

**New Zealand Manager's Exchange Report**

**September 9 to 25<sup>th</sup>, 2016**

***Examining Approaches to Defining and Maintaining the Roles of Mayor, Council and the CAO in New Zealand: Lessons for British Columbia***

Agricultural lands in the Bay of Plenty Region



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## **Executive Summary**

This report summarizes the research undertaken as part of a Manager's exchange between the Local Government Management Association (LGMA) and the Society of Local Government Managers (SOLGM) in the Bay of Plenty Region in New Zealand.

Based on the information provided by the LGNZ, SOLGM and the accounts given by the CAOs and Mayors, the effect of the legislative difference on role separation practice and impacts is profound. While there are similar tensions of role cross over (elected members wanting to be involved in administration and operations), these tensions do not generally become a problem because the legislation does not allow for early termination of a CAO contract without cause, and also because the LGNZ and SOLGM actively and cooperatively address such role and behavior issues in the few cases that do emerge.

While the LGNZ and the SOLGM represent the separate interests of the elected members and administrative staff, they both recognize and support the common interest of having a clear separation of governance and administrative roles and the importance of mutually respectful relationships.

The New Zealand Model (legislative, political and professional association policy and practice) should be considered in British Columbia and the LGMA should take a role in discussions with the UBCM and the Province in this discussion.

The key aspects of the New Zealand legislation include:

- 1) The CAO is a mandatory position and the responsibilities are detailed in legislation;
- 2) The CAO is appointed for a 5 year term with an option to extend on mutual agreement for an additional 2 years. During the term of appointment the CAO cannot be terminated without cause. After the termination of the appointment the CAO can reapply for the position in an open competition.
- 3) Code of Conduct for Elected officials are required.
- 4) The CAO is the employer for all local government staff.
- 5) The CAO appoints and terminates all officers.

There is a complementary culture in the LGNZ, SOLGM and among the elected officials and CAOS of ongoing support for the separation of roles and reinforcement when the separation is challenged. The LGMA should consider establishing a similar and active role in working with the UBCM in fostering and supporting respectful role separation, recognizing the legitimate overlap of interests in policy and management matters.

New Zealand Mayors and senior Councillors intervention and reinforcement of proper roles was a common practice among the interviewed Mayors and CAOs. Having the strong support and reinforcement of the appropriate roles for elected officials by such senior elected members would seem to be an effective mechanism for establishing and maintain the separate but complementary roles of the CAO, Mayor and Councillors.

The LGNZ elected officials handbook provides very clear descriptions of the elected members role and because it comes from the elected officials organization rather than the CAO/Managers organization it would have significant credibility with elected members. This would be a positive action for the UBCM to consider.

There was general acceptance of the separation of roles in principle yet acknowledgment of the ongoing attraction to cross over. Understanding and articulating the reasons for this cross over may help CAOs and elected officials to avoid the temptation. Ongoing free and frank discussion between the CAO and elected members is an important principle of conduct in New Zealand local government and would provide the opportunity to discuss an issue before problematic cross over behavior occurs.

Managing the grey area and interface in between governance and administration is dependent on strong and respectful relationships. New Zealand has added to the tools of respectful relationships strong, clear and detailed legislation as well as concerted efforts and practices at their UBCM and LGMA equivalents to intervene and reinforce the respectful yet collaborative separation of governance and administrative roles. This model may serve as a useful reference point in discussions in British Columbia regarding the separation of roles and the reduction of CAO terminations without cause.

Tauranga City and Port from Mount Maunganui





## **Introduction**

This report summarizes the key findings in a research project undertaken through the Overseas Managers Exchange program which is a partnership developed by the Local Government Management Association (LGMA) of British Columbia and the Society of Local Government Managers (SOLGMA) of New Zealand.

The project focused on two related topics: best practices for achieving and maintaining role clarity for Local Government Mayors, Councillors and Chief Administrative Officers (Chief Executive Officers in New Zealand); and, the state and profile of employment environment stability for CAO's/CEO's. It was intended that learnings regarding the best practices would be used in the Successful CAO training provided by the Municipal Administrators Training Institute in British Columbia. It is hoped that any relevant or helpful information regarding CAO employment environment stability might inform and assist possible dialogue on this matter between the LGMA, UBCM and the Province of British Columbia.

The assumption underlying the focus on these two topics is that achieving and accepting role clarity would be a benefit to decreasing without cause CAO terminations that traditionally follow elections or arise as a result of role cross over. Consequences associated with such high rates of these terminations include: significant termination financial costs (severance and legal fees), recruitment costs, impacts on staff morale, project and work plan (political and administrative) delays, and loss of opportunities because of an absence of CAO leadership and management during termination and new CAO orientation processes. In other words, it is suggested that there are significant costs and associated loss of governance effectiveness when there is an ongoing and frequent practice of without cause dismissals of CAOs.

## **Program Purpose**

The LGMA's Overseas Manager Exchange Program provides selected local government managers with an opportunity to develop their management skills, competencies, and knowledge through a two week exchange with a partner manager in New Zealand. The learning objectives are selected by the participating managers. The LGMA reports that benefits to participants include:

- “1) an opportunity to discuss and share ideas with a manager from overseas on issues concerning local government and identify how they are being addressed;
- 2) an awareness of "best practices" being employed by your host local government and deeper understanding of you own local government issues; and
- 3) networking and establishing long-lasting relationships.” (LGMA Website)

### **Learning Objectives**

The research objectives were to examine how Mayor, Council, and CAO roles and responsibilities are defined and maintained in New Zealand local governments. Information sources were anticipated to include interviews, Council orientation practices, examples of documentation on roles and responsibilities, best practices for negotiating and maintaining roles and responsibilities and the role the senior level of governments play in defining roles and responsibilities for the CAO, Mayor and Council through their legislation and policy documents.

### **Local Governments Visited**

Meetings and interviews were arranged with CAOs (CEOs in New Zealand nomenclature) in local government organizations in the Bay of Plenty region. The Bay of Plenty local governments included in this study were the Bay of Plenty Regional Council (which covers the entirety of the Bay of Plenty), the City of Tauranga, and the Districts of Western Bay of Plenty, Kawerau, Whakatane District, and Opotiki.

Meetings were also held with representatives of Local Government New Zealand (equivalent to the UBCM of British Columbia) and the Society of Local Government Managers (equivalent to the LGMA of British Columbia) in a trip to the capital city of Wellington on the north island.

### **The Bay of Plenty Region**

The area of New Zealand in which my exchange occurred was the Bay of Plenty region. This large bay area is on the northern coast of the north island and extends from the Coromandel Peninsula in the west to Cape Runaway in the east and includes about 259 kilometers of open coastline. Noting the area's abundant resources, Captain James Cook called the area the Bay of Plenty during his 1769 to 1770 exploration. The Maori name for the Bay of Plenty is Te Moana-a-Toi.

The Bay of Plenty has several settlements along the coast, the largest of which is the conurbation of the City of Tauranga and Mount Maunganui. Tauranga has a large port facility and is the region's economic hub. The communities in which the research was undertaken were the City of Tauranga, Western Bay of Plenty District, Kawerau District, Whakatane District, Opotiki District, and the regional government of the Bay of Plenty. In the 2006 Census, the Bay of Plenty had an estimated resident population of 257,379.

The Bay of Plenty region is comprised of a number of territorial authorities including the Western Bay of Plenty District, Tauranga City, Whakatane District, Kawerau District and Opotiki District, as well as parts of Rotorua District and the town of Rangitaiki in Taupo District. The Bay of Plenty Regional Council is the administrative body responsible for overseeing regional land use, environmental management and civil defense in the region, and it provides regional planning and regulatory direction and some shared services for local authorities [municipalities].

### Sheep Grazing on Mount Maunganui, Tauranga



Source:Mapsofworld.com

### **City of Tauranga**

Tauranga is a growing and vibrant city of over 111,000 people located on the coast in the North Westerly part of the Bay of Plenty and is surrounded by the Western Bay of Plenty District with the exception of its coast line. Its population has almost doubled in the last 20 years and is expected to reach 141,000 by 2021. The city covers an area of 13,440 hectares.

The city is dominated by the volcanic cone of Mauao (Mount Maunganui). Other prominent landscapes include the harbour, long white beaches and the Kaimai mountain ranges to the west. As a major growth area about 60% of its annual expenditures are in support of new growth.

### **Western Bay of Plenty District Council**

The Western Bay of Plenty is located in the north Westerly area of the Bay of Plenty and is comprised of 212,000 hectares of coastal, rural and urban areas and stretches from Bowentown to Otamarakau. It has a population of 46,000 people and is a growing area.

Its main urban centres include Waihi Beach, Katikati, Omokoroa, Te Puna, Te Puke and Maketu, and its rural settlements include Paengaroa, Pongakawa and Pukehina, Kauri Point, Tanners Point, Ongare, Tuapiro and Athenree.

### **Kawerau District Council:**

Kawerau District is centrally located in the Bay of Plenty within the Tarawera valley below a dormant volcano. It is east of Rotorua and south west of Whakatane. One of the smaller districts, it has a 2013 population of 6,363 and is one of the younger towns in New Zealand being founded in 1953.

### **Whakatane District Council:**

Whakatane has a population of 34,400 and a land area of 4,457 square kilometers. Approximately 58.4% of Whakatane's population is from European descent and 42.2 % from Maori descent. The Maori people represent 14.6% of the national population. The District includes a variety of stunning natural features and landscapes. The northern area of Whakatane is dominated by sandy beaches and significant estuary systems.

White Island is the largest marine volcano in New Zealand and is located in the Whakatane District. During our visit to this island it had a minor eruption resulting in a National Civil Defense Emergency Management level three safety alert which advises the public to not go to the island because of the safety risk. As an incidental observation, it would appear that there may be no process of alerting tour groups on White Island of emergent eruptions in a timely fashion.

Sulfer Vent on White Island, Whakatane



Volcanic Eruption on White Island, Whakatane



## Volcanic Eruption on White Island, Whakatane



### **Opotiki District Council:**

Opotiki District is a coastal area located on the eastern side of the Bay of Plenty. It also has a relatively small population of 8,973 people and a comparatively large population (57.5 %) of Maori people. Its land area is 3,104 square kilometers. The District is made up of miles of coastline, clean fast running rivers, native bush and farmland. The majority of the population live in small communities scattered along the coast

### **Research Approach**

The research approach for this project included conducting interviews with Mayors, CAOS (referred to as CEOs in New Zealand), and representatives of the organizations representing elected members (Local Government New Zealand) and CAOs (Society of Local Government Managers). In addition to the interviews, legislation, policy documents, and best practices for establishing role separation and clarity in New Zealand local governments were reviewed.

Having up to twelve 30 minute interviews with Mayors and CAOs with small, medium and larger municipalities was the targeted sample size and ten interviews were achieved. These interviews focussed on challenges, successes, best practices and recommendations for establishing and maintaining clear understandings of the separate roles and responsibilities of the Mayor, Council and City Manager/CAO and approaches to working together where those roles and responsibility divisions are not clear or are overlapping.

Given the small sample size, the results of the Mayor and CAOs could not on their own be taken as a representative sample of local government perspectives. However, the interviews with representatives from the LGNZ and the SOLGM along with information from documents strongly corroborate the main themes from the Mayors and CAOs regarding and collectively these provide a measure of reliability for the findings. Further, a draft of this report was provided to a reviewer from New Zealand who has served as a CAO for four Councils. This review provides a further measure of confidence in the results and interpretations.

### **Legislative Context**

Unlike Canada, New Zealand is not a federation but is a unitary state with local governments being created by the central government. Like in British Columbia, New Zealand's local governments only have the powers given to them by the senior government. It is also a constitutional monarchy with a parliamentary government with Queen Elizabeth (II) as its head of state.

New Zealand has two tiers of local government. The first tier are regional councils and the second tier are territorial authorities. The latter include City Councils, District Council's, Auckland Council and the Chatham Islands Council. Five of the territorial authorities also perform the functions of regional Councils. These are combined first and second tier local governments and are called Unitary Authorities.

### **Local Government Legislation Regarding Roles and Responsibilities**

A good place to start in exploring the differences and similarities between New Zealand and British Columbia in the roles of Mayors, Councils and CAOs is comparing the enabling legislation in these different jurisdictions.

#### The Mayor's Role

Table 1 shows some of the roles and responsibilities of Mayors in BC and New Zealand. Appendix B includes the full sections and these include additional provisions largely focused on the rights of Mayors to make certain governance structure (appointments, committed establishment) decisions.

The main similarities between the legislation is that in both places the Mayor is seen as the leader but a soft leader without additional voting or executive powers except as they pertain, generally, to governance structures. The significant differences are that the BC legislation includes provisions that make the Mayor the head/CEO of the municipality with a role to give general direction to officers and suspend employees and officers.

The particular powers of BC Mayors in Sections (1), and (2) (d) and 2 (f) appear to exceed those of Mayors in New Zealand and are characteristically more administrative in nature. On the face of it, they could be seen as overlapping with CAO responsibilities.

Such apparent overlapping in legislation could contribute to confusion of roles in practice.

**Table 1: Mayor’s Role Legislation**

BC Legislation	New Zealand Legislation
<p><b>Responsibilities of mayor</b>  <b>116</b>            (1) The mayor is the head and chief executive officer of the municipality.            (2) In addition to the mayor's responsibilities as a member of council, the mayor has the following responsibilities:            (a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;            (b) to communicate information to the council;            (c) to preside at council meetings when in attendance;            (d) to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;            (e) to establish standing committees in accordance with section 141;            (f) to suspend municipal officers and employees in accordance with section 151;            (g) to reflect the will of council and to carry out other duties on behalf of the council;            (h) to carry out other duties assigned under this or any other Act.</p>	<p><b>41A</b>  <b>Role and powers of mayors</b>            (1) The role of a mayor is to provide leadership to—            (a) the other members of the territorial authority; and            (b) the people in the district of the territorial authority.            [see Appendix for additional Mayor’s powers</p>

**The Council’s Role**

The BC legislation is somewhat vague and open ended regarding the responsibilities of council members. It provides that Council must give consideration to the well being of its community. This is guidance to political consideration. It advises that members should contribute to policy and program development and evaluation. This general direction does not distinguish between the administrative role of preparing policy options with the political role of debating and deciding on policy and program options. It also provides that members can carry out duties assigned by a Council. This open ended provision could arguably include administrative functions.

In comparison, the New Zealand legislation provides for direction pertaining to governance structure and a prohibition on employees also being an elected official in the same local government. Section (3) appears to be the main provision regarding the role of the Council which is to be accountable for decision making. In other words, it speaks to the Council as decision making as a governing body. It does not open the door for potential administrative functions as the BC legislation appears to do. This is a significant difference between BC and New Zealand and reflects a similar source of potential role confusion in the legislation regarding mayoralty roles.

**Table 2: Council’s Role Legislation:**

BC Legislation	New Zealand Legislation
<p><b>115 Responsibilities of council members</b></p> <p>Every Council member has the following responsibilities:</p> <p>(a) to consider the well-being and interests of the municipality and its community;</p> <p>(b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;</p> <p>(c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;</p> <p>(d) to carry out other duties assigned by the council;</p> <p>(e) to carry out other duties assigned under this or any other Act.</p>	<p><b>41 Governing bodies</b></p> <p>(1) A regional council must have a governing body consisting of—</p> <p>(a) members elected in accordance with the <a href="#">Local Electoral Act 2001</a>; and</p> <p>(b) a chairperson elected by members of the regional council in accordance with <a href="#">clause 25</a> of Schedule 7.</p> <p>(2) A territorial authority must have a governing body consisting of members and a mayor elected in accordance with the <a href="#">Local Electoral Act 2001</a>.</p> <p>(3) A governing body of a local authority is responsible and democratically accountable for the decision-making of the local authority.</p> <p>(4) A chairperson of a regional council, or a mayor of a territorial authority, is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.</p> <p>(5) 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.</p>

It is interesting to note that in the absence of legislative role provisions in New Zealand, some local governments establish their own role definitions for Councils. For example, The District Council of Whakatane define Council role responsibilities as:

- 1) The development and adoption of Council policies
- 2) Monitoring the performance of the Council against its stated objectives and policies.
- 3) Prudent stewardship of Council resources
- 4) Employment and appraisal of the chief executive’s performance and monitoring the implementation of policy by him/her
- 5) Representing the interests of the residents and ratepayers of the Whakatane District
- 6) Ensuring overall compliance by the Council with its obligations and responsibilities under the Local Government Act 2002 and all other legislation that prescribes statutory duties for territorial authorities
- 7) Promoting good relationships with neighbouring local authorities.

In comparing the legislation for CAO roles and responsibilities there are significant differences. First, in New Zealand the CAO (CEO) role is mandatory where it is only

permissive in BC. The effect of this is that when there is no CAO role, the functions and powers associated with that role would need to be otherwise provided. With the open endedness of the legislation for BC Mayors and Councils, it would follow that these roles and functions could be fulfilled by those elected officials. While this could be addressed with a CAO employment contract that clearly sets out the separation of roles, plain reading of the legislation by elected officials and/or poorly written contracts could result in role confusion and overlap.

Another significant difference between the legislations is that the New Zealand Local Government Act is far more detailed and specific as to the CAO roles and responsibilities. Such detail in legislation would seem to help avoid possible role confusion and conflict. An interesting additional difference is that the legislation sets out a qualitative expectation that CAOs ensure effective and efficient administration of the Council's programs and services.

In reading the legislation for BC it is apparent that there is a general lack of definition and detail, especially when compared to New Zealand's legislation. For example, there is also no clarification provided to what the roles of the mayor and council are in the event that a CAO is hired. The legislation in BC does not speak to there being only one employee of Council in the event that a CAO is appointed. It does not delimit relationship of Mayor and Councillors with other staff. It does not speak to implications of S 116 if a CAO is hired, i.e., to what extent can the mayor give direction to staff should a CAO be hired. It does not delimit Council role if CAO is hired. S. 114 (d) "to carry out other duties assigned by the Council". This lack of detail and clarification would seem to invite role confusion.

In comparison, with clarity for the CAO role provided in the legislation, it is not surprising to see broad acknowledgement UBCM's counterpart in New Zealand, Local Government New Zealand. On their website the role of the CAO as being Council's only employee is stated:

"Each council, however, directly employs only one staff member, their Chief Executive, who employs the remainder of the staff on behalf of the council."

The New Zealand legislation not only provides that the CAO is the only employee of the Council, it also provides that the CAO is assigned the power to hire or terminate all staff. This would include officers which is again another significant difference from the legislation in British Columbia which provides that only Council, on a two thirds majority vote, can terminate an officer. This aspect of the B.C. legislation could have the effect of suggesting to officers that it is the Council who are the effective employers.

**Table 3: CAO's Role Legislation:**

BC Legislation	New Zealand Legislation
<p><b>Chief administrative officer 147</b> A bylaw under section 146 may establish the position of chief administrative officer of the municipality, whose powers, duties and functions include the following:</p> <p>(a) overall management of the operations of the municipality; (b) ensuring that the policies, programs and other directions of the council are implemented; (c) advising and informing the council on the operation and affairs of the municipality.</p>	<p><b>42 Chief executive [CAO]</b> (1) A local authority must... appoint a chief executive. (2) A chief executive appointed under subsection (1) is responsible to his or her local authority for— (a) implementing the decisions of the local authority; and (b) providing advice to members of the local authority and to its community boards, if any; and (c) ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed or exercised; and (d) ensuring the effective and efficient management of the activities of the local authority; and (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and (f) providing leadership for the staff of the local authority; and (g) employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy); and (h) negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy). (2A) In the case of a unitary authority for a district that includes 1 or more local board areas, a chief executive appointed under subsection (1) is also responsible to the unitary authority for— (a) implementing the decisions of each local board within the district of the unitary authority; and (b) implementing each local board agreement; and (c) providing advice to each local board and its members; and (d) providing the administrative and other facilities for each local board that are necessary for the board to carry out its functions and perform its duties. (3) A chief executive appointed under subsection (1) is responsible to his or her local authority for ensuring, so far as is practicable, that the management structure of the local authority— (a) reflects and reinforces the separation of regulatory responsibilities and decision-making processes from other responsibilities and decision-making processes; and (b) is capable of delivering adequate advice to the local authority to facilitate the explicit resolution of conflicting objectives. (4) For the purposes of any other Act, a chief executive appointed under this section is the principal administrative officer of the local authority.</p>

### **Literature Context**

One might wonder whether the differences in legislation would make for much difference in the experiences of CAOs, Mayors and Councils in achieving and maintaining role clarity. While one should expect legislation to be a factor, there would also be other factors. These might include the general impressions about their specific roles and powers elected officials might have coming into their positions especially for the first time. There is a literature on the roles and responsibilities of CAOs and Councils that has been developed without much direct regard to jurisdictional differences in enabling legislation. Some notable authors include Svava, Siegel, and Cuff.

Svava's work has included studying the roles of City Managers and Councils in American big cities. He observes that the administrative and political roles have been seen as historically separate and distinct in the literature but in practice they have a measure of overlap in political and administrative matters, though with some nuanced distinction. In Svava's view, Councils venture into administration when they want to be consulted and informed on administrative matters, and resolve day to day community issues. They tend to have a short term action time frame based on the electoral cycle and their interest in day to day matters tends to leave a void at the policy and community vision level. He sees administrators venturing into political territory when they participate in establishing community vision and long term goals and policies. Svava suggests that based on actual practice in the American big city context, a more accurate model explaining the political and administrative roles would be to see the CAO as the proposer of policy and Councils as the ratifier of policy proposals.

Siegel's recent work on the role of CAOs sees three leadership functions for the CAO. These include leading and managing the CAO's staff (leading down), providing leadership to groups and stakeholders external to the municipal organization (leading out) and providing leadership through influence to the Council (leading up). While the CAO works for Council, the CAO is seen as leading the Council through providing advice. If the CAO is respected and provides good and effective advice, the CAO will have considerable influence. However, Siegel describes this expression of leadership as leading from the shadows since it is the Mayor and Council that are the appointed governing body and decision makers.

Where Svava and Siegel come from an academic perspective, George Cuff has both administrative and political experience. He is perhaps the most well known advisor in Canada on Local Government political and administrative roles and responsibilities. He is a regular and prolific contributor to *Municipal World*.

His advice is summarized in the following:

"I could shout this from the rooftops and still not have the impact that I would like: but, let me say it once again. Governance is not management. Management is not governance. They are twin pillars that support the system we know as local government...The differences are profound: the mayor and councilors approve the

policies that govern the city, while the manager approves the procedures, regulations, and position descriptions that guide the administration. The policies outline ‘what’ is to be accomplished and the procedures describe ‘how’ that will happen...While it is always tempting to a politician to cross over into administrative territory and eat of the forbidden fruit, it is always wise of the administration to reinforce the ‘no entry’ signs. Once a staff member offers an elected official encouragement to ‘work alongside’ him or her, a relationship is developed that will be extremely hard to sever”.

Clearly for George Cuff there is little overlapping of the administrative and political roles. Cuff has been a prominent supporter of the one employee CAO model. He sees the Mayor and Council determining the “what to do” with CAO help, and the CAO as responsible for the “How to do it” without Council involvement. The Mayor and Council assess CAO’s performance in the “how to do it”. Cuff has articulated the roles of the CAO, Mayor and Council in his many publications. These are summarized in Table 4.

**Table 4: CAO, Mayor and Council Roles**

CAO Roles	Mayor Roles	Councillor Roles
1. Focus on how to accomplish policy objectives	1. Chair of council meetings	1. Focus on governance (i.e. what is to be done)
2. Provide policy advice to Council	2. Consensus seeker	2. Help Build Consensus
3. Carry out will of Council per Council resolutions and bylaws	3. Key spokes person	3. Leads with Council to set the course of the community
4. Ensure services are in concert with expectations of the residents	4. Acts as leader	4. Represent citizens
5. Develop an organizational structure that allocates staff to service areas	5. Primary liaison with Council	5. Represent will of Council
6. Creates position descriptions.	6. Signing authority for Council;	6. Help monitor performance of the CAO
7. Coordinates administration	7. Acts as eyes and ears for Council regarding municipal officer conduct	7. Encourage policy input from the CAO
8. Ensures internal communication	8. May temporarily suspend employees	8. Make decisions in the interest of the community
9. Supports staff in face of public or council criticism	9. Ex officio role	
10. Corrects poor performance	10. Ceremonial role	
11. Encourages ongoing training for staff	11. Represents constituents/ advocacy	
12. Proactively advances initiatives and policy	12. Servant to the public	
13. Is fully accountable for all staff	13. Represents Council’s views	
14. Acts as mentor to staff		

Another source of information to be considered in determining the CAO’s role is the Code of Ethics of their professional associations (See Appendix B). In BC this can be the LGMA code of conduct and also the CAMA code of ethics for those administrators that also belong to the Canadian Association of Municipal Administrators. In New Zealand the SOLGMA also have a code of Ethics which apply to their members. Both the CAMA and the SOLGMA have provisions that the members “shall act in the best interests of the public [community]”. The LGMA code of Ethics include a number of provisions for

conduct that are arguably in the public interest, there is no specific and general statement to act in the public interest like in the other two associations. This provision is of interest to the matter of role definition as it has the real potential to create a conflict between the CAO and the Mayor and Council if the latter are perceived by the CAO as not acting in the public interest. This is an additional input into the exercise in defining the CAO's role.

### Analysis of Interviews

The results of the 12 interviews are displayed in four groupings: CAOs, Mayors, representatives of the LGNZ, and representatives of the SOLGM.

### Mayor Interviews

This section tabulates the responses of six Mayors on 1) the topic of their practices for establishing and maintaining clear role separation, 2) their perceptions as to why elected members want to be involved in administration and operations, 3) their opinions as to legitimate areas of staff and elected member involvement in each other's area of responsibility, and 4) their perceptions as to the scale and impact of the role clarity issue.

### Role Separation Practices

Responses	M1	M2	M3	M4	M5
1. Mayor intervenes to correct Council	X	X		X	X
2. Constant communication with the CAO	X				
3. New Mayors School	X	X	X	X	X
4. New Councillors School	X	X	X		X
5. Mayor helps train new Councillors		X			
6. Having a Council/CAO retreat		X		X	
7. CAO may ban Councillor contact with staff		X			
8. Informal Mayor/Council discussions with CAO					
9. Nothing done in-house to establish roles			X		
10. Have an in-house induction process				X	X
11. Establish a respectful relationship				X	
12. Establish clear strategic directions to the CEO				X	

The direct involvement of the Mayor in correcting improper Councillor behavior was a common practice among the Mayors interviewed as was attending the Mayors and Councillor training programs.

One mayor suggested that the smaller the Local Government the more interest elected members had in administration and operations. However, he noted that this was channeled through the CAO. Also, if a Council did not set clear direction to the CAO, there again tended to be more interest and involvement in administrative matters. Given this, it would seem to be a good CAO strategy to encourage and facilitate the Council in focusing on establishing a good, clear strategic plan.

One Mayor advised that it is difficult to educate new elected members because they come into office with a wish list of things to accomplish but also with a lack of understanding of the political process for generating enough support for their wish list to get it on the strategic plan. Consequently they may try to get their personal projects done by trying to direct staff and interfere. This motivation was also identified by the CAOs.

Perceived Motivations for Involvement in Administration and Operations

Responses	M1	M2	M3	M4	M5
1. Citizen complaint	X			X	
2. Operations are perceived as enjoyable/interesting		X			
3. They are “Hands-On People”			X		
4. They are compelled by personality to be involved			X		
5. The elected member may have expertise in an operational area				X	X
6. The elected member may be frustrated with progress on an issue or with the staff response				X	
7. The elected member may have past executive experience and would try to act in an executive capacity rather than in a political capacity.					X

It was noted by one Mayor that elected member interest in an operational area is acceptable as long as they are not giving direction and they respect the administrative role.

In reference to elected members becoming involved in areas of administration in which they have a background, one Mayor said that new elected members would do this because “it is what they know”. In such cases the Mayor has advised the elected member to apply for a CAO position.

Legitimate areas for Elected Officials and Staff Co-Involvement

Responses	M1	M2	M3	M4	M5
1. Involved staff in visioning and goal setting (achieves buy-in)	X	X	X	X	X
2. Discussing perceived management issues but only with the CAO	X				X
3. Discussion of CAO’s restructuring plans.		X			

It was noted that Councils need staff input into goals and policy matters. This has to be encouraged to achieve new ideas and innovation. Also, another Mayor suggested that Council’s needed staff involvement in policy work, visioning and goal setting particularly in the form of quality staff research and option development. In further support of this overlapping role a couple Mayors advised that it was important to have staff involved in vision and goal setting since they have to implement the strategic directions.

In terms of Mayor and Council involvement in management matters, this is always done only with the CAO as the CAO is their only employee. It was stressed by one Mayor that such discussions were never direction to the CAO as this would impact the accountability of the CAO.

### Perceptions of Scale and Impact of Role Separation Issues

Responses	M1	M2	M3	M4	M5
1. The CAO can be an election issue	X				
2. CAO contract termination is very rare	X				X
3. Role clarity is not a big problem	X	X	X	X	
4. New Councillors can be surprised to learn that they are not in charge of operations or administration.			X		
5. Role clarity is a problem but is managed without significant impacts.					X

The Mayors were all of the same view that the separation of administrative and governance roles was not a big problem, and if it was seen as a problem it was seen to be a manageable one generally without major impacts. However, the impact that was described was that political interference tends to diminish administrative performance. One Mayor said that since the legislative changes in the Local Government Act in 2002, this separation has become embedded in the local government culture.

### **CAO Interviews**

This section tabulates the responses of six Mayors on 1) the topic of their practices for establishing and maintaining clear role separation, 2) their perceptions as to why elected members want to be involved in administration and operations, 3) their opinions as to legitimate areas of staff and elected member involvement in each other's area of responsibility, and 4) their perceptions as to the scale and impact of the role clarity issue,

### Role Separation Practices

Responses	C1	C2	C3	C4	C5
1. Work with the Mayor to resolve issues	X				X
2. Mayor intervenes to correct Councillor behavior	X				X
3. New Mayor School	X			X	
4. New Council School	X			X	X
5. Have a conversation with the elected member about the issue.	X			X	X
6. Orientation Retreats/Induction processes with a new Council	X			X	X
7. Use the Council Code of Ethics, legislation, policy	X			X	X

8. Senior Councillors reinforce proper roles	X				
9. Regular communication with the Mayor to address issues	X				X
10. Actions depend on whether there are issues- lines can blur when relationships are good.			X		
11. Lock out Councillors from office area			X	X	
12. Shut down offending Councillor's email account			X		
13. Refer Councillors to the official Council procedures			X		
14. Refer Councillors to policy regarding roles			X		
15. Provision of a Business of Council booklet					X
16. Use of Info graphics to depict the work of Council					X
17. use an independent expert and workshop to educate a new Council on their role.				X	X
18. Meet early with new Mayor to establish and build a good and proper relationship.				X	X
19. Give regular refreshers (workshop and informal conversations) to Council of their governance role				X	X
20. Get them "out of the engine room" by providing governance activities for them.				X	
21. Establish clear terms of reference for delegations.					X
22. Establish clear decision making frameworks					X

The range of practices employed by the CAOs is broad and could serve as a useful lists for CAOs in British Columbia to consider. With additional interviews no doubt additional practices would be identified. For reference, the Info-Graphic is attached in Appendices G.

A few of the CAOs acknowledged that there is a grey area in between the administrative and governance functions. This grey area was not a problem if there were good relationships with the elected members but when there were relationship issues it was important to have a strong separation between administration and governance. It was also acknowledged by this and other CAOs that it was difficult to reinstate the separation after it has been blurred. The earlier excerpt from George Cuff suggests that this effort could result in the end of the employment relationship in Canada. However, in New Zealand early imposed terminations are not lawful. However, it was noted that, although uncommon, when the Council and CAO relationship is irretrievably broken down, negotiation can occur to exit a CAO early but only by mutual agreement.

There was a strong agreement among the CAOs that their relationship with the Mayor was critical and foundational for a good and respectful relationship with other elected members and a necessary condition for being able to undertake their work.

### Perceived Motivations for Involvement in Administration and Operations

Responses	C1	C2	C3	C4	C5
1. Councillor may have a strong interest in an area of operations	X			X	X
2. Elected member may have a lack of understanding about their role	X				
3. Elected member wants to achieve a personal agenda			X		X
4. They have a lot of spare time				X	
5. They know the community				X	
6. The need to be seen doing something				X	
7. They want to run the place				X	X
8. They are "hands on" types of people.					X
9. Responding to a public complaint					X

The responses from the CAOs were similar to those of the Mayors on the question of why an elected member would be attracted to being involved in administration and operations. Perhaps it would be an effective approach to induction programs to identify these reasons and why they are not legitimate reasons for direct involvement in administration and operations. This may be an effective way for new Councillors to relate their personal motivations to the job of being an elected member.

### Legitimate areas for Elected Officials and Staff Co-Involvement

Responses	C1	C2	C3	C4	C5
1. Working together on long-term plans and strategic issues, but Council makes decisions.	X	X	X	X	X
2. Council conversations with the CAO on staff performance issues, but CAO decides.	X		X	X	X
3. Council input into project issues to the CAO	X				
4. Council involvement in projects and operations and administration.		X			
5. Cooperative work on policy matters			X		

The CAO's agreed with the Mayors in that there is an important and legitimate role for the CAO and senior staff in defining the community vision and goals. It was suggested that Council needed good information about operations, constraints, capacity and context in order to make good decisions on vision and goals and it was staff's role to provide this. However, it was also acknowledged that this involvement was essentially advice giving and not decision making, the latter of which is exclusively a governance role.

Conversely, the Mayor and Council could comment on management issues but it was the CAO's role to make decisions in this area.

## Perceptions of Scale and Impact of Role Separation Issues

Responses	C1	C2	C3	C4	C5
1. It is an ongoing tension but not a problem	X		X	X	X
2. There is no post-election CAO turnover	X		X	X	X

The CAO's generally agreed with the Mayors that the issue of role separation was an ongoing tension but not a serious problem. It is managed. It was suggested that there is a general culture of trust and respect and it is very uncommon for a CAO to ever be terminated. However, one CAO was of the view that role separation was not a problem and that most CAOs in New Zealand were too rigid in this regard. He felt that there should be Council involvement in administration and operations and that any issues would be handled through good relationships. This view was at odds with the other respondents, the legislation, the LGNZ and the SOLGM, and would appear to be a minority or outlying point of view in New Zealand.

### **Local Government New Zealand Interviews**

Interviews were held with the Principal Advisor, Dr. Mike Reid, and the Professional Development Manager, Jill Calogaras with Local Government New Zealand (LGNZ) which is the New Zealand counterpart to the Union of British Columbia Municipalities in British Columbia. This discussion focused on best practices for achieving and maintaining clarity of roles for the CAO and Council and a discussion about the scale and impact of this issue in New Zealand.

### Best Practices for Achieving and Maintaining Role Clarity

New Mayor and New Councillor training initiatives are provided by LGNZ. These start with short one to two day programs and are followed by several on-line programs/webinars. At the core of the training is establishing a good and practical understanding of the proper governance role of the Mayor and Council and that this is separate from management. The single employee model is the core of this education. Their training includes establishing the principles of the governance role and illustrating that with behaviours that match the principles.

Other practices LGNZ have undertaken to encourage and guide appropriate governance behavior include the development of a template for "standing orders" which governs Council meeting procedures. This is a guide provided by LGNZ. A future initiative is that LGNZ will develop a governance handbook for new Councillors.

In addition to these LGNZ initiatives, The New Zealand Local Government Act Section 51 requires Councils to adopt a Code of Conduct. Schedule 7 of the NZLGA sets out the details required in these codes.

### Profile of Role Clarity Issues and CAO turnover

The LGNZ representatives advised that role clarity for CAOs, Mayors and Councils is not, broadly speaking, an issue in New Zealand. There are very few and isolated cases where there are issues with elected officials and CAOs role cross over. They agree with the perspectives of the CAO and Mayors interviewed that there may be a tension around elected officials wanting to engage in management and CAOs engaging in governance but this tension rarely degrades to becoming a problem in local governments in New Zealand. They estimate that such cases where it becomes a problem is limited to 2 or 3 communities following each election.

The LGNZ representatives attribute the strong agreement and lack of issue regarding roles to the adoption of the Local Government Act in 1989 wherein the provision of five year (plus a potential two year extension) appointments for CAOs. There is no provision in the legislation for termination of CAOs without cause. This legislation combined with New Zealand case law entirely removes termination without cause from the discretion of New Zealand Local Government Councils. As a consequence there are no cases of CAO's being terminated without cause. Further, there are few cases (two to three out of 78 jurisdictions) where there are irreconcilable conflicts between CAOs and Councils based on elected officials involvement in administration, or by the CAO in politics.

The five plus two year CAO contracts result in automatic vacancies of the CAO positions and because these vacancies are not coincident with elections there is time for CAOs to establish relationships and prove their value to new Councils before their contracts come up for the 2 year extension discussion. After a position is vacant the same CAO can apply for the same position and compete for it along with any other candidate. The automatic termination of employment as a result of the legislation is suggested to eliminate or mitigate any stigma potentially associated with the end of a contract.

The training provided to new Mayors and Councillors includes a substantial document called the Elected Members Governance Handbook. It has several pages addressing the role of elected officials and their relationship to the CAO and staff. For the most part the information strongly reinforces the separation of governance from administration and operation. Below are selected excerpts from that handbook that address governance, councilor roles, and the separate responsibilities of the CAO.

“Governance is primarily about setting the future direction of organizations and communities and ensuring assets and resources are suitable for achieving that direction” (p14)

As “an individual councillor or community board member, you have very little power or authority It is only collectively that elected members have decision-making power or authority to ‘represent’ the community” (p 13-14)

“A simple rule of thumb is that elected members are concerned with policy, while officials are concerned with administration...**Given the role of the Chief Executive** [CAO] and his/her staff, the role of elected members is to set the direction of the local authority and make decisions.” [14]  
(emphasis added)

It is instructive that the elected members roles are defined in part by the detailed description in the LGA of the CAO's role. Given that detail, the direction setting and decision making role is clear. The next excerpt also establishes that it is the CAO that determines the degree of direct contact, if any, with staff.

“Your ability to seek and interact on a daily basis with staff will vary from council to council depending on the policy adopted by the Chief Executive.” (p. 20).

The relationship between elected members and administration

“is underpinned by different but complementary roles. While both judge their effectiveness by success in achieving the council's objectives, officials must also provide free and frank advice. The focus of the council and councilors should be on strategy, policy and outcomes...Administration is concerned with advice, implementation and operations. Key features of the relationship are:

- A mutual respect of each other's roles;
- An acknowledgement that since staff are accountable through the CEO [CAO], elected members cannot direct staff” (p 18)

This excerpt is helpful for highlighting that while separate, the CAO and Mayor/Councillor roles are complementary. Further, it identifies that for the CAO to be accountable, staff cannot be directed by elected members. By extension, the CAO's accountability would be diminished with elected member's giving direction to staff.

### **New Zealand Society of Local Government Manager Interviews**

An interview was held with the Chief Executive with the New Zealand Society of Local Government Managers (SOLGM) which is the counter part to British Columbia's Local Government Management Association (LGMA). Similar to the LGNZ interviews, the discussion was focused on best practices for achieving and maintaining clarity of roles for the CAO and Council and a discussion about the scale and impact of this issue in New Zealand.

#### Best Practices for Achieving and Maintaining Role Clarity:

The SOLGM interview followed the interviews with the LGNZ representatives. The SOLGM Chief Executive provided information consistent with that from the LGNZ representatives. In addition, it was also identified that SOLGM and LGNZ would work together to address the few employment relationship issues that might occur.

In these relatively uncommon cases, a CAO would contact SOLGM for advice and assistance. SOLGM would then work with LGNZ to find a solution to the issue.

Profile of Role Clarity Issues and CAO turnover

While LGNZ and SOLGM work collegially and proactively to clarify roles and find solutions to employment relationships when necessary, such problems are not a frequent occurrence. The SOLGM Chief Executive advised that she could not think of a single negotiated/premature employment terminations on a without cause basis. CAO turn over is completely associated with the mandatory end of contract provisions of the New Zealand LGA and these do not occur close to elections.

## Conclusions

Earlier the question was raised as to whether the differences in legislation would make for much difference in the experiences of CAOs, Mayors and Councils in achieving and maintaining role clarity. Given the information provided by the LGNZ, SOLGM and the accounts given by the CAOs and Mayors it would seem that in this case the effect of the legislative difference is profound. While there are similar tensions of role cross over (elected members wanting to be involved in administration and operations), these tensions do not generally become a problem because the legislation does not allow for early termination of a CAO contract without cause, and also because the LGNZ and SOLGM actively and cooperatively address such role and behavior issues in the few cases that do emerge. This is a model that should be considered in British Columbia and the LGMA could take an important role in discussions with the UBCM and the Province.

The key aspects of the New Zealand legislation include:

1. The CAO is a mandatory position and the responsibilities are detailed in the legislation;
2. The CAO is appointed for a 5 year term with an option to extend on mutual agreement for an additional 2 years. During the term of appointment the CAO cannot be terminated without cause. After the termination of the appointment the CAO can reapply for the position in an open competition.
3. Code of Conduct for Elected officials are required.
4. The CAO is the employer for all local government staff.
5. The CAO appoints and terminates all officers.

In addition to the significantly different legislation in New Zealand, there is a complementary culture in the LGNZ, SOLGM and among the elected officials and CAOS. This culture provides ongoing support for the separation of roles and reinforcement when the separation is challenged.

Reliance on the Mayor and Senior Councillors to intervene and reinforce proper roles was a common practice among the interviewed Mayors and CAOs. Having the strong support and reinforcement of the appropriate roles for elected officials by such senior elected members would seem to be an effective mechanism for establishing and maintain the separate but complementary roles of the CAO, Mayor and Councillors.

The elected officials handbook provides very clear descriptions of the elected members role and because it comes from the elected officials organization rather than the CAO/Managers organization it would have significant credibility with elected members. This would be a positive action for the UBCM to consider.

There was general acceptance of the separation of roles in principle yet acknowledgment of the ongoing attraction to cross over. Understanding and articulating the reasons for this cross over may help CAOs and elected officials to avoid the temptation. Ongoing free and frank discussion between the CAO and elected members is an important

principle of conduct in New Zealand local government and would provide the opportunity to discuss an issue before problematic cross over behavior occurs. There was one CAO who was the exception to the general and broad commitment to the separation of governance from administration, and this may always be the case in New Zealand and in British Columbia.

Managing the grey area and interface in between governance and administration is dependent on strong and respectful relationships. New Zealand has added to the tools of respectful relationships strong, clear and detailed legislation as well as concerted efforts and practices at their UBCM and LGMA equivalents to intervene and reinforce the respectful yet collaborative separation of governance and administrative roles. This model may serve as a useful reference point in discussions in British Columbia regarding the separation of roles and the reduction of CAO terminations without cause. However, any active involvement of the LGMA in such issues may be unmanageable in the current employment environment for CAO's in British Columbia without significant increases to staffing levels.

Volcanic Eruption on White Island



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## **Appendix A Interview Questions**

I have a few questions which I would like to hear your views on.

- 1) In your experience, what have been the most effective practices for achieving clarity on the different roles of the Mayor, the Council and the CEO? Please describe each practice.
- 2) What have been the most effective ways of maintaining the separation of these different roles over the tenure of a Council's term?
- 3) Can you think of some times when role clarity and/or role separation has not been maintained? If so, what were the reasons for the confusion of roles?
- 4) Were you able to achieve role clarity and separation after each of those events? If so how?
- 5) Do you see any roles in the area of vision and goal setting, leadership and management that might properly be shared between the Mayor, Council and the CEO or even senior management?
- 6) Has the separation of administrative and political roles in local government in New Zealand been a significant issue for New Zealand local Council's or Administrations?

## **Appendix B: LGMA Code of Ethics**

### Code of Ethics

Certain ethical principles shall govern the conduct of any member of the Local Government Management Association of British Columbia, who shall:

- 1 Maintain the highest ideals of honour and integrity in public and personal relationships and discharge faithfully the duties of office without fear or favour.
- 2 Not use confidential information for the personal profit of themselves or others, nor for the purpose of gaining promotion, nor shall he/she misuse public time in the pursuit of such objectives.
- 3 Not deal in property directly or indirectly within the municipality he/she serves other than his/her personal residence without first informing the Municipal Council, in writing, in open Council Meeting.
- 4 Declare his/her direct or indirect interest in any enterprise, which proposes to transact business with his/her municipality.
- 5 Declare his/her interest, direct or indirect, in any property, which is subject to a rezoning proposal or subdivision within his/her municipality.
- 6
  - a) Report to the Senior Administrative Officer any conflict of interest or potential conflict of interest of which he/she is aware involving himself/herself or his/her family, or any other officer in the municipality.  
  
b) As Senior Administrative Officer, report to the Municipal Council any conflict of interest or potential conflict of interest of which he/she is aware involving himself/herself or his/her family, or any other municipal officer in the municipality.
- 6 Continually strive to improve his/her professional ability and to encourage the development of competence of his/her associates in serving the municipality.
- 7 Recognize that the chief function of a municipal officer at all times is service to his/her employer, and to the public.
- 8 Carry out his/her duties with impartiality and equality of service to all.
- 9 Avoid any situation, which could impair his/her judgment in the performance of his/her duties or give that impression to others.
- 10 Not knowingly engage in any unlawful activity.
- 11 Not conduct themselves in any way that would detract from the image of integrity or professionalism of the Association.

When he/she becomes aware of reasonable grounds to believe that transgression of the Code of Ethics is taking place on the part of any other member, report the apparent transgression to the Ethics Committee of the Association.

## Appendix C: CAMA Code of Ethics

### Code of Conduct

1. Maintain the highest standard of honour and integrity in public and personal relationships
2. Recognize that the chief function of municipal government at all times is to serve the best interests of the public.
3. That the chief function of a municipal manager at all times is service to his/her employer and the public.
4. Continually strive to improve his/her professional ability and to encourage the development of competence of his/her associates in serving their municipality.
5. Uphold and implement both the letter and the spirit of the municipal policies adopted by elected officials.
6. Maintain the confidentiality of privileged information entrusted or known to him/her by virtue of their office.
7. Refrain from engaging in any business or transaction or have any financial or other personal interest that is, or may appear to be, incompatible with the performance of his/her official duties.
8. Refrain from using confidential information for the personal profit of themselves or others, or for the purpose of gaining promotion, or misusing public time in the pursuit of such objectives.
9. Refrain from participation in political activities which would impair his/her performance as a professional municipal manager.

Refrain from any conduct that would detract from the image of integrity or professionalism of the Canadian Association of Municipal Administrators

## **Appendix D: SOLGMA Code of Ethics**

### **PURPOSE OF THE CODE OF ETHICS**

The Code of Ethics exists to provide Society members with authoritative guidelines on what are deemed to be acceptable standards of professional conduct. As such, the Code represents a minimum standard of behaviour for members of the Society. While the Code covers specific issues, members are expected generally to achieve levels of professionalism exceeding the minimum required, in both competence and conduct.

### **STATEMENT OF VALUES**

Members of the Society must be committed to the following:

1. The rule of law and its upholding at constitutional, national and local levels.
2. Efficient, effective and democratic local government.
3. A belief in the worth of local government, and a sense of community responsibility.
4. A belief that local government exists to serve the best interests of the community.
5. The separate but complementary roles of elected members and management.

Members of the Society are expected to uphold the following personal values:

#### **1 Honesty, Propriety and Integrity**

Members must act with honesty, propriety and integrity in the pursuit of their professional duties.

#### **2 Objectivity, Independence and Impartiality**

Members must be objective and be independent from personal considerations in undertaking their professional duties. They shall ensure information provided to the public and elected representatives is factual and impartial.

#### **3 Confidentiality and Respect of Privacy**

Members must respect the rights of individuals concerning confidentiality and privacy.

#### **4 Competence and Duty of Care**

Members must accept as a duty to discharge their roles with competence, care and diligence.

## 5 Professional Development

Members are expected to continuously improve their professional knowledge and skills.

### RULES OF CONDUCT

1 Members shall act in the best interests of the public, fellow members of the Society, employer, and fellow employees; and promote local government as a reputable and respected business.

2 Members shall be loyal to the Society, actively contribute to its work and standing in the industry and encourage other members to do likewise.

3 Members shall demonstrate professional competence and management skills conducting themselves in a reputable and professional manner that shall not prejudice the status of the Society.

### Code of Ethics

1. Members shall refrain from open public criticism of fellow members and elected representatives or publicly express any opinion on the professional performance of members. Such criticism shall be confined to appropriate formal hearings which are conducted with professional courtesy and integrity.

2. Members are obligated to disclosure of any financial, personal or pecuniary interest in transactions with the public or employer.

3. Members shall not disclose any confidentially information or matter related to their work or profession or the business of their employer without the express authority of the employer.

4. Members shall not engage in any fraudulent or dishonourable activity, nor consider or accept any convert reward, or profit, or use any information obtained in their professional capacity for personal gain.

5. Members shall demonstrate professional competence and management skills and shall involve themselves in continuing education and training particularly with new technology and innovations, encouraging staff to do likewise.

6 Members shall resist the intrusion of outside activities on their professional responsibilities where such activities may compromise the appointment they hold or be contrary to good professional practice.

7. Members shall observe a strict professional detachment from electioneering or partisan political activity associated directly or indirectly with local government.

## Appendix E: Legislation

### New Zealand local government act:

#### 41

##### Governing bodies

- (1) A regional council must have a governing body consisting of—
  - (a) members elected in accordance with the [Local Electoral Act 2001](#); and
  - (b) a chairperson elected by members of the regional council in accordance with [clause 25](#) of Schedule 7.
- (2) A territorial authority must have a governing body consisting of members and a mayor elected in accordance with the [Local Electoral Act 2001](#).
- (3) A governing body of a local authority is responsible and democratically accountable for the decision-making of the local authority.
- (4) A chairperson of a regional council, or a mayor of a territorial authority, is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.
- (5) 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.

#### 41A

##### Role and powers of mayors

- (1) The role of a mayor is to provide leadership to—
  - (a) the other members of the territorial authority; and
  - (b) the people in the district of the territorial authority.
- (2) Without limiting subsection (1), it is the role of a mayor to lead the development of the territorial authority's plans (including the long-term plan and the annual plan), policies, and budgets for consideration by the members of the territorial authority.
- (3) For the purposes of subsections (1) and (2), a mayor has the following powers:
  - (a) to appoint the deputy mayor;
  - (b) to establish committees of the territorial authority;
  - (c) to appoint the chairperson of each committee established under paragraph (b), and, for that purpose, a mayor—
    - (i) may make the appointment before the other members of the committee are determined; and
    - (ii) may appoint himself or herself.
- (4) However, nothing in subsection (3) limits or prevents a territorial authority from—
  - (a) removing, in accordance with [clause 18](#) of Schedule 7, a deputy mayor appointed by the mayor under subsection (3)(a); or
  - (b) discharging or reconstituting, in accordance with [clause 30](#) of Schedule 7, a committee established by the mayor under subsection (3)(b); or
  - (c) appointing, in accordance with [clause 30](#) of Schedule 7, 1 or more committees in addition to any established by the mayor under subsection (3)(b); or
  - (d) discharging, in accordance with [clause 31](#) of Schedule 7, a chairperson appointed by the mayor under subsection (3)(c).

- (5) A mayor is a member of each committee of a territorial authority.
- (6) To avoid doubt, a mayor must not delegate any of his or her powers under subsection (3).
- (7) To avoid doubt,—
- (a) [clause 17\(1\)](#) of Schedule 7 does not apply to the election of a deputy mayor of a territorial authority unless the mayor of the territorial authority declines to exercise the power in subsection (3)(a):
- (b) [clauses 25](#) and [26\(3\)](#) of Schedule 7 do not apply to the appointment of the chairperson of a committee of a territorial authority established under subsection (3)(b) unless the mayor of the territorial authority declines to exercise the power in subsection (3) (c) in respect of that committee.
- Section 41A: inserted, on 12 October 2013, by [section 21](#) of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

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### Chief executive

- (1) A local authority must, in accordance with [clauses 33](#) and [34](#) of Schedule 7, appoint a chief executive.
- (2) A chief executive appointed under subsection (1) is responsible to his or her local authority for—
- (a) implementing the decisions of the local authority; and
- (b) providing advice to members of the local authority and to its community boards, if any; and
- (c) ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed or exercised; and
- (d) ensuring the effective and efficient management of the activities of the local authority; and
- (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and
- (f) providing leadership for the staff of the local authority; and
- (g) employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy); and
- (h) negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).
- (2A)
- In the case of a unitary authority for a district that includes 1 or more local board areas, a chief executive appointed under subsection (1) is also responsible to the unitary authority for—
- (a) implementing the decisions of each local board within the district of the unitary authority; and
- (b) implementing each local board agreement; and
- (c) providing advice to each local board and its members; and
- (d) providing the administrative and other facilities for each local board that are

necessary for the board to carry out its functions and perform its duties.

(3) A chief executive appointed under subsection (1) is responsible to his or her local authority for ensuring, so far as is practicable, that the management structure of the local authority—

(a) reflects and reinforces the separation of regulatory responsibilities and decision-making processes from other responsibilities and decision-making processes; and

(b) is capable of delivering adequate advice to the local authority to facilitate the explicit resolution of conflicting objectives.

(4) For the purposes of any other Act, a chief executive appointed under this section is the principal administrative officer of the local authority.

### **British Columbia Community Charter:**

#### **Council as governing body**

**114** (1) The members of a municipal council are the mayor and the councillors.

(2) Despite a change in its membership, the council of a municipality is a continuing body and may complete any proceedings started but not completed before the change.

(3) The powers, duties and functions of a municipality are to be exercised and performed by its council, except as otherwise provided under this or another Act, and a council, in exercising or performing its powers, duties and functions, is acting as the governing body of the municipality.

(4) A council has all necessary power to do anything incidental or conducive to the exercise or performance of any power, duty or function conferred on a council or municipality by this or any other enactment.

#### **Responsibilities of council members**

**115** Every council member has the following responsibilities:

(a) to consider the well-being and interests of the municipality and its community;

(b) to contribute to the development and evaluation of the policies and programs of the municipality respecting its services and other activities;

(c) to participate in council meetings, committee meetings and meetings of other bodies to which the member is appointed;

(d) to carry out other duties assigned by the council;

(e) to carry out other duties assigned under this or any other Act.

### **Responsibilities of mayor**

**116** (1) The mayor is the head and chief executive officer of the municipality.

(2) In addition to the mayor's responsibilities as a member of council, the mayor has the following responsibilities:

(a) to provide leadership to the council, including by recommending bylaws, resolutions and other measures that, in the mayor's opinion, may assist the peace, order and good government of the municipality;

(b) to communicate information to the council;

(c) to preside at council meetings when in attendance;

(d) to provide, on behalf of the council, general direction to municipal officers respecting implementation of municipal policies, programs and other directions of the council;

(e) to establish standing committees in accordance with section 141;

(f) to suspend municipal officers and employees in accordance with section 151;

(g) to reflect the will of council and to carry out other duties on behalf of the council;

(h) to carry out other duties assigned under this or any other Act.

### **Chief administrative officer**

**147** A bylaw under section 146 may establish the position of chief administrative officer of the municipality, whose powers, duties and functions include the following:

- (a) overall management of the operations of the municipality;
- (b) ensuring that the policies, programs and other directions of the council are implemented;
- (c) advising and informing the council on the operation and affairs of the municipality.

## **Appendix F**

### Council operations

Councils in New Zealand do not fit in a one-size-fits-all category. For councils to be efficient, they need to operate in a way that is in the best interests of their community, and this differs from the far North down to the deep South.

While territorial councils are required to have a mayor (elected by the community) and regional councils a chair (elected by councillors), other arrangements will vary.

Territorial authorities have between six and 30 members, including the mayor, while regional councils have between six and 14 members. The average number of members per council is 11.

In terms of political organisation, councils tend to have either a number of standing committees or a portfolio system. They may also contain a number of sub-municipal bodies which bring decision-making closer to communities and/or have a number of services in Council Controlled Organisations (CCOs).

### **Standing committees**

Standing committees enable a council to delegate decision-making on issues to smaller groups of elected members who have the opportunity to investigate issues in more depth and in consultation with citizens. Some committees have decision-making authority while others are purely advisory.

### **Portfolio systems**

As the number of elected members on councils has reduced, there has also been a move away from standing committees to portfolio systems. Portfolio systems mean individual councillors take a leadership role in relation to specific policy issues, such as transport or the arts.

### **Sub-municipal bodies**

Just as councils delegate responsibilities to standing committees, they also have the ability to delegate responsibilities to sub-municipal bodies, such as community boards, and local boards in Auckland. Once again, practice varies between councils, with some delegating significant decision-making powers and others limiting their community boards to an advisory role.

### **Council Controlled Organisations (CCOs)**

CCOs are public companies owned by one or more local authority (or to which a local authority has the right to appoint more than half the directors). Councils that operate trading activities will almost always incorporate them as CCOs which puts the activity at arms-length from the council itself. The Auckland Council has seven CCOs to run a wide range of activities from transport and water to economic development and events.

The question of how to organise themselves, and whether or not to delegate decision-making responsibilities, is one that must be addressed by new councils immediately after their election

and is outlined in each council's governance statement. Governance statements can usually be accessed via [council websites](#).

## **Local government staff**

Local authorities employ approximately 30,000 staff, representing a broad range of disciplines, from Arborists and Dog Control Officers to Policy Analysts. Each council, however, directly employs only one staff member, their Chief Executive, who employs the remainder of the staff on behalf of the council.

Staff numbers vary considerably according to the size of the local authority. As an example, Auckland Council employs more than 8,000 staff while Kaikoura District Council operates with fewer than 30 paid employees.

Chief Executives are employed on fixed term contracts which are limited to five years, although the term can be extended for another two years following a formal performance review. The positions must be re-advertised at the end of the negotiated period.

Typically, a Chief Executive will work with a management team, however the organisational structures will vary according to the size of the council and the preferences of the Chief Executive.

Council services tend to be provided by internal departments, stand alone business units or Council Controlled Organisations. Decisions about how services will be operated are usually made by the Chief Executive in consultation with his or her council. The decision to form a CCO, however, can only be made after consultation with the community.



# A year in the life

## Natural Environment

**55km** of riparian margins on 110 properties protected from stock

**144** pest species actively managed through the Regional Pest Management Plan

**40%** of region's high value ecological sites actively managed for biodiversity

**156 kms** of BOP coastline managed through Coast Care

**700** NERMN sites sampled for air, water, soil, ecology or biodiversity monitoring

1000+ landowners, iwi and others reached through more than **25** sustainable land use workshops

**40** community groups supported to protect natural areas they value

803 resource consents processed

**32** maritime infringement notices issued

**1160** samples taken for consent compliance inspections completed

**1722** complaints about pollution, illegal resource use and other environmental issues received and responded to each year

**491.1km** of canals and drains managed

**48** catchments managed for flood risk in collaboration with 7 territorial authorities

## Regional Leadership

**93** Council and committee meetings

**41** EnviroSchools actively supported

**3** district councils assisted through shared HR, ICT and Communications staff

**9** Treaty settlements including 2 co-governance forums supported. 16 more co-governance forums to come

**35** iwi (tribe) and **230** hapu relationships managed

**\$310,000** allocated across 30+ community initiatives each year through Environmental Enhancement Fund

**2** Regional Parks Onekawa Te Mawhāri at Ōhiwa and Pāpāmoa Hills

**8** significant civil defence events that required activation of the Group Emergency Co-ordination Centre

**25** submissions on other party plans (excluding district plans) resource use and Regional Council action

**40+** community-based strategies, policies and plans managed and implemented to guide resource use and Regional Council action

## Sustainable Development and Infrastructure

**200+**

industry, research, education, local and central government people involved in developing and delivering seven business-focused strategies

**7,584** passengers per day on the Tauranga BayHopper and Rotorua Cityride bus services

**820** contracted public transport trips across the region per day

**9125** customer enquiries per year about bus timetables and services

Over a year the mileage our bus services do would take us to the moon and back 6 times

**\$4,300** of Smartride card credit purchased on Tauranga buses per day

## Corporate Services

**93** recruitment appointments (internal and external)

**58,950** accounts payable or receivable processed

**820** river and stream flow measurements taken

**350** contracts for goods and services managed

**6720** water samples processed

**108** vehicles, **120** items of plant, and **19** properties managed & maintained