
- Providing input into the Council's strategies and plans.
- Consulting with community members.
- Meeting with Council management about issues raised by community members to ensure that these are addressed in an effective and timely manner.
- Participating in standing committees and keeping up-to-date on issues.
- Representing the Council on external committees.
- Participating in the appointment and performance review of the chief executive.
- Supporting the Mayor and the Council in promoting the district.
- Developing positive working relationships with other councillors and officials to ensure an effective governance process.
- Developing positive working relationships with counterparts in neighbouring local and regional authorities, identifying opportunities for community/economic development and joint benefits.
- Being accessible to the community/electors, to assist them resolve problems by directing them to appropriate council officials, and following up as appropriate.

## **SKILLS AND ATTRIBUTES:**

1. A commitment to the ethos of public service.
2. Active citizenship through contributing to and focusing on what best improves the well-being of communities.
3. The ability to assimilate a multitude of information, with a clear thinking and common sense approach, using analytical skills to reach objective and fair decisions.

4. An empathetic approach to understanding constituents' problems.
5. Excellent presentation and communication skills to articulate the needs of constituents as well as the policies and aspirations of the Council.
6. Negotiating skills and diplomacy are required to resolve conflicting points of view and contentious issues.
7. Budgeting skills and knowledge of control systems are required to responsibly contribute to the appropriate management of expenditure.

## **CAPABILITIES:**

### **1. Organisational Effectiveness**

**Strategic Thinking/Perspective:** Takes a long term, broad view of situations in decisions and actions; identifies the impacts (eg, threats or opportunities) on the Council of external forces.

**Organisational Awareness:** Understands the structure of the organisation, including goals, objectives and how things get done within that structure; understands how the actions of a unit can affect the Council as a whole.

**Monitoring External Forces and Regulations:** Maintains an awareness of community attitudes and opinions regarding Council policy or operations.

**Achieving Results:** Accomplishes goals; accepts accountability for results.

### **2. Leadership**

**Leadership:** Demonstrates and sets high standards of behaviour, quality, credibility, and integrity; interacts with others in ways that enhance understanding, respect, and performance.

**Professionalism:** Presents oneself in a way that connotes competence and confidence; demonstrates the language, manner, and appearance appropriate for a Councillor.

**Initiative/Responsibility:** Takes charge and moves forward; accepts responsibility for decisions and actions as situations warrant.

**Vision:** Has a vision of future goals, directions, and priorities and builds commitment to them; well versed in the Council vision and gains commitment to it.

**Quality Orientation:** Demonstrates and encourages a commitment to quality performance and continuous improvement at all levels, demonstrates long range thinking and planning that is oriented toward identifying and implementing quality improvements; demonstrates dissatisfaction with and works to improve less than excellent performance.

**Integrity/Business Ethics:** Conducts all business with honesty, integrity, and in full compliance with legal requirements; treats others with respect; evokes trust of others by acting openly on issues, positions, and feelings; is trustworthy in using confidential or sensitive information.

### **3. Planning**

**Planning:** Contributes to Council objectives; develops and evaluates alternative strategies to overcome anticipated obstacles; identifies resources required to meet stated objectives; develops plans that allow goals and objectives to be met effectively.

**Organising:** Assigns responsibilities, allocates resources, and coordinates activities of others to meet objectives effectively and efficiently; allocates tasks, configures jobs, and creates organisational structures to accomplish Council objectives, improves efficiency, and utilises individual talents most effectively.

**Financial Planning/Analysis:** Assists with the development of appropriate budgets to support the accomplishment of goals.

**Personal Organisation/Time Management:** Organises and executes around priorities; creates realistic time frames and work schedules.

4. **Managing Change**

**Managing Change:** Recognises the need for change and adapts organisational values, objectives, strategies, and operating plans in response to changing conditions; implements different ways of managing to achieve desired results effectively; manages strategic shifts; effectively manages the change process itself.

**Creativity/Innovation:** Generates or recognises imaginative, unusual, original solutions to business issues or problems; creates a climate that defines what is expected yet allows others the freedom to work creatively within those limits.

**Adaptability/Flexibility:** Provides sufficient flexibility to implement needed changes.

**Risk Taking:** Assess and selects courses of action that involve prudent business risk; able to differentiate between acceptable and unacceptable risks.

5. **Problem Solving/Decision Making**

**Problem Solving/Decision Making:** Able and willing to solve problems and make difficult decisions; able to develop creative solutions to complex problems.

**Managing Information:** Uses/analyses information effectively in making decisions; interprets information and arrives at valid, specific conclusions or solutions.

**Judgement:** Makes decisions that reflect a thorough and appropriate evaluation of needs, goals, alternatives, and consequences; makes decisions that include realistic estimates of success.

**Decisiveness:** Ready to make decisions, render judgements, take action, or make commitments (even when data is limited); willing to make decisions on "tough" problems (eg. those that produce unpleasant personal or organisational consequences).

**Stress Tolerance:** Demonstrates stable, reliable performance under pressure.

6. **Interpersonal Relations**

**Interpersonal Relations:** Able to interact effectively with people at all levels, both within and outside the Council.

**Interacting with Peers:** Interacts effectively with peers; effectively communicates and defends points of view; knows when to "take a stand".

**Influencing:** Uses appropriate methods to gain acceptance of ideas or plans.

**Sensitivity/Caring:** Shows genuine interest in others and sensitivity to the needs of others.

**Managing Conflict:** Manages a diversity of viewpoints; manages tension, stress, and crises effectively; brings conflict or dissent into the open and uses it productively to enhance the quality of decisions.

7. **Communication**

**Communicating:** Keeps others fully informed regarding plans, progress, results, and issues.

**Oral Communications:** Speaks clearly and effectively one-on-one, in small groups, or in front of large groups; able to verbally disseminate knowledge and ideas effectively; able to create an atmosphere or environment that encourages discussion.

**Listening:** Hears and comprehends messages and information delivered by others.

**TRAINING:**

The Council will provide a range of training opportunities covering induction, democratic process skills, the rights and responsibilities of Councillors, including local government law, finance and media and communications skills.

Developing knowledge about the functions of the Council and the services that are delivered is supported through the ongoing provision of written material as well as through seminars, workshops, presentations and other similar events.

## **LEGISLATION PERTAINING TO COUNCILLOR POSITION**

### **Local Government Act Provisions Affecting Elected Members**

#### **10. Purpose of local government**

The purpose of local government is:

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

#### **11. Role of local authority**

The role of a local authority is to:

- (a) give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
- (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.

#### **12. Status and powers**

- (1) A local authority is a body corporate with perpetual succession.
- (2) For the purposes of performing its role, a local authority has
  - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
  - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not
  - (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a co-operative activity; or
  - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
  - (c) restrict the activities of a council-controlled organisation.

#### **13. Performance of functions under other enactments**

Sections 10 and 12(2) apply to a local authority performing a function under another enactment to the extent that the application of those provisions is not inconsistent with the other enactment.

#### **14. Principles relating to local authorities**

- (1) In performing its role, a local authority must act in accordance with the following principles:
  - (a) a local authority should—
    - (i) conduct its business in an open, transparent, and democratically accountable manner; and
    - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:
  - (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
  - (c) when making a decision, a local authority should take account of

- (i) the diversity of the community, and the community's interests, within its district or region; and
  - (ii) the interests of future as well as current communities; and
  - (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:
- (d) a local authority should provide opportunities for Maori to contribute to its decision-making processes:
  - (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and
  - (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
  - (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
  - (h) in taking a sustainable development approach, a local authority should take into account
    - (i) the social, economic, and cultural well-being of people and communities; and
    - (ii) the need to maintain and enhance the quality of the environment; and
    - (iii) the reasonably foreseeable needs of future generations.
- (2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).39. Governance principles:

A local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community; and
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities; and
- (d) a local authority should be a good employer; and
- (e) a local authority should ensure that the relationship between elected members and management of the local authority is effective and understood.

#### **46. Members of local authority liable for loss**

- (1) If the Auditor-General has made a report on a loss to a local authority under section 44, then, without limiting any other person's liability for the loss, the loss is recoverable as a debt due to the Crown from each member of the local authority jointly and severally.
- (2) If the members of the local authority or any other person or persons do not pay the amount of the loss to the Crown or the local authority within a reasonable time, the Crown may commence proceedings to recover the loss from any or all of those members.
- (3) Any amount recovered by the Crown under subsection (2), less all costs incurred by the Crown in respect of the recovery, must be paid by the Crown to the local authority concerned.

- (4) It is a defence to any proceedings under subsection (2) if the defendant proves that the act or failure to act resulting in the loss occurred
  - (a) without the defendant's knowledge; or
  - (b) with the defendant's knowledge but against the defendant's protest made at or before the time when the loss occurred; or
  - (c) contrary to the manner in which the defendant voted on the issue at a meeting of the local authority; or
  - (d) in circumstances where, although being a party to the act or failure to act, the defendant acted in good faith and in reliance on reports, statements, financial data, or other information prepared or supplied, or on professional or expert advice given, by any of the following persons:
    - (i) an employee of the local authority whom the defendant believed on reasonable grounds to be reliable and competent in relation to the matters concerned;
    - (ii) a professional adviser or expert in relation to matters that the defendant believed on reasonable grounds to be within the person's professional or expert competence.

**47. Members may be required to pay costs of proceeding in certain cases**

- (1) This section applies if, in a proceeding commenced by the Attorney-General, the local authority is
  - (a) held to have
    - (i) disposed of, or dealt with, any of its property wrongfully or illegally; or
    - (ii) applied its property to any unlawful purpose; or
    - (iii) permitted the reserves that it must manage to be used for purposes not authorised by law; or
  - (b) restrained from acting in the ways referred to in paragraph (a).
- (2) If subsection (1) applies, costs and other expenses arising out of the proceeding or incurred in doing the things to which the proceeding relates
  - (a) must not be paid out of general revenues by the local authority; and
  - (b) must be paid, by order of the Court, by the members of the local authority who, by voting or otherwise, assented to the acts concerned.
- (3) The Court must not make an order under subsection (2) against a member of the local authority if the member proves that, in doing the act concerned,
  - (a) the member acted in good faith and in accordance with the written advice of the solicitor to the local authority; or
  - (b) the member acted honestly and reasonably and, having regard to all the circumstances of the case, the member ought fairly to be excused.

**76. Decision-making**

- (1) Every decision made by a local authority must be made in accordance with such of the provisions of sections 77, 78, 80, 81, and 82 as are applicable.
- (2) Subsection (1) is subject, in relation to compliance with sections 77 and 78, to the judgments made by the local authority under section 79.
- (3) A local authority
  - (a) must ensure that, subject to subsection (2), its decision-making processes promote compliance with subsection (1); and
  - (b) in the case of a significant decision, must ensure, before the decision is made, that subsection (1) has been appropriately observed.
- (4) For the avoidance of doubt, it is declared that, subject to subsection (2), subsection (1) applies to every decision made by or on behalf of a local authority, including a decision not to take any action.

- (5) Where a local authority is authorised or required to make a decision in the exercise of any power, authority, or jurisdiction given to it by this Act or any other enactment or by any bylaws, the provisions of subsections (1) to (4) and the provisions applied by those subsections, unless inconsistent with specific requirements of the Act, enactment, or bylaws under which the decision is to be made, apply in relation to the making of the decision.
- (6) This section and the sections applied by this section do not limit any duty or obligation imposed on a local authority by any other enactment.

**77. Requirements in relation to decisions**

- (1) A local authority must, in the course of the decision-making process,
  - (a) seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - (b) assess those options by considering
    - (i) the benefits and costs of each option in terms of the present and future social, economic, environmental, and cultural well-being of the district or region; and
    - (ii) the extent to which community outcomes would be promoted or achieved in an integrated and efficient manner by each option; and
    - (iii) the impact of each option on the local authority's capacity to meet present and future needs in relation to any statutory responsibility of the local authority; and
    - (iv) any other matters that, in the opinion of the local authority, are relevant; and
  - (c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.
- (2) This section is subject to section 79.

**78. Community views in relation to decisions**

- (1) A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.
- (2) That consideration must be given at
  - (a) the stage at which the problems and objectives related to the matter are defined;
  - (b) the stage at which the options that may be reasonably practicable options of achieving an objective are identified;
  - (c) the stage at which reasonably practicable options are assessed and proposals developed;
  - (d) the stage at which proposals of the kind described in paragraph (c) are adopted.
- (3) A local authority is not required by this section alone to undertake any consultation process or procedure.
- (4) This section is subject to section 79.

**79. Compliance with procedures in relation to decisions**

- (1) It is the responsibility of a local authority to make, in its discretion, judgments
  - (a) about how to achieve compliance with sections 77 and 78 that is largely in proportion to the significance of the matters affected by the decision; and
  - (b) about, in particular,

- (i) the extent to which different options are to be identified and assessed; and
  - (ii) the degree to which benefits and costs are to be quantified; and
  - (iii) the extent and detail of the information to be considered; and
  - (iv) the extent and nature of any written record to be kept of the manner in which it has complied with those sections.
- (2) In making judgments under subsection (1), a local authority must have regard to the significance of all relevant matters and, in addition, to—
- (a) the principles set out in section 14; and
  - (b) the extent of the local authority's resources; and
  - (c) the extent to which the nature of a decision, or the circumstances in which a decision is taken, allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons.

**80. Identification of inconsistent decisions**

- (1) If a decision of a local authority is significantly inconsistent with, or is anticipated to have consequences that will be significantly inconsistent with, any policy adopted by the local authority or any plan required by this Act or any other enactment, the local authority must, when making the decision, clearly identify
- (a) the inconsistency; and
  - (b) the reasons for the inconsistency; and
  - (c) any intention of the local authority to amend the policy or plan to accommodate the decision.
- (2) Subsection (1) does not derogate from any other provision of this Act or of any other enactment.

**81. Contributions to decision-making processes by Maori**

- (1) A local authority must
- (a) establish and maintain processes to provide opportunities for Maori to contribute to the decision-making processes of the local authority; and
  - (b) consider ways in which it may foster the development of Maori capacity to contribute to the decision-making processes of the local authority; and
  - (c) provide relevant information to Maori for the purposes of paragraphs (a) and (b).
- (2) A local authority, in exercising its responsibility to make judgments about the manner in which subsection (1) is to be complied with, must have regard to
- (a) the role of the local authority, as set out in section 11; and
  - (b) such other matters as the local authority considers on reasonable grounds to be relevant to those judgments.

## CONSULTATION

### 82. Principles of consultation

- (1) Consultation that a local authority undertakes in relation to any decision or other matter must be undertaken, subject to subsections (3) to (5), in accordance with the following principles:
  - (a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons;
  - (b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority;
  - (c) that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented;
  - (d) that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons;
  - (e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration;
  - (f) that persons who present views to the local authority should be provided by the local authority with information concerning both the relevant decisions and the reasons for those decisions.
- (2) A local authority must ensure that it has in place processes for consulting with Maori in accordance with subsection (1).
- (3) The principles set out in subsection (1) are, subject to subsections (4) and (5), to be observed by a local authority in such manner as the local authority considers, in its discretion, to be appropriate in any particular instance.
- (4) A local authority must, in exercising its discretion under subsection (3), have regard to
  - (a) the requirements of section 78; and
  - (b) the extent to which the current views and preferences of persons who will or may be affected by, or have an interest in, the decision or matter are known to the local authority; and
  - (c) the nature and significance of the decision or matter, including its likely impact from the perspective of the persons who will or may be affected by, or have an interest in, the decision or matter; and
  - (d) the provisions of Part 1 of the Local Government Official Information and Meetings Act 1987 (which Part, among other things, sets out the circumstances in which there is good reason for withholding local authority information); and
  - (e) the costs and benefits of any consultation process or procedure.
- (5) Where a local authority is authorised or required by this Act or any other enactment to undertake consultation in relation to any decision or matter and the procedure in respect of that consultation is prescribed by this Act or any other enactment, such of the provisions of the principles set out in subsection (1) as are inconsistent with specific requirements of the procedure so prescribed are not to be observed by the local authority in respect of that consultation.

### **83. Special consultative procedure**

- (1) Where this Act or any other enactment requires a local authority to use or adopt the special consultative procedure, that local authority must
  - (a) prepare
    - (i) a statement of proposal; and
    - (ii) a summary of the information contained in the statement of proposal (which summary must comply with section 89); and
  - (b) include the statement of proposal on the agenda for a meeting of the local authority; and
  - (c) make the statement of proposal available for public inspection at
    - (i) the principal public office of the local authority; and
    - (ii) such other places as the local authority considers necessary in order to provide all ratepayers and residents of the district with reasonable access to that statement; and
  - (d) distribute in accordance with section 89(c) the summary of the information contained in the statement of proposal; and
  - (e) give public notice, and such other notice as the local authority considers appropriate, of the proposal and the consultation being undertaken; and
  - (f) include in the public notice a statement about how persons interested in the proposal
    - (i) may obtain the summary of information about the proposal; and
    - (ii) may inspect the full proposal; and
  - (g) include in the public notice a statement of the period within which submissions on the proposal may be made to the local authority; and
  - (h) ensure that any person who makes a submission on the proposal within that period
    - (i) is sent a written notice acknowledging receipt of that person's submission; and
    - (ii) is given a reasonable opportunity to be heard by the local authority (if that person so requests); and
  - (i) ensure that the notice given to a person under paragraph (h)(i) contains information
    - (i) advising that person of that person's opportunity to be heard; and
    - (ii) explaining how that person may exercise that person's opportunity to be heard; and
  - (j) ensure that, except as otherwise provided by Part 7 of the Local Government Official Information and Meetings Act 1987, every meeting at which submissions are heard or at which the local authority, community board, or committee deliberates on the proposal is open to the public; and
  - (k) subject to the Local Government Official Information and Meetings Act 1987, make all written submissions on the proposal available to the public.
- (2) The period specified in the statement included under subsection (1)(g) must be a period of not less than 1 month beginning with the date of the first publication of the public notice.
- (3) This section does not prevent a local authority from requesting or considering, before making a decision, comment or advice from an officer of the local authority or any other person in respect of the proposal or any submission or both.

### **84. Special consultative procedure in relation to long-term council community plan**

- (1) Where the special consultative procedure is used in relation to the adoption of a long-term council community plan under section 93, the statement of proposal referred to in section 83(1)(a) must include a draft of the long-term council community plan.

- (2) Where the special consultative procedure is used in relation to the amendment of a long-term council community plan under section 93, the statement of proposal referred to in section 83(1)(a)
  - (a) must include a draft of the parts of the long-term council community plan that are proposed to be amended; and
  - (b) must be accompanied by a draft of any consequential amendments to the long-term council community plan that will be required if it is amended in the manner proposed.
- (3) Where a statement of proposal to which subsection (1) or subsection (2) applies relates to a proposal for the making of a decision to which section 97 applies, that statement of proposal must (unless the making of that decision was explicitly provided for in the long-term council community plan last adopted by the local authority) include
  - (a) the details of the proposal; and
  - (b) the reasons for the proposal; and
  - (c) an analysis of the reasonably practicable options, including the proposal, identified under section 77(1); and
  - (d) in respect of a proposal to transfer ownership or control of a strategic asset from the local authority to any other person,
    - (i) a description of any accountability or monitoring arrangements to be used to assess the performance of that person and any other person in regard to the asset; and
    - (ii) an assessment of whether there are any conflicts of interest arising from the proposed transfer of the control or ownership of the asset, and, if so, what they are and how they will be managed; and
  - (e) in respect of a proposal that the local authority assume or cease responsibility for an activity,
    - (i) an assessment of the possible effects on other current providers of the activity; and
    - (ii) an assessment of whether there are any conflicts of interest arising from the proposal, and, if so, what they are and how they will be managed.
- (4) A statement of proposal to which subsection (1) or subsection (2) applies must also contain a report from the local authority's auditor on—
  - (a) the extent to which the statement complies with the requirements of this Act; and
  - (b) the quality of the information and assumptions underlying the forecast information provided in the statement; and
  - (c) the extent to which the forecast information and proposed performance measures will provide an appropriate framework for the meaningful assessment of the actual levels of service provision.
- (5) For the avoidance of doubt, the report under subsection (4) must not comment on the merits of any policy content of the statement.

## **85. Use of special consultative procedure in relation to annual plan**

- (1) Where the special consultative procedure is used in relation to the adoption of an annual plan under section 95, the statement of proposal referred to in section 83(1)(a) must include a draft of the annual plan.
- (2) A statement of proposal to which subsection (1) applies must also include
  - (a) the information that, under clause 2(2) of Schedule 10, is specified, in relation to the year to which the draft annual plan relates, in the long-term council community plan in relation to each group of activities; and

- (b) the reasons why any information included in the draft annual plan departs from information specified, in relation to the year to which the draft annual plan relates, in the long-term council community plan; and
- (c) if it is proposed that the making of an amendment to the long-term council community plan and the adoption of the annual plan should take place concurrently, the summary that is required by section 89 to be contained in the statement of proposal for the amendment.

**86. Use of special consultative procedure in relation to adoption or review or amendment of bylaws**

- (1) This section applies in relation to the following activities:
  - (a) the making of a bylaw under section 156:
  - (b) the making of an amendment of a bylaw (other than an amendment to which section 156(2) applies):
  - (c) the review of a bylaw under section 158:
  - (d) the revocation of a bylaw.
- (2) Where the special consultative procedure is used in relation to an activity to which this section applies, the statement of proposal referred to in section 83(1)(a) is
  - (a) a draft of the bylaw as proposed to be adopted, amended, or continued without amendment; or
  - (b) if it is proposed that the bylaw be revoked, a statement to that effect.
- (3) A statement of proposal to which subsection (2) applies must include
  - (a) the reasons for the proposal; and
  - (b) as the case requires, a report of
    - (i) the local authority's consideration under section 155 of the problem being addressed by the proposal; or
    - (ii) the review carried out by the local authority under section 158.

**87. Other use of special consultative procedure**

- (1) This section applies in any case where
  - (a) none of sections 84 to 86 apply but a local authority is required to use or adopt the special consultative procedure; or
  - (b) a local authority chooses to use the special consultative procedure.
- (2) In any case to which this section applies, the statement of proposal referred to in section 83(1)(a) is,
  - (a) if a plan or policy or similar document is proposed to be adopted, a draft of the proposed plan, policy, or document; and
  - (b) in any other case, a detailed statement of the proposal.
- (3) A statement of proposal under subsection (2)(b) must include
  - (a) a statement of the reasons for the proposal; and
  - (b) an analysis of the reasonably practicable options, including the proposal, identified under section 77(1); and
  - (c) any other information that the local authority identifies as relevant.

**88. Use of special consultative procedure in relation to change of mode of delivery of significant activity**

- (1) A local authority must use the special consultative procedure in relation to any proposal for an alteration (of the kind described in subsection (2)) in the mode by which a significant activity is undertaken by or on behalf of the local authority.
- (2) The kind of alteration to which subsection (1) refers is an alteration that involves

- (a) a change from delivery of the activity by the local authority itself to delivery of the activity by a council-controlled organisation in which the local authority is a shareholder; or
  - (b) a change from delivery of the activity by the local authority itself to delivery of the activity by another organisation or person; or
  - (c) a change from delivery of the activity by a council-controlled organisation in which the local authority is a shareholder to delivery of the activity by another organisation or person.
- (3) This section does not apply if
- (a) the proposed decision on the proposal is explicitly provided for in the council's long-term council community plan; and
  - (b) the proposal to provide for the decision was included in a statement of proposal under section 84.
- (4) In the case of any proposal to which this section applies, the statement of proposal referred to in section 83(1)(a) is
- (a) a detailed statement of the proposal; and
  - (b) a statement of the reasons for the proposal; and
  - (c) an analysis of the reasonably practicable options, including the proposal, identified under section 77(1); and
  - (d) any other information that the local authority identifies as relevant.

## **89. Summary of information**

- (1) A summary of the information contained in a statement of proposal must
- (a) be a fair representation of the major matters in the statement of proposal; and
  - (b) be in a form determined by the local authority; and
  - (c) be distributed as widely as reasonably practicable (in such manner as is determined appropriate by the local authority, having regard to the matter to which the proposal relates) as a basis for general consultation; and
  - (d) indicate where the statement of proposal may be inspected, and how a copy may be obtained; and
  - (e) state the period within which submissions on the proposal may be made to the local authority.

## **90. Policy on significance**

- (1) Every local authority must adopt a policy setting out
- (a) that local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters; and
  - (b) any thresholds, criteria, or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, decisions, or other matters are significant.
- (2) The policy adopted under subsection (1) must list the assets considered by the local authority to be strategic assets.
- (3) A policy adopted under subsection (1) may be amended from time to time.
- (4) A local authority must use the special consultative procedure both in relation to
- (a) the adoption of a policy under subsection (1); and
  - (b) the amendment, under subsection (3), of a policy adopted under subsection (1).

## **COMMUNITY OUTCOMES**

### **91. Process for identifying community outcomes**

- (1) A local authority must, not less than once every 6 years, carry out a process to identify community outcomes for the intermediate and long-term future of its district or region.

- (2) The purposes of the identification of community outcomes are
  - (a) to provide opportunities for communities to discuss their desired outcomes in terms of the present and future social, economic, environmental, and cultural well-being of the community; and
  - (b) to allow communities to discuss the relative importance and priorities of identified outcomes to the present and future social, economic, environmental, and cultural well-being of the community; and
  - (c) to provide scope to measure progress towards the achievement of community outcomes; and
  - (d) to promote the better co-ordination and application of community resources; and
  - (e) to inform and guide the setting of priorities in relation to the activities of the local authority and other organisations.
- (3) A local authority may decide for itself the process that it is to use to facilitate the identification of community outcomes under subsection (1), but the local authority
  - (a) must, before finally deciding on that process, take steps
    - (i) to identify, so far as practicable, other organisations and groups capable of influencing either the identification or the promotion of community outcomes; and
    - (ii) to secure, if practicable, the agreement of those organisations and groups to the process and to the relationship of the process to any existing and related plans; and
  - (b) must ensure that the process encourages the public to contribute to the identification of community outcomes.

92. **Obligation to report against community outcomes**

- (1) A local authority must monitor and, not less than once every 3 years, report on the progress made by the community of its district or region in achieving the community outcomes for the district or region.
- (2) A local authority may decide for itself how it is to monitor and report under subsection (1), but the local authority must seek to secure the agreement of organisations and groups identified under section 91(3)(a) to the monitoring and reporting procedures, including the incorporation of any research, monitoring, or reporting undertaken by those organisations and groups.

**PLANNING**

**93. Long-term council community plan**

- (1) A local authority must, at all times, have a long-term council community plan under this section.
- (2) A local authority must use the special consultative procedure in adopting a long-term council community plan.
- (3) A long-term council community plan must be adopted before the commencement of the first year to which it relates, and continues in force until the close of the third consecutive year to which it relates.
- (4) A local authority may amend a long-term council community plan at any time.
- (5) A local authority must use the special consultative procedure in making any amendment to a long-term council community plan.
- (6) The purpose of a long-term council community plan is to—
  - (a) describe the activities of the local authority; and
  - (b) describe the community outcomes of the local authority's district or region; and
  - (c) provide integrated decision-making and co-ordination of the resources of the local authority; and

- (d) provide a long-term focus for the decisions and activities of the local authority; and
  - (e) provide a basis for accountability of the local authority to the community; and
  - (f) provide an opportunity for participation by the public in decision-making processes on activities to be undertaken by the local authority.
- (7) A long-term council community plan adopted under this section must
- (a) cover a period of not less than 10 consecutive financial years; and
  - (b) include the information required by Part 1 of Schedule 10.
- (8) A local authority must, in complying with the requirements of this Act in relation to the preparation and adoption of a long-term council community plan, act in such manner, and include in that plan such detail, as the local authority considers on reasonable grounds to be appropriate.
- (9) A local authority must, in deciding what is appropriate for the purposes of subsection (4) [sic: subsection (8)], have regard to
- (a) the provisions of sections 77, 78, 79, 80, 81, 82, 83, 84, 96, 97, and 101; and
  - (b) the significance of any matter; and
  - (c) the extent of the local authority's resources.
- (10) A local authority must, within 1 month after the adoption of its long-term council community plan,
- (a) make its long-term council community plan publicly available; and
  - (b) send copies of that plan to
    - (i) the Secretary; and
    - (ii) the Auditor-General; and
    - (iii) the Parliamentary Library.

## **OTHER LEGISLATION AFFECTING ELECTED MEMBERS**

### **LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987**

The Act provides for openness in local government, giving the public right of access to information and meetings that affect their everyday lives.

#### The Purposes Of The Act

The purposes of the Act are:

- a) To provide the availability to the public of official information held by local authorities, and to promote the open and public transaction of business at meetings of local authorities, in order:
  - i. To enable more effective participation by the public in the actions and decisions of local authorities; and
  - ii. To promote the accountability of local authority members and officials, and thereby to enhance respect for the law and to promote good local government in New Zealand.
- b) To provide for proper access by each person to official information relating to that person.
- c) To protect official information at the deliberations of local authorities to the extent consistent with the public interest and the preservation of personal privacy.

### **THE SECRET COMMISSIONS ACT 1910**

This Act makes it an offence for any agent of a principal to accept or attempt to obtain for them self or any other person, any gift or inducement or reward for doing or not doing any act in relation to the principal's business.

A number of actions by agents are made offences including having a pecuniary interest in a contract made on behalf of a principal, presenting false receipts to a principal, and other acts such as advising any person to enter a contract with a third person and receiving a gift or inducement without the person advised knowing.

For the purposes of this Act, every officer or member of a local authority board, Council or committee of any other body of persons having public functions under a statute, shall be deemed to be an agent of that local authority.

Persons convicted of an offence against this Act are liable to imprisonment for a maximum of two years or a fine not exceeding \$1,000, and any corporation to a fine not exceeding \$2,000.

### **THE LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968**

Section 3 of this Act disqualifies a person from being a member or being elected or appointed a member of a local authority or of any committee of a local authority, if -

- a) that person is concerned or interested in a contract or contracts with the local authority they are a member of, and
- b) total payment made under the contract or contracts, in any financial year, exceeds \$25,000.

Section 2 of the Act defines Contract, Incorporated Company, and Subcontract for the purposes of the Act.

What it means to be "concerned or interested in a contract" is extensively defined in relation to the involvement of a member in a company or the direct involvement of the member's spouse. There are also provisions to these requirements relating mainly to the member's knowledge of the spouse's interest.

The same limits apply to subcontracts. When deciding whether the limits have been exceeded, it is the amount payable under the subcontract and not the head contract which is taken into account; the

member would not be disqualified if the payment under the subcontract did not exceed \$25,000 though the payment to the head contractor may exceed this amount.

The term “contract” includes any relationship with the local authority which is intended to constitute a contract but is not an enforceable contract. It does not include any contract for the employment of staff by a local authority.

Where a member’s interest in a contract or contracts arises through membership of an incorporated company, the Act applies in the following circumstances -

- The member or the member’s spouse singly or between them, own directly or through a nominee, 10 percent or more of the issued capital of the company or any company controlling that company; or
- The Member or the member’s spouse is a member of the company or a controlling company and either of them is the managing director or general manager (by whatever names they are called) of that company or of that controlling company; or
- The member or the member’s spouse is the managing director or the general manager (by whatever names called) of the company and either of them is a member of a company controlling that company.

The above does not apply where -

- The member and spouse are living apart; or
- The member did not know and had no reasonable opportunity of knowing that his or her spouse owned any part of the issued capital of the company or of any company controlling that company, or was a member of or held any of the offices as set out above.

A member can also be disqualified through an interest his or her spouse may have in some other type of business, such as a partnership.

A controlling company is defined as a company owning 50 percent or more of the issued capital of that other company or is able to control the exercise by 50 percent or more of the total voting powers exercisable by all members of that other company.

It should be noted that the Act speaks of payment by the local authority and the opinion of the Audit Office is that payment in cash is meant. A transaction for say the exchange of land with the Council where no monetary consideration passes would not disqualify a member.

Audit Office approval in special cases may be obtained allowing payment without disqualification under a contract which would otherwise be a disqualifying contract.

A number of named and specific kinds of contracts are exempted from disqualification.

Where a member becomes disqualified, an extraordinary vacancy is created and the person is precluded from being elected or appointed to the local authority until the next general election.

It is an offence to act as a member while disqualified and this is punishable by a fine not exceeding \$200.

### **THE CRIMES ACT 1961**

Section 105 of the Crimes Act 1961 makes it a crime for any official to corruptly accept or obtain or attempt to do so, any bribe for herself or any other person to do or fail to do any act in his or her official capacity.

An “official” includes any person in the service of the Crown or any member or employee of any local authority or public body.

According to the Crimes Act “bribe” means any money, valuable consideration, office or employment, or any benefit, whether direct or indirect.

It is also a crime under Section 105A of the Crimes Act for an official to corruptly use information acquired in his or her official capacity, to obtain directly or indirectly an advantage or pecuniary gain for them self or any other person.

The penalty for these crimes is a maximum of seven years imprisonment.

## **SECURITIES ACT 1978**

The Securities Act 1978 deals with the issuing of stock, debt securities (debentures, bonds etc) or the raising of capital by way of a prospectus. The Securities Commission uses its authority to ensure observance of:

- offers of securities to the public,
- financial reporting by issuers of securities,
- rules prohibiting insider trading,
- disclosure of substantial holdings in listed securities,
- dealings in futures and options contracts.

The fundamental requirement under securities law is that investments cannot be offered to the public without a registered prospectus and an investment statement.

Breach of these requirements gives rise to criminal liability under the law and an issuer or promoter can be fined up to \$15,000.