

Policy

APPOINTMENT AND REMUNERATION OF DIRECTORS OF COUNCIL ORGANISATIONS

TEAM:	Strategy and Policy
RESPONSIBILITY:	Group Manager Business Support
ADOPTED:	9 April 2020
REVIEW:	Every five years, or as required
CONSULTATION:	None required
RELATED DOCUMENTS:	Local Government Act 2002, Companies Act 1993, Companies Reregistration Act 1993.

Policy objective

To set criteria and ensure an objective and transparent process is followed for selection, appointment, and setting of remuneration of directors appointed to companies by Council.

Definitions

Appointments Committee is the committee responsible for appointing directors to Council organisations. At a minimum, the Committee will comprise of one Ashburton District Council elected member (either the Mayor, Deputy Mayor, and/or the Chairperson of a standing committee) and one appointed representative (either the Ashburton District Council Chief Executive, the Council organisation Chief Executive, and/or the Board Chair).

Candidate a person who has submitted a written application for a director's position or has formally agreed to be considered for such a position.

Company has the same meaning as that of the Companies Act 1993 and means a company registered under Part 2 of the Companies Act 1993 or a company reregistered under that Act in accordance with the Companies Reregistration Act 1993. Generally, a company means a body corporate. **Council** means Ashburton District Council.

Council organisation (CO) as per section 6 of the Local Government Act 2002, a Council Organisation (CO) is any organisation in which the Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies, including Council-Controlled Organisations and Council-Controlled Trading Organisations. For the purposes of this policy, the definition of a CO excludes Memorial Halls and Reserve Boards as these are treated as subcommittees of Council.

Council-Controlled Organisation (CCO) is an organisation in which the Council controls, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers. Council's CCOs are set out in Appendix One.

Council Controlled Trading Organisation (CCTO) is an organisation that operates a trading undertaking for the purpose of making a profit (as per s.6 of the Local Government Act 2002). Ashburton District Council's CCTOs are set out in Appendix One.

Directors includes company directors, trustees, managers and office holders of an organisation (s.6(3)(b), Local Government Act 2002).

Policy Statement

1. Introduction

- 1.1 Current CCTOs, CCOs and COs are listed in Appendix One.
- 1.2 Council may establish further CCTOs, CCOs and COs during the life of this policy. These will be added to Appendix One.
- 1.3 This policy does not apply to Memorial Halls or Reserve Boards.

2. Skills required

- 2.1 The criteria set out below shall apply to all appointments of directors of CCTOs, CCOs and COs unless an exclusion is noted in Appendix One.
- 2.2 The required skills, knowledge and experience for director appointments are assessed in the first instance by the CCTO, CCO or CO.
- 2.3 Directors are expected to meet a number of competencies as well as the relevant industry-specific or other technical/specialist skills required for the relevant organisation.
- 2.4 Core competencies include (but are not exclusive to):
 - intellectual ability;
 - business experience or other experience, skills or qualifications that are relevant to the activities of the organisation;
 - sound judgement;
 - high standard of personal integrity;
 - no conflict of interest;
 - commitment to the principles of good corporate citizenship; and
 - understanding of the wider interests of the publicly-accountable shareholder.
- 2.5 The following additional competencies are required for directors of CCTOs:
 - commercial experience; and
 - understanding of governance issues.
- 2.6 The following persons may not be appointed as directors, as determined by the Appointments Committee:
 - a bankrupt person who has not obtained a final order of discharge or whose order of discharge has been suspended;
 - a person who has been convicted of any offence punishable by a term of imprisonment; and
 - a person who has been convicted of any offence involving dishonestly.
- 2.7 The mix of skills and experience on the CCTO, CCO or CO board will be taken into account. Consideration will be given to complementing and reinforcing existing skills of board members and reducing known weaknesses where necessary.
- 2.8 It is expected that all appointees to a board will undergo, or already have undergone, formal

corporate governance training or have requisite experience in this area.

3. Appointment of directors

3.1 Appointments Committee

3.1.1 Council has varying rights to determine the composition of the Appointments Committee for Council organisations.

3.1.2 For Council's substantive Council organisations (EMC and ACL), Council officers will make a recommendation to Council on the make-up of the Appointments Committee. Officers will consider the skills required for the Appointments Committee to ensure diversity, and a range of skills and experience. The recommendation will state the Appointments Committee include a minimum of:

- One Ashburton District Council elected member (either the Mayor, Deputy Mayor, and/or the Chairperson of a standing committee), and
- One appointed representative (either the Ashburton District Council Chief Executive, the Council organisation Chief Executive, and/or the Board Chair).

3.1.3 Council acknowledges that in some instances the Council organisation will determine their own Appointments Committee (or any similar committee for this purpose) composition through a trust deed, constitution or similar document. These documents override Council policy.

3.1.4 Where a Council organisation has no established process in place, it is expected the minimum Appointments Committee composition as detailed in 3.1.2 will be applied.

3.2 Appointment of new directors

3.2.1 Council has varying rights to appoint directors, depending on the type of organisation and shareholding.

3.2.2 Council's right to appoint directors to CCTOs, CCOs or COs is detailed in Appendix One.

3.2.3 When a vacancy for a new director arises, the Appointments Committee shall be responsible to make a recommendation to Council on the basis of the process set out in this policy.

3.2.4 In selecting a new director, consideration shall be given to ensure that there is an appropriate mix of skills and experience on the board.

3.2.5 The shortlisted candidates will be interviewed by the Appointments Committee to check Curricula Vitae and referees and ensure the candidates meet the criteria specified in 2.4 and 2.5 (if required) and 2.6.

3.2.6 Representative(s) of the Appointments Committee will make a recommendation to Council on the appointment of new directors.

3.2.7 If required, external contractors will be employed to assist with the recruitment process.

3.3 Re-appointing directors

3.3.1 Where a director's term of appointment has expired and they are offering themselves for reappointment, a representative of the Appointments Committee will consult on a confidential basis with the Chairperson of the CCTO, CCO or CO on:

- whether the skills of the incumbent add value to the work of the board
- whether there are other skills which the board needs; and
- succession issues.

3.3.2 The Appointments Committee will consider the information obtained and form a view on the appropriateness of reappointment.

- 3.3.3 Representative(s) of the Appointments Committee will make a recommendation to Council when re-appointing directors.
- 3.3.4 Where the Chairperson offers themselves to be reappointed, a representative of the Appointments Committee will liaise with other existing directors.
- 3.3.5 It is the responsibility of the board of each CCTO, CCO or CO to appoint its own Chairperson.

3.4 Term of appointment

- 3.4.1 Initial appointments may be made for a period of one or two years at the discretion of the Appointments Committee.
- 3.4.2 The term of the appointment is set by the entity's constitution document or trust deed. This would not normally exceed three years.
- 3.4.3 There may be circumstances where a lesser period of appointment is appropriate. These circumstances will be determined by the Appointments Committee.
- 3.4.4 Final appointment of directors will be made by resolution of Council.

3.5 Elected members and Council officers

- 3.5.1 In general, elected members and Council officers are not eligible to be appointed to CCTOs or CCOs due to potential conflict of interest situations.

4. Remuneration

- 4.1 Where applicable, directors will be paid by the CCTO, CCO or CO.
- 4.2 Where Council is the sole shareholder, Council will set directors' remuneration either by resolution at the annual general meeting, or will review salaries on an annual basis for organisations that do not have such a meeting.
- 4.3 In reaching a view on the appropriate level of remuneration for directors of Council organisations, Council will consider the following factors:
 - the need to attract and retain appropriately qualified people to be directors of the organisation;
 - the levels and movement of salaries in compatible organisations;
 - the objectives and financial situation of the organisation; and
 - the past performance of the organisation.
- 4.4 In cases where Council cannot exercise direct control, such as an organisation where it is one shareholder among many, it will conduct its own monitoring of salaries against the above factors and will take whatever action Council considers appropriate to ensure compliance with the above factors.

5. Conflict of interest

- 5.1 Council expects that Council-appointed directors of any CO will avoid situations where their actions could give rise to a conflict of interest. This includes the acceptance of gifts, discounts, hospitality, travel and entertainment of a personal nature.
- 5.2 Council expects directors to follow the principles of the Institute of Directors in New Zealand (IoD) Conflicts of Interest, and Best Practice for New Zealand Directors Statements to minimise these situations.

Appendix one – Council organisations

Organisation	Type	Ownership structure	Appointment of directors	Remuneration	Scope of activity	Rationale and objectives for Council ownership
Ashburton Contracting Limited (ACL)	CCTO	Council owns 100% of the company	Council appoints all Directors	Directors are paid by ACL	To provide general civil contracting work, primarily for New Zealand Transport Agency, local authorities and private customers. ACL has expertise in construction and maintenance of: <ul style="list-style-type: none"> • Roads • Footpaths • Water • Stormwater • Wastewater • Concrete production • Plant equipment hire. 	<ul style="list-style-type: none"> • To enable local capacity and capability to undertake civil works, particularly focused on infrastructure.
Ashburton Community Water Trust	CCO	Council owns 100% of the shares	Council has the right to appoint all voting trustees	Voting trustees receive no remuneration	To carry out research and development planning and education with respect to management of water resources.	<ul style="list-style-type: none"> • To foster a community approach to water in Ashburton District.
Ashburton Stadium Complex Trust	CCO	Registered Charitable Trust. Council is the settlor under the Deed of Trust	Council has the ability to appoint the trustees to this organisation	Voting trustees receive no remuneration	To ensure community participation in decision-making regarding the Electricity Ashburton Networks Centre indoor aquatic centre and sports facility.	<ul style="list-style-type: none"> • To enable charitable funding to be sought for the project.

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Canterbury Economic Development Co. Ltd (CEDCo)	CO	Council owns 10% of CEDCo. The remaining 90% is owned by the other territorial authorities in the Canterbury region	n/a	n/a	To act as a promoter for transformational economic development projects that will benefit Canterbury and to utilise the Canterbury Regional Economic Development Strategy (CREDS) to co-ordinate strategic economic development initiatives Note: CEDCo is currently dormant	<ul style="list-style-type: none"> To act as the regional entity regarding the Regional Strategy Fund (RSF) and Enterprising Partnership Fund To act as the regional interface with the Ministry of Business, Innovation and Employment and NZ Trade and Enterprise
Eastfield Joint Venture	CO	Council is one of five parties to the agreement	Council, and the other parties to the agreement, appoint the Governance Committee	n/a	To enable a comprehensive co-ordinated development of the Eastfields site.	<ul style="list-style-type: none"> To oversee the completion of a long term development on the Eastfields site
Electricity Ashburton (EA) Shareholders Committee	CO	Electricity Ashburton Ltd owns and operates the electricity network in the Ashburton district and carries out the majority of maintenance and capital works on the network. The company is owned by the power consumers in the district.	Council has the right to appoint three members out of seven to the committee	Remuneration of the members of the Shareholders Committee is paid by Electricity Ashburton	To appoint the Directors of the company, receive the annual Statement of Corporate Intent and to report on a regular basis to shareholders on the performance of the company	<ul style="list-style-type: none"> To monitor performance of the Shareholders Committee

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Experience Mid Canterbury (EMC)	CCO	Council owns 100% of the company	Council has the right to appoint all voting trustees (between five to seven)	Trustees receive remuneration from EMC	To lead, co-ordinate and promote the Mid Canterbury visitor industry	<ul style="list-style-type: none"> To work with local and non-local visitor industry suppliers to market the district as a visitor destination, and to be accountable through an effective, public accountability structure
Rangitata Diversion Race (RDR) Management Limited	CO	Council owns 20% of the ordinary shares	Council has the right to appoint one director	The Council representative receives no remuneration	To deliver water for power generation and irrigation	<ul style="list-style-type: none"> Council's role as a shareholder is to monitor the performance of the RDR The objective of Council's shareholding is to enable the supply of water at a local level for power generation and irrigation.
Transwaste Canterbury Limited (TCL)	For the purposes of this policy, TCL is excluded from the definition of CCTO	Council owns 3% of the company. Other shareholders include: Canterbury Waste Services Limited (50%), Christchurch City Council, and Hurunui, Waimakariri District Councils	A Canterbury Regional Landfill Joint Committee ('the Committee') has been constituted and has the power to appoint four directors (i.e. the 50% that represent the interests of the local authorities)	The Committee are responsible for remuneration of Council directors	To own and operate a non-hazardous regional landfill for the disposal of residual solid waste. Associated activities include: <ul style="list-style-type: none"> Transport Farming Forestry Native forest development	<ul style="list-style-type: none"> To provide an environmentally sustainable facility for the disposal of residual solid waste All residual waste from Ashburton District Council waste collection services is transported to Kate Valley for disposal