

Date: 25 Feb 2025
Time: 10.00am
Meeting Room: Room 1, Level 26
Venue: Te Wharau o Tāmaki - Auckland House
135 Albert Street
Auckland

Komiti mō ngā Kopounga me Te Kounga o ngā Mahi / Performance and Appointments Committee

OPEN MINUTE ITEM ATTACHMENTS

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Appointment and Remuneration Policy for Board Members of Council Organisations



Item 8

Attachment A

Document Control

Version 1.0 25 September 2017	Draft to Appointment and Performance Review Committee 25 September 2017	
Version 1.1 26 September 2017	Minor amendment to section 8.5 required by APR on 25 September committee.	Clarity that delegated committee appoints each selection panel.
Version 1.2 5 July 2018	Insertion of section to clarify appointment process to Ports of Auckland Limited	
Version 1.3 28 March 2023	Update to core competencies and Ports of Auckland Limited section as required by APR/2020/10 and PACCC/2023/4	Updated core competencies Clarity that the committee may delegate the power to approve the short-list Ports of Auckland Limited appointments process now mirrors the process for substantive CCOs. Sections 18, 19.6 and 19.10 become effective on amendment of the Ports of Auckland Limited constitution which requires ministerial approval.

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Attachment A

1 Purpose

The purpose of this policy is to set out, in accordance with section 57(1) of the Local Government Act 2002 (LGA), an objective and transparent process for the:

- identification and consideration of the skills, knowledge and experience required of directors of a council organisation
- appointment of directors to a council organisation
- remuneration of directors of a council organisation

2 Policy Objectives

The objectives of this policy are to ensure:

- that the process of appointing board members is undertaken in an objective and transparent manner, while protecting individual privacy
- that board appointments:
 - are made on the basis of an assessment of skills knowledge and experience, having regard to the nature of scope of the organisations objectives and activities
 - have regard to the nature of scope of the organisation's objectives and activities in line with council direction
 - consider the contribution that directors can make to the board as a whole and to the achievement of the organisations' objectives and activities
 - take into account the context in which council, as a publicly accountable body operates
- support the good governance of council organisations, continuity through smooth succession of board members and board chairs

3 Background

3.1 Definitions

“Council organisation”

A council organisation (CO) is defined in section 6 of the LGA as an organisation in which the council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies.

“Council-controlled organisation”

A council-controlled organisation (CCO) is defined in section 6 of the LGA as an organisation in which the council controls, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers. For the purpose of this policy CCOs of Auckland Council which are not substantive CCOs are referred to as non-substantive CCOs.

“Council-controlled trading organisation”

A council-controlled trading organisation (CCTO) is defined in Section 6 of the LGA as a CCO that operates a trading undertaking for the purpose of making a profit.

“Substantive council-controlled organisation”

A substantive CCO is defined in section 4 of the Local Government (Auckland Council) Act 2009 as an organisation that is wholly-owned or wholly-controlled by the council and either delivers a significant service on behalf of the council, or owns or manages assets worth over \$10 million. Auckland Transport is expressly included in this definition.

“Board member”

The term board member includes directors, trustees, managers or office holders (however described by that organisation).

“Candidate”

Is a person who has been nominated, submitted a written application, or identified through search activities.

“Committee”

For the purpose of this policy the term Committee refers to the Committee of the governing body of Auckland Council which has been delegated responsibility for making appointments to CCOs, CCTOs, COs and exempt CCOs and COs. For avoidance of doubt, in the event that the governing body of Auckland Council chooses not to delegate this responsibility, the term Committee refers to the governing body of Auckland Council.

3.2 Application of this Policy

This policy has four parts:

Part One applies to the Council’s substantive council controlled organisations.

Part Two applies to non-substantive council controlled organisations.

Part Three applies to council organisations that are not council controlled organisations.

Part Four applies to Ports of Auckland Limited

Part Five applies to council organisations that are subsidiaries of substantive council controlled organisations.

In addition to this policy, appointments and reappointments to the boards of council organisations are governed by their respective constitutions, trust deeds or, in some cases, specific legislation. In the event of a conflict, those regulations take precedence over this policy.

CCOs that are companies are also subject to the Companies Act 1993.

There may be circumstances in which adherence to this policy is not appropriate. Should the Committee or any other organisation that is required to follow this policy, decide not to comply with any provision, the decision should be recorded by way of resolution (which should also include the reason for deviation from the policy).

This policy is subject to periodic review and may be modified by the Committee at any time.

3.1.1 Multiply owned council-controlled organisations

Where ownership of council organisations is jointly or severally shared with other entities, governance requirements are established through shareholder agreements or equivalent documentation. Such agreements take precedence over this policy, however to the extent possible, it is expected that all appointment processes will be made in a manner consistent with the objectives of this policy.

4 Board diversity and inclusion

Auckland Council values and supports the benefits that diversity of thought, experience and skills bring to our CCO Boards. We recognise that increasing diversity and fostering inclusive Board culture is an essential element in supporting high performing Boards, driving long-term success and delivering better outcomes for the communities of Auckland.

A diverse board will include and make good use of differences in the skills, experience, perspectives, backgrounds, demographics and other qualities of directors. These differences will be considered in determining the optimum composition of the board and when possible should be balanced appropriately.

All board appointments will be made on the basis of the skills, knowledge and experience which the board as a whole requires to be effective with due regard to the benefits of diversity on the board.

Auckland Council is committed to supporting and / or providing initiatives:

- that lead to an inclusive recruitment and selection process for Board appointments
- support a diverse range of aspiring directors to develop skills, knowledge, board room experience and to establish relationships and networks; and
- build a diverse pool of experienced directors for Auckland organisations and companies

Part One: Substantive CCOs

5 Eligibility for Appointment

5.1 Appointment of governing body and local board members

Under section 93 of the Local Government Auckland Council Act 2009, members of the governing body or local boards may not be appointed to the board of a substantive CCO of Auckland Council, with the exception of Auckland Transport.

5.1.1 Appointment of governing body members to Auckland Transport

Section 43(2) (a) of the Local Government Auckland Council Act 2009 allows up to two members of the governing body of Auckland Council to be appointed to the board of Auckland Transport. However, section 43(3) prohibits the Council from appointing a member of its own governing body as the chairperson or deputy chairperson of the board.

Any decisions regarding whether elected members should be appointed to the Board of Directors for Auckland Transport (and if so, how many and who) are most appropriately made following each triennial election.

The process for appointment and remuneration of elected members to Auckland Transport will be determined following each triennial election.

Any decisions made by the current council regarding the appointment of elected members to the Board of Directors of Auckland Transport may be amended by any further decisions of this or any future council.

The tenure for the appointment of all directors, including elected members to Auckland Transport is as outlined under section 5.4 of this policy (Terms of Appointment).

5.2 Appointment of Council Staff

Council staff are not eligible to serve as a director of a substantive CCO.

Any board member applying for employment with the council should resign from the board immediately following acceptance of an offer of employment.

5.3 Appointment of CCO Executives to CCO boards

Board members should be independent from management and should not hold executive positions in the CCO.

In the event that that a board decides that one of its members should fill a vacancy in the executive team, the board member must first resign from their position on the board.

5.4 Appointment and Remuneration of the CCO Chief Executive

The appointment and remuneration of a CCO Chief Executive by the CCO board requires prior discussion with the Selection Panel.

5.5 Other Exclusions

Immediate family members, of elected members, of the chief executive, and of second tier managers of the Auckland Council are also prohibited from serving as board members of substantive CCOs. Board members should not serve on the board of more than one substantive CCO but may be eligible for appointment to another substantive CCO board following retirement.

Persons who are disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993 (e.g. a person who is an undischarged bankrupt) may not be appointed as a board member of a substantive CCO.

6 Board Competencies, Skills and Knowledge

Board members are expected to meet a number of core competencies as well as relevant industry, technical, or specialist skills required for that board.

6.1 Core Competencies

The core competencies expected on substantive CCO boards are:

- extensive and relevant experience of industries and customers relevant to the operations of the council-controlled organisation
- a passion for Auckland, understanding of the CCO's customers and commitment to improving outcomes for Aucklanders
- to uphold the principles of the Treaty of Waitangi, readiness to promote improved outcomes for Māori and knowledge of Te Ao Māori and established Māori networks
- to demonstrate appropriate accountability and responsiveness to the Governing Body and the public and a commitment to public sector ethos and collaboration across the council-controlled organisation family
- to demonstrate financial accountability with close review of current and proposed activities to deliver value for money
- commitment to integrate council's climate action plans into the strategies and operations of the council-controlled organisations
- to driveing appropriate leadership and cultural response to deliver the required outcomes ~~(and/or deliver on targets as identified)~~ and to harness the benefits of diversity
- ~~commitment to collaborate across the council-controlled organisation family~~
- ~~demonstrate inclusive and adaptive leadership to harness the benefits of diversity~~

The mix of skills and experience on the board will be taken into account, and consideration given to complementing and reinforcing existing skills and reducing skill gaps where necessary. It is recommended that all appointees to substantive CCO boards should

undergo, or have undergone formal governance training, or have the requisite experience. However, the council may waive the corporate governance requirement in order to attract a wider range of board members and to further its diversity policy if these skills and experience are already well represented on the board. Substantive CCO Boards are expected to provide director training for directors with limited corporate governance experience.

6.1.1 Governing body members appointed to the board of Auckland Transport

Governing body members appointed to the board of Auckland Transport must have the necessary skills, knowledge and experience to contribute to the board.

6.2 Board Chair Competencies

In addition to demonstrating the core competencies listed in section 6.1 the following skills and competencies are required for the Chair and will be sought in the succession planning process:

- strong leadership skills
- political acumen
- strong interpersonal and relationship building skills
- sophisticated, analytically based, decision-making skills
- effective communication skills
- integrity and credibility within relevant sectors

6.3 Role of the Board Chair and Deputy Chair

The role of the Board Chair is to:

- provide effective leadership and:
 - harness the collective skills of the board and executive team to achieve business objectives and maintain the confidence of the shareholders
 - maximise the contribution of board members in board meetings
- maintain the trust of the council
- maintain a close, but independent, working relationship with the Chief Executive
- lead the board review process
- lead the director induction process
- ensure that there is a succession plan in place for the board
- be the spokesperson for the organisation
- work productively and openly with colleagues to achieve results and resolve problems
- to retain the confidence of the region and build relationships within the region's networks

The role of the Deputy Chair which includes the ability to take on the Chairs role, as and when required, is to:

- provide effective leadership
- work productively and openly with colleagues to achieve results and resolve problems
- to retain the confidence of the region and build relationships within the region's networks

7 Term of Appointment

Board members hold office at the pleasure of the council and may be removed at any time by council resolution.

Board members are to serve a maximum of two three-year terms, with the option of further reappointment possible where appropriate. To reflect current national and international best practice, Auckland Council's policy regarding board tenure is as follows:

Tenure of three years: Board members shall hold office for a term of up to three years from the date of appointment.

Expiry of tenure: upon expiry of that three-year term, the board member retires from the board and, subject to the board members' performance and skills continuing to be relevant to the board may be eligible for reappointment.

Reappointment: a board member who is retiring from their first three-year tenure, deemed eligible for reappointment and who wishes to stand, may, at the sole discretion of the council (by ordinary resolution), be reappointed for a second term of up to three years. Any board member reappointed for a second term retires upon expiry of the additional three-year term.

~~These board members who were appointed for terms of less than three years as at 1 November 2010 are considered eligible for reappointment for two further three-year terms. Whether a director is offered reappointment, however, remains at the sole discretion of the council. Board members hold office at the pleasure of the council and may be removed at any time by council resolution.~~

~~**Tenure exceeding six consecutive years:** for circumstances where there are good reasons for extension, a board member retiring from a second tenure of three years may be reappointed for a further term but the board member's total tenure on the board must not exceed nine years. Each case will be considered on its own merits and is at the sole discretion of the council. The types of circumstances that could require this include, the:~~

- ~~• board member has a particular skill that would be hard to replace~~
- ~~• board has undergone substantial change and stability is needed~~

- ~~• board member has institutional knowledge not held by other directors~~
- ~~• board member is a likely successor as a chair~~

The council's policy is to stagger appointments so that approximately one-third of each board's members have terms ending each year. ~~one-third of each board is rotated each year.~~ Staggering appointments to the boards ensures there is an appropriate level of institutional knowledge retained on each board, which in turn provides for continuity in the management of the CCOs.

Maximum tenure: A board member's total tenure on the board must not exceed nine years.

8 Board Appointments

8.1 The Role of the Committee

The Committee is responsible for the appointment of board members to CCOs.

In accordance with Section 57(2) of the LGA 2002, the Committee will only appoint a person to be a director of a CCO if that person has, in the opinion of Committee, the skills knowledge and experience to:

- guide the organisation given the nature and scope of its activities; and
- contribute to the achievement of the objectives of the organisation

8.2 The Role of the Selection Panel

Candidates will be assessed and recommended for appointment by a Selection Panel. The Selection Panel is responsible for:

- screening the long-list to ensure that candidates have the required core competencies as well as the specific skills and expertise required for the position
- recommending a short-list of candidates, for interview, to the Committee
- interviewing short-listed candidates and assessing them against the required skills, knowledge and experience
- reporting on its assessment of each candidate against the criteria and recommend preferred candidates for appointment to the Committee

8.3 The Role of the Chair of the Selection Panel

The Chair of the Selection Panel plays a key role in overseeing the effective operation of the panel and in addition to the above, the role of the chair is to:

- provide leadership to and ensure the panel carries out its role effectively in accordance with legislative and policy requirements
- liaise with staff to ensure the effective running of board appointment processes
- encourage an environment of collaboration and respectful debate

- chair panel meetings efficiently
- represent the recommendations of the panel to the Committee

The Chair of the Selection Panel will be a member of the governing body of Auckland Council. The Chair will be selected by the Committee or by agreement of the Governing Body members represented on the selection panel.

8.4 Membership of the Selection Panel

The Selection Panel will comprise of:

- Governing body members, (up to two) selected from an Enduring Pool
 - The Mayor (or their representative), (ex officio)
 - Chief Executive of Auckland Council (or representative), (ex officio)
 - ~~Mayoral Chief of Staff (or representative)~~
 - Chair of the relevant CCO board (ex officio)
 - ~~Governing body members, (up to two) selected from an Enduring Pool~~
 - IMSB-Houkura Independent Māori Statutory Board member (nominated by Houkura the IMSB)
- Where a selection panel is considering the appointment of a chair, the outgoing or acting CCO board chair will not be a member of the selection panel unless invited to participate by the Committee or selection panel.

8.5 Membership of the Enduring Pool

At the beginning of the electoral term an Enduring Pool, of no fewer than four members and no more than ~~ten~~ twelve members of the governing body, will be formed. The membership of the Enduring Pool will be approved by the Committee and may be amended, at the discretion of the Committee. The Mayor will not be a member of the Enduring Pool as they (or their delegate) are an ex officio member of each selection panel.

-In determining the membership of the Enduring Pool the Committee will:

- seek expressions of interest from members of the governing body
- take into account a range of factors to ensure that the Enduring Pool includes members with a diverse range of skills, knowledge and experience

At the commencement of a board appointment process, up to two members of the Enduring Pool will be selected by the committee to be on the Selection Panel; taking into consideration a range of factors, such as, knowledge and expertise of the objectives and activities of the CCO board to which appointments are being made, frequency of participation in appointment processes and availability.

8.6 Reappointments

Where a board member's term of appointment has expired and they would like to be considered for reappointment, the Committee may offer a further term following

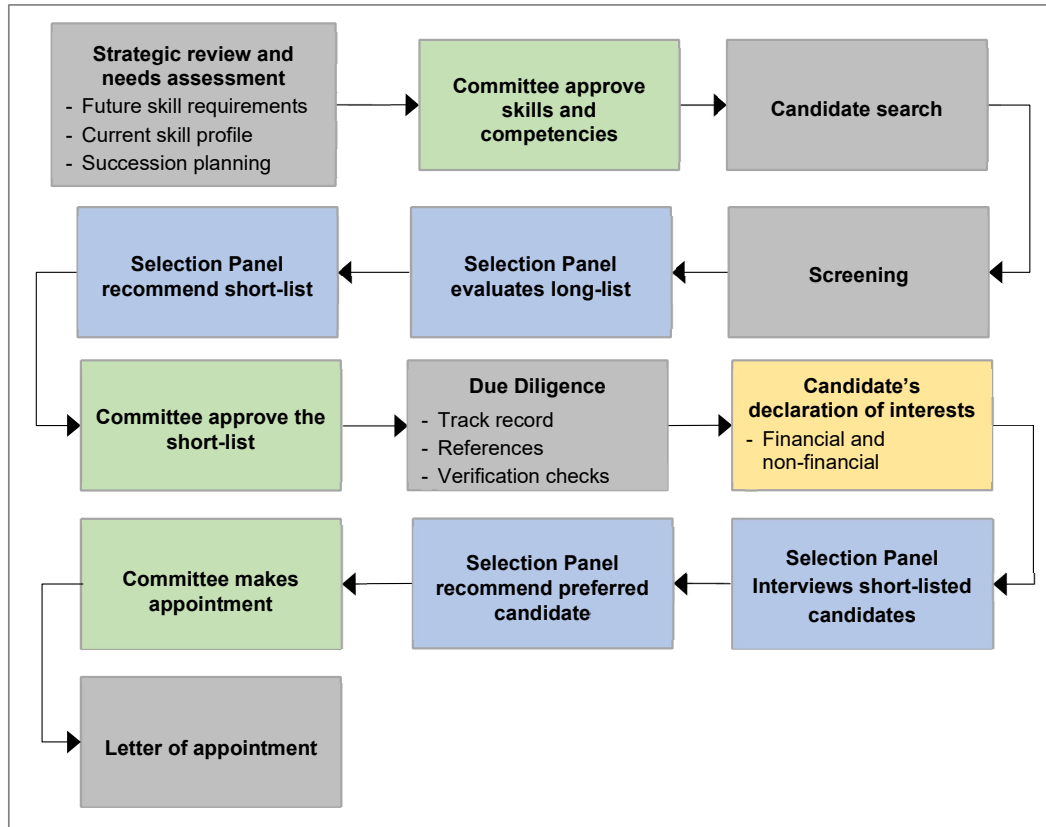
consideration of the performance of the board member and the needs of the board as a whole. Factors to be considered include:

- the views of the board Chair
- whether the current board skill composition is appropriate
- whether any aspects of board performance need to be taken into consideration
- whether the process offers an opportunity for increasing board diversity
- whether the retiring board member is a potential candidate for future Chair, or alternatively whether there is a need to recruit a director as a future successor to the Chair
- alignment of the CCO board with the Auckland Council's strategic goals, plans and strategies

Board members should not be given any expectation that they will be offered a subsequent term of office.

8.7 New Appointments

The diagram below provides an overview of the process for new appointments.



8.7.1 Identification of skills, knowledge and experience

Once a vacancy has been established, the Committee will identify the specific skills, knowledge and experience required for the position, ~~including whether knowledge of Tikanga Māori may be of relevance to the governance of that CCO (as required by section 57(3) of the LGA 2002),~~ with the assistance of CCO Governance and External Partnerships.

~~The identification of skills may involve discussions with the Chair of the CCO, a strategic review of future skill requirements and consideration of the current composition of the board. This may involve discussions with the Chair, consideration of the current composition of the board and a strategic review of future skill requirements.~~

Tikanga Māori: The identification of specific skills will include consideration of whether knowledge of tikanga Māori may be of relevance to the governance of that CCO as required by section 57(3) of the LGA 2002. Knowledge of tikanga Māori includes knowledge of Māori customary values and practices, principles, understandings, norms and mechanisms from which the correct action in te ao Māori may be determined.

