



# Board Appointments and Remuneration Policy

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## 1. Purpose

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

- a) Identification and consideration of the skills, knowledge and experience required of directors of an Organisation.
- b) Appointment of directors to an Organisation.
- c) Remuneration of directors of an Organisation.

This policy applies to the appointment of directors to Gisborne Holdings Limited and trustees to Trust Tairāwhiti. This policy applies in principle to the appointment of trustees to Eastwoodhill Trust, Tairāwhiti Museum Trust Board, Barrington Miller Trust, and the Walter McLean Trust as the Policy is secondary to their Trust Deed/Act. In the event where other Organisations (see interpretation below) are established, – the policy also applies and should be revised to reflect the new entity as soon as practicable.

## 2. Interpretation

This policy uses the definitions for Council Organisation, Council Controlled Trading Organisation (CCTO) and Council Controlled Organisation (CCO) described in section 6 of the LGA and summarised here as:

An **Organisation** is the broadest category. For the purpose of this policy - is as an entity in which Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies, including private trusts where the founding document requires a Council appointment to the governance board. This is aligned with LGA definition of a Council Organisation.

A **Council Controlled Organisation** (CCO) is an entity in which one or more local authorities control 50% or more of the voting rights or appoint 50% or more of the members of the governing body.

A CCO can be a company, trust, partnership, incorporated society, joint venture, or other similar profit-sharing arrangement.

A CCO that operates a trading undertaking for the purpose of making a profit is referred to as a **Council Controlled Trading Organisation** (CCTO). Not-for-profit entities are CCOs.

This policy uses 'Organisation' to refer to all three categories, unless the point is specific to a CCTO, in which case CCTO is used.

## 3. Policy Objectives

The objectives of this policy are to ensure that:

- a) The process of appointing board members is undertaken in an objective and transparent manner, while protecting individual privacy.
- b) Diversity and inclusion in the boards of Organisations is increased so there is a larger - more diverse - pool of experienced board members serving on boards across the whole Tairāwhiti-Gisborne district.
- c) There is continuity through the smooth succession of board members and board chairs.

And that board appointments:

- Are made on the basis of an assessment of skills knowledge and experience, having regard to the nature of scope of the organisation's objectives and activities.
- Consider the contribution that directors can make to the board as a whole and to the achievement of the organisation's objectives and activities.
- Take into account the context in which Council, as a publicly accountable body, operates.
- Build a diverse pool of experienced board members for Tairāwhiti-Gisborne organisations and companies.

This policy takes precedence when the foundation documents are silent. In the event of a conflict, the respective constitutions or trust deeds of Organisations take precedence over this policy.

Organisations that are companies are also subject to the Companies Act 1993.

There may be circumstances where it's not appropriate to adhere to this policy. Should Council decide not to comply with any provision, the decision should be recorded by way of resolution (which should also include the reason for deviation from the policy).

This policy is subject to annual review and may be modified by Council at any time.

## **Board diversity and inclusion**

Council values and supports the benefits that diversity of gender, thought, experience and skills bring to our Organisation boards. We recognise that increasing diversity and fostering inclusive board culture is an essential element in supporting high performing boards, driving long-term success and delivering better outcomes for the communities of Tairāwhiti -Gisborne.

The people appointed to the boards of Organisations need to be capable of representing the interests of the community as a whole. This includes, but is not limited to Māori – who make up 49 percent of our District's population (the highest proportion in New Zealand) and women – who make up 52 percent.

Through our policy *Tairāwhiti Piritahi: Fostering Māori participation in Council decision-making* we recognise that Tangata whenua have a long historical settlement connection to Tairāwhiti and an equally long-term role in the future planning and decision making for the region.

A diverse board will include and make good use of differences in the skills, experience, perspectives, backgrounds, demographics and other qualities of directors. These differences will be considered in determining the optimum composition of the board and when possible should be balanced appropriately.

All board appointments will be made on the basis of the skills, knowledge and experience which the board as a whole requires to be effective with due regard to the benefits of diversity on the board.

Council is committed to supporting and providing initiatives that:

- lead to an inclusive recruitment and selection process for board appointments
- support a diverse range of aspiring directors to develop skills, knowledge, boardroom experience and to establish relationships and networks
- foster Māori participation in Council decision-making
- build a diverse pool of experienced directors for Tairāwhiti-Gisborne Organisations and companies.

## 4. Appointments to Organisations

### Background

Council has an interest in numerous entities (Appendix One). This may have been sought by Council, or requested by the entity. In some cases, Council's involvement may be a statutory requirement or provided for in the Organisation's founding document (such as a trust deed, rules, or constitution).

This policy applies the principles of good governance to guide the way that Council sets up, operates and monitors Organisations in the Gisborne district, in accordance with the requirements of the LGA.

### Gisborne Holdings Limited - CCTO

Council is the 100% shareholder of Gisborne Holdings Limited (GHL). GHL was established as a CCTO for the purpose of operating profitably and providing a non-rates income stream to Council.

GHL is Council's only CCTO as at September 2018.

GHL's constitution contains a number of provisions relating to the appointment of directors. These include the need for there to be at least three and no more than nine directors at any time, and a limit of one director who can be a member or employee of any Local Authority. GHL's constitution prohibits a director from taking up a job at Council as an employee or as Councillor. All other provisions relating to the appointment of directors are included in this policy.

### Trust Tairāwhiti - CO

Trust Tairāwhiti (TT) is the custodian of a public wealth trust held for the general benefit of Tairāwhiti residents and ratepayers. It was established on 7 May 1993 through a Trust Deed. The purpose of TT includes *"supporting business, community and other initiatives which - in the opinion of the Trustees - are likely to encourage or sustain economic growth within the district..."*

Council, as the capital beneficiary of TT, has the power to appoint Trustees and the period of time that person is to hold office. TT is Council's only major Organisation.

The Trust Deed is the ultimate document of reference for all activities conducted by TT trustees in pursuing Trust business. It contains a number of provisions relating to the appointment of Trustees. These include the role of Council in fixing the number of Trustees and the requirement that there be at least five and no more than seven Trust members, at any time.

The Trust Deed specifies that the Mayor of Gisborne or an elected member of Council who is appointed by the Mayor is one of the trustees of the Trust. That person (the Mayor, or their Nominee) is the only trustee who is also a currently elected member of Council. They are to remain a trustee until the Mayor leaves office or the nominee resigns.

## **4.1 Appointment of elected members**

Appointment of elected members (Councillors or the Mayor) to an Organisation, while permitted, should be the exception rather than norm. This is because elected members may be unable to participate in Council decision-making on matters about the Organisation because of their interest as a director. The founding document may provide guidance about the circumstances when the appointment of elected members may be appropriate.

If Council wishes to appoint elected members then the appointment must be open and transparent, and subject to the same selection criteria as for independent directors.

Where the Mayor or Councillor is being appointed to a board because it is a specific requirement that the appointee be the Mayor, or a Councillor nominated or appointed by the Mayor (for example the Trust Tairāwhiti Trust Deed), there is an understanding that the appointment will cease:

- In the case of the Mayor- when the Mayor ceases to hold office.
- In the case of the Councillor who is the nominee of the Mayor - when either the Councillor or the Mayor who nominated or appointed the Councillor ceases to hold office.

For the purposes of this policy, a Mayor or Councillor who is not re-elected shall have ceased to hold office on polling day.

A Mayor or Councillor who accepts an appointment to a board is expected to comply with this policy.

## **4.2 Appointment of Council staff, including Managers and the Chief Executive**

Gisborne District Council employees are not normally eligible to apply to be on the board of an Organisation unless there is a compelling reason to do so. Any Council employee applying for a director role on a board may be required to resign from Council immediately following an offer of appointment.

Board members should be independent from management and should not hold executive positions in the Organisation unless this is a requirement of the trust deed, a Council resolution or the equivalent founding document to do so.

## **4.3 Other Exclusions**

Immediate family members, of elected members, of the Chief Executive, and of second tier managers of the Gisborne District Council are also prohibited from serving as Organisation board members. Board members should not serve on the board of more than one Organisation but may be eligible for appointment to another Organisation board following retirement.

Persons who are disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993 (for example- a person who is an undischarged bankrupt) may not be appointed as a board member to an Organisation.

## 5. Board Competencies, Skills and Knowledge

Organisation board members are expected to meet a number of core competencies as well as relevant industry, technical, or specialist skills required for that board.

### 5.1 Core Competencies

The core competencies expected on Organisation boards are:

- sound judgement and decision-making
- commercial acumen
- public service ethos and awareness of a public media profile
- an understanding and commitment to Council's obligation to Te Tiriti o Waitangi
- a high standard of personal integrity
- clear communication and an ability to debate in a reasoned manner
- effective teamwork and collaboration
- the ability to think strategically
- risk assessment and contingency management
- commitment to the principles of good corporate citizenship
- understanding of the wider interests of Council as a publicly accountable shareholder
- experience in governance, preferably corporate governance.

The mix of skills and experience on the board will be taken into account through a skills matrix, and consideration given to complementing and reinforcing existing skills and reducing skill gaps where necessary.

Appointees to Organisation boards should undergo, or have undergone formal governance training, or have the requisite experience.

Council may waive the corporate governance requirement in order to attract a wider range of board members and to further its diversity policy if these skills and experience are already well represented on the board. Organisation boards are expected to provide director training for directors with limited corporate governance experience.

### 5.2 Board Chair Competencies

In addition to demonstrating the core competencies listed in section 5.1 the following skills and competencies are required for the Chair and will be sought in the succession planning process (described at 10 in the policy):

- Board experience
- strong leadership skills
- political acumen
- strong interpersonal and relationship building skills
- sophisticated, analytically based, decision-making skills
- effective communication skills
- integrity and credibility within relevant sectors.

### 5.3 Role of the Board Chair and Deputy Chair

The role of the Board Chair is to provide effective leadership and:

- harness the collective skills of the board and executive team to achieve business objectives and maintain the confidence of the shareholders
- maximise the contribution of board members in board meetings
- maintain the trust of the Council
- maintain a close, but independent, working relationship with the Organisation Chief Executive
- lead the board review process
- lead the director induction process
- ensure that there is a succession plan in place for the board
- be the spokesperson for the Organisation
- work productively and openly with colleagues to achieve results and resolve problems
- to retain the confidence of the region and build relationships within the region's networks.

The role of the Deputy Chair which includes the ability to take on the Chair's role, as and when required, is to:

- provide effective leadership
- work productively and openly with colleagues to achieve results and resolve problems
- retain the confidence of the region and build relationships within the region's networks.

## 6. Terms of Appointment

Board members are to serve a maximum of three three-year terms, with the option of further reappointment possible where appropriate. In the event of a conflict, the respective constitutions or trust deeds of Organisations take precedence over this policy. To reflect current national and international best practice, Council's policy regarding board tenure is as follows:

**Tenure of three years:** Board members shall hold office for a term of up to three years from the date of appointment.

**Expiry of tenure:** upon expiry of that three-year term, the board member retires from the board and, subject to the board members' performance and skills continuing to be relevant to the board may be eligible for reappointment.

Board members should not be given any expectation that they will be offered a subsequent term of office.

Any board member reappointed for a third term retires upon expiry of the additional three-year term.



**Tenure exceeding nine consecutive years:** for circumstances where there are good reasons for extension, a board member retiring from a third tenure of three years may be reappointed for a further term but the board member's total tenure on the board must not exceed twelve years. Each case will be considered on its own merits and is at the sole discretion of the Council. The types of circumstances that could require this include, the:

- Board member has a particular skill that would be hard to replace
- Board has undergone substantial change and stability is needed
- Board member has institutional knowledge not held by other directors
- Board member is a likely successor as a chair.

Board members hold office at the discretion of the Council and may be removed at any time by Council resolution.

## **7. Appointment Process**

### **7.1 Strategic review and needs assessment**

Once a vacancy has been established, Council will identify the skills, knowledge and experience required for the position, including whether knowledge of Tikanga Māori may be of relevance to the governance of that Organisation (as required by section 60(3) of the LGA 2002), with the assistance of Council's Internal Partnerships hub. This should involve discussions with the chair, consideration of the current composition and skill profile of the board and a strategic review of future skill requirements – including succession planning.

### **7.2 Candidate search**

Candidates may be sought through a combination of the following search methods: advertising of the position, executive recruitment search, a review of Companies Office register of directors, nominations from the Mayor, governing body and local board members and crown agencies such as the Ministry of Women's Affairs and Te Puni Kokiri, on the advice of the board chairperson, and by invitation.

A complete list of candidates will be compiled with the assistance of Council's executive recruitment consultant if used.

Determination for enlisting an external recruitment agent will reside with the Chief Executive.

### **7.3 Screening and short-listing**

The Appointments Committee will be appointed by Council and will be serviced through the Chief Executive. The Committee undertake short listing of candidates to be interviewed by the Committee. They will ensure due diligence has been carried out in preparation of a short-list, including candidate's declaration of interests.

The Appointments Committee will screen the list to ensure that the candidates have the required core competencies (see 5.1 of the policy) as well as the specific skills and expertise required for the position. The names of all candidates from the long list will be included in a Public Excluded report to Council.

The Committee will comprise of the Mayor, two elected members, the Chief Executive, the independent recruitment consultant (ex-officio) and, if appropriate, relevant external people including the board chair.

A summary of skills or CVs will be included in the report to Council with the public excluded.

## **7.4 Interviewing and assessment of candidates.**

The Appointments Committee will interview and assess shortlisted candidates against the required skills, knowledge and experience and may take into account other factors such as:

- Council's board diversity and inclusion policy (see policy objectives)
- candidates with knowledge of Te Ao Māori and established Māori networks
- alignment with the council's objectives for that entity
- board dynamics and stakeholder relationships
- the capacity of candidates to attend regular board meetings and fulfil the other requirements of the directorship
- Chair and deputy Chair succession planning.

## **7.5 Council decision**

The Appointments Committee will interview candidates from the short-list with the public excluded to protect the interests and privacy of the candidates. This process will include a discussion of whether any actual or perceived conflicts of interest have been identified.

The Appointments Committee will then make a recommendation to Council to appoint the preferred candidate.

A decision on the appointment of board members will be a decision for the whole Council. Under Standing Orders, this vote is required to be taken by division.

Council will undertake this process in private and in accordance with the provisions of the Local Government Official Information and Meetings Act 1987.

The successful candidate(s) can be decided at a Council meeting (tenure effective immediately). All appointments will specify a term.

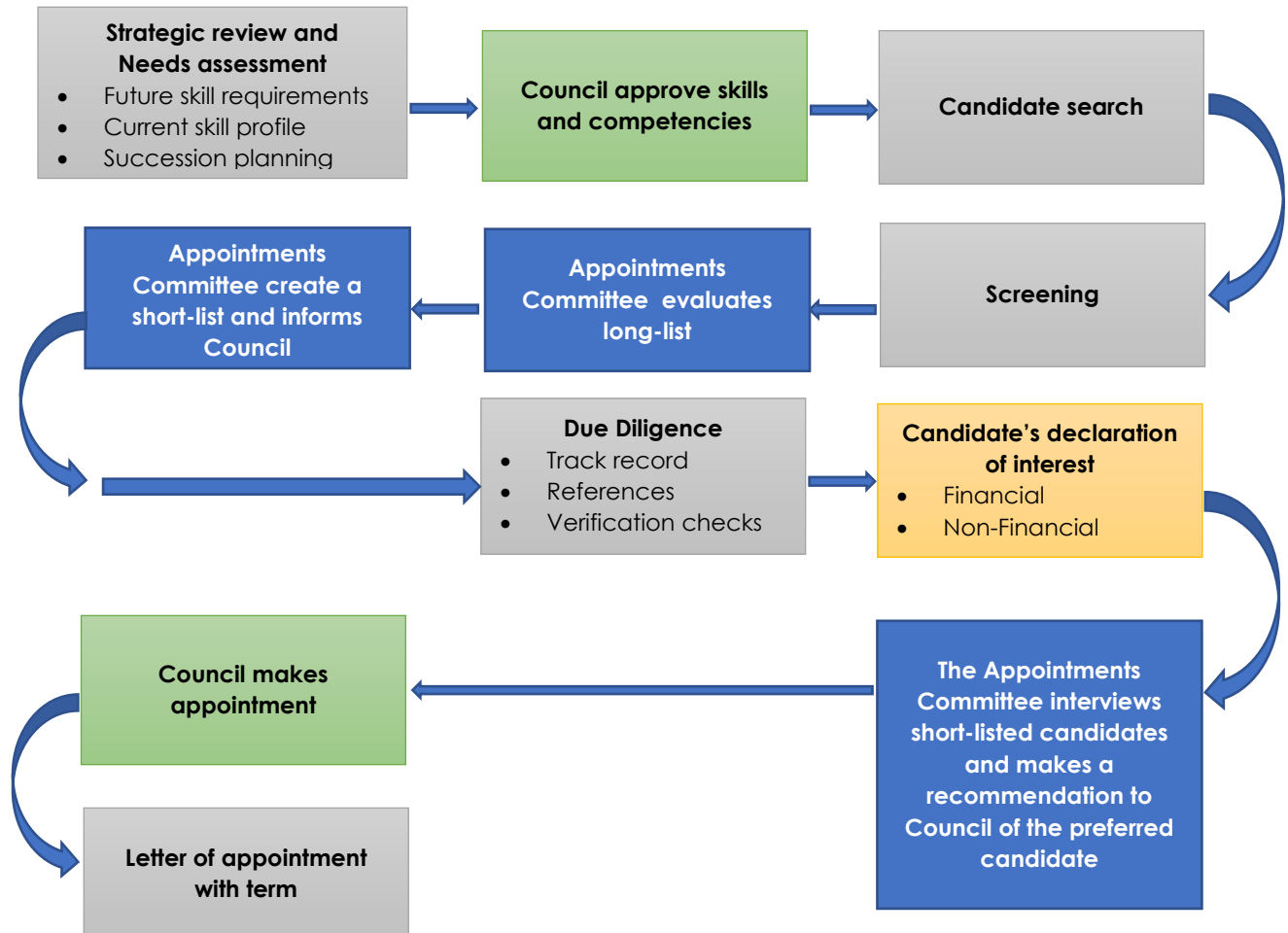
Public announcement of the appointment will be made as soon as practicable after the meeting where Council has made its decision.

Unsuccessful candidates will be notified.

Council may wish to signal to its Chief Executive other candidates who on interview, have presented with appropriate skills that match or are of benefit to Organisations for future vacancies within the next twelve-month period.

## 7.6 Appointment Process Flowchart

The diagram below provides an overview for the process for appointments.



## 8. Review of Board Member Performance

The review of board member performance will be conducted by Council within a sufficient timeframe in relation to board appointment rounds.

The review will be conducted by Council with the cooperation of the Organisation Chairperson. The process for that review will be:

- An interview with the Chairperson - with the objective of assessing individual director performance and contribution or in the case of reviewing the Chairperson an interview with the deputy Chair.
- Peer review summaries (this may include written questionnaires) – conducted six weeks before board appointment rounds.
- An assessment of the board's performance against stated objectives, quality of strategic initiatives, the implementation of those initiatives, and overall communication with the shareholder.

The review criteria for individual board members will include:

- preparedness for and attendance at meetings
- strategic perspective
- the ability to identify emerging trends and take action on a proactive basis
- understanding and performing governance functions
- constructive input to discussion.

Chairperson review (additional criteria):

- leadership of the board 'team'
- consistency and even-handedness
- judgement and decision making
- communication and mentoring.

## 9. Consent and Conflicts of Interest

Board members are required to declare any real or potential conflicts of interest that may arise during the course of carrying out their duties for Organisations. Likewise, all candidates will be required to complete a consent form and to declare any relevant interests, prior to being interviewed for a position on a board, so that the potential for a conflict of interest can be assessed.

In making appointments to boards, Council will take into consideration a candidate's existing directorships, and any other potential conflicts of interest.

In the event of a real or potential conflict of interest (where the person involved has an "interest in a proposed transaction" for example may derive a personal financial benefit) the director must exclude themselves from participation in any debate with respect to the transaction and any resulting dealings with the third parties or approval of transactions. In the rare event where exclusion is not deemed to be practicable, directors must obtain formal written permission to proceed from the chair of the board.

In considering any appointment or reappointment where a potential conflict of interest has been identified, Council needs to be confident that:

- The board member or candidate will be able to make an effective contribution, even if their interest means they cannot participate in an activity of the Organisation that relates to a particular matter.
- The board member, or their parent, spouse or child will not derive a personal financial benefit from the transaction.
- Measures can be put in place to manage the conflict.

Further guidance on conflicts of interest can be found in sections 139 to 149 of the Companies Act 1993.

The Office of the Auditor-General also provides guidance on the management of interests and conflicts: [www.oag.govt.nz/managingconflictsofinterest:guidanceforpublicentities](http://www.oag.govt.nz/managingconflictsofinterest:guidanceforpublicentities)

## 10. Chair Succession Planning

These provisions are specifically for the position of chairperson of the GHL and Trust Tairāwhiti boards.

The purpose of succession planning is to provide for smooth transition of leadership in the event of a planned or unexpected retirement of an incumbent chair.

A person appointed as chair in their second term may be appointed for a further three-year term as chair, however their tenure as chair must not exceed six years. Council will generally consider the need for a potential successor as they make each board member appointment.

The selection panel will be responsible for managing the succession planning process, which may (but not necessarily) be initiated by the board. The process will include discussions with the chairperson, assessing the skills, knowledge and expertise required for the role, and identifying any board members who may be possible candidates. This must commence at least six months before the settling-in period referred to below, and one year before the proposed retirement of the current chairperson.

If the proposed candidate is new to the board there must be time for a settling-in period of at least one year before that person can be nominated for the role of chairperson.

The qualities expected of the chairperson include (but not exclusively) the ability to develop and maintain a:

- Sound relationship with Council based on mutual trust and confidence.
- Close but independent working relationship with the Organisation's Chief Executive.
- And, use the collective skills of the board and executive team for the purpose of achieving the Council's objectives (described in the 2018-2028 Long Term Plan).

It's expected that the board chair will identify potential successors or signal to Council if there are no candidates for future chair.

## 11. Removal of Board Members

Board members hold office at the pleasure of Council and may be removed at any time by Council resolution.<sup>1</sup>

Without limiting the right of Council, the following are likely reasons for Council to remove a board member, where that board member:

- is regularly absent from board meetings without good justification
- no longer has the confidence of the board or Council
- has breached ethical standards and this reflects badly on the board or Council
- does not act in the best interests of the Organisation
- breaches the confidence of the board in any way, including speaking publicly on board issues without the authority of the board or
- does not act in accordance with the principles of collective responsibility
- is now disqualified from being appointed or holding office as a director of a company under section 151(2) of the Companies Act 1993.

Where the board has concerns regarding the behaviour of one of its members it should be considered by the board in the first instance and, where necessary, the board may recommend the removal of the board member to Council.

No payment will be made - by way of compensation - to board members who have been removed from boards.

## 12. Board Members Standing for Political Office

Board members who have been selected to stand as a candidate in a local body or general election should advise the chair of their board immediately. Chairs need to advise Council, through the Chief Executive as soon as any members of their boards have been identified as candidates.

Any board member who is formally selected to stand as a candidate for election at a local body or general election, or placed on any political party's list, must stand down from their board position from nomination day until the election results are notified or such earlier day as may be determined. This measure aims to ensure that governance of the Organisation is not distracted by the board member's election activity, and to prevent the possibility of any conflicts of interest, real or perceived.

In the event that the board member is successful in their bid for political office, they must formally retire from their board position. They may be eligible for appointment to another Organisation board following retirement.

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<sup>1</sup> Gisborne Holdings Limited only

## 13. Remuneration

Board members' fees will compensate board members fully for their normal contribution to the board, including attending board and Committee meetings, meeting preparation, stakeholder management and any other agreed tasks.

Board members' fees will reflect the element of public service in serving on the board of an Organisation and will accordingly be set at or below the average for comparable private sector entities.

To ensure transparency, fees will be set by Council for the board members and chairs, rather than allocating a pool to be distributed by the board. Fees are to be met from the Organisation's own resources.

Where Council is the sole shareholder (for example GHL) Council will set the remuneration by resolution at the Annual General Meeting of the Organisation or by resolution of Council. Such resolution shall state whether the remuneration is to be allocated by the Board or is to be specified for Directors and Chairperson.

In the instance of Trust Tairāwhiti trustees, the Trust Deed requires prior approval of Council before any changes are made to trustee remuneration.

There is no provision for the payment of retiring or other gratuities to board members.

### 13.1 Fee Setting

Board members' remuneration will be reviewed once per triennium following local body elections. A full review will be conducted and will include benchmarking against comparative entities. The review will consider market movement and the final decision on board members' remuneration will be made by a resolution of Council. Fees will be set taking into consideration the following:

- The size and scale of the Organisation (for example turnover, value of assets, number of employees).
- Complexity and scope of operations (for example complexity of issues, level of guidance for decision-making, relationship management responsibilities).
- Accountability (for example scale of market risk, public interest and profile, potential risk to board member reputation, and other key risks).
- Skills - the type of expertise and specialisation needed.

Special considerations may also be included in setting fees, such as a temporary increase in workload for the board, or difficulties in recruiting particular skills.

## **13.2 Ordinary Fees**

Ordinary fees are calculated based on:

- The designated base fee per board member.
- Board Chairs will be remunerated at twice the designated base fee.
- 1.25 times the designated board member base fee for the Deputy Chair, to reflect either an actual appointment, or to provide the capacity for the council committee to later make such an appointment.
- 1.15 times the designated board member base fee for those members with duties as Chair.

There are no additional fees for board committee meetings.

Council supports the payment by Organisations of their board members liability insurance and indemnity.

## **13.3 Remuneration for Consultancy Services**

Council expects that no board member will undertake consulting work for the Organisation. In the event that an exception to this rule appears appropriate, the Chair should seek Council approval in advance.

**Authorised by Nedine Thatcher Swann – Chief Executive**

**Date of approval:**



## 14. Glossary

### Definitions

#### Organisation

An entity in which Council has a voting interest or the right to appoint a director, trustee or manager (however described). This is a wide-ranging definition, covering a large number of bodies, including private trusts where the founding document requires a Council appointment to the governance board. This is aligned with the definition in section 6 of the LGA of a Council Organisation.

#### Council-controlled organisation

A council-controlled organisation (CCO) is defined in section 6 of the LGA as an organisation in which the council controls, directly or indirectly, 50% or more of the votes or has the right, directly or indirectly, to appoint 50% or more of the directors, trustees or managers.

#### Council-controlled trading organisation

A council-controlled trading organisation (CCTO) is defined in Section 6 of the LGA as a CCO that operates a trading undertaking for the purpose of making a profit.

#### Director

An appointed member of the board of directors of an Organisation who, with other directors, has the responsibility for determining and implementing the Organisation's policy. Directors also assist the Organisation to meet its objectives and the requirements in its Statement of Intent. The Director's role is defined in S58 (1) of the LGA 2002.

Directors have responsibilities to their company and shareholders, and under the Companies Act 1993 must be registered with the New Zealand Companies Office.

#### Trustee

A trustee is a person that holds and administers property or assets for the benefit of a third party.

Directors and Trustee remuneration - Payments made to directors and trustees in accordance with this policy.

#### Board and board member

Refers to a Company Board, Trust Board and any other governing body however it may be referred to. The term board member includes directors, trustees, managers or office holders (however described by that entity) and is applied in this policy to mean role of director – as described in the LGA.

#### Candidate

Is a person who has been nominated, submitted a written application, or identified through search activities.

# Appendix One

## Organisations to which this Policy Applies

### As at March 2020

1. Council-controlled Trading Organisation (CCTO) in which Gisborne District Council are the 100% shareholder:
  - Gisborne Holdings Limited
2. Organisations in which Gisborne District Council appoints board members by virtue of an Act of Parliament or Trust Deed:
  - Trust Tairāwhiti
3. Organisations in which Gisborne District Council appoints board members by virtue of an Act of Parliament or Trust Deed but are non-substantive:
  - Eastwoodhill Trust
  - Tairāwhiti Museum Trust Board
  - Barrington Miller Trust
  - Walter McLean Trust