

**QLDC Council
9 March 2017**

Report for Agenda Item: 3

Department: Corporate Services

Amendment to QLDC Standing Orders

Purpose

To make amendments to Standing Orders in regards to speaking in public forum and to add meeting procedures for the Elected Member Conduct Committee that had been inadvertently omitted.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Amend** Standing Order 14.15 bullet point 6 to read “the matter is subject to a hearing, including the hearing of submissions where the local authority, a committee, or hearings panel sits in a quasi-judicial capacity.” and
3. **Adopt** the [attached] “Additional Meeting Procedures for the Elected Member Conduct Committee” as Appendix 12 of Standing Orders

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Background

- 1 Council adopted a new set of Standing Orders on 15 December 2016 based on a Local Government New Zealand template for Territorial Local Authorities incorporating changes in legislation since 2003.

Comment

Elected Member Conduct Committee

- 2 Additional meeting procedures for the Elected Member Conduct Committee were added to the previous Standing Orders in June 2015 when the Committee was first created. These were inadvertently omitted when the new Standing Orders were drafted. The Terms of Reference for the Elected Member Conduct Committee cover some of the procedures, but for completeness it is proposed to add what was contained previously as a new appendix to the existing Standing Orders, Appendix 12 (attachment A).

Public Forum provisions

- 3 Further clarification is required on the restrictions to presenting at public forum as outlined in section 14.15 of Standing Orders. It is suggested that bullet point 6 be amended to "*the matter is subject to a hearing, including the hearing of submissions where the local authority, a committee, or hearings panel sits in a quasi-judicial capacity*". This is to ensure that speakers are not able to raise for a second time a topic where they are already engaged in a defined submission and hearing process.

Process for amending Standing Orders

- 4 The adoption of Standing Orders and any amendment to Standing Orders must be made by the Council and by a vote of not less than 75 % of the members present.
- 5 The appendices to the Standing Orders provide templates and additional guidance for implementing provisions within the Standing Orders but are not deemed to be part of the standing orders themselves. Consequently amendments to the appendices do not require the agreement of 75% of those present.

Options

- 6 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.
- 7 Option 1 Amend Standing Orders as proposed

Advantages:

- 8 Full meeting procedures for the Elected Member Conduct Committee will be addressed and the statutory process around submissions will be maintained.

Disadvantages:

- 9 None identified
- 10 Option 2 Do not amend Standing Orders as proposed

Advantages:

11 None identified

Disadvantages:

12 Full meeting procedures may not be adequately covered off in current Standing Orders and Terms of Reference.

13 This report recommends Option 1 for addressing the matter.

Significance and Engagement

14 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy. This is a minor update to existing processes.

Risk

15 This matter relates to the strategic risk SR3 Management Practice – working within legislation, as documented in the Council's risk register. The risk is classed as low. This matter relates to this risk because Standing Orders incorporate current legislation.

16 The recommended option considered above mitigates the risk as the proposed amendments to standing orders meet current legislation.

Financial Implications

17 There are no operational or capital expenditure requirements or other budget or cost implications resulting from the decision.

Council Policies, Strategies and Bylaws

18 The following Council policies, strategies and bylaws were considered:

- Councils must have Standing Orders and fulfil requirements under the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987.

19 The recommended option is consistent with the principles set out in the named policy/policies.

20 This matter is operational and is therefore not included in the 10-Year Plan/Annual Plan

Local Government Act 2002 Purpose Provisions

21 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory

functions in a way that is most cost-effective for households and businesses by enabling democratic decision making;

- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Consultation: Community Views and Preferences

22 There are no external persons who are affected by this matter.

Legal Considerations and Statutory Responsibilities

23 The proposed amendments to Standing Orders fulfil the requirements of the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987.

Attachments

A Proposed Standing Orders Appendix 12 – Additional Meeting Procedures for the Elected Member Conduct Committee

Appendix 12

ADDITIONAL MEETING PROCEDURES FOR THE ELECTED MEMBER CONDUCT COMMITTEE

1 Introduction and effect of Part 4

- (a) Part 4 sets out the standing orders that apply to the proceedings of the Elected Member Conduct Committee.
- (b) For the avoidance of doubt the standing orders in Part 4 apply in addition to the standing orders in Parts 1, 2 and 3.
- (c) The standing orders in Part 4 prevail in the event of a conflict arising with any other Part of the standing orders.

2 Members to be informed

2.1 Members to be Informed of Allegations Against Them

- (a) Any member raising an alleged breach of standing orders or the Queenstown Lakes District Council code of conduct which involves another member of the Council shall, as soon as reasonably practicable after raising the matter, fully inform that other member of the matter which has been raised.
- (b) The Mayor or Deputy Mayor shall not report to Council that a matter involving another member involves an alleged breach of standing orders or the Queenstown Lakes District Council code of conduct without first informing that member that this is intended.

3 Making of a complaint alleging a breach of Standing Orders or the Queenstown Lakes District Code of Conduct

3.1 Mediation of matters subject of complaint

Before a complaint alleging a breach of Standing Orders or the Queenstown Lakes District Code of Conduct, the Mayor may first seek to mediate a solution. Where a solution is agreed between the Mayor, and the member who is the subject of the allegation the matter will not be referred to the Elected Member Conduct Committee.

3.2 Time elapsed since matter subject of complaint

The Mayor or the Chief Executive is entitled to take into consideration the amount of time that has elapsed since the alleged breach before referring the matter to the Elected Member Conduct Committee and may determine not to refer the matter if as a result of the time elapsed since the alleged breach the Mayor or the Chief Executive is of the view that it would be unfair to do so.

4 Quorum of the Elected Member Conduct Committee to be maintained

4.1 Conflict of interest

Where a conflict of interest arises because a member of the Elected Member Conduct Committee has either brought an allegation or had an allegation made against them, the Council must appoint an elected member to act as a replacement in the matter in order to maintain the quorum of the Elected Member Conduct Committee.

5 Procedure of the Elected Member Conduct Committee

5.1 Member to be informed of referral of complaint to Elected Member Conduct Committee

On receipt of a complaint, the Chairperson or Deputy Chairperson of the Elected Member Conduct Committee must give the member(s) alleged to be in breach of the Code of Conduct or Standing Orders:

- (a) written notice of the complaint against him/her;
- (b) the opportunity to be represented by counsel or a support person;
- (c) at least five working days' notice of the date and time of any hearing at which the member must appear;

- (d) written advice of the evidence against him/her;
- (e) adequate time in which to present submissions at any hearing.

5.2 Public Excluded

The Elected Member Conduct Committee may conduct its activities with the public excluded to the extent permissible pursuant to the Local Government Official Information and Meetings Act 1987.

5.3 Elected Member Conduct Committee to be conducted in accordance with judicial principles

The Elected Member Conduct Committee will conduct its proceedings in accordance with usual judicial principles and may:

- (a) receive any evidence in any form that it considers appropriate to receive;
- (b) call for anything to be provided in evidence which it considers will assist it to make a decision or recommendation;
- (c) call before it a person to give evidence, who in its opinion, will assist in making a decision or recommendation.
- (d) the following provisions of the Commissions of Inquiry Act 1908 apply to every hearing conducted by the Elected Member Conduct Committee:
 - i. section 4, which gives powers to maintain order;
 - ii. section 4B, which relates to evidence;
 - iii. section 4D, which gives power to summon witnesses;
 - iv. section 5, which relates to the service of a summons;
 - v. section 6, which relates to the protection of witnesses;

5.4 Duty of elected members to provide all information to Elected Member Conduct Committee

- (a) It shall be the duty of all elected members to meet with the Elected Member Conduct Committee as required and to provide all information and documents held by or on behalf of each of them relating to the matter under investigation to the Committee.
- (b) Failure to comply with any requirement of the Elected Member Conduct Committee shall itself be a breach of Standing Orders.
- (c) Nothing in this Order shall derogate from the right of any elected member under the New Zealand Bill of Rights Act 1990 to refuse to answer any question or to produce any document on the grounds that to do so would or might incriminate such elected member in respect of the matter under investigation.

5.5 Misuse of information

The misuse or unauthorised release of information that is confidential, legally privileged or is information that may otherwise be withheld from the public under any of the grounds specified in the Local Government Official Information and Meetings Act 1987 is a breach of Standing Orders.

6 Report of Elected Member Conduct Committee

6.1 Reporting of determination of the Elected Member Conduct Committee

The Chairperson or Deputy Chairperson will report all determinations of the Elected Member Conduct Committee to the next available Council meeting.

6.2 Consideration of report of Elected Member Conduct Committee

The Council will consider the report of the Elected Member Conduct Committee in open meeting of the Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

7 Responses to Breaches of the Code

7.1 After consideration of the report of the Elected Member Conduct Committee, the Council may resolve to take no further action or to take any of the following actions:

- (a) Refer the determination of the Elected Member Conduct Committee to the auditor general and/or the New Zealand Police or other appropriate public body;
- (b) Censure;
- (c) Reconstitute a Committee or sub-committee of Council to effect removal of the elected member (either permanently or temporarily) from Council Committees;
- (d) Dismiss the elected member from a position as Deputy Mayor or Chair of a committee;
- (e) Dismiss the elected member from appointment to any other representative bodies (either permanently or temporarily);
- (f) For breaches of the Code of Conduct in relation to electronic resources or communications, authorise the Chief Executive to remove Council owned computer/electronic equipment and terminate (either permanently or temporarily) access to any electronic resources of Council.

7.2 A resolution to take one or more of the above actions requires a vote in support of the resolution of not less than 75% of the members present.