

CODE OF PRACTICE FOR THE SEPARATION OF REGULATORY and OTHER FUNCTIONS

1. The Gisborne District Council as a District Council with the powers, duties and functions of both a Territorial Authority and a Regional Authority, faces a greater challenge than other Councils in practicably meeting the requirements of Section 223 of the Local Government Act 1974. In particular the Gisborne District Council needs to make strenuous efforts to ensure that it separates its regulatory functions from its other functions in a clear and appropriate manner.
2. This Code is intended to provide guidance to those who wish to know how the Gisborne District Council proposes to address these issues.
3. The Gisborne District Council has structured its organisation and, at the elected level its Committees, in accordance with the separation requirement.
4. However, the Gisborne District Council believes it is not practicable to entrench the separation of Committees by delegating to them total authority to act in making policy on all matters which come within their scope. This principle has been tried and has been found to be clearly impracticable as it undermines Council responsibility for the total activities of the body corporate.
5. The Gisborne District Council further recognises that its structure does not need to reflect internally the governmental structure that exists throughout the rest of the country. The Council therefore will make policy decisions in determining outcomes sought, which will reflect its total circumstances whether regarded in terms of service-delivery or regulation.
6. Such decisions will only be made at the policy level and will be made clearly and transparently in accordance with separate streams of advice from within the organisation. They will not be concerned with the mechanics of subsequent statutory process. A policy decision having been taken on a regulatory matter which impinges upon the Council as a deliverer of services will be adhered to by the Council in common with all other affected bodies.
7. Because of the Gisborne District Council's unique position the Council will, wherever it is making application to itself or wherever one arm of the organisation is providing input to another within the terms of a particular statutory process, ensure that subject to Section 114R (6) of the Local Government Act the Hearings Committee comprises complete or majority representation from outside the Council preferably with a suitably qualified independent Chairperson.
8. To further preserve the integrity of statutory process within a unitary authority the Council's Hearings Committee will be a separate Standing Committee appointed and reporting directly to Council. In general the Committee will have authority to determine matters coming before it although specific decisions in this regard may be made on a case by case basis at the time of establishing a Committee to hear particular matters.