

establishment of a new district or for the creation of a unitary authority will be dealt with by the Commission. These proposals cannot be implemented without a poll of electors.

Further information on these requirements can be found in the Local Government Act 2002. The Local Government Commission has also prepared guidelines on procedures for local government reorganisation.

(Local Government KnowHow: Governance; Local Electoral Act 2001; Local Electoral Regulations 2001; LGA 2002)

## **5) Members' Roles and Conduct**

### ***Elected Members***

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

- the development and adoption of council policy;
- monitoring the performance of the council against its stated objectives and policies;
- prudent stewardship of council resources;
- employment of the Chief Executive.

Elected members are also responsible for representing the interests of the residents and ratepayers of the city.

Unless otherwise provided in the Local Government Act 2002 or in Wellington City Council's Standing Orders, the council can only act by majority decisions at meetings. Any individual member (including the Mayor) has no authority to act on behalf of the Council unless provided for by statute or the Council has expressly delegated such authority.

Elected members have specific obligations as to their conduct in the following legislation:

- schedule 7 of the Local Government Act 2002, which includes obligations to act as a good employer in respect of the Chief Executive and to abide by the current code of conduct and standing orders;
- the Local Authorities (Members' Interests) Act 1968 which regulates the conduct of elected members in situations where there is, or could be, a conflict of interest between their duties as an elected member and their financial interests (either direct or indirect);
- the Secret Commissions Act 1910, which prohibits elected members from accepting gifts or rewards which could be seen to sway them to perform their duties in a particular way;
- the Crimes Act 1961 regarding the acceptance of gifts for acting in a certain way and the use of official information for private profit.

All elected members are required to adhere to a code of conduct. Adopting such a code is a requirement of the Local Government Act 2002. Once adopted, such a code may only be amended by a 75 per cent or more vote of the Council. The code sets out the Council's understanding and expectations of how the Mayor and councillors will relate to one another, to staff, to the media and to the general public in the course of their

duties. It also covers disclosure of information that is received by or is in the possession of elected members, and contains details of the sanctions that the council may impose if an individual breaches the code. Copies of the full code of conduct may be obtained from Democratic Services (contact 499 4444) or from the website [www.Wellington.govt.nz](http://www.Wellington.govt.nz).

### ***Mayor***

The Mayor is elected by the City as a whole and as one of the elected members shares the same responsibilities as other members of Council. The Mayor also has the following roles:

- presiding at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined by Standing Orders)
- advocating on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the council
- spokesperson for the council
- ceremonial head of Council
- providing leadership and feedback to other elected members on teamwork and chairing of committees
- fulfilling the responsibilities of a Justice of the Peace (while the Mayor holds office).

### ***Deputy Mayor***

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

### ***Chief Executive's Responsibilities***

The Chief Executive is appointed by the Council in accordance with section 42 and clauses 33 and 34 of Schedule 7 of the Local Government Act 2002. The Chief Executive implements and manages the council's policies and objectives within the budgetary constraints established by the council. Under section 42 of the Local Government Act 2002, 'a chief executive appointed under subsection (1) is responsible to his or her local authority for:

- implementing the decisions of the local authority; and
- providing advice to members of the local authority and to its community boards, if any; and
- ensuring that all responsibilities, duties and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation or bylaw, are properly performed or exercised; and
- ensuring the effective and efficient management of the activities of the local authority; and
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and
- providing leadership for the staff of the local authority; and

- employing, on behalf of the local authority, the staff of the local authority; and
- negotiating the terms of employment of the staff of the local authority’.

(Wellington City Council Code of Conduct for the Mayor and Councillors; LGA 2002; LGNZ: Governance)

## **6) Governance Structures and Processes**

### ***Council***

Currently comprising the Mayor and 14 councillors, the Council is chosen, along with all other local authority politicians in New Zealand, in elections held every three years. Council meetings normally take place on the last Wednesday of the month. Council retains the sole power to perform a number of functions. These functions are either prescribed by the Local Government Act 2002 and other relevant legislation, or are allowed under these pieces of legislation and have been adopted by Council itself. These functions include the powers to:

- make a rate;
- make a bylaw;
- borrow money or purchase or dispose of assets, other than in accordance with the Long Term Council Community Plan (LTCCP);<sup>1</sup>
- adopt a LTCCP, annual plan, or annual report;
- appoint a Chief Executive;
- adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the LTCCP or the preparation of the Local Governance Statement;
- appoint and discharge the Deputy Mayor;
- approve or amend the Council’s Standing Orders;
- approve or amend the Code of Conduct for Elected Members;
- establish and determine the structure, terms of reference, and delegated authorities of committees and appoint and discharge members of committees;
- establish a joint committee with another local authority or other public body;
- make any resolution where in a bylaw the Council has reserved any matter to be regulated, controlled, or prohibited by the Council by resolution either generally, for any specified case, or in a particular case;<sup>2</sup>
- make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the recommendation;
- any other matters which from time to time may not legally be delegated by the Council.

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<sup>1</sup> Not the Annual Plan

<sup>2</sup> Includes matters such as: 1) any new or amended traffic resolutions under the Traffic Bylaw; 2) setting fees if a bylaw provides for fees to be set by resolution of Council; 3) the extension of the liquor ban for a special event