

Report 01.754

Files: E/1/1/9; E/5/1/1

19 October 2001 (hp)

Report to Wellington Regional Council
From: Ted Maguire, Council Secretary

Statutory Briefing

1. Background

At the first meeting of a local authority following a triennial general election there is a statutory requirement for a general explanation, to be given or arranged by the Principal Administrative Officer, of:

- The Local Government Official Information and Meetings Act 1987 (LGOIMA); and
- Other laws affecting members including the appropriate provisions of the Local Authorities (Members' Interests) Act 1968, sections 99, 105 and 105A of the Crimes Act 1961, the Secret Commissions Act 1910 and the Securities Act 1978.

2. Comment

2.1 Introduction

- (a) This legislation is of high importance to Councillors as it relates to their personal conduct so long as they hold public office. It also underpins integrity and honesty in our system of local government, and being seen as such. However, this general explanation is necessarily "brief" - an exhaustive explanation would require a book. Any Councillor seeking clarification of any aspect of the subject matter is invited to consult me.
- (b) The underlying principle of the LGOIMA is the public's "right to know". In summary, official information must be available to the public unless there is good reason for withholding it. The LGOIMA covers:
 - Formal meetings - These must be advertised in advance. Order papers must be available for public inspection and business must be conducted in open meeting except where there is good reason, in keeping with criteria in the Act, for a particular matter to be discussed in "public excluded business". (Formal resolutions or decisions **cannot** be made at informal meetings such as workshops. Workshop meetings which come within the scope of the Local Government Act can be invaluable to gain understanding of issues and for sharing views).

- Disclosure of information to the public - Official information requested by members of the public must be supplied on request within a specified time unless, again, there is good reason not to do so. A charge can be made for supply of such information (legislation currently before Parliament extends official information provisions to council owned companies). Council must also publish an *Official Information Directory* annually.

There is a wide range of other information about the Council that must be published too, e.g. Annual Plans, Annual Reports and Statutory Plans.

- (c) The other legislation is fundamentally about pecuniary interest and other conflicts of interest. Those Acts also deal with other behaviour that is inappropriate for a public official. These requirements can also extend to a Members' spouse or a company in which the Member (or spouse) has a significant interest. (It should be noted that conflict of interest is also the subject of common law).

Also, Standing Order 133 (**Attachment 3**) states that, members cannot participate in a debate where they have a pecuniary interest.

Sanctions for breaches of these provisions can be very severe. Ultimately, any decision about compliance is a matter for the Controller and Auditor General.

Again, any Councillor who is in any doubt, should declare any perceived interest or ask.

2.2 Summary of Legislation

There are excellent published summaries of information about the above legislation. These include:

(a) ***Elected Members' Handbook***

This is published by *Local Government New Zealand*. A copy of the relevant pages is attached. (Each Councillor has been supplied with a copy of the Handbook).

- ***Attachment 1*** summarises provisions of the LGOIMA.
- ***Attachment 2*** summarises the other specified legislation affecting Members (plus additional relevant legislation).

(b) ***Audit Office Publications***

The Audit Office has two very useful publications about the Local Authorities (Members' Interests) Act. They are:

- (i) A booklet entitled *Financial Conflicts of Interest of Members of Governing Bodies*
- (ii) A *Pocket Guide* to the Act

Both are tabled. (Each Councillor has been supplied with personal copies.)

2.3 **Standing Orders**

The Council's Standing Orders (all Councillors have been supplied with a personal copy) reflect the requirements of the Local Government Act, the LGOIMA and other legislation concerning the conduct of meetings. They also protect the rights of individual members.

Standing Orders must be consistent with the relevant legislation. The WRC's Standing Orders have been adopted as a Bylaw - thus any change must be by way of the Special Order Process.

A major review of the New Zealand Standard's Association' Model Standing Orders was completed earlier this year. I am separately proposing a process for updating our Standing Orders to bring them into line with the new Model Standing Orders. However, the WRC Standing Orders have additional features worthy of retention.

2.4 **Declaration for the purposes of the Council's Annual Report**

The Audit Office requires the Council to disclose in its Annual Report any financial dealings between the Council and its Councillors (including related parties) regardless of the amount. Every year each Councillor will be required to declare, in writing, whether or not he or she (or any related party) has had any financial dealings with the WRC.

The definition of "related parties" includes both business and family connections.

Information to be disclosed includes:

- The identity of each related party
- The type of transaction involved
- The amount of each transaction
- The total amounts still owing

2.5 **Acknowledgement**

Councillors are asked to acknowledge, in writing, on the last page of this report, that they have a general appreciation of the material covered by this briefing. Please return the signed copy to me.

3. **Recommendation**

That the information be noted.

TED MAGUIRE
Council Secretary

Attachment 1: LGOIMA summary of provisions
Attachment 2: Summary of other legislation affecting members
Attachment 3: Standing Order 133

Ted Maguire
Council Secretary
Wellington Regional Council
P O Box 11-646
WELLINGTON

I acknowledge that I have read and generally understand the summary information accompanying Report 01.754.

Signature:

Name:
(please print)

Date: