

## Council Briefing Agenda

**Date:** Thursday, 11 April, 2019

**Time:** 1:00 pm

**Location:** Council Chamber  
Forum North, Rust Avenue  
Whangarei

**Elected Members:** Her Worship the Mayor Sheryl Mai  
(Chairperson)  
Cr Gavin Benney  
Cr Crichton Christie  
Cr Vince Cocurullo  
Cr Tricia Cutforth  
Cr Shelley Deeming  
Cr Sue Glen  
Cr Phil Halse  
Cr Cherry Hermon  
Cr Greg Innes  
Cr Greg Martin  
Cr Sharon Morgan  
Cr Anna Murphy

For any queries regarding this meeting please contact  
the Whangarei District Council on (09) 430-4200.

**1. Apologies**

**2. Reports**

2.1 Elections 2019 - Protocols for Elected Members during the  
pre-election period

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**3. Closure of Meeting**

## 2.1 Elections 2019 – Guidance for Elected Members during the pre-election period

<b>Meeting:</b>	Council Briefing
<b>Date of meeting:</b>	11 April 2019
<b>Reporting officer:</b>	Kathryn Candy (Senior Legal Advisor) Tracey Schiebli (Manager Democracy and Assurance)

### 1 Purpose

The purpose of the briefing is to provide Elected Members with information on staff protocols during the pre-election period, and the election process.

### 2 Discussion

The 2019 Local Government Elections will be held on Saturday 12 October 2019.

#### 2.1 Key Dates for the 2019 Elections

- Friday 19 July 2019 – Nominations open
- Friday 16 August 2019 12 noon – Nominations close
- Friday 20 September 2019 - Wednesday 25 September 2019 – Delivery of voting documents
- Friday 20 September 2019 - Saturday 12 October 2019 noon - Special Voting Period
- Saturday 12 October 2019 – Election Day – voting closes at noon
- Saturday 12 October 2019 – Thursday 17 October 2019 – Official count
- Thursday 17 October 2019 – Wednesday 23 October 2019 – Declaration of result
- Mid-December 2019 – Return of electoral donations and expenses

The pre-election period runs from 12 July 2019 to 12 October 2019. The normal business of Council continues during this period and Elected Members continue to govern and make decisions.

The pre-election period is a time of increased interest and attention on council officers, particularly in their dealings with current Elected Members, candidates and the general public.

During the pre-election period, Elected Members need to be mindful of the need for separation between their role and responsibilities as a member of Council and their campaigning activities.

## **2.2 Neutrality of Council staff**

As an employee of Council, staff are required, under the Employee Code of Conduct, to serve the Council of the day. They must act so that they maintain the confidence of the Council and ensure that they are able to establish the same professional and impartial relationship with future Councils. There is a general requirement of political neutrality which is designed to ensure the administration can provide strong support for good governance over the long term. During the pre-election period, it is important that staff act, and are seen to act, in a politically neutral way.

To maintain this political neutrality, the protocols to be followed by the organisation are as follows:

### **Protocol 1: Remaining politically neutral**

Council officers are expected to be politically neutral when performing their role at Council. They should not let their personal views or interests influence their advice or behaviour.

### **Protocol 2: Standing for office or undertaking of other political activities**

Council officers have the same political rights and freedoms as other New Zealanders. They may stand for office, research and support candidates, and vote as private individuals. However, they must remain politically neutral while working with the current Council as well as any future Council.

### **Protocol 3: Use of Council resources**

The use of Council resources for election purposes is not acceptable. In particular, the Council must not promote, nor be perceived to promote, the election prospects of any candidate.

### **Protocol 4: Publications and communications during an election**

Council publications, including social media, should not raise, or have the effect of raising, the profile of any elected member of any candidate.

### **Protocol 5: Providing information to candidates**

When a candidate requests information that is not publicly available, such requests will be dealt with using Council's usual processes for requests for information.

## **2.3 Auditor-General Guidance**

The Controller and Auditor-General has published the *Good Practice for Managing Public Communications by Local Authorities* (April 2004). These principles guide the use of council resources and communications by and about Elected Members during the pre-election period and are attached and can be found at [www.oag.govt.nz/2004/public-communications/part4.htm#members](http://www.oag.govt.nz/2004/public-communications/part4.htm#members) .

Those principles are:

***“Principle 12 –***

*A local authority must not promote, not 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.”*

The guidance states that, in particular, photos or information that may raise the profile of a sitting member should not be used during the pre-election period. Care is therefore needed around any communications during that time and any other reports that Council may create such as the annual report and the pre-election report.

## **2.4 How to comply with the Auditor-General’s Guidance**

### Use of Council resources in the pre-election period

A sitting member of Council who is seeking re-election needs to ensure that there is a clear separation between Council business as usual and campaigning activities. Elected Members can only use Council resources in their capacity as a current Elected Member of the Whangarei District Council and should use their own resources in their capacity as an election candidate. Should Council’s resources be used for campaigning this may create an unfair advantage over other candidates who do not have access to such resources.

Council resources include, but are not limited to:

- Council staff;
- Budgets;
- Council-owned or controlled property and other resources, including the council logo and branding, all council marketing and communication channels (including social media), council-supplied business cards, stationary, computers, email, mobile phones, telephones, photocopiers, cars, council venues (other than those available for hire to the general public).

### Publications and communications in the pre-election period

During the pre-election period, the following will apply to Council communication and publications:

1. *Care should be taken that Council communications do not provide an inappropriately high profile for any current elected member.*
2. *All elected members will continue to be represented in Council publications that relate to matters of routine Council business e.g. Annual Report, website profiles.*
3. *From the commencement of the pre-election period all media communications will quote staff.*

4. *The exception to this would be in an emergency situation where the responsibilities of the Mayor require the Mayor to be quoted, in this situation all material will be approved by the CE.*

## **2.5 Pre-Election report**

The Local Government Act 2002 requires that the Chief Executive produces a pre-election report to be published by 2 August 2019. The purpose of this report is to provide information to inform and promote public discussion about the issues facing Council. This report will be written to ensure it is politically neutral and the legislation states that it must not contain any statement by, or photograph of, an elected member of the local authority.

## **2.6 LGNZ Vote 2019**

Council does have a role during the lead up to the election to encourage, in general, people to stand for Council and also to promote voter turnout.

Local Government New Zealand (LGNZ) has recently begun its campaign to increase participation in the election process which they have called Vote2019 which we will use in our communication about the elections process.

## **2.7 Information for Candidates**

The Council website will be updated with information throughout the pre-election period. In May 2019 the Candidate Handbook will be available for all those who are seeking election to Council. This handbook provides information on all the practicalities of standing for office.

Candidate Information Evenings for all potential candidates will be held in July. Further information on these events will be provided at a later date.

# **3 Attachments**

1. Timetable Triennial Election 12 October 2019
2. The Controller and Auditor – General Good Practice for Managing Public Communications by Local Authorities (2004)

# TIMETABLE

## Triennial election

Whangarei District Council

12 OCTOBER 2019

### SATURDAY 12 OCTOBER 2019

Saturday 2 March - Tuesday 30 April 2019	Ratepayer roll enrolment confirmation forms sent [Reg 16, LER]
Saturday 2 March - Saturday 6 July 2019	Preparation of ratepayer roll [Reg 10, LER]
May 2019	National ratepayer roll qualifications and procedures campaign [Sec 39, LEA]
Monday 1 July 2019	Electoral Commission's enrolment update campaign commences
Wednesday 17 July 2019	Public notice of election, calling for nominations, rolls open for inspection [Sec 42, 52, 53, LEA]
<b>Friday 19 July 2019</b>	<b>Nominations open / roll open for inspection</b> [Sec 42, LEA]
<b>Friday 16 August 2019</b>	<b>Nominations close (12 noon) / roll closes</b> [Sec 5, 42, 55 LEA, Reg 21, LER]
Wednesday 21 August 2019	Public notice of day of election, candidates' names [Sec 65, LEA]
by Monday 16 September 2019	Electoral officer certifies final electoral roll [Sec 51, LEA, Reg 22, LER]
<b>Friday 20 September - Wednesday 25 September 2019</b>	<b>Delivery of voting documents</b> [Reg 51, LER]
Friday 20 September - Saturday 12 October 2019	Progressive roll scrutiny [Sec 83, LEA] Special voting period [Sec 5 LEA, Reg 35, LER] Early processing period [Sec 80, LEA]
by Friday 11 October 2019	Appointment of scrutineers (12 noon) [Sec 68, LEA]
<b>Saturday 12 October 2019</b>	<b>Election day</b> [Sec 10, LEA] Close of voting (12 noon) [Sec 84, LEA] Progress and preliminary results available as soon as practicable after close of voting [Sec 85, LEA]
Saturday 12 October (pm) - Thursday 17 October 2019	Official count [Sec 84, LEA]
Thursday 17 October - Wednesday 23 October 2019	Declaration of result/public notice of declaration [Sec 86, LEA]
mid-December 2019	Return of electoral donations & expenses form [Sec 112A, LEA]

LEA = Local Electoral Act 2001  
LER = Local Electoral Regulations 2001







**The Controller and  
Auditor-General**

*Tumuaki o te Mana Arotake*

**Good Practice  
for Managing  
Public Communications  
by  
Local Authorities**

**April 2004**

ISBN 0-478-18117-5

## Foreword

We first published our *Suggested Guidelines for Advertising and Publicity by Local Authorities* in 1996. We published a revised version of those *Guidelines* in 1999.

Since 1999, a number of factors have contributed to significant change in the environment in which local authorities are involved in “advertising and publicity”. Probably the two major factors are the advances in communications technology and the rate of adoption of the new technology, and (more recently) the enhanced requirements for communication in the Local Government Act 2002.

We saw as a consequence of that significant change the clear need to revisit the *Guidelines* to reassess their validity and determine what changes might be needed to preserve their usefulness. This publication reflects the fresh approach we have taken to the subject – still principles-based, but with an emphasis on the wider concept of “communication” rather than “advertising and publicity”.

As previously, this update represents what we believe is a code of good practice. The guidance it contains is no more authoritative than that. Further, the guidance is intended neither to be an operating manual nor to cover every conceivable situation.

Local authorities will have to determine what practical application they make of our good practice guidance in particular situations. To do so, and to reflect the more open approach to disclosing how local government manages itself, we recommend that the adoption and application of the guidance in this publication be incorporated in a formal communications policy.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, identifying K B Brady.

K B Brady  
Controller and Auditor-General

14 April 2004



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# 1 Introduction

## The importance of Council communications

- 1.1 Communication with the public is a major part of any Council's activities. It can consume large amounts of ratepayers' money.
- 1.2 Some types of public communications are mandatory – for example, notifying Council meetings, or issuing a statutory plan for consultation. Others are discretionary – for example, a Council-funded newsletter, a media release explaining a recent decision, or a pamphlet about disposal of household waste.
- 1.3 Councils communicate with the public by many different means. For any communication, a Council has a broad range of choices – both as to the medium to be used (e.g. whether to pay for newspaper advertising or use the Council's web site) and the degree of sophistication involved.
- 1.4 Choice introduces judgment and subjectivity. The dilemma of the communicator is in reconciling the potentially conflicting criteria of:
  - making the communication attractive so that the audience will give it their attention, absorb it, understand it, and (if that is what is expected) act on it;
  - meeting acceptable standards of probity; and
  - presenting accurate, complete, and fairly expressed information.
- 1.5 The skill required of the communicator is to observe the relevant principles and apply the highest possible standards, and, importantly, to learn from experience.

## Why this guide?

- 1.6 Communication of information at public expense or in an official capacity always carries the risk of criticism. The commonest complaints (except for statutory notifications) are that a communication is unnecessary, unbalanced, or politically biased. The best defence to any complaint is that the communication meets acceptable standards.
- 1.7 The Auditor-General is often asked to express a view on whether a particular communication is acceptable. Some requests come from the Council, before publication. Others come from members of the public afterwards, complaining about what has been done.

- 1.8 Until 1996, there was no authoritative guidance as to what standards were acceptable in Council communications. Our suggested guidelines – first published in that year, and now updated for the second time – have aimed to fill that vacuum. Just as we bring an independent perspective to our job as the auditor of local authorities, we try to describe good practice that reflects not only the theory and practice of communications but also the expectations of the public.
- 1.9 We derive our guidance from:
- our knowledge of the kinds of official communications that may cause concern in both the central and the local government sectors;
  - our experience, not only in giving help to communicators but also in dealing with complaints from the public; and
  - our consultations with a range of Council communications staff and advisers and with Local Government New Zealand.
- 1.10 The feedback we received from our consultations was that independent guidance is a valuable and necessary aid, not only for Council Members but also for communications staff and advisers. Guidance can:
- provide a general framework for the conduct of a Council's communications activities;
  - help with clarifying roles and responsibilities – especially as between Members and communications staff and advisers; and
  - set benchmarks for particular types of communications – especially as to what is acceptable in the political context and at critical times such as during a pre-election period.

## **The objects and scope of the guide**

- 1.11 The statements of good practice in this guide are designed to meet three objectives in relation to a Council's communications practices:
- to ensure that Council communications resources are applied effectively and efficiently, and in a manner that produces good value for money;
  - to ensure that those who are permitted to use Council communications facilities do so for legitimate purposes; and
  - to promote appropriate standards of conduct by those who consume Council communications resources, or use Council facilities, or otherwise communicate on behalf of the Council.



- 1.12 This wide scope is consistent with our role as the auditor of local authorities, which includes examining the extent to which they, and their members and staff:
- carry out activities effectively and efficiently, consistent with Council's own policies;
  - comply with statutory obligations;
  - avoid wasteful use of resources; and
  - act with probity and financial prudence.<sup>1</sup>
- 1.13 The guide itself is produced under the authority of section 21 of the Public Audit Act, as a report on matters arising out of the performance and exercise of those functions.

## **What is the status of the guide?**

- 1.14 Our guidance is not binding on Councils. Each Council is free to adopt its own standards – which must of course be consistent with the relevant principles of the Local Government Act 2002 (LGA).<sup>2</sup>
- 1.15 We recommend that every Council consider adopting a formal communications policy framed to suit its particular needs. The policy should:
- embrace these guidelines – or a variation of them (stricter or otherwise) that the Council considers appropriate to its circumstances; and
  - clearly direct Members and communications staff and advisers<sup>3</sup> on how the policy is to be applied in particular cases.
- 1.16 Although this guide is not binding on Councils, they and the public should be aware that it establishes the criteria that we will use in future in order to form a view on the appropriateness of a Council's public communications.

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<sup>1</sup> Public Audit Act 2001, section 16.

<sup>2</sup> Section 14 of the LGA.

<sup>3</sup> Including those engaged as consultants.

## 2 Scope – What are “Communications”?

2.1 Our guidance applies to any communication by a Council, or a Member or employee or office holder of a Council, or a Member of a Community Board, where:

- the Council meets the cost (wholly or in part); or
- the person making the communication does so in an official capacity on behalf of the Council or a Community Board.

2.2 We make no distinction between:

- mandatory and discretionary communications;
- communications in the Council’s own publications and the news media generally;
- Council-funded advertisements and other forms of publicity; or
- electronic (including web site or e-mail) and hard copy publication.

The underlying principles are the same in each case.

2.3 Common examples of communications by Councils include:

- statutory documents – such as draft, final, and summary versions of the Long Term Council Community Plan or an Annual Report under the LGA;
- information on a web site, or in a poster or pamphlet, about Council services available to the public, or the rights, entitlements, and responsibilities of people affected by a Council activity;
- newspapers and newsletters reporting Council news and activities;
- material explaining a particular proposal, decision, policy, or bylaw of the Council;
- marketing material promoting the Council, its communities, or a regional brand;
- Council-funded advertising about a particular event, proposal, or Council policy;
- educational material about issues affecting the community; and
- media releases initiating or responding to public comment about matters affecting the Council or its communities.

2.4 In a different category are communications by Members using Council resources or facilities. We address this type of communication in paragraphs 4.33-4.40 on pages 19-20.

2.5 The guide does not apply to:

- normal day-to-day correspondence between Members and their constituents on appropriate matters, *except* during a pre-election period when the content of the correspondence should not be inconsistent with Principle 12 on page 22; and
- communications by Members using their own resources.

### 3 Communications – Whose Responsibility?

- 3.1 Corporate governance principles stress the different roles of the governing body and the management of an organisation. For local authorities, section 39 of the LGA reflects these principles.
- 3.2 Members (i.e. the governing body) and management of a Council share different elements of the communications function. In essence:
- Members are accountable to the community for the Council's decisions and actions. What the Council says in its communications is, therefore, ultimately the Members' responsibility.
  - The mechanics of communications are operational activities, which form part of the everyday business of the Council. Moreover, effective communication often requires professional input. Most Councils employ (or engage on contract) professional advice and assistance for some or all of their communications activities. The chief executive is responsible for the effective and efficient management of those people and their activities.
  - Communications is also an area of risk. Those who are authorised to communicate on behalf of a Council, and those who exercise editorial or quality control, need to have access to sources of professional advice when necessary (including legal and strategic communications advice). Obtaining that advice is also a management responsibility.
- 3.3 The communications function thus straddles the divide between governance and management in the Council organisation. Each Council should allocate the respective roles and responsibilities according to its own size and needs. For example, in a small Council the Mayor might be the primary spokesperson on all issues, whereas in a larger Council the role might be shared between the Mayor and a communications manager.
- 3.4 The governance/management divide also affects the crucial elements of policy development, quality control, and editorial supervision. We think these elements are best regarded as management functions, for which the chief executive is responsible.
- 3.5 The respective roles and responsibilities need to be well understood by all concerned and put into practice effectively.<sup>4</sup> This is especially important when the Council employs professional communications staff – who could, for example, feel undermined by Members intervening in editorial decisions.

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<sup>4</sup> See section 39(e) of the LGA. The local governance statement required by section 40 of the LGA could be the appropriate place to record particulars of the division of roles and responsibilities.

- 3.6 A useful approach is to regard the roles of Members and management as complementary, and to encourage everyone to work together in partnership for the good of the Council and the community.

## 4 Principles and Practice

- 4.1 In this section we set out 13 principles that we believe should underpin a Council's policy and practice on communications. We supplement each of the principles with commentary.
- 4.2 We stress that the principles are intended as general statements, which are to be applied in a flexible and common sense manner. Likewise, the commentary cannot expect to foresee all possible situations that might arise.

### Legitimacy and justification

#### ***Principle 1 –***

**A Council can lawfully, and should, spend money on communications to meet a community's (or a section of a community's) justifiable need for information about the Council's role<sup>5</sup> and activities.**

- 4.3 Communications are a necessary and legitimate Council expense. Councils are also justified in employing, or otherwise engaging, professional advice and assistance for their communications activities.
- 4.4 However, no communication should be undertaken without justification or regard for the cost.
- 4.5 The main elements of justification are:
- establishment of an identifiable need for information on the part of a particular audience;
  - the chosen method of communication should be one that is effective in reaching those who have the need; and
  - once the method has been identified, the communication should be made in the most cost-efficient manner.
- 4.6 Consideration should also be given to evaluating the effectiveness of the communication. What is known to have been an effective communication supports the justification for that communication and can be a benchmark to support future communications.

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<sup>5</sup> *The role of a local authority is to—*  
 (a) *give effect, in relation to its district or region, to the purpose of local government ...;*  
*and*  
 (b) *perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.*  
 (LGA, section 11)

- 4.7 A communication will be lawful when it:
- is authorised by a Council resolution or under a delegation; and
  - complies with any specific legal requirements as to form, content<sup>6</sup>, timing, or method of publication<sup>7</sup>.
- 4.8 A Council can also exercise significant power over individuals and groups in the community. Consequently, a Council has an obligation to ensure those people know how they are being affected by the Council's actions, and what their rights and responsibilities are in relation to those actions.
- 4.9 Council communications are all the more important in the environment of the LGA. Consultation with the community is fundamental to the working of the Act, and effective communication is vital to effective consultation.

***Principle 2 –***

**Communications should be consistent with the purpose of local government<sup>8</sup> and in the collective interests of the communities the Council serves.**

- 4.10 A Council is a corporate entity, with statutory role and purpose. The role and purpose include promoting the well-being of communities in its district or region. A Council may serve many communities, both in the geographical sense and in the sense of communities of interest. It should always act within the scope of its role and purpose, and in the collective interests of its communities.
- 4.11 Sometimes, a Council will need to communicate with only some of its communities about a particular issue, or with part of a community. But it should always be able to justify any communication as being in the collective interests of them all.

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<sup>6</sup> Including the avoidance of defamatory comment, or misleading or deceptive conduct under the Fair Trading Act 1986.

<sup>7</sup> E.g. use of the special consultative procedure under the LGA.

<sup>8</sup> *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.*  
 (LGA, section 10)

***Principle 3 –***

**Communications should comply with any applicable Council policies and guidelines as to process (including authorisation) and content.**

- 4.12 We encourage all Councils to adopt a policy on communications: see paragraph 1.15 on page 9.

## **Collective position**

***Principle 4 –***

**Communications on Council policies and decisions should reflect the collective position of the Council.**

- 4.13 Wherever possible, the Council should “speak with one voice”, and its communications should represent the corporate or collective position.
- 4.14 A communication by an authorised spokesperson appointed by the Council (whether that person is a Member or an employee) should identify that person in his or her official capacity (for example, as a Committee chairperson). The purpose of the communication should always be to meet the Council’s, not the spokesperson’s, communications objectives. The person responsible should be careful to ensure that what is being said is portrayed as the Council’s position, not the personal views of the spokesperson.
- 4.15 Some Councils allow the Mayor to produce a regular “column” in a Council-funded or other local publication, or to make regular broadcasts on local radio or television. The purpose of such communications should be to give voice to the Council’s corporate position on its activities, through the elected leader.
- 4.16 Communication of a Member’s personal perspective, views or opinions (including in a regular “column”, broadcast, etc) should be the exception rather than the rule, and should be subject to Principles 9 to 11 (see pages 19-21).

***Principle 5 –***

**Communications on Council business should always be clearly attributed to the Council as the publisher.**

- 4.17 A communication might, for example, identify the Council by reference to the name of the Council or by use of its corporate logo. A communication designed to meet the Council’s statutory obligations (such as a draft annual plan) should not only say who authorised its publication (usually the chief executive officer) but also identify the statutory provision under which it is being published.



- 4.18 For commentary about the identification of sponsors, see paragraphs 5.3-5.7 on pages 25-26.

## Standards of communication

### *Principle 6 –*

**Factual and explanatory information should be presented in a way that is accurate, complete, fairly expressed, and politically neutral.**

- 4.19 **Accurate** means what it says. That which is held out to be true should be founded on ascertainable facts, and be carefully and precisely expressed consistently with those facts. No claim or statement should be made that cannot be substantiated.
- 4.20 A communication will be **complete** when it consists of all the information necessary for the audience to make a full and proper assessment of the subject matter.
- 4.21 Information will be **fairly expressed** when it is presented in an objective, unbiased, and equitable way. In particular:
- the audience should always be able to distinguish facts from analysis, comment, or opinion; and
  - when making a comparison, information should state fully and accurately the nature of what is being compared, and inform the audience of the comparison in a way that does not mislead or exaggerate.
- 4.22 Information will be **politically neutral** when it presents the Council's collective position, or, where there is no collective position, sets out the issues in a manner that does not refer to the positions taken by any individual Member or political party or group of Members.

## Consultation and public debate

### *Principle 7 –*

**Communications about matters that are under consideration by the Council, or are otherwise a matter of public debate, should present the issues in an even-handed and non-partisan way.**

- 4.23 Communications about matters that will be the subject of a future decision by the Council should be distinctly different from those that follow a decision.

- 4.24 In the “before” phase, all relevant facts and other considerations should be taken into account, and all significant points of view should be aired. The aim is to enable the Council to make itself aware of, and then to have regard to, the views of all its communities in relation to a particular decision<sup>9</sup>, while also meeting all its statutory obligations in respect of consultation<sup>10</sup>.
- 4.25 In particular, a “before” phase communication should:
- avoid the appearance and reality of bias or pre-determination – especially when summarising facts or arguments;
  - present the issues in an objective manner, avoiding subjective opinion or comment; and
  - mention both the advantages and the disadvantages of particular options.
- 4.26 Mention of individual Members’ or political parties’ positions should always be avoided.
- 4.27 In the “after” phase, the emphasis should be on what has been decided and its implications for the Council and its communities.
- 4.28 This principle applies whether the purpose of the communication is to satisfy LGA requirements, or otherwise.

***Principle 8 –***

**If engaging in public debate with an interest group or a section of the community, a Council should use the news media (rather than a Council funded publication) and designated spokespersons (rather than professional communications advisers) unless there is a particular justification for not doing so.**

- 4.29 A Council may be justified in responding to publicity that is unfair, unbalanced, or inaccurate. The object should be to put the record straight, including a measure of rebuttal.
- 4.30 But it is important to keep a balance and perspective. Council resources should not be used merely to engage in a public argument.
- 4.31 The preferred approach in such cases should be to make use of the news media, through release and publication of a written statement or making an authorised spokesperson available for interview. Use of Council-funded publications or professional advisers to engage in debate with interest groups could create the perception that Council resources are being used for the benefit of one section of the community against another, or in a way that results in an unequal public relations contest.

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<sup>9</sup> LGA, sections 14(1)(b) and 78.

<sup>10</sup> LGA, sections 82-90.

- 4.32 An example of where a Council-funded publication to engage with an interest group could be justified is when the group has issued public statements encouraging citizens to commit acts of civil disobedience or to actively break the law.

## Communications by Members

### *Principle 9 –*

**If the Council's Communications Policy permits them, communications by Members of their personal perspective, views or opinions (as opposed to communication of Council matters in an official capacity) should:**

- be clearly identified as such; and
- be confined to matters that are relevant to the role of local authorities<sup>11</sup>.

- 4.33 Members are collectively responsible for Council decisions. Communication of Council business to the community often falls to a designated spokesperson. See Principle 4 and paragraphs 4.13-4.15 on page 16.
- 4.34 But Members are also individually responsible to the communities that elected them. It is for the Council to decide whether and, if so, on what terms to make resources available to Members to communicate with constituents or the wider community in their capacity as individual Members.
- 4.35 An example of a communication that could involve a Member expressing personal views is a "Members' column" in a Council-funded newspaper or on a Council web site.
- 4.36 It is important that the Communications Policy, and the relevant part of the communications budget, also sets out clearly the limits in relation to such communications. The policy should say:
- What types of communications are permitted and in what circumstances, and the range of permitted subject matter.
  - Whether the material can or should be subject to editing and, if so, by whom.
  - What procedures apply in respect of authorisation, attribution, and editorial and quality control. These are for the Council to determine. However, whether or not material is edited, the Member must formally subscribe to what is being published.

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<sup>11</sup> Under sections 10 and 11 of the LGA – see footnotes 5 (page 14) and 8 (page 15).

- 4.37 Note, however, that a Member's freedom to talk about Council business is subject to confidentiality requirements (such as under Standing Orders) and the Council's Code of Conduct – especially as regards Members' conduct towards each other and their disclosure of Council information.<sup>12</sup>
- 4.38 Here are our views on some other examples of a Member communicating personally:
- It is not appropriate for a Member to use a Council newsletter or web site to express views on a matter of central government responsibility (such as defence and foreign relations) that has no direct bearing on the Council's activities.
  - It may be appropriate (but only when the Council is undertaking no formal consultation process) for a Member to use Council facilities to consult with the public on an issue under consideration by the Council, or to explain his or her position on a contentious decision, but not to seek political support on an issue that the Council has not considered. References to, or the use of a logo or slogan of, a political party or grouping are unacceptable.
  - Members should not be permitted to use Council communications facilities for political or re-election purposes. (See Principles 12 and 13 on pages 22-24 for more information on communications in the pre-election period.)
  - Staff protocols on the use of the Internet, e-mail, and other communications facilities for personal purposes should also apply to Members. The minimal cost of allowing use of such facilities can easily be outweighed by the perception that public resources are being misused.

***Principle 10 –***

**Politically motivated criticism of another Member is unacceptable in any Council-funded communication by a Member.**

- 4.39 Neither the inherently adversarial nature of much Council politics nor the right of free speech can justify Council communications resources being used to enable one Member to engage in political debate with, or to criticise, another Member. Preventing such misuse should be an objective of the Council's policy on where editorial control and the power to authorise communications should lie.
- 4.40 Members are, of course, free to use their own resources for such purposes.

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<sup>12</sup> LGA, Schedule 7, clause 15.

## Members' personal profile

### ***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 (or a section of the community). In permitting the use of its resources for such communications, the Council should consider equitable treatment among all Members.**

- 4.41 Two related objectives underlie this principle:
- It is important that the public know who their Councillors are. Councils are justified in using, or in some circumstances permitting Members to use, Council facilities for communications that have the objective of raising a Member's personal profile.
  - Giving a "human face" to a piece of information can be an effective communications strategy to attract attention and make the information relevant and understandable to its audience.
- 4.42 It is acceptable for Councils to use photographs of Members, personal quotes/attributions, and other standard journalistic techniques provided they are consistent with these objectives. However, Councils need to bear in mind the inherent risks of favouritism and unequal treatment of members.
- 4.43 For example, a "photo opportunity" shot, in a Council-funded publication, of a Mayor or Committee Chairperson announcing a Council decision helps to draw the reader's attention to the decision, and thereby improve the effectiveness of its communication, but could also have an unintended and beneficial spin-off effect for the Member's personal or political profile in the community.
- 4.44 Allowing Members representing a particular Ward to issue their own newsletter to constituents could have a similar effect. There is nothing wrong with such an idea in principle. However, the principle of equitable treatment makes it important that the same communications opportunity is available to Members representing other Wards. Matters such as editorial and quality control and attribution should also rest with the Council's communications staff in accordance with Council policy.

## Communications in a pre-election period<sup>13</sup>

### ***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.**

- 4.45 Promoting the re-election prospects of a sitting Member, directly or indirectly, wittingly or unwittingly, is not part of the proper role of a local authority.
- 4.46 A Council would be directly promoting a Member's re-election prospects if it allowed the member to use Council communications facilities (such as stationery, postage, internet, e-mail, or telephones) explicitly for campaign purposes.
- 4.47 Other uses of Council communications facilities during a pre-election period may also be unacceptable. For example, allowing Members access to Council resources to communicate with constituents, even in their official capacities as members, could create a perception that the Council is helping sitting Members to promote their re-election prospects over other candidates.
- 4.48 For this reason, we recommend that mass communications facilities such as –
- Council-funded newsletters to constituents; and
  - Mayoral or Members' columns in Council publications –
- be suspended during a pre-election period.
- 4.49 Promoting the re-election prospects of a sitting Member could also raise issues under the Local Electoral Act 2001. For example:
- Local elections must be conducted in accordance with the principles set out in section 4 of the Local Electoral Act – see Appendix 1 on page 27. The principles apply to any decision made by a Council under that Act or any other Act, subject only to the limits of practicality. A breach of the principles can give rise to an “irregularity” which could result in an election result being overturned.<sup>14</sup>

<sup>13</sup> By “pre-election period” we mean the three months before the close of polling day for the purposes of calculating “electoral expenses”: see Local Electoral Act 2001, section 104. However, a Council may decide to apply restrictions over a longer period.

<sup>14</sup> See *Aukuso v Hutt City Council* (District Court, Lower Hutt, MA 88/03, 17 December 2003).

- The publication, issue, or distribution of information, and the use of electronic communications (including web site and e-mail communication), by a candidate are “electoral activities” to which the rules concerning disclosure of electoral expenses apply.

4.50 “Electoral expenses”<sup>15</sup> include:

- the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and
- the cost of any printing or postage in respect of any electoral activity.

4.51 A Member’s use of Council resources for electoral purposes could therefore be an “electoral expense” which the Member would have to declare – unless it could be shown that the communication also related to Council business and was made in the candidate’s capacity as a Member.

***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 officer (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law.**

4.52 Curtailing all Council communications during a pre-election period is neither practicable nor (as far as mandatory communications, such as those required under the LGA, are concerned) possible. Routine Council business must continue. In particular:

- Some Councils publish their annual reports during the months leading up to an October election, which would include information (including photographs) about sitting Members.
- Council leaders and spokespersons need to continue to communicate matters of Council business to the public.

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<sup>15</sup> Also defined in section 104.

4.53 However, care must be taken to avoid the perception, and the consequent risk of electoral irregularity, referred to in the commentary to principle 12. Two examples are:

- journalistic use of photographic material or information (see paragraph 4.42 on page 21) that may raise the profile of a Member in the electorate should be discontinued during the pre-election period; and
- access to Council resources for Members to issue media releases, in their capacities as official spokespersons, should be limited to what is strictly necessary to communicate Council business.

4.54 Even if the Council's Communications Policy does not vest the power to authorise Council communications solely in management at normal times, it should do so exclusively during the pre-election period.



## 5 Other Commonly Arising Issues

### Use of surveys and market research

- 5.1 Councils should target their communications resources to best effect. In appropriate cases, professional advice should be sought, and soundly obtained survey and market research information may be used.
- 5.2 Councils should meet acceptable standards in survey and market research information. To assist Councils to meet those standards:
- we reproduce in Appendix 2 on page 28 the ten principles identified by Statistics New Zealand underpinning its *Protocols for Official Statistics*; and
  - they can find useful guidance in the Statistics New Zealand publication *A Guide to good survey design*<sup>16</sup>.

### Joint ventures and sponsorship

- 5.3 Many Councils seek to be involved with their communities, and may engage in collaborative ventures with other public agencies and business and community groups.<sup>17</sup> Communication (for example, to promote public education or changes in people's behaviour) may be a feature of such ventures.
- 5.4 There is no reason in principle why a Council should not join with another agency or group to publish information for the benefit of the community – provided the activity is consistent with the Council's role and purpose. The use of private or community sponsorship for a Council communication may be a feature of such co-operation.
- 5.5 Examples of joint communication could include:
- a joint venture with the Police to issue information about individual and community safety in the Council's district; and
  - the use of business sponsorship for a Council advertisement of a community event.

<sup>16</sup> ISBN 0-477-06492-2; revised July 1995. Copies can be ordered through the Statistics New Zealand web site at:  
[www.stats.govt.nz/domino/external/web/prod\\_serv.nsf/htmldocs/A+Guide+to+Good+Survey+Design+\(2nd+edition\)](http://www.stats.govt.nz/domino/external/web/prod_serv.nsf/htmldocs/A+Guide+to+Good+Survey+Design+(2nd+edition))

<sup>17</sup> Section 14(1)(e), LGA.

5.6 The Council's Communications Policy should, if the Council wishes to involve a partner, address:

- the types of communications for which joint ventures or sponsorship are appropriate; and
- the controls and procedures designed to manage the associated risks – such as perception of Council “capture” by a business or community group, actual or potential conflict of interest, and community attitude to the nature of the problem.

5.7 As a minimum, the Communications Policy should:

- require all mandatory communications to be funded solely by Council;
- require every communication joint venture or sponsorship proposal to be supported by a sound business case that is approved at an appropriate level within the Council organisation;
- set out the criteria for selecting a communication joint venture partner or sponsor, in order to avoid conflict of interest and prevent a partner or sponsor from gaining (or being perceived to gain) inappropriate commercial or political advantage;
- require both the Council and the joint venture partner or sponsor to adhere to the principles (including those in respect of editorial control) that it has adopted in the Communications Policy; and
- contain clear guidance as to the placement of logos, slogans, and other sponsorship references.

## Appendix 1

# Principles of the Local Electoral Act 2001

### 4 Principles

- (1) The principles that this Act is designed to implement are the following:
  - (a) fair and effective representation for individuals and communities:
  - (b) all qualified persons have a reasonable and equal opportunity to—
    - (i) cast an informed vote:
    - (ii) nominate 1 or more candidates:
    - (iii) accept nomination as a candidate:
  - (c) public confidence in, and public understanding of, local electoral processes through—
    - (i) the provision of a regular election cycle:
    - (ii) the provision of elections that are managed independently from the elected body:
    - (iii) protection of the freedom of choice of voters and the secrecy of the vote:
    - (iv) the provision of transparent electoral systems and voting methods and the adoption of procedures that produce certainty in electoral outcomes:
    - (v) the provision of impartial mechanisms for resolving disputed elections and polls.
- (2) Local authorities, electoral officers, and other electoral officials must, in making decisions under this Act or any other enactment, take into account those principles specified in subsection (1) that are applicable (if any), so far as is practicable in the circumstances.
- (3) This section does not override any other provision in this Act or any other enactment.

## Appendix 2

# Statistics New Zealand Principles Applicable to the Production of Official Statistics

- 1 The need for a survey must be justified and outweigh the costs and respondent load for collecting the data.
- 2 A clear set of survey objectives and associated quality standards should be developed, along with a plan for conducting the many stages of a survey to a timetable, budget and quality standards.
- 3 Legislative obligations governing the collection of data, confidentiality, privacy and its release must be followed.
- 4 Sound statistical methodology should underpin the design of a survey.
- 5 Standard frameworks, questions and classifications should be used to allow integration of the data with data from other sources and to minimise development costs.
- 6 Forms should be designed so that they are easy for respondents to complete accurately and are efficient to process.
- 7 The reporting load on respondents should be kept to the minimum practicable.
- 8 In analysing and reporting the results of a collection, objectivity and professionalism must be maintained and the data impartially presented in ways which are easy to understand.
- 9 The main results of a collection should be easily accessible and equal opportunity of access is enjoyed by all users.
- 10 Be open about methods used; documentation of methods and quality measures should be easily available to users to allow them to determine if the data is fit for their use.

A full copy of *Protocols for Official Statistics* can be obtained by contacting Statistics New Zealand through its web site [www.stats.govt.nz](http://www.stats.govt.nz).