

STANDING ORDERS AND GOVERNANCE

Incoming councils are required by law within the first six months to adopt a public Governance Statement which sets out their operating structure, including committees and the relationship with officials, the policy for Maori representation, consultation and public access policies, as well as a number of other matters outlined in the Local Government Act 2002 and subsequent amendments. They must also adopt Standing Orders.

Governance Principles are set out in the 2002 Act and include the requirement that the 'role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community, and that 'the governance structure and processes are effective, open, and transparent'

As well, the council 'should ensure' that the relationship between elected members and management is 'effective and understood'.

The mayor is responsible for leading the development of the council's plans, policies, and budgets, including the long-term and annual plans. They decide the committees, appoint the members and chairpeople, and the deputy mayor.

The council must update its governance statement 'as it considers appropriate'. Standing Orders were updated in March 2019.

Hamilton's Governance Statement and Standing Orders are accessible on the council website.

LGNZ has developed model Standing Orders, and other examples include the Parliamentary set, and those developed by the Directors Institute and 'best practice' models for charities and community trusts.

Governance Statement

The current council operating model is based on a number of stated governance principles which include

- to have as few governance levels as possible
- Committees are 'Whole of Council (there are no sub-committees)
- Decisions are made once, not twice
- Committees are strategically aligned to Council's priorities
- Delegations to Committees and the Chief Executive are optimised
- Task force groups or hearings panels are established as needed to address special or particular issues....

Meetings are generally held in the formal council chamber. A public forum precedes meetings with short set time-frames for presentations, councillors are permitted to ask questions, but discussion or debate is not permitted. The same operating procedure applies when council hears public submissions it has invited (such as on the draft annual plan).

In addition to formal meetings, council workshops are held for staff to provide background and updates.

Councillors are regularly invited to community events but no longer hold neighbourhood 'clinics' at suburban libraries or community facilities. Trust in councils generally is dropping, along with voter participation in council elections.

Issues

Public disgruntlement with local government, democratic disengagement, and the extensive view that councils 'don't listen' requires evaluation. Many lessons have been gathered and applied over many centuries in the challenge to apply and improve democratic governance.

The right to petition dates back 400 years to Britain's 'Glorious Revolution' and the 1689 Bill of Rights – through 'the Right of the Subjects to Petition the King'. Those citizens also held the view that their governors should meet frequently to attend to their business on behalf of the people.

Today, feedback from elected members and former members, as well as observation by citizens with board experience indicate significant flaws in the current governance model. Many of the practices shaped over centuries to develop robust systems have been discarded, and democracy is the loser, evidenced by significant numbers of citizens losing faith in their elected representatives and their adopted procedures

It is timely that a complete overhaul be encouraged through a widespread community conversation, assisted by constitutional and academic experts, and with a robust submission process.

Complex but common points

This is a complex subject, but some common points have arisen more recently.

There is continuing discussion at the length of council reports on agendas and the shortness of notice given councillors. Examples are given of 1500-page reports and three days' notice, and councillors admitting from time to time that they don't or can't keep up with the reading (as early as Deputy Mayor Gordon Chesterman over the V8s).

More commonly, agendas include 200-300 pages, and are available publicly on the council's website at least two days prior to meetings. The question arises whether that is adequate for public accountability as well as elected councillors. There should be provision to authorise late reports in emergencies and for legitimate urgent consideration and action.

Improved report presentation has been recommended, with reference to the traditional 'Cabinet' style of 'executive summaries (aka one-pagers) and a time frame which enables further 'digging' if the need is felt.

We note that the issue of Brexit in the UK was summarised in a five-page document Operation Yellowhammer – the reasonable worst-case planning assumptions for what has been described as the greatest political challenge since WW2.

Other matters include the move away from the 'select' or 'working committee' style where council business is broken down into smaller bits, then connected through a combined management group before presentation to the formal council meeting

The council's current limitation of governance levels and 'committees of the whole' butts up against the Westminster Parliamentary tradition of 'three readings of the bill', developed to enable an orderly progression, discussion and debate, in keeping with democracy and public accountability. This requires evaluation.

Concerns over report content and timing also suggests a revisiting of the role of committee chairs (akin to Cabinet Ministers) with an improved division of responsibilities and portfolios between the elected council and officials.

There should be improved opportunity for public participation and council-community 'conversations such as 'Town Hall meetings' for regular reporting back to the people, and more informal outward-looking workshops as well as the current in-house. Particular topics include the lack of knowledge on representation – 'who is my local councillor?' and the loss of democracy – 'they won't do anything, anyway...'

Two recent issues renewed interest in Hamilton City Council's operating model, although at community level there has been some chatter about the loss of democracy for some time.

Who is in charge?

The council's Standing Orders insist 'the order of business' is to be determined by the council. However, the chief executive prepares the agenda, and there is recent debate on the rights and responsibilities of committee chairs, and 'who is in charge'.

[Elected member butts heads with council staff | Stuff.co.nz](https://www.stuff.co.nz/waikato-times/elected-member-butts-heads-with-c...)
<https://www.stuff.co.nz/waikato-times/elected-member-butts-heads-with-c...>

Jul 30, 2019 - In his report, **Hamilton City Councillor** Garry Mallett, chairman of **council's** finance committee, wants **staff** to undertake a cost benefit analysis on ...

[Hamilton council CEO pulls finance chair's monthly report - NZ ...](https://www.nzherald.co.nz/hamilton-news/news/article)
<https://www.nzherald.co.nz/hamilton-news/news/article>

May 25, 2018 - **Hamilton** councillor **Garry Mallett** had his finance chair report banned by the CEO.

[Hamilton Councillor Garry Mallett: 'Don't argue there is a ...](https://www.stuff.co.nz/waikato-times/news/hamilton-councillor-garry-...)
<https://www.stuff.co.nz/waikato-times/news/hamilton-councillor-garry-...>

Apr 8, 2018 - Councillor **Garry Mallett** spells out how the city got into a financial mess and how it plans to get out of it.

Not in Standing Orders

Efforts by Climate Change activists to present their public petition to the mayor and city council were twice prevented by the mayor backed up by the council's democracy advisor because the petition did not meet the requirements of council Standing Orders. This stance, plus the ensuing council debate, provoked the headline 'Complete Rubbish' and nationwide ridicule on social media. The council finally agreed to 'acknowledge' the petition, but the legacy was the sense of 'lip service'.

[Hamilton City councillors' climate views 'complete rubbish ...](https://www.stuff.co.nz/national/hamilton-city-councillors-climate-views-...)
<https://www.stuff.co.nz/national/hamilton-city-councillors-climate-views-...>

Aug 12, 2019 - Some **Hamilton** city councillors have 'no grasp of the facts' on climate ... climate scientist James Renwick, who called them "complete **rubbish**".

The Official Oath and Maori Tikanga

For many decades now, there has been recognition of Tangata Whenua and NZ's cultural and religious diversity within the traditional blessings at the opening of council meetings, and from time to time some debate including the relationship with the Oath of Office sworn by the mayor and councillors (which refers to both the Queen and God).

This respects New Zealand as a secular society, and legal tradition has recognised a clear separation of ‘Crown’ and ‘Church’, Government and faith-based institutions.

In contemporary society it has become common for kaumatua and officials to recognise the local Tangata Whenua tribal group, and in Hamilton, the Kingitanga together with the Waikato-Tainui people.

There would be value in opening the community conversation on both the Governance Statement and Standing Orders.

Local government officials’ declaration

<p>Current declaration “I, [name], declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of the [region or district], the powers, authorities, and duties vested in, or imposed upon, me as [mayor or chairperson or member] of the [local authority] by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.”</p>	<p>Proposed new text “I, [name], declare that, as [office] of the [local authority], I will faithfully, impartially, and to the best of my ability, exercise the powers, and carry out the functions and duties, vested in me by law, in the best interests of [region or district].”</p>
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Parliamentary oath

<p style="text-align: center;">Current oath</p> <p style="text-align: center;">(Oath of allegiance)</p> <p>“I, [name], swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her heirs and successors, according to law. So help me God.”</p>	<p style="text-align: center;">Proposed new text</p> <p>“I [name], swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of New Zealand, Her heirs and successors, according to law, and that, as a Member of Parliament, I will be loyal to New Zealand and will respect its democratic values and the rights and freedoms of its people. So help me God.”</p>
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Recommendations

- That the council establish a council-community working party to review and prepare a Governance Statement and Standing Orders taking into account legislative requirements for governance structures and processes that are effective, open, transparent and accountable to the public and in keeping with democratic procedures developed from NZ’s Parliamentary model and experience.

This should take account of

- Parliamentary Standing Orders and procedures (including select committee practice, three readings for a bill, chairperson/elected member control of agendas and proceedings, the ability to set aside standing orders, etc).
- Local government legislation and best practice governance models
- Institute of Director's governance best practice models
- NGO and philanthropic governance best practice models relating to sustainability and the four well-beings
- This should also take into account council environments, and opportunities for engaging citizens in council business including contractual relationships with tangata whenua, school boards of trustees and other appropriate community groups, neighbourhood meetings etc.
- This working party to include political scientists, people with parliamentary, corporate and community governance experience (Directors' Institute, Chamber of Commerce, community trusts and philanthropics, NGOs etc), tangata whenua, and social media advisers.