

# **Governance framework review discussion document: Naming conventions**

## **Introduction**

This document is designed to assist the political working party (PWP) and the executive steering group overseeing the implementation of the governance framework review.

It sets out the work of the project team on specific issues in a structured way to facilitate discussion of the options and the development of recommendations for the governing body. It is one of a series of papers that will be presented to the working party as part of the process of considering the governance framework review's recommendations.

The first part of the paper gives a brief outline of the purpose of this paper and the problem definition, it also provides context and outlines any previous relevant decisions.

The second part of the paper outlines potential options or proposed responses to specific issues. It also provides an indicative assessment of the various options against the agreed criteria.

Each paper will be considered by the political working party at one of its workshops in May and June and will be supported by a presentation by workstream leads and other relevant staff e.g. finance, legal, local board services.

## Purpose and problem definition

1. The purpose of this paper is to give the political working party (PWP) sufficient background information about the potential naming of elected members so that the PWP can provide guidance on developing this further.

### Background

2. The Governance Framework Review (GFR) report found that while the governing body and local boards have distinct roles, there are areas of overlap which can lead to role confusion. It reported that one of Auckland Council's current practices that contributes to this is the naming conventions, where elected members of the governing body are referred to as 'councillors' and elected members of a local board as 'local board members'.
3. The GFR report recommended that council consider these naming conventions, and either confirm and reinforce the current naming conventions, or change them for consistency. The review recommended that all elected members be accorded the title of either councillor or member (either local or regional). This would reinforce and clarify the complementary and specific nature of the roles, making it easier for staff and the public to understand.
4. Ensuring that naming conventions are uniformly applied in formal council publications, promotional materials and on collateral such as business cards might contribute to more consistent understanding of the respective roles of elected members.
5. There may be a perception that there is limited understanding in the community of local boards and the role of local board members, and that changing the titles of some or all elected members may better convey respective roles, and may improve understanding of Auckland's governance structure.
6. The titles currently in use are conventions, not formal legal titles that are bestowed or required to be used under any enactment. Changing or confirming these conventions does not require any formal decision from elected members.

### Problem definition

7. The Governance Framework Review formed a view that consistent naming conventions would better reflect the complementary (rather than hierarchical) roles of Auckland Council's two governance arms, would reinforce the focus of the respective roles and be easier for the public to understand.

### Analysis

#### Status quo and extent of the problem

8. Members of the governing body are generally referred to as 'councillors' and members of a local board as 'local board members'. This use is reasonably consistent, although

some elected members do refer to themselves with titles outside of this convention. For example, some members of individual local boards do refer to themselves as ‘Local Board Councillor’.

9. It is difficult to ascertain the extent to which current naming conventions are problematic. The GFR report does not provide data or significant evidence to quantify or qualify the extent to which the current naming conventions are problematic, contribute to role confusion, or lead to public confusion.
10. Several studies that have looked at perceptions of the roles of local boards, such as *AUT’s Super City? Stakeholder Survey 2013*<sup>1</sup> and Auckland Council’s *2016 Elected Members Survey 2016*<sup>2</sup>, have not explored or surveyed whether the naming conventions are problematic and lead to confusion.
11. A council-commissioned survey in 2016 found that, compared with the previous survey in 2012, there was significantly increased knowledge of local boards and awareness of local board names amongst those surveyed.<sup>3</sup> However, this did not translate into an increase in detailed knowledge about what local boards do for their area, with slightly over a third of respondents saying they did not know.

## Legal parameters

12. In terms of the legality of calling local board members ‘councillors’:
  - there is nothing in legislation, and particularly LGACA, that expressly precludes the council from calling local board members councillors;
  - the term ‘councillor’ is not defined in legislation (noting that the Municipal Corporations Act 1954 that did define ‘councillor’ is no longer in force);
  - LGACA, which is the key Act governing Auckland Council, talks (in places) in terms of ‘councillors’ and ‘local board members’ being distinct, suggesting that local board members are not councillors;
  - LGACA does not use the phrase ‘local board councillor’;
  - If the council went down the track of calling local board members ‘councillors’, the application of the provisions in LGACA which refer to both councillors and local board members together would become confusing and problematic. Legislative amendment may become necessary.
13. An analysis of the use of the term ‘councillor’ in various New Zealand Acts is provided in Appendix A.

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<sup>1</sup> [https://supercityproject.aut.ac.nz/\\_data/assets/pdf\\_file/0008/54989/Stakeholdersreport.pdf](https://supercityproject.aut.ac.nz/_data/assets/pdf_file/0008/54989/Stakeholdersreport.pdf)

<sup>2</sup> [http://www.aucklandcouncil.govt.nz/EN/AboutCouncil/representativesbodies/electedrepresentatives/Documents/2016ac\\_electedmemberssurveyfullreportfinal25052016.pdf](http://www.aucklandcouncil.govt.nz/EN/AboutCouncil/representativesbodies/electedrepresentatives/Documents/2016ac_electedmemberssurveyfullreportfinal25052016.pdf)

<sup>3</sup> ‘Auckland Council Local Boards: Perceptions and Communications’

## Conventions in other jurisdictions

14. The convention in New Zealand is generally for members of a council (excluding community board members) to be referred to as 'councillor'.

15. Various terms are used overseas in reference to members elected to a council:

United Kingdom	<p>'Councillor' is primarily used</p> <p>Notes:</p> <ul style="list-style-type: none"> <li>'Councillor' is used by members of different tiers. The councils closest to the community are collectively called 'local councils' and comprise parish councils, town councils, community councils and neighbourhood councils</li> <li>Members of the London Assembly are called 'Assembly Members' and in print appear as [name] AM; there is no honorific</li> <li>The City of London Corporation has 100 'councilmen' and 25 'aldermen'</li> </ul>
Canada	'Councillor'
United States	'Councillor', 'councilmember', 'councilman', 'councilwoman', 'alderman' (Chicago), 'supervisor' (San Francisco)
Australia	'Councillor'

## Possible alternative naming conventions

16. Three options have been identified:

	Governing body title	Local board title
Option 1: Status quo	Councillor	Local Board Member
Option 2: All elected members are 'councillors'	Regional Councillor Auckland Councillor Ward Councillor Governing Body Councillor	Local Councillor Local Board Councillor
Option 3: All elected members are 'members'	Governing Body Member Regional Council Member	Local Board Member Local Council Member

These options are discussed in more detail in the next section.

17. It is recommended that in considering any of these options council confirm as a principle that any naming convention for governing body members be used uniformly

across all governing body members (except the mayor and deputy mayor), and any naming convention for members of a local board be applied consistently across all local board members. This principle should be enacted across all council publications and materials.

## Options and analysis

18. This section sets out options for consideration by the political working party and assesses them against the criteria agreed at the second working party meeting, being:
1. Consistency with the statutory purpose of local government (s10 LGA)
  2. Does the option contribute to improving role clarity between the two arms of governance, both internally and for the public?
  3. Does the option provide for decision making at the appropriate level, as set out in s17 of the LGACA and in accordance with the subsidiarity principle
  4. Does the option provide for increased empowerment of local boards, especially in their place shaping role?
  5. Does the option ensure appropriate accountability and incentives for political decisions?
  6. What is the administrative feasibility of the option, including efficiency and feasibility of implementation?
  7. Does the option contribute to improved community engagement with and better services for Aucklanders?

### Option 1 –confirm the status quo

19. This option would see council reconfirm the existing conventions, with members of the governing body referred to as ‘councillors’ and members of a local board referred to as ‘local board member’.
20. The main benefit identified in retaining the status quo is that it retains the conventions that have been used for six years. Change in the naming conventions, of any sort, could lead to confusion among members of the public.
21. An argument can be made that LGACA defines members of the governing body as the ‘members of the council’, and therefore in keeping with conventions used elsewhere in New Zealand and overseas, governing body members should be referred to as ‘councillors’ but local board members should not be, as they are not defined as

members of the council. Local boards are not councils. The legal references are discussed in Appendix A.

22. Under this option, in order to make the link between local boards and the Auckland Council clearer, there could be a practice of including 'Auckland Council' or 'council' when referring to board members when appropriate. Examples might include: 'Auckland Council Local Board Member for Waitemata', or 'Council Local Board Member'.

## **Option 2 – all elected members are 'councillors'**

23. This option would see council adopt new naming conventions, referring to all elected members as 'councillors'. Because the Auckland Council comprises the governing body and local boards, an argument can be made that all elected members are representatives of Auckland Council and therefore all should have the title 'councillor'.
24. It is recommended that if this option is pursued then the new naming conventions provide some differentiation between the regional role of governing body members and the local role of local board members. There are various permutations that could be implemented under this option and that would provide this differentiation. The table above provides some possible alternative naming conventions.
25. Changing names may lead to greater identification and public understanding of local boards and local board members as representatives of Auckland Council (although as noted above there is no data that confirms that the naming conventions are a source of any confusion on roles).
26. Calling local board members 'councillor' may also help further differentiate their role from the role of previous Auckland community boards' members.
27. Conversely, there is also the possibility of increased confusion amongst those who are aware of local boards should local board members' titles change to something not including 'local board' in the title.
28. A further positive aspect is that of reinforcing the sense that all councillors (governing body and local boards) along with the mayor are part of the same 'family' and that the mayor is the political leader of all elected members.
29. Local board members do not currently have a recognisable title. The convenor of a public meeting would probably not acknowledge the presence of a local board member as 'Member [Smith]', which is not very meaningful. The alternative is 'Local Board Member [Smith].' 'Local councillor [Smith]' may carry more meaning and is shorter.
30. It is assumed that this change could be accommodated at little to no cost: pre-existing materials with current naming conventions (such as business cards, name plates etc) could continue to be used and updated with new titles only when they are required to be renewed / replenished.

### Option 3 – all elected members are ‘members’

31. Under this option, the naming convention for a governing body member would change from ‘councillor’ to some permutation of ‘member’. Some possible titles are provided in the table above (under possible alternative naming conventions). The title of local board members would remain as they currently are.
32. This option would be in line with much of the language of LGACA. It may heighten the commonality in roles as elected representatives of Auckland Council that governing body members and local board members share.
33. Conversely, there may be initial confusion or about roles or delay in adopting change if the title of ‘councillor’ is changed, as it has been in use for many years.
34. As with Option 2, it is assumed that this change could be accommodated at little to no cost: pre-existing materials with current naming conventions (such as business cards, name plates etc) could continue to be used and updated with new titles only when they are required to be renewed / replenished.

### Assessment against criteria

35. The identified options are assessed against the assessment criteria in the table below:

Criterion	Option 1: Status quo	Option 2: All ‘councillors’	Option 3: all ‘members’
1: Consistency with s.10 LGA – purpose of local government?	Yes, consistent	Yes, consistent	Yes, consistent
2. Improving role clarity between two arms of governance?	Current titles clearly articulate ‘local board member’, providing differentiation from Governing Body councillors.	Depends on specific titles used. Could lead to greater or less role clarity for members of the public.	Depends on specific titles used. Could lead to greater or less role clarity for members of the public.
3. Appropriate decision-making / subsidiarity as set out in s.17 LGACA?	N/A	N/A	N/A

<b>Criterion</b>	<b>Option 1: Status quo</b>	<b>Option 2: All 'councillors'</b>	<b>Option 3: all 'members'</b>
4. Increased empowerment of local boards?	No, confirming titles unlikely to result in increased empowerment.	No, changing titles unlikely to result in increased empowerment.	No, changing titles unlikely to result in increased empowerment.
5. Appropriate accountability for political decisions?	N/A	N/A	N/A
6. Administrative feasibility, including efficiency and implementation?	Yes, minor or negligible implementation implications / costs.	Yes, minor or negligible implementation implications / costs.	Yes, minor or negligible implementation implications / costs.
7. Improved community engagement with and better services for Aucklanders?	Confirming name conventions unlikely to improve engagement or services.	Changing local board member titles to 'councillor' may improve public recognition and engagement with local community due to recognition of title 'councillor'.	No, changing name conventions unlikely to improve engagement or services.

36. There is very little to differentiate between these options based on the agreed assessment criteria. All options are implementable and will likely have few costs or resource implications. It is difficult to predict whether changing naming conventions will increase role clarity or public awareness of the role of Auckland Council's elected members, as there is no data on the extent to which current naming conventions are a problem.

## **Conclusion and potential recommendations**

37. On balance staff do not have a favoured or recommended option and seek direction from the Political Working Party on its preference .
38. It is, however, recommended that, irrespective of which option council pursues, naming conventions in official council publications, including meeting agendas, be uniform as a matter of principle.

## Appendix A: Use of the term ‘councillor’ in legislation

### Municipal Corporations Act 1954

39. The term ‘councillor’ was used extensively throughout this Act. It was defined in section 2:

*"Councillor" means a member of the Borough Council or of the Town Council, as the case may be*

40. The legal entity of the municipal corporation was constituted in the mayor, councillors and citizens:

Section 5:

*(1) The inhabitants of every borough shall, under the name of "The Mayor, Councillors, and Citizens of the Borough of [Name of borough] ", be a body corporate, with perpetual succession and a common seal, with power for the Council by special order to alter and change the seal; and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, disposing of, and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.*

41. The mayor, being a member of the council, was also deemed to be a councillor:

Section 40:

*(4) The Mayor shall be a Councillor by virtue of his office.*

### Local Government Act 1974

42. The term ‘councillor’ continued to be used but often the term ‘member’ was used. The following section refers specifically to members but does not use the term ‘councillor’.

*55 Membership of councils*

*(1) Every council (other than a town council) shall consist of not less than 6 nor more than 25 members, including the Mayor in the case of a borough council or of a district council for which there is a Mayor:*

*Provided that in the case of a dividend district there shall be at least one member for each ward.*

*(2) Every town council shall consist of not less than 5 nor more than 7 members.*

*(3) The members of the council (other than the Mayor and any member or members to be elected pursuant to section 67(2) of this Act) shall be elected in manner provided in [[sections 56 to 56D]] of this Act.]*

### Local Government (Auckland Council) Act 2009

43. The Act refers to members of the governing body and members of local boards. There are three places where the term ‘councillor’ is used.

(i) Section 93:

*Councillors and local board members prohibited from appointment as directors of substantive council-controlled organisations*

*(1) The Council must not appoint a person to be a director of a substantive council-controlled organisation if the person is, at the time of the appointment,—*

*(a) a member of the governing body of the Council; or*

*(b) a member of a local board.*

(ii) Schedule 2 re IMSB selection body:

*(4) In appointing members to the board, the selection body—*

*(a) must be guided only by the board's purpose, functions, and powers; and*

*(b) is not subject to directions from the Auckland Council or any of its committees or councillors; and ....*

(ii) Schedule 2 re those disqualified from being members of IMSB

*a current Auckland councillor or current local board member:*

44. In these places, by reference to councillors and local board members, the legislation drafter seems to assume that 'councillors' were members of the governing body.

45. Section 4, the Interpretation section, is possibly relevant. It defines 'governing body':

***governing body*** means the entity comprising the members of the Auckland Council (being the persons referred to in section 8(1))

46. This is principally an interpretation of 'governing body' rather than a definition of who are the members of Auckland Council, but could also be interpreted to mean that the members of Auckland Council are the members of the governing body. This leads to a conclusion that only governing body members should be called councillors – if the term 'councillor' refers to the members of a council.

47. Governance arrangements of councils are set out in section 41 of the Local Government Act 2002:

*(2) A territorial authority must have a governing body consisting of members and a mayor elected in accordance with the Local Electoral Act 2001.*

48. LGACA states in section 7:

*(1) Despite section 41 of the Local Government Act 2002, for the purposes of carrying out its functions, responsibilities, and duties and exercising its powers as a territorial authority and a regional council,—*

*(a) the Auckland Council has a two-tier governance structure comprising the governing body and the local boards; and*

*(b) the decision-making responsibilities of the Auckland Council are shared between the governing body and the local boards in accordance with sections 14 to 23 of this Act.*

49. This, then, implies that the governing body and local boards both form part of the governance structure for Auckland Council. Taking this view, leads to a conclusion that governing body members and local board members are all part of the governance of Auckland Council and can all be called councillors.

#### Local Government Act 2002

50. Following the creation of local boards in Auckland, the Local Government Act 2002 was amended to provide for local boards in any unitary authority.

51. The term 'councillor' is not used at all, throughout the Act. The term 'member' is used.

***member,—***

- (a) in relation to a community board, means a member appointed to that board or elected to that board under the Local Electoral Act 2001:*
- (b) in relation to the Commission, means a member of the Local Government Commission:*
- (c) in relation to a local authority, means a member of the governing body of the local authority elected under the Local Electoral Act 2001:*
- (ca) in relation to a local board, means a member appointed to that board or elected to that board under the Local Electoral Act 2001, including the chairperson:*
- (d) in relation to a regional council, means a member of the governing body of the regional council elected under the Local Electoral Act 2001, including the chairperson:*
- (e) in relation to a territorial authority, means a member of the governing body of the territorial authority elected under the Local Electoral Act 2001, including the mayor*

52. The members of a territorial authority (Auckland Council) are the members of the governing body of that territorial authority.

#### Conclusion

The ordinary dictionary meaning of 'councillor' is a member of a council. Arguments can be made, based on legislation, that the governing body members are the members of Auckland Council (and so entitled to use the term 'councillor') or, alternatively, that the governance of Auckland Council is two-tier (regional and local) and members of local boards are also part of the governance structure and may also be referred to as 'councillors'. Regardless of that analysis, the term 'councillor' is undefined in the legislation and there is no breach of the legislation if it is used by local board members.