
WELLINGTON CITY COUNCIL STANDING ORDER REVIEW

1. Purpose of report

To present to the Committee updated Standing Orders for recommendation for adoption to Council.

2. Recommendations

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Note that, pursuant to clause 27, Schedule 7 of the Local Government Act 2002, the Council may amend Standing Orders or adopt a new set of Standing Orders by a vote of not less than 75 percent of the members present.*
3. *Note that the last major review of Standing Orders was in 2004, with minor updates in 2005 and 2007.*
4. *Note that the provisions of the draft Standing Orders in Attachment 1 are based on the NZS 9202 (2003): Model Standing Orders for Meetings of Local Authorities and Community Boards and are substantially the same as those in the current Standing Orders with the following changes:*
 - (a) *legislative requirements are included as direct quotations from statute.*
 - (b) *the provisions of the draft Standing Orders relating to public access, public notification, passing of resolutions and making of decisions do not apply to any meeting of the Council, a committee or a subcommittee where no decision or resolutions are made.*
 - (c) *the provisions relating to workshops in the current Standing Orders are not included in the draft Standing Orders.*
 - (d) *the provisions in the current Standing Orders relating to Public Participation and Deputations have been combined to be known as Public Input with a maximum of 60 minutes set aside at the beginning of meetings and with 5 minutes speaking time for individuals or a total of 10 minutes for groups with two or more speakers.*

- (e) *the provisions of the current Standing Orders permit the chair to move an amendment without a seconder and this has been amended in the draft Standing Orders attached to permit the chair to move an amendment without a seconder only to clarify the intent of a motion. The chair may move such an amendment whether or not they have already spoken to the motion.*
 - (f) *the timeframe for a Notice of Motion to raise a matter (other than a Notice of Motion to revoke or alter a resolution) has been extended from 2 weeks to 4 weeks prior to the meeting to discuss the matter.*
5. *Agree the provisions in the draft Standing Orders relating to moving a report at committee:*

EITHER:

- (a) *remains as status quo which provides for the mover of a report to move either the officers recommendations or an alternate motion(s) relating to the matter for debate;*

OR:

- (b) *are amended to include the following paragraph to draft Standing Order 3.12.8*

“At a meeting of a committee, if the mover of an agenda item states the item is being moved ‘pro-forma’ and the mover may also subsequently propose an amendment to the motion.”

6. *Agree the provisions in the draft Standing Orders relating to questions to other members:*

EITHER:

- (a) *remain as status quo which provides for an item on every Council agenda ‘Questions’ (draft Standing Order 3.9.3 in Attachment 1);*

OR:

- (b) *are amended to provide for 15 minutes to be set aside at the end of the open agenda at any meeting of a local authority or committee for questions to members around any matter relevant to the conduct, actions or statements made by another member in their capacity as Councillor; questions must be received and agreed by the Chair or Chief Executive a minimum of 1 hour prior to the scheduled start of the meeting.*

7. *Note that the provisions of the draft Standing Orders in Attachment 1 include the additional powers of the Mayor established under the Local Government Amendment Act 2012 relating to*

- (a) *appointment of the deputy mayor;*

- (b) establishing council committees;*
- (c) appointment of a chairperson of each committee established under (b) above.*

These provisions come into effect after 12 October 2013.

8. Recommend to Council to:

- (a) adopt the draft Standing Orders in Attachment 1 as amended by recommendations 5 and 6 above to come into force on 1 April 2013;*
- (b) revoke Wellington City Council's Standing Orders 2004 from 1 April 2013.*

9. Delegate to the Portfolio Leader – Governance and the Chief Executive the authority to make minor editorial amendments before the Standing Orders are adopted by the Council.

3. Background

The rules of conduct that govern meetings of the Council and its committees are contained in the Wellington City Council Standing Orders. The Council's current Standing Orders were adopted in April 2004 and were based on the 2001 version of the NZS Model Standing Orders. The Council's Standing Orders were subsequently updated, with clauses around the conduct of workshops and Public Participation updated in 2005, and clauses around Petitions updated in 2007.

Standing Orders are made up of a mix of:

- legislative requirements in the Local Government Act 2002 and Local Government Official Information and Meetings Act 1987 relating to the holding and running of meetings that must be followed and
- meeting procedures that the Council elect to adopt to allow for current practice or particular circumstances.

The Council has the ability to amend, remove or add to Standing Orders provided it does not negate a legislative requirement. Under clause 27, Schedule 7 of the Local Government Act 2002, the Council may amend Standing Orders or adopt a new set of Standing Orders by a vote of not less than 75% of the members present.

4. Discussion

NZS: 9202 (2003): Model Standing Orders for Meetings of Local Authorities and Community Boards was developed through Standards NZ and reflect the legislative requirements brought in under the Local Government Act 2002 and

2004 amendments. Many local authorities around the country have adopted these Model Standing Orders with minor amendments to reflect local practice.

Wellington City Council's Standing Orders, whilst compliant with legislation, are based on previous NZS Model Standing Orders which have been superseded by the NZS 9202 (2003) Model Standing Orders. The current Standing Orders have not been reviewed for a number of years and the opportunity has been taken as part of this review to align the Council's Standing Orders with the NZS 9202 (2003) Model Standing Orders style and format.

The draft Standing Orders presented as Attachment 1 are based on NZS: 9202 (2003): Model Standing Orders for Meetings of Local Authorities and Community Boards. The format and structure of the draft Standing Orders largely follows that of the Model Standing Orders being divided into 3 parts:

1. General
2. Constitutional and legislative matters, and
3. Meeting procedures.

The current Standing Orders are inconsistent in terms of whether legislative requirements are explicitly included and where legislative requirements are included, the current Standing Orders provide an interpretation of the legislation. The Model Standing Orders includes substantially all the legislative requirements governing Council and committee meetings and these are directly quoted in the draft Standing Orders and highlighted in bold. As a result, the draft Standing Orders provide a comprehensive suite of meeting rules and procedures in one document.

In October 2012, a workshop of Councillors considered the proposal to move to the altered format of the Model Standing Orders incorporating parts of the current Standing Orders that reflect current practice. The feedback from this workshop is set out below and is reflected in the draft Standing Orders attached as Attachment 1.

No clear consensus was reached around two areas, these were:

1. When a member moves an item or report at a committee meeting there was no clear consensus on whether the recommendations in the report must be moved pro-forma or the member may move an alternative motion(s); and
2. Whether there should be provision for questions of other members at committee or Council meetings.

Attachment 2 indicates whether or not the provisions from the current Standing Orders have been included in the draft Standing Orders and, where included, the section reference in the draft Standing Orders plus any minor amendments made to the wording.

The key issues discussed at the workshop and their conclusions are outlined below.

(a) Time limits on speakers

Current practice is that there are no limits on the length or number of times members can speak at committee. Time limits at Council allow for 3 minutes of speaking time with each member restricted to only once to any motion.

The workshop on Standing Orders considered that the current practice with no limits on duration or number of times a member can speak at committee should continue and has therefore been carried over to the draft Standing Orders. The workshop also concluded that a time limit and limit on the number of times a member can speak was appropriate at Council meetings provided that an extension of time could be sought. These provisions have been retained in the draft Standing Orders. Standing Order 3.10.6 provides for the following at Council meetings

- three minutes speaking time for all members including the mover of a motion, with the time limit able to be extended by a further 1 minute with leave of the meeting,
- three minutes speaking time with an extension of up to 10 minutes at the discretion of the chair for the right of reply or when presenting a report of a committee, and
- up to 10 minutes speaking time for the Mayor at any time.

At the workshop, Councillors also suggested that a clock be available during committee meetings to enable members to observe the length of speaking time at committee meetings.

(b) Workshops

The workshop on Standing Orders considered that Standing Orders should not apply to councillor workshops. Councillor workshops can be interpreted under the draft Standing Orders as either a committee meeting where no resolutions or decisions are made, or as an informal discussion group on a particular issue or subject.

The draft Standing Orders reflect the current legislation which differentiates between meetings at which resolutions or decisions are made and those where no resolutions or decisions are made. As a result, the following provisions of the draft Standing Orders do not apply to meetings of the Council, a committee or subcommittee at which no resolutions or decisions are made:

- public access,
- notification of meetings,
- making of decisions and
- the passing of resolutions.

The provisions of the draft Standing Orders that do apply to meetings where no decisions or resolutions are made are those relating to:

- quorum,
- conduct of meetings,
- qualified privilege and
- maintenance of order at the meeting.

The draft Standing Orders do not include any reference to workshops (current SO 40 to 43), and officers consider that this coupled with the limited application of the draft Standing Orders to any meeting where no decisions are to be made meets the intent of the workshop to exclude workshops from the application of the draft Standing Orders.

(c) Public Participation and Deputations

The workshop on Standing Orders indicated that the provisions relating to Public Participation and Deputations should be combined. As a result, the draft Standing Orders have been amended to refer to 'Public Input' to meetings with 'Public Input defined as including public participation and presentations. The distinction between Public Participation by individuals and Deputations from groups addressing the Council or committee has been removed and both are covered by the provisions for 'Public Input' (draft Standing Order 3.22).

The provisions try to balance the ability for the committee or Council to hear broad community input to issues before the meeting with the need to limit the time set aside for public input. Speaking time limits for individuals addressing a meeting are set at 5 minutes. Where an address is from two or more people from a group or organisation, the group is given a maximum of 10 minutes speaking time. The time limit for any speaker may be extended at the discretion of the chair.

The draft Standing Orders also extends the period of time allowed for at the beginning of a meeting for Public Input from 15 minutes and 5 speakers at Council meetings to 60 minutes for all meetings (allowing for a maximum of 12 individual speakers at 5 minutes each) and this timeframe may be extended beyond 60 minutes at the discretion of the chair.

The provisions in the draft Standing Orders for Public Input to meetings are in addition to participation in hearings as part of statutory or non-statutory consultation processes. The draft Standing Orders also gives the chair the discretion to refuse requests by individuals or groups to speak to an item at the Council if they have already spoken to the item at committee. The same provision applies to items that have been considered by sub-committee and then are considered by a committee.

(d) Requirement for seconder

In the current Standing Orders, under SO 158, the chair is able to move an amendment without the need for a seconder. This provision is not included in

the NZS Model Standing Orders and is not wholly transferred to the draft Standing Orders. Instead, the draft Standing Orders (draft Standing Order 3.12.3) provide for the chair to move amendment to a motion without seconder only for the purpose of clarifying the intent of motion with the agreement of mover of that motion or amendment. The chair may move such an amendment even if they have already spoken to a motion. This will enable any technical drafting issues to be dealt with through the chair.

(e) *Right of reply*

The workshop on Standing Orders asked that the draft Standing Orders clarify the provisions around a member's right of reply. The draft Standing Orders set out that members may not to introduce any new matter nor summarise the debate in their right of reply but must confine themselves strictly to answering questions or issues raised by previous speakers (Standing Order 3.8.8).

In addition, the draft Standing Orders clarify that the right of reply in connection with a foreshadowed amendment may only be exercised when there has been debate on the foreshadowed amendment. The mover of foreshadowed amendment has no right of reply if the motion is immediately put to the meeting without debate. (Standing Orders 3.10.9 and 3.12 .11).

(f) *Notices of Motion*

Notices of Motion enable members to raise matters for consideration by the Council. In the current Standing Orders (so 148) matters needed to be formally requested two weeks prior to any specified meeting, with the Chair having the discretion to place the matter on the agenda of the next meeting. The Chief Executive must then arrange for a report on the matter if appropriate. As committee papers must be completed at least a week prior to any meeting, the two week timeframe around a Notice of Motion means officers have insufficient time to prepare an officers report, if required.

In the draft Standing Orders, the timeframe for any Notice of Motion to be received has been amended to at least four weeks prior to the meeting. Extending the timeframes for receiving a Notice of Motion will address this timing issue and ensure there is adequate time to prepare any report on the matters raised and circulate this to members prior to the meeting.

The exception to the four weeks notice period is any Notice of Motion to revoke or alter a previous resolution of the Council. Any such Notice of Motion must be received seven days prior to the nominated meeting to discuss the matter. This is the same as the current Standing Order provisions.

(g) *Mover of a motion*

The current Standing Orders are silent on how recommendations in an officer's report are moved for debate. Current practice is that a Portfolio Leader, in most instances, moves the officer's recommendations; however a Portfolio Leader may move an alternate motion to the officer's recommendation when

introducing a report. One of the reasons why this issue arises is that under current Standing Orders, the mover cannot propose any further amendment.

There were differing views at the workshop whether current practice should change. There was a clear view that if current practice is to be retained, it would be preferable for all members to be informed in advance of a Portfolio Leader's intention to move an alternate motion. This could be dealt with by members agreeing to a convention outside of Standing Orders that if they are to move an alternate motion to that in the officer's recommendations, then other members will be circulated the proposed alternate motion prior to the meeting where the item will be debated.

An alternative option, suggested at the workshop, is for provision to be made in the draft Standing Orders for the mover to be able to move the officer's recommendation pro-forma and subsequently move an amendment. If this option is to be pursued, then the draft Standing Orders could be amended so that the mover may also subsequently move an amendment to the same motion. If this option is preferred, then the following paragraph should be added to draft Standing Order 3.12.8:

At a meeting of a committee, if the mover of an agenda item states the item is being moved 'pro-forma' and the mover may also subsequently propose an amendment to the motion.

(h) Questions

The current Standing Orders allows for an agenda item 'Questions' to be included on any Council meeting agenda. This has been included in the draft Standing Orders in 3.9.3 *Agenda listing for meetings of the Council*.

An issue has been raised whether the draft Standing Orders should provide more explicitly for questions to Councillors. Generally, this is not common practice in local government to provide for this as part of Standing Orders. However, if the Council is of the view that specific provisions around questions to members should be included in the draft Standing Orders, the provisions may be included as a new section after Section 3.24 as below:

3.25 Questions to members

3.25.1 A maximum of 15 minutes will be set aside at the end of the open agenda of a Council or committee meeting for questions to members.

3.25.2 Members may raise a question on any matter relevant to the conduct, actions or statements made by another member in their capacity as Councillor.

All questions must be received by the chair and Chief Executive no later

than 1 hour prior to the scheduled start of the meeting and must submitted in writing.

3.25.3 Questions shall be put by the chair of the meeting, or if the question is of the chair, the deputy chair.

Members will be permitted a maximum of 1 minute to answer a question.

3.25.4 The chair and Chief Executive may rule a question out of order if it is considered to

- have no relation to the conduct of a member in their capacity as a Councillor,*
- be repetitious, frivolous, vexatious, or offensive, or*
- be a statement not requiring an answer*

5.1 New powers of the Mayor

The Local Government Act 2002 Amendment Act 2012 includes provisions amending the role and powers of a mayor of a local authority. These provisions come into force on 12 October 2013.

Under the new provisions, the role of a mayor is to provide leadership to the Council and the people of the city and to lead the development of the Council's plans, policies and budgets for consideration by the Council.

A mayor is given additional powers to:

- appoint the deputy mayor
- establish council committees and
- appoint the chair of any committee they establish.

The Council retains the power to establish any additional committee(s) it considers appropriate and appoint the chair of that committee(s). The Council also retains the power to remove a deputy mayor appointed by a mayor, discharge or reconstitute any committee (including committees established by a mayor), and discharge a chairperson appointed by a mayor.

A mayor may decline to exercise their powers to appoint a deputy mayor or the chair of any committee they establish. In these instances, the provisions of Schedule 7 of the Local Government Act 2002 relating to the voting procedures for the election of a deputy mayor and chair of committee apply. The provisions of Schedule 7 are included in the draft Standing Orders.

The provisions relating to the new powers of a mayor have been included in the draft Standing Orders attached as Standing Orders 2.2.2, 2.6.2, 2.7.1 and 2.9.1. However, the provisions do not come into force until after the next local authority elections in October 2013 and this is noted in the Foreword to the draft Standing Orders.

5.2 Consultation and Engagement

A small working group made up of the Deputy Mayor and Councillors Best and Foster reviewed the proposed changes to the model Standing Orders. The Mayor attended some of these discussions. In addition, a workshop of Councillors has been held to discuss the potential changes to the Standing Orders.

Examples of Standing Orders from other Councils have been considered as part of this review.

5.3 Financial considerations

There are no financial considerations in relation to the adoption of new Standing Orders.

5.4 Climate change impacts and considerations

There are no climate change impacts and considerations relating to any amendment of Standing Orders.

5.5 Long-term plan considerations

There are no LTP considerations in relation to the adoption of new Standing Orders.

6. Conclusion

The draft Standing Orders are based on the NZS Model Standing Orders. They reflect current legislative requirements and current practice. Updating of the current Standing Orders to the draft Standing Orders is recommended and requires 75% of members to agree to their adoption.

Contact Officer: Anusha Guler, Manager, Democratic Services
Fiona Johnson, Contractor

SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

Updating the current Standing Orders will contribute towards the good governance of the city.

2) LTP/Annual Plan reference and long term financial impact

There are no LTP or financial impacts associated with the adoption of the draft Standing Orders.

3) Treaty of Waitangi considerations

The provisions in the Model Standing Orders relating to the rights of tangata whena to address meetings and addressing the committee in Maori have not been explicitly included and any rights of tangata whenua to address or be appointed to a committee are included in the general right of the public to address a meeting of the council.

4) Decision-making

This decision is of medium significance.

5) Consultation

a) General consultation

There has no public consultation on this matter.

b) Consultation with Maori

There has been no specific consultation with Maori.

6) Legal implications

The draft Standing Orders are based on current legislative provisions. Legislative provisions have been quoted in the draft Standing Orders to ensure direct interpretation of the relevant Act.

7) Consistency with existing policy

The draft Standing Orders are largely consistent with the current Standing Orders. Tracking of any changes from the current to the draft Standing Orders has been included in Attachment 2.