

WELLINGTON CITY COUNCIL

POLICY ON THE APPOINTMENT AND REMUNERATION OF DIRECTORS AND TRUSTEES

MARCH 2011

1. PURPOSE

The purpose of this policy is to set out, in accordance with section 57 (1) of the Local Government Act 2002 (“the Act”) an objective and transparent process for:

- The identification and consideration of the skills, knowledge and experience required of directors of a Council Organisation; and
- The appointment of directors to a Council Organisation; and
- The remuneration of directors of a Council Organisation.

This policy replaces the policy dated June 2003. Council will review this policy on an as needed basis.

This policy applies to Council Organisations (including Council-Controlled Organisations). Where there is a difference between the processes to appoint directors to Council Organisations (where Council has less than 50% of control), compared to the processes to appoint directors to Council-Controlled Organisations, this has been specified within the policy.

2. PRINCIPLES

The following principles underpin this policy:

- The key objective for the Council in its appointments process is to select the best person for the role.
- All appointments will be made through an objective, transparent and accountable process.
- Appointments will be made on the basis of merit and include an assessment of the individual’s skills, knowledge and experience as they apply to the entity.

- All directors should be appointed on the basis of the contribution they can make to the organisation, and not on the basis of representation.

3. DEFINITIONS

The term “Council Organisation” is used as defined in Section 6 of the Act. The following summary definitions are for guidance purposes only. Please see the Act for fuller definitions.

A Council Organisation (CO) is, in broad terms, an organisation in which the Council has a voting interest or the right to appoint a director. This is a wide-ranging definition and covers a large number of bodies.

A Council-Controlled Organisation (CCO) is a CO in which one or more local authorities control, directly or indirectly, 50% or more of the votes or have the right, directly or indirectly, to appoint 50% or more of the directors.

A Council-Controlled Trading Organisations (CCTO) is a CCO that operates a trading undertaking for the purpose of making a profit.

Directors and the Board include trustees, managers, or office holders (however described in that organisation).

For the purpose of this policy the term “director” shall apply to both directors and trustees.

For the purpose of this policy a reference to a “CO” does NOT include a reference to a CCO where there is a specific reference on that matter applying to CCO boards alone.

For the purpose of this policy a reference to a “CCO” includes a reference to a CCO and a CCTO¹.

4. COUNCIL ORGANISATION BOARD APPOINTMENTS

4.1 Required Skills and Experience

In line with the Act, persons to be considered for appointment as a director of a CO or CCO must have the skills, knowledge and experience to:

- Guide the organisation, given the nature and scope of its activities; and
- Contribute to the achievement of the objectives of the organisation.

¹ Although not technically CCOs, subject to the requirements of the relevant trust deed or constitution, appointments to the boards of Wellington Regional Stadium Trust, Karori Sanctuary Trust, and Wellington International Airport Limited are treated as appointments to a CCO board for the purpose of this policy, excluding the remuneration section.

4.2 Appointments to CO Boards

Appointments to CO boards are made for a wide range of reasons.

Subject to any trust deed or constitution requirements, Council will:

- Make appointments to CO boards where there is a benefit to the Council of such an appointment; and
- Determine the required skills, knowledge and experience for each appointment to a CO board.

4.3 Appointments Process

The appointments process to a CO board will be considered by the Council.

Elected member appointments to a CO board will typically follow the same process as elected member appointments to a CCO board, as outlined in section 9.

Officer appointments to a CO board will typically follow the same process as Officer appointments to a CCO board, as outlined in section 10.

5. COUNCIL-CONTROLLED ORGANISATION DIRECTORS

5.1 Role of a CCO Director

In addition to the requirements described at section 4.1, the role of a Council appointed director on a CCO board is to guide the organisation and assist the organisation to meet its objectives as set out in its Statement of Intent.

5.2 Identification of Required Skills and Experience

There should be a balance of skills, knowledge, experience, and perspective among directors so that a board works effectively. This overall mix on a CCO board should be taken into consideration when developing a list of desired skills for a specific position, particularly complementing existing skills, recognising benefits in diversity, and reducing known weaknesses where necessary.

Whilst the over-riding principle is to appoint on merit, the Council encourages representation across genders and ethnicities on its CCO boards, subject to the required skills and experience criteria discussed below.

Subject to any trust deed or constitution requirements, in general terms the following skills, knowledge and experience are required for directors on CCO boards:

- Governance, senior management, executive or similar experience
- Ability to take a wide perspective on issues and think critically
- Common sense, integrity and a strong sense of ethics
- Sound judgement
- Ability to work co-operatively within a team and communicate clearly
- Knowledge of the responsibilities of directorship and an ability to distinguish governance from management
- An appreciation of the role of the Council as a stakeholder
- Demonstrable affiliation with and passion for Wellington
- Clear empathy for the objectives of, and an open attitude towards, the Council's and the specific CCO's strategic philosophy and direction
- Knowledge and/or experience relevant to the specific CCO board opportunity

It is recommended that all appointees to CCO boards should undergo, or have already undergone, formal governance training or have the requisite experience in this area.

6. COUNCIL-CONTROLLED ORGANISATION APPOINTMENT PROCESS

6.1 Appointments Group

Council has an Appointments Group responsible for recommending external director appointments to the boards of Council's CCOs and subcommittees to Council. The composition of the Appointments Group is confirmed at the commencement of each triennium.

6.2 Position Description

The Council's CCO team will develop a relevant position description for any vacancies on CCO boards, including any particular attributes required. In creating this position description, the Chair of the CCO will be consulted to ensure that the skills they believe are required to complement the existing board are captured.

In creating the position description, consideration needs to be given to the required skills and experience discussed in sections 4.1 and 5.2, in addition to any particular attributes or experience relevant to that organisation.

6.3 Candidate Shortlist

A candidate shortlist to match the position description will be created by the CCO team using a variety of sources, which may include but are not limited to:

- Promoting opportunities through public advertising
- The candidate database maintained by the Council's CCO team
- Other relevant governance databases maintained by third parties
- Personal recommendations and self-referrals
- Individuals identified as having the skills and competencies required
- A specialist consultant, if considered necessary

The shortlist process will utilise robust selection procedures.

6.4 Selection of Preferred Candidate

The Appointments Group will assess the candidate shortlist generated to identify the individual with the best fit to the available CCO board role. The Group may seek further clarification from the Chair of the CCO regarding the role and the skills required.

The Appointments Group will interview the preferred individual identified. Interviews will only be undertaken with the individual identified as having the best fit with the role. This is to avoid creating expectations with a wider pool of applicants which may lead to the unsuccessful individuals opting not to apply for a similar role in the future.

Where the preferred candidate is being re-appointed or has previously served on one of the Council's CCO boards or subcommittees, there is no requirement to interview the candidate, although the Appointments Group may choose to do so.

6.5 Recommendation to Council and Council Decision

The Appointments Group will make a recommendation regarding the appointment to Council. The recommendation should be the unanimous decision of the Appointments Group.

Recommendations from the Appointments Group should include a discussion of any actual or perceived conflicts of interest and how they will be managed.

The report will be heard in a public excluded forum so as to protect the interests of the individual being recommended for appointment.

A public announcement of the appointment should be made as soon as practicable after the Council has made its decision and received confirmation of acceptance from the candidate.

7. JOINT APPOINTMENT PROCESS

Subject to any specific trust deed or constitution requirements, the process for joint appointments to CCO boards will be as agreed with the other relevant parties, but will otherwise be consistent with the principles outlined in this policy.

8. CONDITIONS OF APPOINTMENT TO A CCO BOARD

8.1 Role Responsibilities

Based on the position description, the Council's CCO team will develop a formal description of the responsibilities and Council expectations for a CCO director appointment.

All directors, including elected members, are expected to formally accept their position and acknowledge the role description.

8.2 Term of Appointment

Subject to any specific trust deed or constitution requirements, the initial term for a CCO director will be for a period of up to three years. Subject to a review of the director's performance at the end of each term, any provisions in the CCO trust deed or constitution, and a review of the needs of the CCO board in question, the typical tenure for a director will be six years. This is to ensure that the board benefits from the knowledge and experience a director develops during their first term.

Following six years of service on a board, and subject to any maximum term in the trust deed or constitution, there will be an option for further terms if appointed as Chair or Deputy Chair of the CCO.

Following nine years of service, and subject to any maximum term in the trust deed or constitution, a director may be re-appointed, but only in special circumstances.

The rationale is that after six to nine years on the board, it is usually helpful to bring in fresh ideas and drive to the board. However, where an individual continues to display the necessary qualities to continue to take the entity forward, additional terms may be recommended at the discretion of the Appointments Group.

Where necessary, directors shall be appointed for terms of one to three years in order to avoid all the board members' terms becoming vacant at the same time. Where an appointment replaces an existing director, typically the appointment will be for the remainder of that director's term to maintain the effect of staggering expiry dates.

Any consideration of terms and reappointments should consider the question of succession and the need to balance fresh ideas with the need to maintain experience and institutional knowledge within the board.

Where possible, the appointment period will expire on 31 December to assist in the process of roll-overs and new appointments.

8.3 More than One CCO Board

Other than in exceptional circumstances, a person may not be appointed by Council to more than one CCO board at any one time. Such circumstances will be determined by the Appointments Group and form part of a recommendation to Council.

8.4 Conflicts of Interest

The Council considers that other than in emergency situations, directors should be non-executive.

Council expects that applicants would not be considered for appointment as a director if it is likely that the applicant would, if successfully appointed, have a significant conflict of interest. As noted in section 6.5, any recommendation from the Appointments Group to Council should include a discussion of any actual or perceived conflicts of interest and how they will be managed.

8.5 Council's Expectations of Directors

CCO board directors are expected to make a significant contribution to the governance of the organisation, including developing insight into the organisation and its aspirations and participating fully at meetings.

Subject to the specific requirements in the trust deed or constitution, the Council can usually terminate a CCO board appointment at any time. For example, this may occur where a director fails to participate in three consecutive board meetings without prior leave, develops a material and ongoing conflict of interest, or fails to adequately undertake their responsibilities.

9. APPOINTMENT OF ELECTED MEMBERS TO CCO BOARDS

9.1 Elected Member Appointments

CCO boards comprised of four or more directors will have a designated elected member position, unless otherwise determined by Council.

An elected member may be appointed to a vacant board position, subject to the skills required for that vacancy, in their capacity as an elected member. Where an elected member is appointed to a position that is not a designated elected member position, the appointments process in Section 6 of this policy is to be followed.

Up to two elected members may be appointed to a CCO board at any time (excluding those with less than four directors).² Up to one elected member may be appointed to a CCO board with less than four directors.

Subject to this, elected members may hold positions on the boards of as many CCOs or COs as is considered necessary.

All elected member directors must use their skills, knowledge and experience to guide the organisation and contribute to the achievement of the organisation's objectives, including those outlined in its Statement of Intent, and undertake their legal duties as directors as required by the Companies Act 1993 (where relevant) and by the relevant constitution or trust deed.

An elected member will not be eligible for appointment as a director on a CCO board in their capacity as an individual for a period of 12 months following the end of their term as an elected member.

9.2 Elected Member Appointment Process

At the beginning of each triennium Council will make elected member appointments to CCO boards for positions designated for elected members.

² Subject to the requirements of the relevant trust deed or constitution, this excludes the CO boards of Wellington Regional Stadium Trust, Karori Sanctuary Trust, and Wellington International Airport Limited.

Such appointments will be made in accordance with the principles underlying this policy.

Specifically, the appointment of elected members will be covered by the following:

- The process for the appointment of individual elected members to each entity shall be in accordance with standing orders.
- Elected member appointees on CCO boards should formally accept their appointment.
- Unless otherwise specified the appointment will terminate at the earlier of the time the position is refilled following the triennial election OR 31 December of the year of the triennial election.
- Elected members should be appointed for no longer than two terms (or six years) on to any one CCO board, unless Council agrees there are exceptional circumstances.
- Elected members will not be entitled to collect any board remuneration as payable under each separate appointment to a CCO³.
- Elected members may be entitled to collect any board remuneration as payable under each separate appointment to a CO.
- Elected members will not be eligible for the role of Chair, except in the case of temporary appointments if no other director is available or willing to accept that role.

10. APPOINTMENT OF OFFICERS

Wellington City Council employees are not eligible to be considered as candidates for director positions to CCO boards unless they are appointed in their capacity as an employee of Wellington City Council. Council may choose to appoint an officer to the board of a CCO as a way of ensuring Council's interests in the entity are monitored and managed.

Where such an appointment is required a paper will be brought to Council recommending such an appointment and outlining the reasons behind the appointment of an officer.

Unless otherwise specified, responsibility for the appointment will be delegated to the Chief Executive.

These appointments are deemed to be part of the officer's normal duties and will lapse upon the completion of the individual's tenure of employment with the Council or earlier if specified by the Chief Executive.

An officer will not be eligible for appointment as a director on a CCO board in their capacity as an individual for a period of 12 months following the end of their employment with Council.

³ Amended by Council resolution on Thursday 29 November 2012. Resolution noted that the change would take effect from the end of existing terms, in recognition of financial commitments that existing appointees may have made.

Officers will not be entitled to collect board remuneration or meeting fees in addition to their ordinary remuneration.

Officers will not be eligible for the role of Chair, except in the case of temporary appointments if no other director is available or willing to accept that role.

11. REMUNERATION

CCOs are responsible for setting and paying any remuneration applicable to their board of directors, up to a maximum of the amount determined by Council.

At the start of each triennium the Council will review the remuneration of CCO directors. The Council may at any time review these rates and set amended rates; however, they will be reviewed at least once each triennium.

The recommended remuneration of directors of CCOs requires the approval of the Council. In the case of jointly owned or settled CCOs, it may also require the approval of the other shareholders or settlors.

In reviewing the appropriate level of remuneration for directors of CCO boards, the Council will consider the following factors:

- The need to attract and retain appropriately qualified people to be directors of its CCO boards;
- The external market for directors' remuneration, including the levels and movement in comparable organisations;
- The objectives of the CCO, particularly whether it is a charitable trust; and
- The financial situation of the CCO.

While there is a material element of community service in CCO board appointments, the purpose of a regular review is to ensure that the Council is able to continue to attract and retain qualified, highly regarded candidates.

Subject to the specific requirements in the trust deed or constitution, CCOs may alter the remuneration paid to individual directors, providing the total remuneration to directors does not exceed the total amount approved by Council for that CCO. This is only likely to be the case where there are substantial and ongoing disparities in the workload level between directors (i.e. membership of subcommittees).

Subject to the specific requirements in the trust deed or constitution, directors shall be entitled to the directors' remuneration in line with the remuneration paid by the entity, excluding officer appointments and elected member appointments to CCOs. Individual board members can decide whether to accept payment of all or any remuneration. Where an individual director decides to forego all or part of their director remuneration, this will not be available for redistribution to other directors.

If a director resigns or is dismissed, the director will have no claims against the Council or the board in question except for payment of the proportion of remuneration for the period up to the date of termination.

Typically the remuneration paid to board members of COs, if any, is not set by Council. Some COs may offer remuneration or a meeting fee and directors, with the exception of Council officer appointments, are entitled to collect these.