



# Ashburton District Council



## **CANDIDATE INFORMATION HANDBOOK**

**By-Election 4 April 2012**  
For one Member in the Eastern Ward

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# 1

## INTRODUCTION

This handbook outlines information that you need to know as a candidate in the by-election for the Eastern Ward.

**The by-election is being conducted by postal vote with election day on Wednesday 4 April, 2012.**

**The conduct of local body elections is regulated by legislation, namely:**

- Local Electoral Act 2001
- Local Electoral Regulations 2001
- Local Electoral Amendment Regulations 2003
- Local Government Act 2002

**Relevant key dates for your diary are:**

- Nominations Open Tuesday 17 January 2012
- Nominations Close Tuesday 14 February 2012
- Delivery of Voting Papers Tuesday 13 March 2012 to  
Thursday 15 March 2012
- Close of Voting Noon, Wednesday 4 April 2012
- Preliminary Results Available As soon as practicable after close of voting,  
Wednesday 4 April, 2012
- Official Declaration Thursday 5 April 2012

**Electoral Officer:**

John Rollinson

Phone – 03 307 7742 Fax – 03 308 1836  
Email – [john.rollinson@adc.govt.nz](mailto:john.rollinson@adc.govt.nz)

**Deputy Electoral Officer:**

Jo Naylor

Phone – 03 307 7724  
Email – [jo.naylor@adc.govt.nz](mailto:jo.naylor@adc.govt.nz)

# 2

## BY-ELECTION

- **Nominations will be called for:**
  - **1 Councillor – Eastern Ward**
- **The District is divided into three wards including one community board. These are:**

<i>Ward</i>	<i>N° Councillors</i>	<i>N° Resident Electors (as at 31 October 2010)</i>
Ashburton	7	12648
Eastern	3	5259
Western	2	3182

<i>Community Board</i>	<i>N° Members</i>	<i>N° Resident Electors (as at 31 October 2010)</i>
Methven	5	1075

- **Licensing Trust**

Members of the Trust are elected by its district at large, ie all residents of the Licensing Trust District are eligible to vote for six candidates to represent the whole district.

  - As at 31 October 2010, 17533 electors were able to vote in the Trust election.

## Role of Electoral Officer

The Electoral Officer is solely responsible for the conduct of the elections. Functions include—

- the compilation and certification of electoral rolls
- the publication of any public notice in relation to elections and polls
- calling for nominations for an election or by-election
- receiving nominations, candidate profile statements and deposits required to be paid
- issuing and receiving ordinary and special votes and other official documents
- the processing and counting of votes
- the declaration of results
- receiving returns of electoral expenses
- investigating and reporting offences.

## Electoral Principles

The electoral principles contained in section 4 of the Local Electoral Act 2001 are outlined below for the information of candidates. These principles must be taken into account in the conduct of any election or poll.

### Principles

- (1) The principles that this Act is designed to implement are the following:
  - (a) fair and effective representation for individuals and communities:
  - (b) all qualified persons have a reasonable and equal opportunity to—
    - (i) cast an informed vote:
    - (ii) nominate 1 or more candidates:
    - (iii) accept nomination as a candidate:
  - (c) public confidence in, and public understanding of, local electoral processes through –
    - (i) the provision of a regular election cycle:
    - (ii) the provision of elections that are managed independently from the elected body:
    - (iii) protection of the freedom of choice of voters and the secrecy of the vote:
    - (iv) the provision of transparent electoral systems and voting methods and the adoption of procedures that produce certainty in electoral outcomes:
    - (v) the provision of impartial mechanisms for resolving disputed elections and polls.
- (2) Local authorities, electoral officers, and other electoral officials must, in making decisions under this Act or any other enactment, take into account those principles specified in subsection (1) that are applicable (if any), so far as is practicable in the circumstances.
- (3) This section does not override any other provision in this Act or any other enactment.

## Electoral Systems

The First Past the Post (FPP) electoral system will be used for the 4 April 2012 By-Election.

Two electoral systems operated side by side for the 2010 elections:

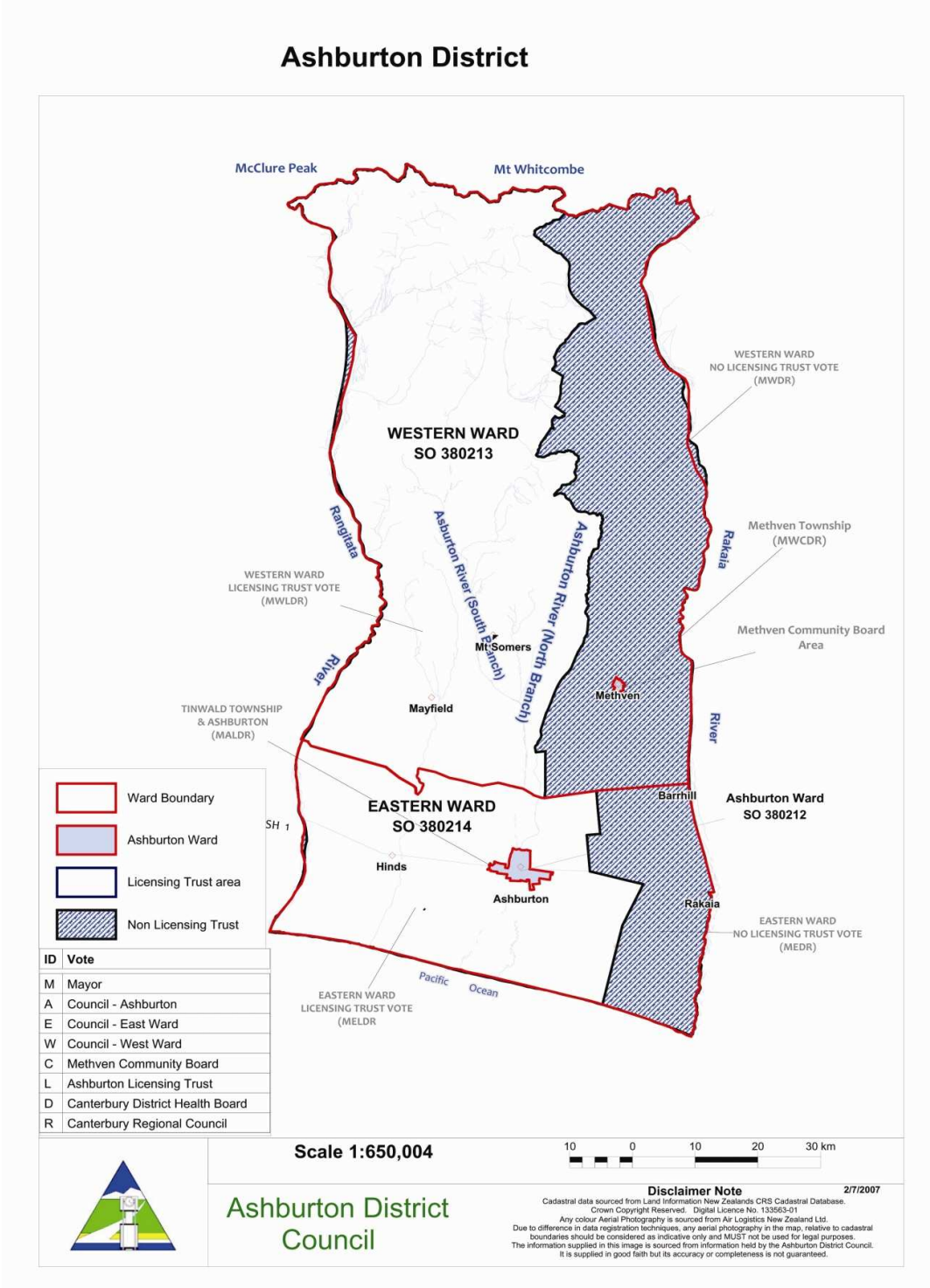
- First Past the Post (FPP)
- Single Transferable Voting (STV)

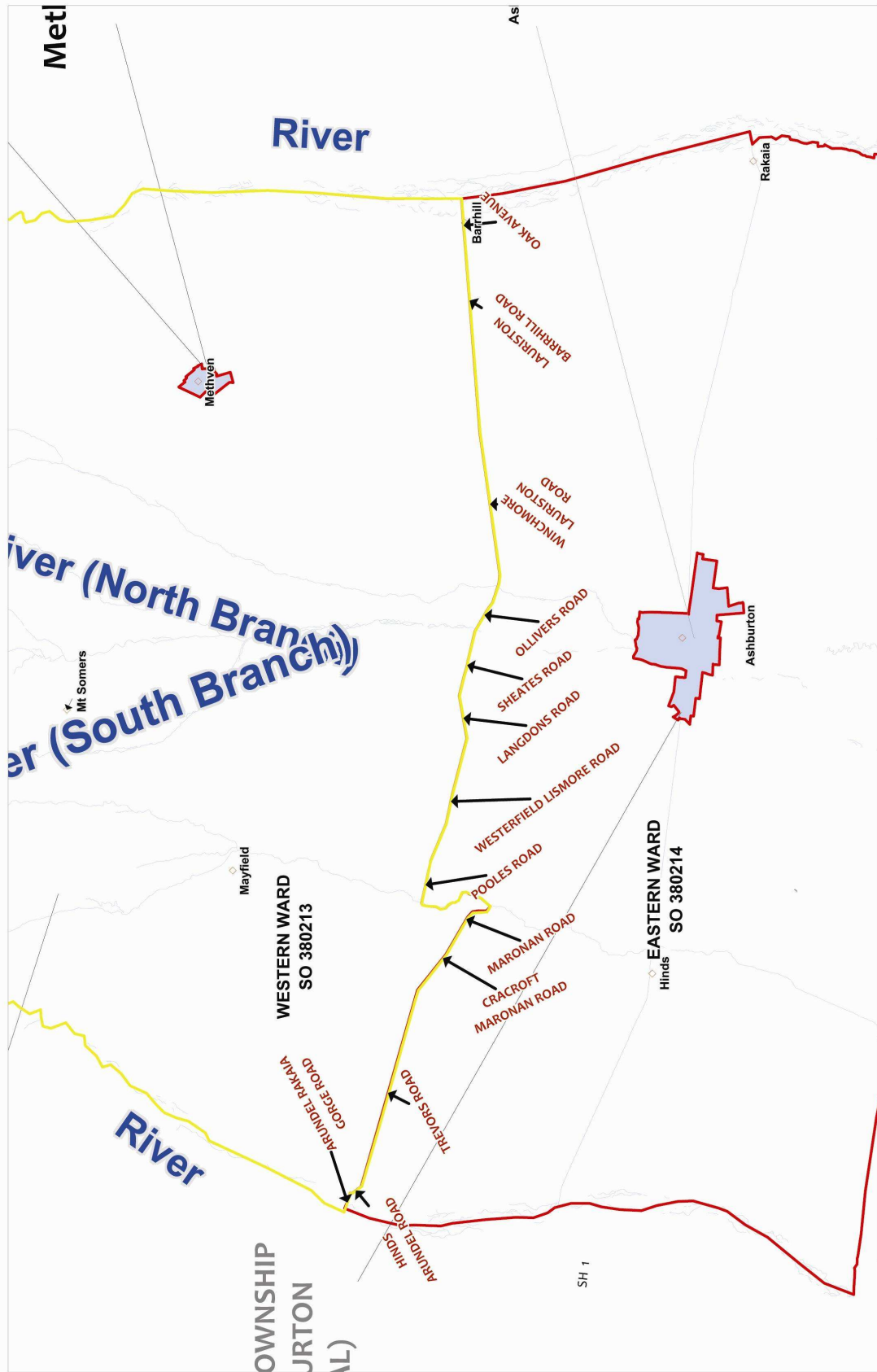
The FPP electoral system was used for the following elections:

- Mayor, District Councillors, members of the Methven Community Board and the Ashburton Licensing Trust
- The STV electoral system was used for the election of members of the Canterbury District Health Board.
- For more information on understanding how the STV electoral system works, access the Department of Internal Affairs website ([www.stv.govt.nz](http://www.stv.govt.nz))
- A comprehensive explanation on the New Zealand method of counting STV votes is found in Schedule 1A, Local Electoral Amendment Regulations 2003.
- A brief description of the STV electoral system is set out below:
  - Voters receive a single (transferable) vote no matter whether there is one vacancy or several.
  - Voters rank the candidates in order of preference. “1” next to the name of the candidate most preferred, “2” next to the name of the candidate next preferred and so on.
  - When votes are counted, all the first preferences are allocated first. To be elected, a candidate must reach a “quota” of votes, which is based on the number of vacancies and the number of valid votes.
  - A candidate who reaches the quota is elected. If there is more than one vacancy and a candidate gets more votes than the quota, a proportion of each vote for that candidate is transferred to the voter’s second preference. If, as a result, another candidate gets more votes than the quota, a proportion is transferred to third preferences, and so on.
  - If insufficient candidates reach the quota after the first preferences are allocated and after any surplus votes are transferred, then the candidate who received the fewest votes is eliminated and each vote for that candidate is transferred to the voter’s second preference. This process is repeated until enough candidates reach the quota to fill all the vacancies.

# 3

## WARD/COMMUNITY MAPS





**Disclaimer Note:**  
 2/17/2007  
 Cadastral data sourced from Land Information New Zealand. © Crown Copyright. Digital Land Information System (DLIS) 100000000.01  
 Any Colour Aerial Photography provided from Aer Lingus New Zealand Ltd.  
 Due to difference in data registration techniques, any aerial photography in the map, relative to cadastral boundaries should be considered as indicative only and MUST not be used for legal purposes.  
 The information supplied in this image is sourced from information held by the Ashburton District Council. It is supplied in good faith but its accuracy or completeness is not guaranteed.

**Western Ward Boundary Detail**  
 Scale 1:272,014

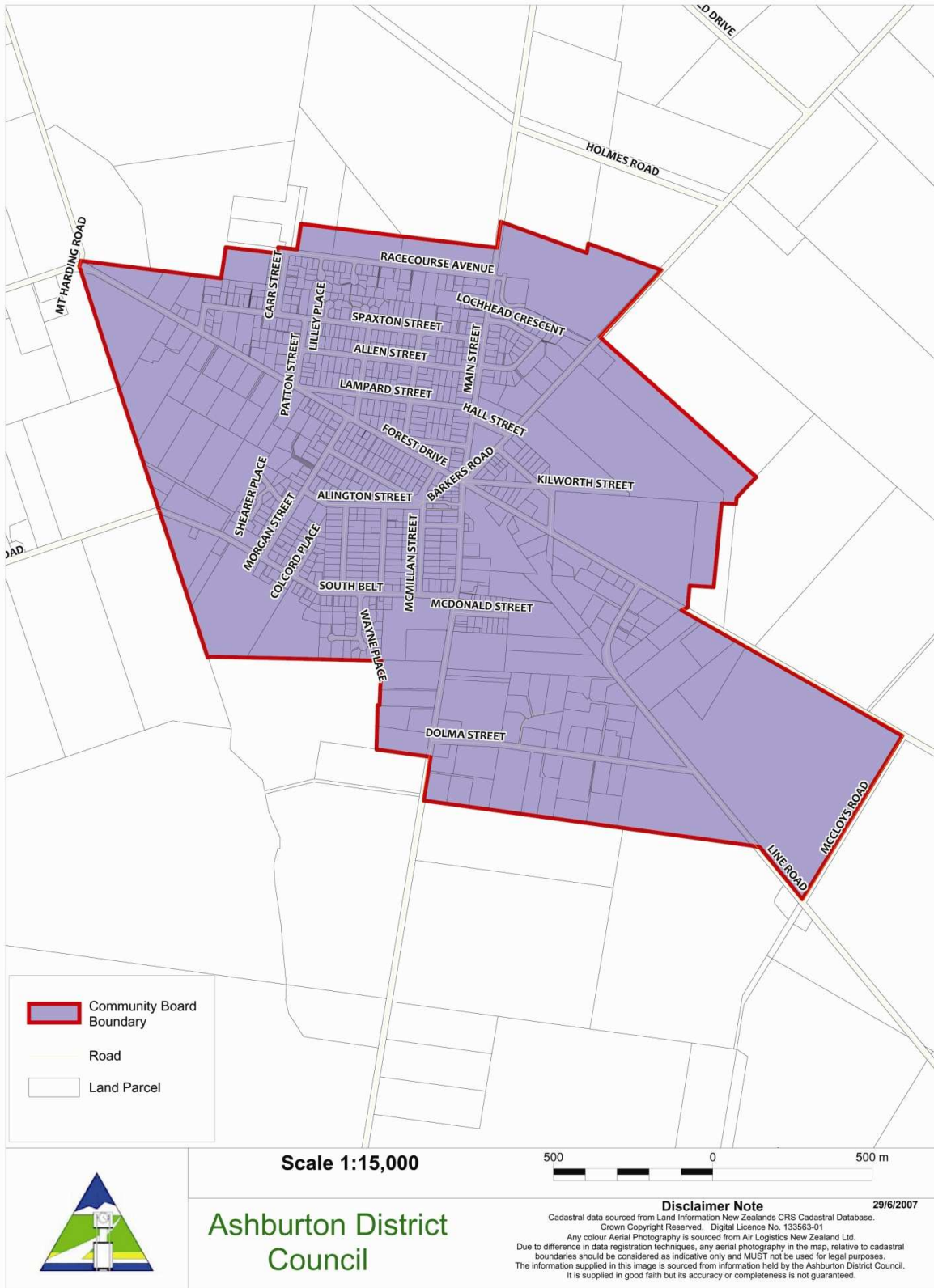
A scale bar indicating distances from 0 to 14 kilometers. The bar is marked at 2, 4, 6, 8, 10, 12, and 14 km.

Ashburton District Council

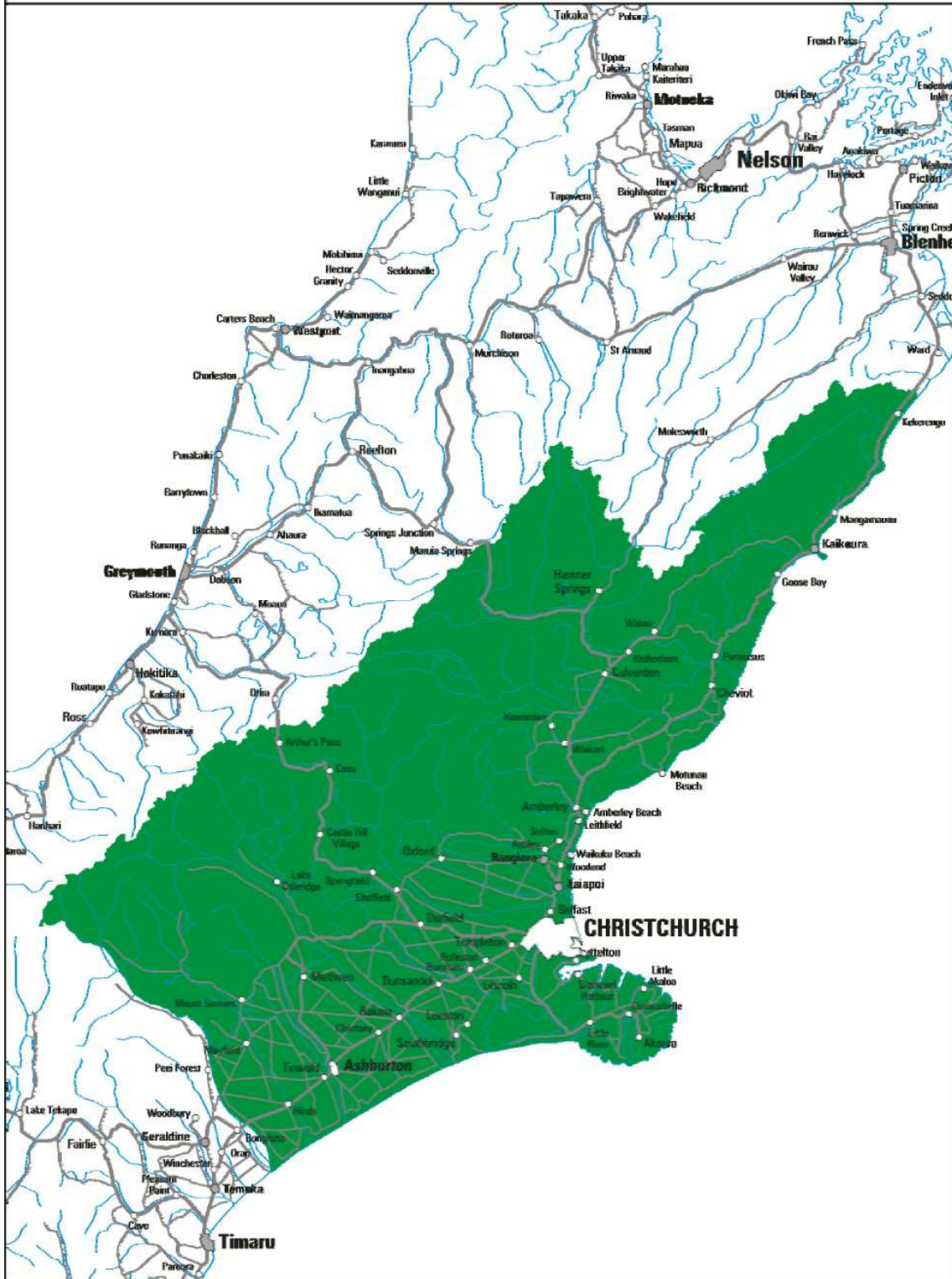
The logo of the Ashburton District Council, featuring a stylized landscape with a mountain, a river, and a sun.



# Methven Community Board Boundary



# CANTERBURY DISTRICT HEALTH BOARD



# 4

## BY-ELECTION TIMETABLE

Monday 9 January 2012	Advice of vacancy received by Electoral Officer
<b>Tuesday 17 January 2012</b>	<b>Nominations open</b> Roll open for inspection Public Notice of Election (First Public Notice of Election) Preliminary Electoral Roll Inspection, Nomination of Candidates, Closing Date
Tuesday 17 January 2012	Appointment of JP
<b>Tuesday 14 February 2012</b>	<b>Nominations close (12 noon)</b> Electoral Roll closes
Tuesday 21 February 2012	Public Notice of Election (Second Public Notice of Election)
Friday 9 March 2012	Electoral Officer certifies final Electoral Roll
<b>Tuesday 13 March 2012 to Thursday 15 March 2012</b>	<b>Delivery of Voting Papers</b>
Tuesday 13 March 2012 to Wednesday 4 April 2012	Voting Period Progressive Roll Scrutiny, Progressive Processing, Special Voting Period
<b>Wednesday 4 April 2012</b>	<b>By-Election Day</b> Voting closes at 12 noon Preliminary results available as soon as practical after close of voting
Thursday 5 April 2012	Public notice of Official Declaration of Election Results
by Wednesday 30 May 2012	Return of electoral expenses and donation forms

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# 5

## CANDIDATE QUALIFICATIONS AND DISQUALIFICATIONS

- A candidate for the District Council **must** be:
  - Enrolled on a parliamentary electoral roll somewhere in New Zealand; **and**
  - A New Zealand citizen (either by birth or citizenship ceremony) (Section 25 Local Electoral Act 2001)

- **Restrictions on a candidate for a District Council:**

- A candidate need not be an elector of the local authority for which he or she is standing. Any New Zealand citizen who is enrolled as a parliamentary elector may be elected to any territorial authority and community board and to any number or combination of territorial authorities or boards. However, an individual cannot be a candidate for more than one ward or constituency of the same authority, or a candidate for either a territorial authority or community board, as well as a regional council.

In the case of Ashburton District, this means:

- 1 A person **cannot** be a candidate for election as a District Councillor in more than one of the three wards.
- 2 A person **cannot** stand for the Canterbury Regional Council and also as a candidate for any of the following additional issues;

Mayor

Councillor

Community Board Member

(Sections 57A and 58 Local Electoral Act 2001)

- A candidate **cannot** be a person concerned or interested in contracts over \$25,000 with the territorial local authority (Section 3(1) Local Authorities (Members' Interests) Act 1968). This restriction is waived if prior approval from the Audit Office is obtained. (Please see page 52 for further information regarding disqualifying contracts, and the provisions of the Local Authorities (Members' Interests) Act 1968.
- An employee of a local authority who is elected to be a member of the local authority's governing body must resign from his or her position as an employee of the local authority before taking up his or her position as a member of the local authority. (Section 41(5) Local Government Act 2002)
- Therefore, a staff member can stand for election to the Council, but must resign if elected. However, staff members can be elected as community board members and still continue as staff members following their election to the board.

Under Section 3(1) of the Local Authorities (Members Interests) Act 1968, no person can be elected to a local authority if he/ she is concerned or interested in contracts over \$25,000 in any financial year with that local authority. This restriction is waived if prior approval from the office of the Controller and Auditor-General is obtained.

Under Section 41(5) of the Local Government Act 2002 an employee of a local authority elected to that local authority must resign as an employee of the local authority before taking office as member of the local authority

**A candidate for a Licensing Trust must be:**

- A residential elector of the Trust district ( Section 200 Sale of Liquor Act 1989 )
  - Restrictions on a candidate for a Licensing Trust –
    - a) A person who is not an elector of the trust district or, in the case of the election or appointment of any member for a ward of a divided trust district, is not an elector entitled to vote at elections of members for that ward.
    - b) (repealed by Schedule 3, Part 1 of the Local Electoral Act 2001)
    - c) A person who carries on the business of a brewer, wine or spirit merchant, maltster, or distiller, or of an importer for sale of or a dealer in fermented or spirituous liquors, or who is in partnership with any person carrying on any such business, or who is a member or employee or the husband or wife of a member or employee of an incorporated company that carries on any such business as a substantial part of its undertaking.
    - d) A person who is the owner of an estate in fee simple or any less estate in any licensed premises, or who is a member or employee or the husband or wife of a member or employee of an incorporated company that owns any such estate.
    - e) A person who is mentally disordered within the meaning of the Mental Health Act 1969.
    - f) A bankrupt who has not obtained an order of discharge, or whose order of discharge is suspended for a term not yet expired or is subject to conditions not yet fulfilled.
    - g) A person who is convicted of an offence punishable by imprisonment for a term of two years or more, unless (in the case of a person seeking election) that person has obtained a pardon or has served the sentence or otherwise suffered the sentence imposed on that person.
    - h) A person who is convicted of any offence punishable by imprisonment for a term of less than two years and is sentenced to imprisonment for that offence, unless (in the case of a person seeking election) that person has obtained a pardon or has served the sentence...”
- **A candidate for a District Health Board must be:**
- A parliamentary elector; and
  - A New Zealand citizen (either by birth or citizenship ceremony) or have been enrolled/qualified as an elector before 1982 (Section 25 Local Electoral Act 2001)

**Restrictions on a candidate for a District Health Board**

- A person cannot be a candidate for more than one district or more than one constituency.
- Clause 17, Schedule 2 (New Zealand Public Health & Disability Act 2000) states:

**Certain persons disqualified from membership**

*None of the following persons may be elected or appointed as a member of a board, or appointed as a member of a board committee, of a District Health Board:*

- (a) *a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, and who has not obtained a pardon, or served the sentence or otherwise suffered the penalty imposed:*
- (b) *a person who is subject to a sentence of imprisonment for an offence punishable by a term of imprisonment of less than 2 years:*
- (c) *a person who is subject to an order made under any of sections 10,11,12, and 30 of the Protection of Personal and Property Rights Act 1988, or whose property is managed by a trustee corporation under section 32 of the Act:*
- (d) *a person who is an undischarged bankrupt:*
- (e) *a person who has, since the date on which members of boards elected at the immediately preceding triennial general election came into office, been removed as a member of a board for any reason specified in clause 9(c) or (e) of Schedule 3:*
- (f) *a person who has failed to declare a material conflict of interest before accepting nomination as a candidate for an election of a District Health Board held in conjunction with the immediately preceding triennial general election.”*

# 6

## NOMINATIONS

- **Key Dates**

- Nominations open on Tuesday 17 January 2012
- Nominations close at noon, Tuesday 14 February 2012
- A public notice calling for nominations will appear in the Ashburton Guardian on Wednesday 11 January 2012 and The Courier on Tuesday 17 January 2012.

- **Availability of Nomination Papers**

- Each nomination must be made on the appropriate official Nomination Paper. Nomination Papers are available from 17 January 2012 at the District Council offices, 5 Baring Square West and Havelock Street, or by telephoning Phillipa Clark on 03 307 7774, John Rollinson on 03 307 7742, or Customer Services 307 7700.

- **Candidate Profile Statements**

- Every candidate may provide the electoral officer with a candidate profile statement with their nomination. This is a statement of up to 150 words containing information about the candidate and his or her policies and intentions if elected to office. The profile may include a recent passport size photograph. The candidate profile statement must be true and accurate. The electoral officer is not required to verify or investigate any information included in this statement.
- Candidate profile statements should be submitted in plain text, although they can be divided into separate paragraphs. However, candidates should not use other layouts involving the use of bullet-points, etc as these will need to be converted into plain text to ensure that each candidate's profile statement is accorded approximately the same amount of space in the candidate profile booklets sent out with the voting documents.
- Advice of each nomination and a copy of each candidate profile statement will be provided to local media upon receipt. In previous years the Ashburton Guardian has published nomination details in the next available issue.
- The candidate profile statement may be in English or Maori, (maximum 150 words in either language) or in any other language (not exceeding 150 words in total). Should all or part of a candidate profile statement be provided in a language other than English, it is required that this be provided in an electronic image in eps or jpg format.  
Translations in the required format can be provided by the following company (at the candidate's cost), for those candidates who are unable to prepare the translation image themselves or do not know of anyone else able to do this for them:

Pacific International Translations (NZ) Ltd  
PO Box 8567, Symonds Street, Auckland  
Phone: 09 9135290 Fax: 09 9135291  
Email: [info@pactrans.co.nz](mailto:info@pactrans.co.nz)  
Contact: Lynda Heimsath

- **Completion of Nomination Paper**

- Each Nomination Paper must have the consent of the candidate and be nominated by two electors whose names appear on the Electoral Roll for the district or subdivision of the Eastern Ward.
- If a candidate is commonly known in the community by a slightly different name (eg Edward Smith is commonly known as Ted Smith) and has been known by this name for at least the last six months (to the satisfaction of the Electoral Officer), the commonly known name may appear on the voting paper.

- **Affiliation**

- The Nomination Paper provides for a candidate to have an affiliation.

Individual candidates not part of a political party may wish to nominate their affiliation as “Independent” or leave as blank (if left blank, nothing will show alongside the name on the voting paper).

- A candidate requiring a specific party affiliation should have authority to adopt the affiliation from the party concerned (ie letter of consent to use affiliation from party). This is a safety measure to avoid any illegal adoption of party affiliations.
- No affiliation that might cause offence or is likely to confuse or mislead electors will be accepted.

- **Return of Nomination Paper**

Nomination Papers for the Ashburton District Council Eastern Ward issue must be lodged with the Electoral Officer at:

- Ashburton District Council administration office  
5 Baring Square West  
Ashburton

*in time to be received no later than 12 noon, Tuesday 14 February 2012.*

- Once lodged, Nomination Papers are checked to ensure the candidate's name appears on a Parliamentary Roll and the nominators are two electors whose names appear on the Electoral Roll for the district or subdivision of the Eastern Ward.
- Each Nomination Paper lodged, requires a deposit of \$200 (inclusive of GST). This is refunded if the candidate polls greater than 25% of the lowest successful candidate.
- Payment of the Nomination Deposit can be made by cash, bank cheque or personal cheque. However, should a personal cheque be dishonoured, the nomination becomes invalid as the deposit has not lawfully been made.

**Cheques for Eastern Ward nominations should be made payable to:**

**ASHBURTON DISTRICT COUNCIL**

- The lodgement of Nomination Papers and candidate profile statements should not be left to the last minute. Should a Nomination Paper be lodged late on the morning nominations close, and be incorrectly completed or ineligible nominators are provided, there may be insufficient time to correct the situation and the Nomination Paper could be invalidated.

*Please do not leave lodging your nomination to the last minute.*

- Nomination Papers, with the deposit and the candidate profile statement, can be returned by mail, but should the paper(s) be received by the Electoral Officer or Deputy Electoral Officer after the close of nominations, the nomination is invalid and will not be accepted.

- Election campaigning can commence any time and may continue up to and including election day.
- Election signs are permitted on private property but Council has a policy on signs adjacent to state highways and on Council road reserves (section 9 of this booklet).
- Election signs permitted adjacent to state highways and road reserves can be erected up to 6 weeks before election day (from 22 February 2012) and may continue to be displayed up to and including election day.
- Election offences are detailed for your information in this guide (section 16). Please refer to them for your own protection. No election material can contain any untrue statement defamatory of any candidate and calculated to influence the vote of any elector. No election material may contain an imitation voting paper which has the names of the candidates with any direction or indication as to the candidate a person should vote for, or in any way contains such direction or indication likely to influence the voter.
- Voting Papers are not permitted to be collected from electors by candidates or their assistants. Each elector is required to post or deliver his or her own voting paper to the Electoral Officer.
- **Advertisements to be Authorised in Writing by the Candidate or the Candidate's Agent**
  - Section 113(1) of the Local Electoral Act generally prohibits any person from publishing or permitting to be broadcast any advertisements procuring or promoting the election of a candidate at an election unless subsection (2) or subsection (4) applies. Subsection (2) allows such advertisements **if the publication is authorised in writing by the candidate or the candidate's agent and the advertisement contains a statement setting out the true name of the person for whom or at whose direction the advertisement was published and the address of his or her place of residence or business.** The intention of this provision is to allow the public to be aware from whom candidate advertising originates and make their own judgement about the credibility of the information and views expressed.
  - Subsection (4) authorises the publication of advertisements that are endorsed by an organisation or body representing residents or ratepayers in the community or district in which the advertisement is published. **Advertisements by residents or ratepayers' organisations need not be authorised by the candidate or candidate's agent provided:-**
    - **the true name and address of the person(s) that directed its publication;**
    - **and the true name of the organisation that endorsed the publication of the advertisement and its place of business, are stated in the advertisement.**
  - Subsection (5) makes it clear that this section does not restrict the publication of any news or comments relating to an election in any media.
  - Section 113 is included within the Part of the Act dealing with electoral expenses. The advertising to which it relates may take place at any time – not only during the three months prior to the election.
  - A breach of subsection (1) constitutes an offence under section 135 of the Act which is punishable by a fine of up to \$1,000.

# 8

## ELECTION EXPENSES

### □ Campaign Expenditure Limits

- Candidates should be aware that candidate campaign expenditure limits are applicable. This means a limit has been placed on how much a candidate may spend on his or her campaign, and this includes donations and joint campaigning. The maximum amount spent must not exceed the limits set out below where the election covers a population range as detailed:

Local Government Area Population	Expenditure Limit
up to 4,999	\$3,500
5,000 – 9,999	\$7,000
10,000 – 19,999	\$14,000
20,000 – 39,999	\$20,000
40,000 – 59,999	\$30,000
60,000 – 79,999	\$40,000
80,000 – 99,999	\$50,000
100,000 – 149,999	\$55,000
150,000 – 249,999	\$60,000
250,000 or more	\$70,000

(Note: Expenditure limits are inclusive of GST.)

- Therefore, the total electoral expenses (including GST) of each candidate must not exceed the following limits:

Candidates	Expenditure Limit
Mayoral candidates	\$20,000
Council candidates:	
Ashburton ward	\$14,000
<b>Eastern ward</b>	<b>\$7,000</b>
Western ward	\$3,500
Community Board candidates	
Methven Community Board	\$3,500
Canterbury District Health Board candidates	\$70,000
Ashburton Licensing Trust candidates	\$14,000

- The period for which campaign expenditure limits apply is 3 months before election day. However, the legislation further specifies that all expenses incurred before the 3 month period for campaign expenditure and used during the 3 month period, must be included in the return.

- Companies, organisations and individuals providing services to candidates for the election must claim their costs within 30 days of the declaration of results. Electoral expenses must be paid within 60 days of the declaration of results.

□ **Filing of Electoral Expenses and Electoral Donation Return Forms**

- Every candidate must file an electoral expenses and donations return form with the electoral officer within 55 days of the day on which the successful candidates are declared to be elected. For those candidates elected unopposed this will be 55 days from the day of the electoral officer's public notice under Section 63 of the Act. For those candidates contesting the election this will be 55 days after the day of the public notice of the official result. For candidates out of New Zealand at the time they are declared elected, the return must be filled within 21 days of their return to New Zealand. Section 59 Election deposits cannot be returned until the completed return form has been lodged with the Electoral Officer.
- The Return of Electoral Expenses and Electoral Donations form once returned becomes a public document and can be inspected by any person for a period of 7 years after the date of the election.

□ **Apportionment of Electoral Expenses**

- Section 112 of the Act governs the apportionment of a candidate's election expenses prior to and during the three month period ending on polling day (ie the applicable period).
- Potentially, how candidates apportion their electoral expenses could become a public issue given that the election expenses return is open for public inspection. Also, the filing of a false return is an offence under Section 134 of the Act. Furthermore, under Section 138, where the electoral officer believes that an electoral expenses offence may have been committed, the matter must be reported to the police. An exception of s138 is the failure to file a return provided that it is filed promptly when requested by the electoral officer. Accordingly, it is important for candidates to clearly understand the requirements relating to the apportionment of their election expenses.
- Electoral activity, in respect of which electoral expenses may be incurred, is defined in Section 104 as an activity:
  - (a) *that is carried out by the candidate or with the candidate's authority; and*
  - (b) *that relates to the candidate solely in the candidate's capacity as a candidate and not to the candidate –*
    - (i) *in his or her capacity as a member of the local authority or community board, or as the holder of any other office; or*
    - (ii) *in any other capacity; and*
  - (c) *that comprises –*
    - (i) *advertising of any kind; or*
    - (ii) *radio or television broadcasting; or*
    - (iii) *publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards, etc.*
    - (iv) *any electronic communication to the public, including (without limitation) the establishment or operation of a website or other method of communication to the public using the Internet; and*
  - (d) *that relates exclusively to the campaign for the election of the candidate; and*
  - (e) *that takes place within the applicable period before the close of polling day.*

- Electoral expenses is also defined in Section 104, and in relation to a candidate at an election:
  - (a) *means expenses that are incurred by or on behalf of the candidate in respect of an electoral activity; and*
  - (b) *includes expenses that are incurred by or on behalf of the candidate, before, or after the applicable period before the close of polling day, in respect of any electoral activity; and*
  - (c) *includes the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and*
  - (d) *includes the cost of any printing or postage in respect of any electoral activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the candidate; but*
  - (e) *does not include the expenses of operating a vehicle on which election advertising appears if that vehicle is used in good faith by the candidate as the candidate's personal means of transport; and*
  - (f) *does not include expenses incurred by the candidate in preparing a candidate profile statement; and*
  - (g) *does not include the labour of any person that is provided to the candidate free of charge by that person.*
  
- Electoral expenses are defined in s104 of the Act as specifically relating to electoral activity, which is also defined as (amongst other things) relating exclusively to the campaign for the election of the candidate. The definition of electoral activity neither includes nor excludes nomination deposits. However, it does exclude such things as the preparation of candidate profile statements, certain vehicle costs and donated labour. The inference is that these costs do not relate exclusively to the campaign for the election of a candidate and therefore, may be excluded. The nomination deposit is also not exclusively related to the election campaign and similarly should also be excluded. It is also noted that in the majority of cases the deposit is refunded so that any effect on costs is neutral.
  
- The definition of electoral expenses is important. It specifically includes expenses that are incurred by or on behalf of the candidate **before or after** the applicable period before the close of polling day in respect of any electoral activity. Likewise, Section 112 provides that for any electoral activity, in relation to a candidate at an election, which is carried on “both before and within” the applicable period before close of polling day:
  - “(a) *the expenses incurred in respect of the activity (being expenses incurred by or on behalf of the candidate) must be properly apportioned so that a fair proportion of those expenses is attributed to the carrying on of the activity in the applicable period before the close of polling day; and*
  - (b) *the fair proportion of these expenses are electoral expenses.*”
  
- It is recommended that candidates apportion their electoral expenses on the following basis:
  - (a) where an election activity is carried on both before and within the “applicable period” then its costs must be apportioned in terms of Section 112. An example could be the costs associated with the development, preparation and production of hoardings or a website, before the three months prior to polling day, but which will be used throughout the applicable period (ie. three months leading up to polling day). A fair proportion of these pre applicable period costs would contribute towards the expenditure limits applicable to the candidate.
  - (b) where an election activity is carried on before the three months prior to polling day and is finite or completed, then it would not need to be accounted for against the expenditure limit. An example could be the costs for developing and placing an advertisement in the media prior to the three months prior to polling day, which is not sued again through the “applicable period”.

**Returns Available for Public Inspection**

- Section 110 of the Act provides that the electoral officer shall keep all electoral expense returns for seven years, during which period the returns must be open for public inspection and thereafter destroyed.

- The intention of Section 110 is that members of the public (including the media) have the right to satisfy themselves that candidates have not breached the campaign expenditure provisions of the Act.

□ **Electoral Offences Relating to Expenses Returns**

- The Local Electoral Act contains several provisions dealing with electoral offences related to candidates' expenses returns.
- The maximum penalties contained in the Act are quite large and include possible imprisonment for a term not exceeding two years and a \$10,000 fine for filing a return knowing it is false in any material particular.

□ **Duty to Take Action in Respect of Offences relating to Expenses Returns**

- Section 138 of the Act is a general offence provision which also applies to electoral expense returns. If an electoral officer receives a written complaint or otherwise believes that an offence relating to a candidate expense return has been committed, the electoral officer must report that matter to the Police together with the result of any enquiries conducted by the electoral officer.
- However, section 138(3) provides that an electoral officer is not required to report the failure to file a return if the candidate files that return promptly after being required to do so by the electoral officer.
- The full provisions of the Local Electoral Act 2001 relating to electoral expenses are set out below:

***104 Interpretation:***

*In this Part, -*

***applicable period before the close of polling day*** means the period beginning 3 months before the close of polling day and ending with the close of polling day

***electoral activity, in relation to a candidate at an election, means an activity –***

- (a) *that is carried out by the candidate or with the candidate's authority; and*
- (b) *that relates to the candidate solely in the candidate's capacity as a candidate and not to the candidate –*
  - (i) *in his or her capacity as a member of the local authority or community board, or as the holder of any other office; or*
  - (ii) *in any other capacity; and*
- (c) *that comprises –*
  - (i) *advertising of any kind; or*
  - (ii) *radio or television broadcasting; or*
  - (iii) *publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; or*
  - (iv) *any electronic communication to the public, including (without limitation) the establishment or operation of a website or other method of communication to the public using the Internet; and*
- (d) *that relates exclusively to the campaign for the return of the candidate; and*
- (e) *that takes place within the applicable period before the close of polling day*

***electoral donation, in relation to a candidate at an election, -***

- (a) *means a donation (whether of money or the equivalent of money or of goods or services or of a combination of those things) of a sum or value of more than \$1,000 (such amount being inclusive of any goods and services tax and of a series of donations made by or on behalf of any one person*

- that aggregate more than \$1,000) made to the candidate, or to any person on the candidate's behalf, for use by or on behalf of the candidate in the campaign for his or her election; and
- (b) includes, if goods or services are provided to the candidate, or to any person on the candidate's behalf, under a contract at 90% or less of their reasonable market value, the amount of the difference between the contractual price of the goods or services and the reasonable market value of those goods or services; but
  - (c) does not include the labour of any person that is provided to the candidate free of charge by that person.

**electoral expenses**, in relation of a candidate at an election, -

- (a) means expenses that are incurred by or on behalf of the candidate in respect of any electoral activity; and
- (b) includes expenses that are incurred by or on behalf of the candidate, before or after the applicable period before the close of polling day, in respect of any electoral activity; and
- (c) includes the reasonable market value of any materials applied in respect of any electoral activity that are given to the candidate or that are provided to the candidate free of charge or below reasonable market value; and
- (d) includes the cost of any printing or postage in respect of any electoral activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the candidate; but
- (e) does not include the expenses of operating a vehicle on which election advertising appears if that vehicle is used in good faith by the candidate as the candidate's personal means of transport; and
- (f) does not include expenses incurred by the candidate in preparing a candidate profile statement; and
- (g) does not include the labour of any person that is provided to the candidate free of charge by that person.

**Population** means the population, as at the day that is 3 months before the close of polling day, of a local government area as specified in a certificate issued in respect of that area by the Government Statistician.

#### **105 Period of claiming and paying expenses**

- (1) No claim against a candidate, or against any agent of a candidate, in respect of any electoral expenses is recoverable unless it is sent to the candidate within 30 days after the day on which the successful candidates are declared to be elected.
- (2) All electoral expenses incurred by or on behalf of a candidate must be paid within 60 days after the day on which the successful candidates are declared to be elected.

#### **106 Procedure if claim disputed**

- (1) If a candidate, in the case of a claim for electoral expenses sent in to him or her within the time allowed by this Act, disputes it, or fails to pay it within 60 days, -
  - (a) the claim is a disputed claim; and
  - (b) the claimant may, if he or she thinks fit, within a further 30 days, bring an action for the disputed claim in any court of competent jurisdiction.
- (2) Any sum paid by the candidate to satisfy the judgment or order the Court in any action referred to in **subsection (1)** is to be treated as paid within the time allowed by this Act.

#### **107 Leave to pay claim after time limited**

- (1) A District Court may, on the application of the claimant or the candidate, grant leave to the candidate to pay a disputed claim, or to pay a claim for any electoral expenses, even though it is sent in after the time allowed by this Act, if the Court considers it in the interests of justice to grant that leave.
- (2) Any sum specified in the order granting that leave may be paid by the candidate, and when paid, is to be treated as paid within the time allowed by this Act.

### **108 Payments to be vouched by bill**

Every payment made in respect of any electoral expenses must, except when it is less than \$200 (inclusive of goods and services tax), be vouched by-

- (a) a bill stating the particulars; and
- (b) a receipt

### **109 Return of electoral expenses**

- (1) Within 55 days after the day on which the successful candidates at any election are declared to be elected, every candidate at the election must transmit to the Electoral Officer a return setting out-
  - (a) the candidate's electoral expenses; and
  - (b) the name and address of each person who made an electoral donation to the candidate and the amount of each electoral donation; and
  - (c) if an electoral donation of money or of the equivalent of money is made to the candidate anonymously and the amount of that donation exceeds \$1000,-
    - (i) the amount of that donation; and
    - (ii) the fact that it has been received anonymously.

**(NB anonymous, in relation to an electoral donation, means a donation that is made in such a way that the candidate concerned does not know who made the donation.)**

- (2) Every return under subsection (1) must be in the form prescribed in Schedule 2 or to similar effect.
- (3) If the candidate is outside New Zealand on the day on which the successful candidates are declared to be elected, the return must be transmitted by the candidate to the Electoral Officer within 21 days after the date of the candidate's return to New Zealand.
- (4) It is the duty of every Electoral Officer to ensure that this section is complied with.

### **110 Return to be open for public inspection**

The electoral officer must keep every return under **section 109** in the electoral officer's office, or at some other convenient place to be appointed by the chief executive of the local authority, for a period of 7 years after the date of the election to which it relates, and-

- (a) during that period the return must be open to inspection by any person; and
- (b) at the expiry of that period the electoral officer must ensure that the return is destroyed.

### **111 Maximum amount of electoral expenses (refer to section 9 in this booklet)**

### **112 Apportionment of electoral expenses**

- (1) If any activity of the kind described in paragraphs (a) to (d) of the definition of the term **electoral activity** (as set out in section 104) is, in relation to a candidate at an election, carried on both before and within the applicable period before the close of polling day.-
  - (a) the expenses incurred in respect of the activity (being expenses incurred by or on behalf of the candidate) must be properly apportioned so that a fair proportion of those expenses is attributed to the carrying on of the activity in the applicable period before the close of polling day; and
  - (b) the fair proportion of those expenses are electoral expenses.
- (2) If any election activity relates exclusively to campaigns for the election of 2 or more candidates, any electoral expenses in respect of that electoral activity must be apportioned equitably in relation to each of those candidates.

### **114 Use of public money**

Sections 111 and 112 do not validate any use of public money that would otherwise be unlawful.

For offence provisions relating to candidate expenditure limits, (sections 132-136 Local Electoral Act 2001) refer section 18 of this booklet.

## **Schedule of Population**

Estimated resident population for wards within the Ashburton District as at 30 June 2010. Owing to rounding, individual figures may not sum to give the stated total.

Statistics New Zealand of resident population estimates follows.

□ **Estimated Resident Population of Ashburton District**

*Wards*  
At 30 June 2010

Ward <sup>(1)</sup>	At 30 June 2010
Ashburton Ward	16,600
Eastern Ward	7,750
Western Ward	4,760
<b>Ashburton District</b>	<b>29,110</b>

*Source: Statistics New Zealand*

(1) Boundaries as determined by the Local Government Commission in April 2007.

**Note:** Individual figures may not sum to stated totals due to rounding.

Population Statistics  
Statistics New Zealand  
Christchurch

# 9

## COUNCIL POLICY ON ELECTION HOARDINGS

- This year, as in previous election years, this Council is concerned to ensure that all candidates are treated equally and to avoid the situation where signs and posters proliferate and are fixed to trees, posts and other public property. In the past these practices have resulted in damage to property and considerable public expense in removing this material.
- Council does not normally encourage signs in public places or permit them to be erected on Council property. Dispensation from usual provisions during the Election Campaign period is granted to the extent detailed below:
- Signs not being erected more than three months before polling day.
- Signs may be erected on private land throughout the District with the consent of the land owner.
- Signs are not to be erected where they may constitute a traffic hazard, for example, obstructing vision at an intersection.
- Additionally it has been agreed to authorise erection of not more than one sign for each candidate on public land, at either end of Ashburton. These signs may be erected one in the vicinity of the Information Kiosk, opposite the Racecourse, and on the town side of the 50 km/h speed restriction sign, and one on reserve land in Tinwald, adjacent to, but not obstructing, the “Welcome to Ashburton” sign.
- The signs on the public land mentioned above are to be located not closer than 5 metres from the edge of the road formation and are not to exceed 2.4 metres x 1.2 metres in area or 4 metres in height. Supporting posts must not have a greater diameter than 100 mm. Wording should be kept to a minimum.
- The provisions detailed above do not apply to other road berms within the District and in particular do not apply to highways subject to the control of Transit New Zealand who do not normally permit signs on road berms.
- These concessions are available to all candidates and we hope that common sense would prevail and that signs will not be erected so as to visually obstruct each other.
- With respect to the use of caravans for campaigning, these may be sited on the “Green” side of East Street, between Moore Street and Burnett Street, provided that a list of times and dates are provided to this office. The door of any caravan used for campaigning must face the footpath side for obvious safety reasons.
- On the occasions you may wish to use these parking spaces, meter hoods are available from the counter at the Council’s Administration Building, 5 Baring Square West, Ashburton. The charge for these covers is \$10.20 per hood / per day.

# 10

## ELECTORAL ROLLS

- A copy of the Preliminary Electoral Roll for the Eastern Ward of the Ashburton District will be available for public inspection from Tuesday 17 January 2012 to 4pm on Tuesday 14 February 2012 at the following locations:
  - Ashburton District Council administration office
  - Ashburton public library
  - Hinds On the Spot Store, Peters Street, Hinds
  - Rakaia Mobil, SH1, 50 Bridge Street, Rakaia

- The Preliminary Electoral Roll is in one volume.

The Resident Roll is located in the front of each book and the Ratepayer Roll is located in the rear of each book.

- Those eligible to vote are:
  - all residents enrolled on the Parliamentary Electoral Roll;
  - all non-resident ratepayers enrolled on to the Ratepayer Electoral Roll.
- Persons are qualified to be enrolled on the Parliamentary Electoral Roll if they:
  - are a New Zealand citizen or a permanent resident of New Zealand; and
  - are 18 years of age or over; and
  - have at some time resided continuously in New Zealand for one year or longer; and
  - are not disqualified under the Electoral Act 1993.
- Any changes required or omissions found to the Resident Roll, should be made through:
  - (i) any Post Shop or
  - (ii) by telephoning 0800 ENROLNOW (0800 367656) or
  - (iii) by accessing the Electoral Enrolment Centre website on [www.elections.org.nz](http://www.elections.org.nz).

Any changes required or omissions found to the Ratepayer Roll, should be made through the Electoral Office.

- The Final Electoral Roll is produced once the Preliminary Electoral Roll closes on 14 February 2012. The Final Electoral Roll is the Roll used for issuing voting papers. Copies of this Roll will also be available for inspection at the above venues after 21 February 2012.
- Details appearing in the Electoral Rolls are electors' names (surname, then first names) listed alphabetically. The qualifying address of the elector is shown alongside.

## Voting Period

Voting documents will be sent to all eligible electors by post from Tuesday 13 March 2012.

Voting extends over a period of three weeks leading up to and closing at noon on election date. Electors may post their completed voting documents back to the Electoral Officer using a pre-paid envelope which will be sent with the voting documents.

To be counted, all completed voting documents must be in the hands of the Electoral Officer or Deputy Electoral Officer by noon on Wednesday 4 April 2012.

## Special Voting

- Special Votes are available to electors:
  - whose names do not appear on the Final Electoral Roll, but who qualify as electors
  - who did not receive a voting paper previously posted to them
  - who spoil or damage a voting paper previously posted to them
- Special Votes will be available from Tuesday 13 March 2012 to noon, Wednesday 4 April 2012 at:
  - Ashburton District Council administration office  
5 Baring Square West  
Ashburton
- Special Votes can be posted directly out to electors. The completed voting paper however, must be in the hands of the Electoral Officer or a Deputy Electoral Officer by noon on election day.
- Special Votes require the completion of a statutory declaration. This is a legal requirement and a protection for electors against possible duplicate voting.
- If an elector requests a Special Vote and is not on the Parliamentary Roll (eg just turned 18 years of age), the person must enrol by Tuesday 3 April 2012. An application for registration as a Parliamentary elector may be obtained:
  - (i) from any Post Shop or
  - (ii) by telephoning 0800 ENROLNOW (0800 367656)
  - (iii) by accessing the Electoral Enrolment Centre website on [www.elections.org.nz](http://www.elections.org.nz).

After voting closes, Special Vote Declarations are forwarded to Registrars of Electors for verification that the elector is eligible and has enrolled as a Parliamentary elector.

- Special Votes **cannot** be collected by candidates or their assistants for distribution to electors.

# 12

## EARLY PROCESSING OF RETURNED VOTING PAPERS

- Returned voting papers are able to be opened and processed during all or part of the voting period before the close of voting.
- The early processing of voting papers involves the following functions:
  - opening of envelopes
  - extracting of voting papers
  - checking for informal or duplicate votes
  - electronic capture of valid votes
- No tallying of votes is undertaken until after the close of voting (12 noon, Wednesday 4 April 2012).
- The early processing functions are undertaken with strict security measures. One or more Justices of the Peace observe all early processing functions, and sign a statement at the end of the processing that all functions were undertaken correctly and conformed with the strict legal requirements.
- Candidate scrutineers are not permitted to observe the early processing functions.

- Candidates may appoint scrutineers to oversee various functions of the election. These functions are:
  - the scrutiny of the roll
  - the preliminary count
  - the official count
- Each candidate may appoint one or more scrutineers for each of the above functions, ***but only one scrutineer for each candidate may be present at any one time.***

A scrutineer cannot be:

- a candidate;
  - a member or employee of any local authority or community board for an election being conducted;
  - under 18 years old
- Each scrutineer must be appointed by a candidate, such appointment to be in writing to the Electoral Officer. (Appendix B).
  - For a person to be appointed a scrutineer, the letter of appointment must be received by the Electoral Officer no later than 12 noon on Tuesday 3 April 2012. (Section 68, Local Electoral Act 2001).
  - Each appointed scrutineer must report initially to the Electoral Officer, or Deputy Electoral Officer, where a declaration pledging not to disclose any information coming to his or her knowledge, will need to be signed and a name tag issued. When departing the premises, scrutineers are to return their name tag to the Electoral Office.
  - Any scrutineer may leave or re-enter the place where election functions are being conducted, **but it is an offence** (and liable to a fine) to:
    - make known for what candidate any voter has voted;
    - make known the state of the election, or give or pretend to give any information by which the state of the election may be known, before the close of voting
  - The scrutiny of the roll will be undertaken on the first floor of the District Council offices during normal office hours between Tuesday 13 March 2012 and noon, Wednesday 4 April 2012.
  - The preliminary count of votes will commence once voting closes at 12 noon on Wednesday 4 April 2012, and this will occur at the District Council complex.
  - The official count of votes will commence once the preliminary count is concluded and the official declaration will be made on Thursday 5 April 2012. The official count will occur at the District Council complex.
  - The role of scrutineers is to ensure that election procedures are undertaken correctly and that the count of votes is done fairly and reasonably. **It is not a means to obtain progress on how candidates or issues are polling.**

- During the preliminary and official counts, scrutineers must not talk to any staff member and should not distract, annoy, or linger close by or talk loudly to one another so as to disrupt or upset any staff member. All communication should be through the Electoral Officer or Deputy Electoral Officer.
- No refreshments or meals will be provided to scrutineers. Scrutineers are reminded to make their own provision for refreshments.
- Mobile phones are prohibited from within the secure area where the count will take place.



# 14

## PRELIMINARY RESULTS

- The Preliminary Count will take place from 12 noon, Wednesday 4 April 2012 at the District Council offices.
- As soon as practicable following the completion of the preliminary count, preliminary results will be available from the:
  - Ground Floor, Administration Building
  - Ashburton District Council Offices
  - 5 Baring Square West
  - Ashburton
- Candidates for the Eastern Ward issue will be contacted by telephone as soon as possible after 12 noon on Election Day.
- The media will be notified as soon as results are available.
- **Barring incident, it is likely that results will be available by 1 pm.**

# 15

## COMMUNITY BOARD MEMBERSHIP

Relevant legislation relating to membership of Community Boards are Sections 19F - 19G of the Local Electoral Act 2001.

- Each Community Board must consist of between 4 and 12 members; and must include at least 4 elected members; and may include, as appointed members, up to half the number of elected members. [Section 19F (1) & (2)]
- Appointed members to a Community Board must be appointed by Council from the elected Councillors representing the ward in which the Community is situated. [Section 19F (3)]
- A person elected as a Councillor and a Community Board Member within the same ward may resign as an elected member if that person wishes to be appointed to the Community Board.
- If an elected Community Board member resigns to become an appointed member. The appointment does not take effect unless the resignation as a Community Board member occurs no later than the day after the appointment was made.
- If the resignation creates a vacancy on the Community Board then the vacancy is to be filled by the highest polling unelected candidate at the election just held, and an amended declaration declaring the unelected candidate to be elected is to be made by the Electoral Officer. If there is no highest polling unsuccessful candidate, in this instance, an extra ordinary vacancy occurs and a new by-election is required.
- If a person is elected as a Councillor and a Community Board Member (the community being different to the Ward), that person is considered an elected member to both.
- In Methven, 5 members are elected to the Community Board. The District Council may also appoint up to 2 more members, but those appointed must be elected Councillors representing the ward the Community is situated in.

# 16

## ELECTION OFFENCES

Electoral officers have a duty, under the Local Electoral Act, to report offences to the police (except failure to file a return of electoral expenses under s109 as set out in s138(2)). This applies to the receipt of any written complaint that an offence, under the Act, has been committed or where the electoral officer becomes aware for any other reason that an offence may have been committed.

The following table summarises the offence provisions of the Local Electoral Act. This is a general summary only and is intended to give a broad idea of the types of offences.

The full provisions of the Act relating to election offences are set out on pages 34 to 38.

Summary of Offences Relating to Elections and Polls				
Item	Offence		Maximum Penalty	Ref.
	Type	Description		
1	Illegal nomination	<ul style="list-style-type: none"> <li>Nominated as candidate while incapable</li> <li>Nominating candidate who is incapable</li> <li>Nominator not qualified</li> </ul>	\$2,000	s121 LEA
2	Interfering with or influencing voters	<ul style="list-style-type: none"> <li>Interfering with voters</li> <li>Imitation voting document</li> <li>Unauthorised instructions to voter(s)</li> </ul>	\$5,000	s122 LEA
3	Official documents	<ul style="list-style-type: none"> <li>Intentional alteration to voting or other official document</li> <li>Forged document(s) or marks</li> <li>Unauthorised supply of voting document</li> <li>Unauthorised possession of voting document</li> <li>International interference with ballot box or box/parcel of voting documents</li> </ul>	Electoral officer of electoral official – 2 years imprisonment  Other person – 6 months imprisonment	s123 LEA
4	Voting	<ul style="list-style-type: none"> <li>More than once at same s124 election or poll LEA</li> <li>Interference with vote already cast</li> </ul>	2 years imprisonment	s124 LEA
5	Bribery	Influencing behaviour to vote or refrain from voting by offering: <ul style="list-style-type: none"> <li>Money or valuable consideration</li> <li>Employment or office</li> <li>Gifts, loans, promises, agreements</li> </ul>	2 years imprisonment	s125 LEA
6	Treating	Offering and/or accepting food, drink, entertainment or provision	2 years imprisonment	s126 LEA
7	Undue Influence	Use or threaten: <ul style="list-style-type: none"> <li>Force</li> <li>Violence</li> <li>Restraint</li> </ul> Abduction, duress or fraudulence	2 years imprisonment	s127 LEA
8	Personation	<ul style="list-style-type: none"> <li>Vote in the name of another person</li> <li>Multiple voting at the same election or poll</li> </ul>	2 years imprisonment	s128 LEA
9	Infringement of Secrecy	Failing to maintain secrecy	6 months imprisonment	s129 LEA

Summary of Offences Relating to Elections and Polls				
Item	Offence		Maximum Penalty	Ref.
	Type	Description		
10	Disclosing voting or state of election of poll	Unauthorised disclosure of information by official, JP or scrutineer	Electoral officer or deputy electoral officer - \$5,000 Other person - \$2,000	s130 LEA
11	Contravention of LEA or LER by official	Intentional or reckless act of commission or omission	\$2,000	s131 LEA
12	Claiming and Paying Expenses	Breaches of s105 LEA	\$5,000	s132 LEA
13	Return of Electoral Expenses	<ul style="list-style-type: none"> <li>• Failure by candidate to transmit return</li> <li>• False return</li> </ul>	\$1,000 + If elected - \$400 per day until compliance 2 years imprisonment or \$10,000	s133 LEA  s134 LEA
14	Unauthorised advertising	Contravention of advertising prohibition in s113(1) LEA	\$1,000	s135 LEA
15	Excessive expenditure	Exceeding prescribed maximum amount	Intentionally – 2 years imprisonment or \$10,000 Other circumstances - \$5,000	s136 LEA

## Local Electoral Act 2001

### 121 *Illegal nomination, etc*

Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, who-

- (a) consents to being- nominated as a candidate for an elective office, knowing that he or she is incapable under any Act of holding that office; or
- (b) signs a nomination paper purporting, to nominate as a candidate a person who is, to the knowledge of the person signing, incapable under any Act of holding that office; or
- (c) signs a nomination paper purporting to nominate another person as a candidate knowing that he or she is not qualified to vote at the election of the person named in the nomination paper as the candidate.

### 122 *Interfering with or influencing voters*

(1) Every person commits an offence, and is liable on summary conviction to a fine not exceeding \$5,000, who-

- (a) interferes in any way with any person who is about to vote with the intention of influencing or advising that person as to how he or she should vote;
- (b) prints, publishes, distributes, or delivers to any person (using any medium or means of communication) a document, paper, notice, or message, being or purporting to be in imitation of any voting document to be used at the election or poll that,
  - (i) in the case of an election, includes the name of a candidate or candidates, together with any direction or indication as to the candidate or candidates for whom any person should vote;
  - (ii) in the case of a poll, includes a statement or indication as to how any person should vote;
  - (iii) in any way contains or suggests any such direction or indication or other matter likely to influence how any person votes;
- (c) prints, publishes, or distributes any instruction on the method of marking the voting document that differs in any material way from the instructions required by this Act or any regulations made under this Act to accompany the voting document.

(2) Despite **subsection (1)(b)**, it is not an offence under that subsection to print, publish, distribute, or deliver a card or leaflet (not being an imitation voting document) on which is printed-

- (a) the names of all or any of the candidates and the elective offices for which they are candidates (with or without the name of the organisations or groups to which those candidates are affiliated, and including those who are independent); and
- (b) nothing else.

(3) Nothing in this section applies to-

- (a) any official statement or announcement made or exhibited under the authority of this Act or regulations made under this Act; or
- (b) any candidate profile statement, published, displayed or distributed under the authority of this Act or regulations made under this Act.

### 123 *Offences in respect of official documents*

(1) Every person commits an offence who-

- (a) intentionally removes, obliterates, or alters any official mark or official writing on any voting document. or other official document used at an election or poll;
- (b) intentionally places any mark or writing that might be mistaken for an official mark or official writing on any voting document, or other official document used at an election or poll;
- (c) forges, counterfeits, fraudulently marks, defaces, or fraudulently destroys any voting document, or other official document used at an election or poll, or the official mark on that document;
- (d) supplies, without authority, a voting document to any person;
- (e) obtains or has possession of any voting document, other than one issued to that person under this Act or any regulations made under this Act for the purpose of recording his or her vote, without authority;
- (f) intentionally destroys, opens. or otherwise interferes with any ballot box or box or parcel of voting documents without authority.

- (2) Every person who commits an offence against **subsection (1)** is liable on conviction on indictment,-
- (a) in the case of an electoral officer or other electoral official, to imprisonment for a term not exceeding 2 years;
  - (b) in the case of any other person, to imprisonment for a term not exceeding 6 months.

#### **124 Voting offences**

Every person commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years, who-

- (a) votes or applies to vote more than once at the same election or poll; or
- (b) without authority removes, deletes, or otherwise interferes with any voting document, or other record of a vote that has been cast.

#### **125 Bribery**

(1) Every person commits the offence of bribery who, directly or indirectly, on that person's own or by another person,-

- (a) gives, lends, agrees to give or lend, offers, promises, or promises to obtain any money or valuable consideration to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce any elector to vote or refrain from voting; or
- (b) gives or obtains, agrees to give or obtain, offers, promises, or promises to obtain or to try to obtain any office or place of employment to or for any elector, or to or for any person on behalf of any elector, or to or for any other person, in order to induce the elector to vote or refrain from voting; or
- (c) corruptly does any act referred to in **paragraph (a)** or **paragraph (b)** on account of an elector having voted or refrained from voting; or
- (d) makes any gift, loan, offer, promise, or agreement referred to in **paragraph (a)** or **paragraph (b)** for, or with, any person in order to induce that person to obtain or try to obtain the election of any person or the vote of any elector, or
- (e) upon or as a consequence of any gift, loan, offer, promise, or agreement referred to in **paragraph (a)** or **paragraph (b)** obtains, or tries to obtain, the election of any person or the vote of any elector; or
- (f) advances or pays, or causes to be paid, any money to or for the use of any other person, intending that that money or any part of it will be used for bribery at any election or poll; or
- (g) knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or partly used for bribery at any election or poll.

(2) An elector commits the offence of bribery if-

- (a) before or during the voting period at the election or poll, he or she, directly or indirectly, on his or her own or by another person, receives, or agrees or contracts for, any money, gift, loan, or valuable consideration, office, place, or employment for himself or herself or for any other person for voting or agreeing, to refrain from voting-;
- (b) after the voting period at the election or poll, he or she directly or indirectly, on his or her own or by another person, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(3) Every person who commits bribery is liable on conviction on indictment to imprisonment for a term not exceeding 2 years.

#### **126 Treating**

(1) Every person commits the offence of treating who corruptly before, during, or after an election or poll, and directly or indirectly, on that person's own or by another person, gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, entertainment, or provision to or for any person

- (a) for the purpose of influencing, that person or any other person to vote or refrain from voting-;
- (b) for the purpose of obtaining- his or her election; or

(c) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(2) Every holder of a licence under the Sale of Liquor Act 1989 commits the offence of treating who knowingly supplies any food, drink, entertainment, or provision-

- (a) to any person, if the supply is demanded for 1 or more of the purposes specified in **subsection (1)**; or
- (b) to any person, whether an elector or not, for the purpose of obtaining the election of a candidate or affecting the result of a poll, and without receiving payment for it at the time when it is supplied.

- (3) *Every elector who corruptly accepts or takes any such food, drink, entertainment, or provision also commits the offence of treating-*
- (4) *Despite subsections (1) to (3), the provision of light refreshments after any meeting relating to an election or poll does not constitute the offence of treating.*
- (5) *Every person who commits the offence of treating is liable on conviction or indictment to imprisonment for a term not exceeding 2 years.*

**127 Undue influence**

- (1) *Every person commits the offence of undue influence-*
  - (a) *who, directly or indirectly, on that person's own or by another person, makes use of or threatens to make use of any force, violence, or restraint against any person-*
    - (i) *in order to induce or compel that person to vote or refrain from voting:*
    - (ii) *on account of that person having voted or refrained from voting:*
  - (b) *who, by abduction, duress, or any fraudulent device or means,-*
    - (i) *impedes or prevents the free exercise of the vote of any elector:*
    - (ii) *compels, induces, or prevails upon any elector either to vote or to refrain from voting.*
- (2) *Every person who commits the offence of undue influence is liable on conviction on indictment to imprisonment for a term not exceeding 2 years.*

**128 Personation**

- (1) *Every person commits the offence of personation who, at any election or poll,-*
  - (a) *votes in the name of some other person (whether living or dead), or of a fictitious person:*
  - (b) *having voted, votes again at the same election or poll:*
  - (c) *having returned a voting document, applies for or returns another voting document with the intention of returning an additional valid voting document or invalidating a vote already cast at the same election or poll (whether or not any voting document he or she returns is valid).*
- (2) *Every person who commits the offence of personation is liable on conviction on indictment to imprisonment for a term not exceeding 2 years.*

**129 Infringement of secrecy**

- (1) *Every electoral officer, deputy electoral officer, and other electoral official-*
  - (a) *must maintain and assist in maintaining the secrecy of the voting; and*
  - (b) *must not communicate to any person, except for a purpose authorised by law, any information likely to compromise the secrecy of the voting.*
- (2) *No person, except as provided by this Act or regulations made under this Act, may-*
  - (a) *interfere with or attempt to interfere with a voter when marking, or recording his or her vote-, or*
  - (b) *attempt to obtain, in the building, or other place where the voter has marked or recorded his or her vote and immediately before or after that vote has been marked or recorded, any information as to any candidate for whom or the proposal for or against which the voter is about to vote or has voted;*  
*or*
  - (c) *communicate at any time to any person any information obtained in the building or other place where the voter has marked or recorded his or her vote and immediately before or after that vote has been marked or recorded, as to-*
    - (i) *any candidate for whom or the proposal for or against which the voter is about to vote or has voted; or*
    - (ii) *any number on a voting document marked, or transmitted by the voter.*
- (3) *Every person present at the counting of votes must-*
  - (a) *maintain and assist in maintaining the secrecy of the voting; and*
  - (b) *must not, except as is provided by this Act or regulations made under this Act, communicate any information obtained at that counting as to any candidate for whom or proposal for or against which any vote is cast by a particular voter.*

(4) No person may, directly or indirectly, induce any voter to display or provide access to his or her voting document or any copy of that document after it has been marked or transmitted, so as to make known to any person the name of any candidate for or against whom, or proposal for or against which, the voter has voted.

(5) Every person commits an offence who contravenes or falls to comply with this section.

(6) Every person who commits an offence against **subsection (5)** is liable on summary conviction to imprisonment for a term not exceeding 6 months.

**130 Disclosing voting or state of election or poll**

(1) Every electoral officer, deputy electoral officer, other electoral official, Justice of the Peace, or scrutineer commits an offence who-

(a) makes known for what candidate or candidates or for which proposal any particular voter has voted for or against, except as provided by this Act or regulations made under this Act; or

(b) before the close of voting, makes known the state of the election or poll or gives or pretends to give any information by which the state of the election or poll may be known.

(2) **Subsection (1)(b)** does not prevent an electoral officer from disclosing the total number of voting documents so far returned at an election or poll at any time during the voting period.

(3) A person who commits an offence against **subsection (1)** is liable on summary conviction to a fine-

(a) not exceeding \$5,000 for an electoral officer or deputy electoral officer;

(b) not exceeding \$2,000 for any other person.

**131 Penalty for electoral officer, deputy electoral officer, and other electoral officials**

Every electoral officer, deputy electoral officer, or other electoral official commits an offence, and is liable on summary conviction to a fine not exceeding \$2,000, who is guilty of any intentional or reckless act of commission or omission contrary to the provisions of this Act or regulations made under this Act in respect of any election or poll, and for which no other penalty is imposed by this Act or regulations made under this Act.

**Electoral expenses**

**132 Payments in breach of section 98**

(1) Every person commits an offence who makes a payment in contravention of **section 98**.

(2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$5,000.

**133 Failure to transmit return**

(1) Every candidate commits an offence who fails to transmit a return of electoral expenses in the prescribed form to the electoral officer within the prescribed period.

(2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$1,000, and, if he or she has been elected, to a further fine not exceeding \$400 for every day on which he or she continues to act until the return is transmitted.

**134 False return**

(1) Every candidate commits an offence who transmits a return of electoral expenses knowing that it is false in any material particular, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000.

(2) Every candidate commits an offence and is liable on summary conviction to a fine not exceeding \$5,000 who transmits a return of electoral expenses that is false in any material particular unless the candidate proves –

(a) that he or she had not intention to mis-state or conceal the facts; and

(b) that he or she took all reasonable steps to ensure that the information was accurate.

**135 Unauthorised expenditure**

(1) Every person commits an offence who publishes or broadcasts any material promoting the election of any candidate without the written authority of the candidate or the candidate's agent.

(2) Every person who commits an offence against **subsection (1)** is liable on summary conviction to a fine not exceeding \$1,000.

**136 Excessive expenditure**

- (1) Every candidate or other person who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any electoral expenses any sum in excess of the prescribed maximum amount, knowing that the payment is in excess of the prescribed maximum amount, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$10,000.
- (2) Every candidate or other person commits an offence who directly or indirectly pays or knowingly aids or abets any person in paying for or on account of any electoral expenses any sum in excess of the prescribed maximum amount, and is liable on summary conviction to a fine not exceeding \$5,000 unless the candidate or other person proves that he or she took all reasonable steps to ensure that the electoral expenses did not exceed the prescribed maximum amount.

**General provisions**

**137 Property may be stated as being in electoral officer**

*In any proceedings for an offence in relation to any voting documents or other official documents, files, records, instruments, or devices used officially for an election or poll, the property in those documents, files, records, appliances, and instruments is to be treated as that of the electoral officer at that election or poll.*

**138 Duty to take action in respect of offences**

- (1) *If the electoral officer at any election or poll-*
  - (a) *receives a written complaint that an offence under this Part has been committed; or*
  - (b) *believes for any other reason that an offence under this the Part may have been committed,-*  
*the electoral officer must report that matter to the police together with the results of any enquiries made by the electoral officer that he or she considers appropriate.*
- (2) **Subsection (1)** *does not prevent any person from reporting an alleged offence to the police.*

## Council

- Current remuneration (salaries and allowances) for Members of the Ashburton District Council are:

	\$	
Mayor	84,000	per annum
Deputy Mayor	27,861	per annum
Committee Chairperson	27,861	per annum
Councillors	18,412	per annum

- Current remuneration (salaries and allowances) for Members of the Methven Community Board are:

	\$	
Chairperson	6,783	per annum
Community Board Members	1,938	per annum

[Source: Local Government (Local Authorities Salaries and Allowances) Determination 2011]

- In a typical year Councillors are expected to attend 24 meetings of Standing Committees and Council itself. They may attend a further 8 meetings of Standing Committees. These meetings are all held during the day commencing at 1.30 pm. Elected members will also be asked to be on various sub-committees which will meet from time to time as circumstances dictate.

## Role of Remuneration Authority

The Remuneration Authority is responsible for approving elected member remuneration for individual city, district and regional councils. Each council is required to submit a proposed remuneration structure to the authority for its approval, within a total pool amount established for that council by the Authority.

Following the 2010 election, the Ashburton District Council agreed on its proposed remuneration structure, which was submitted to the Remuneration Authority for approval.

## **Tax Status of Elected Members**

The IRD views the relationship between an elected member and a Council as a statutory relationship of service. The IRD does not view it as an employer/employee relationship. Therefore, elected members are not employees of the Council for income tax purposes.

## **Consequences of Income Tax Status of Elected Members**

This means that remuneration paid to elected members is taxable but it is not classified as 'salary or wages' under the Income Tax Act. Instead, it is classified as a 'withholding payment' and the Council is required by the Withholding Payments Regulations to deduct tax at 33% at the time of payment unless an exception applies.

Because of the nature of their relationship with the Council, elected members are entitled to deduct expenses incurred in earning their remuneration from the Council. This means that they can deduct home use expenses, miscellaneous expenses, and vehicle expenses if they incur these in the course of earning their Council remuneration. Election expenses are not tax deductible.

Elected members are also responsible for paying their own accident compensation levies.

# 18

## MAYORS AND CHAIRPERSONS

The Ashburton District Council has a Mayor, who is elected by all electors in the Ashburton District.

The Methven Community Board and the Ashburton Licensing Trust, have Chairpersons, who are elected by their members.

The Canterbury District Health Board has a Chairperson, who is appointed by the Minister of Health.

Mayors and Chairpersons are the presiding members of their councils and boards – it is the council or board that is the decision-making body.

Committee Chairpersons, Deputy Mayors and Deputy Chairpersons are elected by the members.

The Mayor of Ashburton and the Chairperson of the Canterbury Regional Council become Justices of the Peace during the time they hold office.

## The Purpose of Local Government

The Local Government Act 2002 outlines the purpose of local government in New Zealand.

The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities; and, to that end, this Act -

- (a) states the purpose of local government; and
- (b) provides a framework and powers for local authorities to decide which activities they undertake and the manner in which they will undertake them; and
- (c) promotes the accountability of local authorities to their communities; and
- (d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

## Treaty of Waitangi

In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Maori to contribute to local government decision-making processes, Parts 2 and 6 of the Local Government Act provide principles and requirements for local authorities that are intended to facilitate participation by Maori in local authority decision-making processes.

## Regional Councils

Regional councils are responsible for promoting the sustainable management of natural and physical resources, for ensuring that environmental planning is carried out in an integrated fashion and for carrying out a number of other regional functions. Their activities include:

- Air quality
- Civil defence emergency management
- Coastal environment
- Energy
- Land
- Natural hazards
- Navigation safety
- Pests and biosecurity
- Public passenger transport
- Regional land transport
- Waste, hazardous substances and contaminated sites
- Water quality and ecosystems

## **Territorial Authorities (City or District Councils)**

They focus on providing local services and on detailed land use planning and subdivisional control in response to the needs of the local community. Their functions are:

- regulatory – they issue and enforce laws in their district
- providing community services

## **Community Boards**

Community boards can be set up as an additional council structure in any city or district in New Zealand, primarily to ensure the interests of smaller groupings within the overall community are represented. Boards operate within city or district councils and exercise powers delegated by that council.

## **District Health Boards**

District Health Boards are responsible for providing or buying Government funded health care services for the population of a specific geographical area.

The statutory objectives of DHBs are to improve, promote and protect the health of communities; to promote the integration of health services, especially primary and secondary care services, and to promote effective care or support of those in need of personal health services or disability support.

## **Membership of Boards**

The Board of each District Health Board comprises up to 11 members - seven members and up to four government-appointed members.

Persons intending to stand for election as a Board member, and persons proposed to be appointed as members must provide a statement completed by the person in good faith that:

- (a) discloses any conflicts of interest that the person has with the DHB as at the date on which the statement is completed, or states that the person has no such conflicts of interest as at that date; and
- (b) discloses any such conflicts of interest that the person believes are likely to arise in future, or states that the person does not believe that any such conflicts are likely to arise in future.

## WHAT IS EXPECTED?

Just what is expected of a District Councillor, and what can they expect in return for it?

There is no defined job description for Mayors, Chairpersons, Councillors or Community Board members. However, members must know or learn:

- Their council's administrative system as it applies to elected members (eg Standing Orders; Council and Committee procedures; services and facilities for Councillors; finance);
- The organisation of, and services provided by the Council;
- The roles of members and officers respectively;
- How to handle complaints and enquiries from constituents; and
- The essential requirements of the relevant law.

The Deputy Mayor (in the case of the District Council) and Chairperson and Deputy Chairperson (in the case of the Regional Council) are elected by the members of their respective councils, usually at the inaugural meeting. The Deputy Mayor and Deputy Chairperson are required to deputise for the Mayor or Chairperson whenever they are absent or unavailable. This includes chairing meetings of the Council and attending to other duties normally carried out by the Mayor (in the case of the District Council) or the Chairperson (in the case of the Regional Council).

The Chairperson of the Canterbury District Health Board is appointed by the Minister of Health.

The Community Board also elects a Chairperson and Deputy Chairperson at its inaugural meeting.

Some Councillors are elected by the members of the Council as Chairperson or Deputy Chairperson of a Council committee. Committee Chairpersons are responsible for chairing meetings of their committees, and also for assisting in the preparation of agendas for their committee meetings. The election of Committee Chairpersons and Deputy Chairpersons usually occurs at the inaugural meeting.

Otherwise, the duties of Councillors and Community Board members, as established by practice and custom, include:

- Attending and participating at meetings.
- Reading agendas and other material before meetings.
- Attending to enquiries from members of the public.
- Attending or hosting functions.
- Representing the Council or Board on related organisations, where appointed.
- Attending and participating at conferences and seminars.

Before commencing their duties, Councillors and Board members are required to make a declaration at the inaugural meeting.

In Ashburton a new person going on to Council will become a member of two of the Council's three standing committees.

Standing committees and the Council itself each have eight meetings a year. Most councillors also make a point of attending meetings of the committee they are not a member of.

That makes a total of 24 meetings a year, usually held on Thursday afternoons, lasting anywhere from an hour to all afternoon.

In addition there are a number of sub-committees councillors will become members of and a number of workshops are held throughout the year to discuss issues in depth.

Most councillors also attend public meetings held to discuss issues related to matters the Council is dealing with. In return for this work a new Ashburton councillor will receive 18,412 per annum.

Councillors need a strong sense of community, a desire to do something for the district they live in. Without this, they will in all probability not enjoy their time on Council.

The Council deals with a very wide range of topics and issues, so councillors should ideally have a broad range of interests and be open minded, with the ability to weigh up a range of views and opinions and to make decisions. They also have to be part of a team and have a belief in democratic principles, especially that of the majority rules.

When the Council makes a decision it does so collectively and those who were opposed should accept what the majority have decided.

It is not necessary for a councillor to be an extrovert, but they need to be able to rationalise and explain Council decisions.

An ability to think logically and to put thoughts into words is a real asset.

Councils are “creatures of statute” – they exist because of the Local Government Act, and their powers and procedures are prescribed in the Act. For that reason the Council is process-orientated in that there are prescribed processes that must be followed in working towards an outcome. Council shall have to accept all those tasks that the Government wants them to do, which can at times be a liability for councils.

Government thinking is that local communities are best at finding local solutions for local issues, which is why councils have recently been given responsibilities in respect of gaming machines, liquor licensing and brothels.

Under the new Local Government Act councils are now required to work with other service providers, such as police and health and education providers.

Councils are themselves involved with supplying a whole range of services, something the public in fact expects them to do.

If new councillors have a particular interest the opportunity is there for them to become involved in that area.

However, they have to remember the focus of the council is on policy development, levels of service and resource allocation, not in the actual detail of how each task is performed.

The public does expect the council to be involved with particular issues, such as attracting and retaining medical services in rural townships, and individual councillors have the ability to use networks and contacts in those areas.

## BOARD MEMBER DUTIES

The Ashburton Licensing Trust (ALT) is a community owned business that operates in the hospitality industry within the Ashburton District. This area is defined by boundary lines drawn on historic parliamentary electorate boundaries. In broad terms, it embraces the Ashburton District territorial area excluding a strip from Methven through Rokeby, Rakaia, Chertsey and Dorie to the coast.

Following the result of the 2004 community vote the Trust's historic trading position changed and as a consequence, the Trust can own and trade in businesses outside its geographical boundaries.

If elected as a member of the Ashburton Licensing Trust Board, you are entitled to a present fee of \$280 less Withholding Tax for every official meeting. An official meeting is deemed to be a meeting where minutes are kept. The President, who is elected by the members of the Board, receives a present honorarium of \$19,000. The fees are prescribed by the Licensing Trust Act.

Meetings are presently held on a monthly basis – normally on the third Thursday. There may be need, from time to time, to address issues outside this timeframe and notice of an additional meeting will be communicated in due course. Meetings are traditionally held in the evenings with a commencement time of 4:30pm.

As a public entity, the Trust is subject to public audit requirements. The Auditor General or agent must annually provide an audit certificate. This ensures robust policies and financial and management systems are in place as well as placing transparency and accountability on Board members.

The Trust, as a community owned business rewards its owners (the Ashburton District community as outlined by the geographical area outlined above) by way of donations to community projects or causes. Members can review the policy at any time but the present policy has the Trust donating 10% of its net profit, less tax, to the community.

If elected to the ALT Board you will also automatically (*unless you decline to do so*) become involved with the Lion Foundation's Net Proceeds Committee (NPC). The Lion Foundation Net Proceeds Committee ensures that all profits derived from the proceeds of gaming machines operated in Ashburton Licensing Trust owned and operated premises are made to the various organisations, clubs events etc in accordance with the Lion Foundation 2008 Trust deed and NPC Committee policy but always subject to Government policy as specified in the Gambling Act 2003. No fees are paid to members for their contributions to NPC activities.

In May 2007, the Ashburton Licensing Trust established a further charitable entity – Braided Rivers Trust. The objective of this Trust is to 'ring-fence' some ALT assets and in the medium and longer term to provide another source of community funding. Braided Rivers Trust owns two subsidiary charitable companies namely Braided Rivers Limited – established to develop the Hotel Ashburton's sub-division, and Somerset Ashburton Limited which developed the new building on the Somerset Hotel site. As a Board Member of the ALT, you will be automatically be appointed a Trustee of the Braided Rivers Trust and be appointed a Director on the Boards of Braided Rivers Limited and Somerset Ashburton Limited. You retain the right to decline to be a Trustee or Director of either or both companies should you so wish. As these are regarded as charitable entities, no fees are presently paid to Directors.

Since the result of the 2004 community vote, much greater commercial pressure has been placed on ALT activities. This has resulted in the elected members becoming, in essence, the Board of Directors of the Trust's trading and business operation. If elected, it may possibly be your first role as a 'company Director'.

A set of guidelines is outlined below to assist you.

In addition to the Licensing Trust Act, there are many other duties and responsibilities placed on Directors as a result of important legislation. The legislation includes, but is not limited to, The Income Tax Assessment

Act, the Trade Practices Act and the Resource Management Act. This is in addition to The Employment Act and associated OSH and ACC requirements. It is highly recommended that Directors should consider seeking specialist advice in responding to legislative obligations.

Members must act honestly, or to put it another way, in good faith, and in the best interests of the Trust. In this context, *the Trust* means the shareholders or members as a whole. No special consideration should be given to any particular interest group of the Trustees or other stakeholders unless there is general agreement amongst the Trustees (members) to that effect. This is both a general law duty as well as a statutory duty. (The Courts have repeatedly confirmed that Directors owe their duty to the company as a whole and not to any particular interests or group of shareholders).

*Note: This contrasts with an earlier belief when elected Trust Board Members believed that they had a responsibility to a particular constituency within the electors. No such sectional interests or influences can be allowed in today's environment.*

Members must use the powers vested in them properly and for the best interests of the Trust. They cannot allow a conflict of duty and interest to arise. Conflicts can arise not merely because Members choose to further their own interests at the expense of the Trust, but also if they favour outside interests at the expense of the interests of the Trust. Where there is potential conflict in legitimate business dealings between the company and a member in a personal capacity, The Member must withdraw from the decision making process. Conflicts of interest are a particularly sensitive issue and one which is attracting a great deal of focus during the audit process.

Members must not use their position for their own or a third party's possible advantage (or to the possible detriment of the Trust) unless this course of action is consented to by the Trust. This consent can only be given after *full* disclosure of *all* the relevant facts have been made to the Trust and the affected Member(s) have withdrawn from the decision making process. The law can require the Members to account to it for any gain made from the relevant authority.

Members must not use confidential information obtained by them in their capacity as Members improperly, unless, of course, consent in the same terms as the previous rule is provided by the Trust. This rule prohibits Members from disseminating such information to outsiders unless they are given permission by the Trust to do so. This obligation to confidentiality overrides any perceived sectional obligation individual Members may believe they have to individuals or groups.

Members must exercise their powers with appropriate care and diligence that is reasonable in all of the circumstances. Some organisations have introduced an important safe harbour for Members known commonly as the 'business judgment rule' which can excuse Members from liability in relation to a transaction/action. if members can demonstrate their decisions are made in -:

- (a) good faith
- (b) they have no personal interest in the subject matter of the relevant decision, they appropriately inform themselves about the relevant subject matter
- (c) rationally believe that the decision is taken in the best interests of the Trust.

then this can be referred to as a *business judgement*.

In all of their activities, the Members of course may rely on, and often do rely on, the expertise of financial and other employees of the Trust. Members are entitled to seek information in relation to the Trust's activities and business decisions. These requests should be made at Board meetings and care needs to be exercised when seeking information that the governance / management roles are not compromised. The information is provided to Members on the basis understanding that they will keep the information confidential and will not disseminate it to the public either verbally or through the printed or electronic press.

Any dispute or difference of opinion between Members should be raised with the Board and debated by the Board in a full meeting environment.

As noted earlier, there are many other duties imposed on Members. There are a range of statutory obligations that are imposed on Members, for example a duty:

- i. Ensure that proper accounts and other records are kept  
and
- ii. Not to allow the Trust to engage in insolvent trading

Members should bear not only these duties in mind but all of the above when undertaking their important tasks as Trust Members. Legislation has created civil, and at times, criminal penalties if Members breach such duties.

Whilst the above may appear daunting, it can be quickly learned and if you want further information or assistance, perhaps it would be easiest to consult an existing Board member.

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## MANAGEMENT STRUCTURE AND COUNCIL STAFF

Staff are headed by the Chief Executive who is directly responsible to the elected members for:

- Implementing decisions of the Council or Board
- Advising members
- Ensuring all functions, duties and powers are properly performed
- Ensuring the effective, efficient and economic management of the activities of the Council or Board

The Chief Executive is the only staff member appointed by the elected members. All other staffing responsibilities are conferred on the Chief Executive. Elected members cannot *reach down* to appoint middle level staff, or tell those staff what to do.

The key role of staff is to implement decisions of the Council, to provide advice to the Council, its Committees and Community Boards; to ensure that all functions, duties and powers are properly performed, and to ensure the effective, efficient and economic management of the activities of the Council and Community Boards.

Under the Local Government Act 2002, a local authority, in performing its role, must act in accordance with the following principles:

- (a) a local authority should —
  - (i) conduct its business in an open, transparent, and democratically accountable manner; and
  - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
- (c) when making a decision, a local authority should take account of —
  - (i) the diversity of the community, and the community's interests, within its district or region; and
  - (ii) the interests of future as well as current communities; and
  - (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:
- (d) a local authority should provide opportunities for Maori to contribute to its decision-making processes;
- (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and
- (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
- (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
- (h) in taking a sustainable development approach, a local authority should take into account —
  - (i) the social, economic, and cultural well-being of people and communities; and
  - (ii) the need to maintain and enhance the quality of the environment; and
  - (iii) the reasonably foreseeable needs of future generations.

Councils are required by the Local Government Act to prepare and adopt a ***Long Term Council Community Plan***. Members of the public have an opportunity for input into these plans and other major policies and projects through consultation processes, including the special consultative procedure prescribed by the Local Government Act. Under this procedure, public notice is given of council proposals, following which members of the public have one month to make written submissions and, if they wish, appear before a council committee to be heard in support of their submissions.

Councils are also required to prepare an ***Annual Report***. This is a public report which sets out how well the council has carried out its stated policies and objectives, as set out in the corresponding Council Community Plan.

Accountability of a council is also maintained through:

- Triennial local authority elections.
- The Local Government Official Information and Meetings Act 1987 which promotes the open conduct of local authority meetings and prescribes rights of access to information.
- Scrutiny of council decisions and activities by the Ombudsman, the Controller and Auditor-General, the Parliamentary Commissioner for the Environment, and the Privacy Commissioner.
- Scrutiny by a review authority appointed by the Minister of Local Government, where it is considered that there has been serious mis-management.

In the case of the Canterbury District Health Board, the role of the Board and the duties of Board members are prescribed by Sections 26 and 27 of the New Zealand Public Health and Disability Act 2000, which provide:

**26 Role of board**

- (1) *All decisions relating to the operation of a DHB are to be made by or under the authority of its board.*
- (2) *The board of a DHB has all powers necessary for the governance and management of the DHB.*
- (3) *The board of a DHB must delegate to the chief executive of the DHB, under clause 39 of Schedule 3, the power to make decisions on management matters relating to the DHB, but any such delegation may be made on such terms and conditions as the board thinks fit.*
- (4) *This section does not limit clause 44 of Schedule 3.*

**27 Duties of board members**

- (1) *A board member of a DHB, when exercising powers or performing duties as a board member, must act-*
  - (a) *in good faith; and*
  - (b) *with reasonable care, diligence, and skill; and*
  - (c) *with honesty and integrity; and*
  - (d) *in accordance with any code of conduct that applies to Crown entities.*
- (2) *The board of a DHB-*
  - (a) *must ensure that the DHB acts in a manner consistent with the functions of the DHB, and with the DHB's district strategic plan, annual plan, statement of intent, and any directions or requirements given under section 32 or section 33;*
  - (b) *must not act, or agree to the DHB or any subsidiary of the DHB acting, in a manner that contravenes this Act or any other Act;*
  - (c) *must ensure that the activities of the entity, and those of its subsidiaries, are conducted efficiently and effectively and in a manner consistent with the spirit of service to the public;*
  - (d) *must have regard to the interests of creditors of the DHB, and endeavour to ensure that the DHB operates in a financially responsible manner in accordance with section 41.*

Prospective candidates for Council are of the requirements of the Local Authorities (Members' Interests) Act 1968.

This Act provides that a person is ineligible to be elected or appointed to an authority if they have a disqualifying contract or contracts exceeding \$25,000 in aggregate in the financial year in which the election or appointment takes place. When payments exceed \$25,000 the elected member concerned is automatically disqualified from office. He or she also commits an offence if he or she continues to act as a member. These basic rules apply equally to candidates, and sitting members. Every candidate for election or appointment to an authority should consider whether they might be ineligible under this rule.

## Exceptions

Certain types of contracts will not disqualify a candidate from election or appointment. A candidate will not be disqualified who has a contract with the authority that falls within either of the following two categories:

- Before the election or appointment, all of the candidate's obligations in respect of the contract have been formed *and* the amount to be paid by the authority has been fixed.
- Although the candidate's obligations under the contract may not have been performed before the election or appointment, the amount to be paid by the authority (or the method of determining the amount to be paid) has been fixed in the contract, *and*:
  - the contract is for a period of not more than one year, or
  - with the authority's consent, the candidate relinquishes the contract within one month of election or appointment and before starting to act as a member.

In all other cases a person is ineligible to be a member, unless the person terminates or surrenders the contract. The Audit Office cannot give either prior or retrospective approval for contracts between a candidate and an authority.

## What if you are re-elected or re-appointed?

If you are:

- re-elected to the authority at a general election; or
- reappointed to the authority at any time,

your membership is considered unbroken under the Act. If you have been granted an approval for a disqualifying contract, and you are re-elected or re-appointed to the authority during the financial year to which the approval relates, the approval remains valid.

Re-election or re-appointment also overcomes a disqualification from the previous term. However, you could still be prosecuted for acting as a member while disqualified during the previous term.

Under Section 6 of the Act, elected members may not discuss or vote on any matter in which they have a pecuniary interest when it is being considered by the council, board or a committee thereof. Elected members failing to observe this prohibition commit an offence and can be prosecuted. Conviction leads to disqualification from office.

When a matter is raised at a meeting of the council, board or a committee thereof in which a member has a pecuniary interest, the member prohibited from voting or discussing the matter must declare the pecuniary interest. The fact of that disclosure and abstention from discussion and voting on it is also recorded in the minutes. While it is not necessary to withdraw from the meeting, it is good practice to do so.



## Mayor, Council, Community Boards and Regional Councils

The successful candidate will take office on the day after the Electoral Officer gives his official notification of the result of the election. However, no person is permitted to act as a member before making a declaration.

The declaration will be made at the next Council meeting, to be held on 12 April 2012.

The business to be conducted at the inaugural meetings is as follows:

- (a) The making and attesting of the declarations required of the Mayor and members.
- (b) The election of the Chairperson (if any) and the making and attesting of the declaration required of the Chairperson.
- (c) A general explanation of:
  - (i) The Local Government Official Information and Meetings Act 1987; and
  - (ii) 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, and the Secret Commissions Act 1910.
- (d) The fixing of the date and time of the first ordinary meeting of the authority, or the adoption of a schedule of ordinary meetings.
- (e) Appointments to Committees and Sub-Committees.

Once members have been sworn in, a series of briefings, training and induction processes will be provided to assist elected members to settle into their duties as quickly and efficiently as possible.

This process will enable briefings to be given on key projects and issues and the Long Term Council Community Plan process.

Specific skill training will be offered in some areas, such as the hearing of applications for resource consent under the Resource Management Act.

## Elections - 9 October 2010

CERTIFICATE PREPARED PURSUANT TO REGULATION 84  
OF THE LOCAL ELECTORAL REGULATIONS 2001

## VOTING PAPERS ISSUED

Ashburton Ward	12307
Eastern Ward	5118
Western Ward	3059
Methven Community Board	1032
Ashburton Licensing Trust	16685
Special Votes	52

## OFFICIAL RESULTS OF ELECTION

\* Denotes successful candidate(s)

## ASHBURTON DISTRICT COUNCIL

## MAYOR

<b>McKAY*</b>	<b>Angus</b>	<b>5531</b>
O'MALLEY	Bede	4261
TASKER	Bev	2065
Informal		5
Blank		176

## Councillors - Ashburton Ward (7 vacancies)

<b>BURGESS*</b>	<b>Jim</b>	<b>3260</b>
<b>FAVEL*</b>	<b>Donna</b>	<b>3853</b>
<b>KILWORTH*</b>	<b>Robin</b>	<b>3773</b>
KINGSBURY	Judy	3131
<b>LEADLEY*</b>	<b>John</b>	<b>4006</b>
LEADLEY	Ken R	3081
<b>McLEOD*</b>	<b>Don</b>	<b>4084</b>
MITCHELL	Kathryn	1886
MYERS	Maurice	3182
<b>NELSON*</b>	<b>Darryl</b>	<b>4306</b>
<b>SPARKS*</b>	<b>Jac</b>	<b>3423</b>
STROUD	Bevan	2628
Informal		12
Blank		148

## Methven Community Board (5 vacancies)

<b>GILPIN*</b>	<b>Hamish</b>	<b>540</b>
<b>JOHNSON*</b>	<b>Anna</b>	<b>473</b>
MARKILLIE	Rob	295
<b>McLAUGHLIN*</b>	<b>Dan</b>	<b>352</b>
<b>McMILLAN*</b>	<b>Elizabeth</b>	<b>513</b>
<b>WILSON*</b>	<b>David</b>	<b>449</b>
Informal		0
Blank		7

J G ROLLINSON  
Electoral Officer

## Councillors - Eastern Ward (3 vacancies)

<b>BROWN*</b>	<b>Neil</b>	<b>1615</b>
DAVIDSON	Bernard	1256
NELSON	Russell	1091
<b>REVELEY*</b>	<b>Peter</b>	<b>1459</b>
<b>WILSON*</b>	<b>Stuart</b>	<b>1316</b>
Informal		1
Blank		73

## Councillors - Western Ward (2 vacancies)

FINLAYSON	Jan	113
McKAY	Angus [Elected Mayor]	959
<b>NORDQVIST*</b>	<b>Martin</b>	<b>815</b>
TASKER	Bev	641
<b>TOTTY*</b>	<b>Alan</b>	<b>813</b>
Informal		5
Blank		12

## Ashburton Licensing Trust (6 vacancies)

CLUCAS	Gwen	3552
COLQUHOUN	Andrew	2556
<b>HASKETT*</b>	<b>Garry</b>	<b>5170</b>
LAMBERT-LANE	Greg	3477
<b>LEADLEY*</b>	<b>Stuart</b>	<b>4408</b>
<b>LILLEY*</b>	<b>Alister</b>	<b>6672</b>
<b>NEUMANN*</b>	<b>Alan</b>	<b>7371</b>
<b>PATERSON*</b>	<b>Roger</b>	<b>6673</b>
<b>WATSON*</b>	<b>Fay</b>	<b>5512</b>
Informal		43
Blank		432

13 October 2010



**ELECTORAL DONATIONS**

(Here set out the name and description of every person or body of persons from whom or which any donations (whether of money or the equivalent of money or of goods or services or of a combination of those things) of a sum or value of more than \$1,000 (such amount being inclusive of GST) and of a series of donations made by or on behalf of any one person that can aggregate more than \$1,000 (inclusive of GST) was received by the candidate or by any other person on the candidate's behalf for use by or on behalf of the candidate in the campaign for his or her election. The amount of each donation received is to be set out separately. If a donation of a sum of more than \$1,000 was received from an anonymous person, the amount of the donation must be stated and the fact that the person who made the donation is anonymous must also be stated.)

***NB** Section 5 Local Electoral Act defines "anonymous" as "made in such a way that the candidate does not know who made the donation".*

Name and Address	Description <i>(include goods or services)</i>	Value of Donation
<b>TOTAL</b>		

Dated at  this  day of  2012

Signature

**This form is required to be completed, signed as a true and correct record and returned to the Electoral Officer, Ashburton District Council, PO Box 94, Ashburton by 30 May 2012.**



**ASHBURTON DISTRICT COUNCIL BY-ELECTION**

**4 April 2012**

***APPOINTMENT OF SCRUTINEER***

The Electoral Officer  
Ashburton District Council  
P O Box 94  
Ashburton  
Fax: 03 308 1836

I ....., a candidate for  
the office of **Councillor, EASTERN WARD**, for the by-election being held on Wednesday  
4 April, 2012 hereby appoint ..... as my  
scrutineer.

.....  
Signature of candidate

.....  
Date

**Note:** This letter must be returned to the Electoral Officer or Deputy Electoral Officer no later than 12 noon on Tuesday 3 April 2012.