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## Standing Orders - Proposed changes

File No.: CP2014/27714

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### Purpose

1. To adopt a new set of Governing Body standing orders.

### Executive Summary

2. A political working party was set up in November 2013 to review the Governing Body's standing orders.
  - The working party assisted with guidelines for confidential information which were presented to the Governing Body in August 2014.
  - The working party has now considered issues relating to the standing orders and a workshop was held with councillors on 13 May 2015.
3. The replacement standing orders:
  - have a simplified layout
  - are written in a plain language style
  - contain a summary at the front for ease of reference during a meeting
  - collect all standing orders that are unique to committees in one place
  - give a chairperson limited discretion to extend the waiting time for a quorum
  - include provisions for members to attend meetings by audio or audiovisual means once the technology becomes available
  - extend the discretion of the chair to decline an application for public input
  - require a notice of motion to be seconded when it is lodged with the Chief Executive
  - clarify that, for extraordinary meetings, the agenda should be limited and public input is retained with the limitation that speakers may only address matters on the agenda
  - clarify the process for bringing urgent matters before a meeting
  - include a requirement for a refreshment break.
4. The working party considered the quorums of reporting committees and recommends a change to the Terms of Reference for Committees, to recognise all councillors who are not named members of a reporting committee as ex officio members, without voting rights but counting towards the quorum when present.
5. The working party recommends to local boards that they include in their standing orders a provision which is similar to the provision for local boards in the Governing Body standing orders so that councillors are given speaking rights at meetings of local boards, at the discretion of the chairpersons, on agenda items that are relevant to the Governing Body.
6. At the recent workshop, councillors indicated a difference of views on proposed changes to rules around repeat notices of motion. These proposals were not considered by the Working Party prior to the workshop and are set out as separate recommendations for discussion.
7. The proposed rules are intended to provide a higher threshold to re-litigating a matter once it has already been considered and decided. The changes are detailed in the body of the report.
8. A 75 per cent majority is required to amend standing orders.

### Recommendation/s

That the Governing Body:

- a) amend the standing order relating to repeat notices of motion so that:
  - i) a seconder is required when the notice of motion is lodged
  - ii) if rejected by the meeting, signatures of a majority are required if the same motion is submitted again within six months
  - iii) the same motion cannot be submitted a third time within six months.
- b) amend the standing order relating to repeat notices of motion to revoke previous resolutions so that:
  - i) a signatures of a majority are required when the notice of motion is lodged
  - ii) if it is rejected, the same motion cannot be submitted a second time within six months.
- c) revoke its current Standing Orders (adopted 1 November 2010 and revised 1 September 2011) and adopt the Standing Orders in attachment "A", including amendments resulting from recommendations a) and b) above.
- d) amend the Terms of Reference for Committees so that all councillors who are not named members of reporting committees are ex-officio members without voting rights, but counting towards the quorum when present, provided a minimum of two named members are present, noting that this is in addition to amendments made by the reports on Committee Terms of Reference and Chief Executive delegations.
- e) forward this report to all local boards, drawing their attention to the suggestion to provide for councillors' participation at local board meetings in their standing orders.
- f) authorise the Manager Democracy Services to make changes to the standing orders of a minor nature, such as correcting typographical or grammatical errors, in consultation with the chair of the working party, Councillor Chris Darby.

## **Discussion**

### **Working party**

9. At its meeting on 7 November 2013, when it adopted its terms of reference for committees, the Governing Body resolved to appoint a working party comprising Councillors Casey, Darby and Webster to work with officers to review and report back on the standing orders relating to reporting committees and, with the participation of local boards, review standing orders generally.
10. Local Board members involved in the working party were David Collings (Chair of Howick Local Board), Shale Chambers (Chair of Waitemata Local Board), Julie Fairey (Chair of Puketapapa Local Board) and Colin Davis (Deputy Chair of Orakei Local Board).
11. Issues relating to standing orders which were to be investigated by the working party included:
  - reporting committees to operate less formally
  - workshops to take place in association with committee meetings
  - ease of use and readability of the standing orders
  - issues of interest to local boards.
12. In addition to these issues, the working party has discussed and provided comment on:
  - guidelines for members' access to confidential information (reported back to the Governing Body on 28 August 2014)
  - new provisions in legislation that allow members to be present at meetings by remote audio visual means (reported back in this report)

- quorum requirements for reporting committees
- other improvements to the standing orders.

### **Formality of reporting committees**

13. The “reporting committees” are those committees which report back to a committee of the whole. They include the Arts Culture and Events Committee, Community Development and Safety Committee, Economic Development Committee, Environment Climate Change and Natural Heritage Committee, Infrastructure Committee, Parks Recreation and Sport Committee, Tenders and Procurement Committee and Unitary Plan Committee.
14. Formality in a meeting occurs when there are more rules. Informality occurs when there are fewer rules and so discussion is less constrained. There are some rules that must apply to all meetings. These include rules giving status to the chair such as the requirement that all speakers address the chair. Rules which add to formality but which can be relaxed include:
  - speakers can only speak once
  - speakers have a limited speaking time
  - process for amending motions.
15. Relaxing these rules allows a meeting to have a general discussion, with any member speaking when they wish to contribute to the discussion, under the control of the chairperson. The meeting can make decisions without a formal procedure of moving and disposing of amendments.
16. The full Standing Orders apply to meetings of the Governing Body.
17. The Working Party recommends that the full Standing Orders also apply to committees of the whole. This change has been made to the Standing Orders as the current ones relax the rule about speaking only once for all “committees”.
18. To promote informality at smaller committees, the working party recommends that the current rules, which remove the limitation of speaking only once, continue to apply to reporting committees and other committees, other than committees of the whole.

### **Workshops**

19. The working party considered the options under existing standing orders for conducting workshops in conjunction with committee meetings. The following options allow a workshop to be held without creating a meeting on a separate day:
  - 1) hold a workshop immediately prior to the commencement of a formal meeting
  - 2) hold a workshop immediately following a formal meeting
  - 3) hold a workshop during the meeting by:
    - a) adjourning the meeting, or
    - b) not adjourning the meeting but suspending the standing orders, for example, on the rules of debate, and on motions and amendments; this allows members to speak more than once without time constraints and without rules around amending motions but still allowing voting.
20. The full Standing Orders do not apply to a workshop held outside the formal meeting or when the formal meeting is adjourned. Under existing Standing Orders the conduct of a workshop is determined by the presiding member. Since the formal meeting is not taking place, rules around quorums do not apply. Since resolutions are not being made, there is no requirement to provide for public attendance.
21. In option 3) b) the workshop is not a separate event before, after or during the meeting. The meeting continues, a quorum must be present, the meeting must be open to the public unless the public are legally excluded and the meeting may make resolutions. The rules relating to debate and making amendments are simply suspended to allow for informal discussion.

22. Given these options already exist under current Standing Orders, the working party does not recommend any changes to standing orders to allow for workshops taking place in conjunction with committee meetings.
23. A separate report on this agenda, relating to committee terms of reference, addresses workshops within the context of current committees and the meeting schedule.

### **Readability**

24. The current Standing Orders were compiled in 2010 by the Auckland Transition Agency from legacy council standing orders and the NZ Model Standing Orders. It is appropriate to review them. Furthermore, the NZ Model Standing Orders are not easy to navigate to find answers to meeting issues that arise in real time.
25. The Working Party supports a change to the layout in order to:
  - remove material that is not relevant to the conduct of meetings
  - group standing orders in a logical layout that is easier to use
  - improve the wording to comply with plain language standards
26. The new layout puts standing orders that are most relevant at a meeting first:
  - meeting procedures
  - holding meetings
  - meeting quorums and attendance
  - committees
  - workshops
  - local boards
  - public
  - minutes
  - general
27. In addition, a two-page summary of key standing orders and flow chart are included in the front for ease of reference during a meeting.

### **Quorums**

28. There have been times when, at the start of a meeting, a quorum of named members of a reporting committee was not present but there were other councillors in attendance who did not count towards the quorum. Councillors have expressed concern about the potential for such meetings to lapse, even though other councillors were present.
29. In the previous term, all councillors were deemed ex-officio members without voting rights of all “forums” (the equivalent of the current “Reporting Committees”), so that if present, such councillors would be counted towards the quorum.
30. The working party recommends that a similar provision is made for Reporting Committees so that, in addition to the named members of Reporting Committees, all other councillors are made ex-officio members without voting rights. If in attendance, the other councillors count towards the quorum provided there are no less than two named members with full voting rights present, one of which must be a councillor (this reflects the statutory minimum requirement for a quorum of a committee).
31. The quorums of committees are contained in the Terms of Reference of Committees, and the working party recommends these are amended to reflect these changes.
32. The working party also considered whether the chair could be given further powers in regard to the waiting time to form a quorum. Legislation requires a quorum to be present, but the Governing Body itself decides in its standing orders how long the meeting should wait for a quorum to form (currently 30 minutes). If the meeting lapses, the business is suspended until the next meeting unless the chair calls an earlier meeting.

33. The Working Party recommends that the chair should have the discretion to extend the waiting time to form a quorum where the chair has information that sufficient members to complete the quorum are approaching the meeting but are held up due to an unusual weather event or traffic congestion. This has been included in the standing orders (3.1.4).

#### **Local Boards**

34. The Governing Body's current standing orders make two provisions for local boards:
- speaking rights on an agenda item for the local board chairperson, or nominee, at the discretion of the meeting chairperson
  - local board input at the commencement of a meeting.
35. The working party considered whether these should be changed (for example, to remove the discretion of the chair so that speaking rights are automatic) and recommends they be retained.
36. The working party noted that various practices exist in relation to rights of councillors at local board meetings. The working party recommends to local boards that they incorporate a provision into their standing orders that mirrors the provision in the Governing Body standing orders so that councillors are given speaking rights at meetings of local boards, at the discretion of the chairpersons, on agenda items that are relevant to the Governing Body.

#### **Attendance at meetings by audio or audio-visual means**

37. The Local Government Act 2002 was amended in 2014 to provide for:
- a member to attend a meeting by audio or audio-visual means
  - a person other than a member to attend a meeting by audio or audio-visual means (for example staff, CCOs or members of the public addressing the meeting).
38. The new provision does not in itself require any council to provide technology. Furthermore, the Act makes the provision subject to:
- the council's standing orders allowing it to happen and setting out the conditions
  - the presiding member being satisfied that:
    - the technology is available and of suitable quality
    - all those participating can hear each other
    - this does not reduce the accountability or accessibility of the member in relation to the meeting
    - the requirements of LGOIMA are met.
39. The accountability and accessibility of a member would include the meeting and the minutes of the meeting being clear which items the member was in attendance for and which items the member was not in attendance for.
40. A member attending by audio or audio-visual means is not counted towards the quorum.
41. The working party supports making provision in standing orders so these have been included in the new standing orders. The provision would only apply once technology was available. The working party was assisted by draft standing orders prepared through LGNZ.
42. These draft standing orders are based on the following principles:
- Attendance by audio or audio-visual means should only occur when a member is not able to physically attend because:
    - the member is representing the Council at a place which makes physical attendance impossible
    - the member is ill or infirm
    - there is an emergency (for example, the ability for members to meet without being physically present was an issue raised some years ago during planning for a pandemic).

- Formal permission is given by the meeting. For example, at the start of a meeting when receiving apologies the meeting would receive and approve any requests to attend by audio or audio-visual means. Approval would be subject to the chair being satisfied that the criteria in the legislation are met.
- If a member is attending by audio or audio-visual means when the public are excluded, the member must ensure no-one apart from the member is able to hear or see the meeting and that this part of the meeting is not recorded.

### **Amendments**

43. The current standing orders provide for a motion to be amended either by:
- substitution of different wording with the agreement of the meeting, or by
  - an amendment which is moved, seconded, debated and put to the vote, prior to considering any further amendment.
44. The standing orders also provide for upcoming amendments to be foreshadowed (but they cannot be debated until the current proposed amendment is disposed of).
45. The working party considered simplifying the process for amendments but recommends retention of the current process (except for committees that are not committees of the whole as referred to above).

### **Committees**

46. The current standing orders contain statements spread through the standing orders about rules applying or not applying to committees. These have been brought into one section on committees and apply to all committees other than committees of the whole, which the working party feels should comply with the full standing orders.
47. The particular provisions for committees other than committees of the whole are:
- members may speak more than once and speeches are not timed
  - it is not necessary to formally debate each amendment and dispose of it before moving on to the next amendment; the meeting can pick the best words from all suggested amendments.

### **Public Input**

48. The Working Party recommends minor changes to Public Input standing orders:
- an application to speak must be received no later than one clear working day prior to the meeting (currently no later than two working days)
  - the discretion of the chair to decline a request is extended to include reasons that:
    - the request is inappropriate
    - the business of the meeting is such that it is necessary to reduce or remove speaking time for all members of the public.
49. The meeting must be advised of any request that has been declined and the reasons for declining it.

### **Notices of motion**

50. Under standing orders, an ordinary motion made at a meeting must be seconded before it can be debated. The working party recommends that this rule should apply to a notice of motion before it is accepted for placing on an agenda. A notice of motion, when lodged with the Chief Executive, should be signed by both the mover and a seconder (other than a notice of motion to revoke a previous decision which must be signed by not less than one third of the meeting).
51. The Standing Orders provide that if such a motion has been defeated it may be repeated two more times within six months (with the appropriate number of signatures). Given the workload of the Governing Body and its committees and the time it takes for debate when a meeting comprises 23 members, there should be provision for only one repeat within six

months and the required signatures should be a majority to show it is the will of the meeting to re-debate the matter.

### Ordinary notice of motion

| Current standing orders   | Amended standing orders   |
|---|---|
| Lodged by proposer  | Lodged by proposer with a seconder  |
| If it is rejected by the meeting, the same motion can be put forward again within six months:<br><br>(i) a second time with signatures of one-third<br><br>(ii) a third time with signatures of a majority. | If it is rejected by the meeting, the same motion can be put forward again within six months:<br><br>(i) only a second time, with signatures of a majority. |

### Notices of motion to revoke a previous resolution

52. The Standing Orders provide for the revocation of a previous decision by way of notice of motion with one third signatures. There is no express provision in Standing Orders for repeat notices of motion to revoke. Words have been added to the Standing Orders to make clear there is no provision for a repeat.
53. Because a notice of motion to revoke causes a meeting to debate a matter a second time, the requirement for signatures should be a majority to show that this is the will of the meeting. This is consistent with the proposal above for an ordinary notice of motion.
54. A previous decision can always be revisited by way of report from the chief executive or chairperson if there is genuine new information that needs to be considered.

### Notice of motion to revoke a previous resolution

| Current standing orders  | Amended standing orders  |
|--|--|
| Lodged by proposer, having signatures of one-third.  | Lodged by proposer having signatures of a majority.  |
| Standing orders are silent on whether such a notice of motion could be repeated if it is rejected. | Clarify that the same notice of a motion to revoke a decision cannot be brought a second time within six months. |

### Extraordinary meetings

55. The working party considered whether the full procedural part of the agenda (acknowledgements, petitions, Local Board Input, Public Input) should be placed on agendas for extraordinary meetings. The current standing orders are not clear.
56. Extraordinary meetings, or other meetings that are not regular monthly meetings, are usually called to deal with a specific matter that cannot be deferred to the following regular monthly meeting.
57. The working party recommends retaining Local Board Input and Public Input on agendas for extraordinary meetings (or any other meeting that is not a regular monthly meeting):
  - at the discretion of the chair, and
  - only in regard to matters on the agenda.

### Procedural motions

58. Following discussion at the workshop, the ability of a member to move the suspension of standing orders has been added to the section on procedural motions. The motion, if seconded, is put without debate but a 75% majority is required.
59. The chairperson has discretion on whether to accept any other procedural motion, which is consistent with the general rule that the chairperson decides all matters for which there is insufficient provision in the Standing Orders.

### **Extraordinary / urgent business**

60. The Standing Orders mirror the provision in the Local Government Official Information and Meetings Act 1987 to allow business to be dealt with that is not on the published agenda. The Standing Orders do not set out a process for raising such an item of business.
61. The Standing Orders generally provide for business to be brought before a meeting in one of the following ways:
  - (i) report from the Chief Executive
  - (ii) report from the chairperson
  - (iii) notice of motion of a member
  - (iv) report of a committee
62. A matter of extraordinary business will usually be out of time for a notice of motion or report from a committee. An item of extraordinary business will therefore be brought before the meeting by way of report from the Chief Executive or report of the Chairperson. If there is not enough time to prepare a written report, the report may be verbal.
63. A member may bring to the attention of the meeting through the chair a matter that has come to the member's attention as needing urgent consideration.
64. An extraordinary matter which is simply a minor matter for discussion and not a matter of business that needs to be dealt with, will be at the discretion of the chair.

### **Refreshment breaks**

65. A councillor has requested a requirement for a refreshment break be included in the standing orders.
66. Currently the standing orders set a maximum duration time of six hours (unless extended by resolution) but do not have any requirement for a refreshment break.
67. A requirement for a break after three hours has been added. The original request suggested two hours but this would not work with the current practice of commencing meetings at 9.30 am. A mandatory break at 11.30 am would likely have the effect of delaying a lunch break.
68. An option has also been added for a councillor who has attended back-to-back meetings continuously without a break for two hours to bring this to the chairperson's attention.

### **Other changes**

69. Auckland Council has commenced webcasting meetings of the Governing Body and Committees of the Whole. The Working Party was asked to comment on draft protocols for webcasting. These have also been endorsed by the Mayor and have been included in the Standing Orders as an appendix.
70. Guidelines for who attends public-excluded meetings have been added as an appendix.
71. A summary of how business is placed on an agenda has been added as an appendix.

## **Consideration**

### **Local Board Views and Implications**

72. This report deals primarily with the standing orders of the Governing Body. Local board representatives were included in the working party and local board issues were discussed. The key issues were those relating to Governing Body confidential information and meetings

(which were taken into account in the previous report), the speaking rights of local boards at meetings of the Governing Body and its committees, and the speaking rights of councillors at local board meetings.

### Maori Impact Statement

73. The standing orders deal with meeting procedure. They make provision for use of Te Reo. There are no proposed substantive changes that will impact on Māori.

### Implementation Issues

74. Once the Governing Body has adopted these standing orders and approved the changes to the Terms of Reference, copies will be provided to all members of the Governing Body and its committees.

### Attachments

| No. | Title                   | Page |
|-----|-------------------------|------|
| A   | Revised Standing Orders |      |

### Signatories

|             |  |
|-------------|--|
| Authors     | Warwick McNaughton - Principal Advisor - Democracy Services  |
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