

Christchurch City Council
MINUTES ATTACHMENTS

Date: Wednesday 25 January 2023
Time: 9.30am
Venue: Council Chambers, Civic Offices,
53 Hereford Street, Christchurch

TABLE OF CONTENTS

PAGE

2.1. Declaration by the Auditor-General

- A. Letter from Office of the Auditor-General to Christchurch City Council 3
- B. Memo - Confirmation of the Office of the Auditor-General's Declaration 6



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9 December 2022

File ref: LAMIA543

Helen White
Head of Legal & Democratic Services
Te Ratonga Ture me te Manapori - Legal & Democratic Services
Christchurch City Council
By email: [REDACTED]

Tēnā koe Helen

LOCAL AUTHORITIES (MEMBERS' INTERESTS) ACT 1968 – REVIEW OF COUNCIL'S POLICY FOR THE APPOINTMENTS AND REMUNERATION OF DIRECTORS OF COUNCIL ORGANISATIONS

We refer to your emails of 5 and 6 December 2022.

On behalf of all councillors, Christchurch City Council (the Council) has requested a declaration under section 6 of the Local Authorities (Members' Interests) Act 1968 (the Act) to enable all councillors, despite their actual or potential financial interests, to take part in the discussion of, and vote on, a review of the Council's 2017 [Policy for the Appointment and Remuneration of Directors to Council Organisations](#) (the directors policy).

For the reasons explained below, we have decided to issue the declaration on the basis that we are satisfied that it is in the interests of the electors or inhabitants of the area that all members be allowed to participate in the review. The review is scheduled to be before the Council on 14 December 2022.

The law

The 'non-participation rule' in section 6(1) of the Act prohibits a member of a local authority or its committees from discussing or voting on a matter before the authority in which the member has a financial interest, other than an interest in common with the public.

Under section 6(4) of the Act, the Auditor-General can grant a declaration that the non-participation rule will not apply to a matter or class of matters if he is satisfied that:

- applying the rule would 'impede the transaction of business of the Council'; or
- it is 'in the interests of the electors or inhabitants of the district of the local authority or of the area under its jurisdiction' that the rule should not apply.

The declaration requested

In your email of 5 December 2022 you requested, on behalf of all members, a declaration under section 6(4) of the Act. The scope of the declaration sought is to enable all councillors to participate in the discussion of, and voting on, a review of the directors policy. This matter is scheduled to be before the Council on 14 December 2022. You provided a draft of the report to be considered by the Council, reference 22/1642881, title 'Review of the Council's Policy for the Appointments and Remuneration of directors of Council Organisations'. The report proposes amendments to the directors policy.

In a letter dated 19 June 2020, we granted a similar declaration for Council members. The 2020 review did not result in any amendments to the directors policy, which remains the current policy.

Under the directors policy, councillor-directors appointed to an 'external organisation'¹ of the Council in their capacity as an elected member of the Council do not personally receive any fees for that appointment.² Instead, the external organisations donate equivalent sums to charitable organisations identified by the Council.³

The review of the directors policy includes options in respect of whether fees should be paid to councillor-directors, and whether councillor-directors who receive fees should retain them personally.

You told us that the circumstances and rationale for this application remain as recorded in our letter of 19 June 2020, except that there is at present only one councillor-director appointed to one of the council controlled-organisations, and her appointment ends next month. The rest of the appointments have not yet been made. The Mayor is an ex-officio member of the board of Christchurch City Holdings Limited, but he has not yet taken up or accepted any such membership.

The rationale for the Council's previous application, which also applies to this application, was:

- all members might have a financial interest in the outcome of the discussion given all members could potentially be appointed to an external organisation at some point in the future; and
- the participation of all elected members in the decision-making on the directors policy is more important than their individual interests.

Our view

In our view, it is likely that all councillors have a financial interest in the outcome of the review of the directors policy. All councillors are potentially appointable as councillor-directors and entitled to any remuneration payable. Therefore all councillors are potentially affected by a change to the directors policy in respect of councillor-director remuneration.

This means that all members are potentially prohibited from participating in decision-making about the review of the policy unless we are satisfied that there are grounds to issue a declaration under the Act.

The directors policy covers significant policy matters concerning the role of councillors when it comes to external organisations. We think that it is in the interests of the community for all councillors to be able to participate in the review of the policy, despite their actual or potential financial interests. We have granted similar declarations for other councils.

Declaration

The Auditor-General hereby issues a declaration under section 6(4) of the Local Authorities (Members' Interests) Act 1968 authorising all members of the governing body of Christchurch City Council to vote on, and take part in the discussion of, the matters described in the Council staff report "Review of the Council's Policy for the Appointments and Remuneration of directors of Council Organisations", reference 22/1642881, on the grounds that it is in the interests of the electors or inhabitants of the area that they be allowed to do so.

This declaration is limited to all discussions and decisions about the current review of the Council's Policy for the Appointment and Remuneration of Directors to Council Organisations, scheduled to be before the Council on 14 December 2022, and does not apply to future reviews. For the avoidance of doubt, the previous declaration in the letter dated 19 June 2020 is revoked.



¹ "External organisations" include Council Organisations, Council-controlled Organisations and Council-controlled Trading Organisations) – see clause 9.12 of the directors policy.

² Clause 9.10 of the directors policy.

³ Clause 9.11 of the directors policy.

This declaration covers only financial interests; the Auditor-General cannot give a declaration in respect of non-financial interests.

We would be grateful if you would inform the mayor and councillors of the contents of this letter.

If you have any queries about this matter please feel free to contact Linda Edwards, Senior Solicitor on  or 

Nāku noa, nā



Melanie Webb
Assistant Auditor-General, Legal Policy and Inquiries Group

Legal & Democratic Services

Memo

Date: 23 January 2023
From: Helen White, Head of Legal & Democratic Services
To: Mayor and Councillors
CC: Dawn Baxendale, Chief Executive

Policy for the Appointment and Remuneration of Directors to Council Organisations

This policy will be considered by the Council on 25 January 2023.

I confirm that the Office of the Auditor-General (OAG)'s declaration under the Local Authorities (Members' Interests) Act 1968 dated 9 December 2022, remains valid for all members of the Council.

The OAG has been updated in relation to appointments that have been made and the processes that are underway. They have confirmed that the rationale for the declaration continues to apply notwithstanding these developments.

This declaration is only in relation to pecuniary (financial) interests that all members have in relation to the policy.

Please let me know if you have any questions.

Ngā mihi nui

Helen White

Head of Legal & Democratic Services

Te Ratonga Ture me te Manapori - Legal & Democratic Services