

## 17. Elections

Auckland Council runs elections for the mayor, ward councillors and local boards. It also manages elections for the Auckland region's three district health boards (Auckland, Counties Manukau, Waitemata) and five licensing trusts (Birkenhead, Mount Wellington, Portage, Waitakere and Wiri).

Elections are held every three years, on the second Saturday in October [1].

### 17.1 Elections Administration

#### 17.1.1 Running the elections

- a. Auckland Council is required to appoint an electoral officer to exercise the powers and carry out election-related duties established by the Local Electoral Act 2001 [1].
- b. Most councils in New Zealand use a contracted private company to manage the processing of nominations and votes, and typically appoint either a staff member or the principal of that company as electoral officer. For the 2016 elections, Auckland Council contracted Independent Elections Services to run the elections, and the Governing Body appointed Dale Ofsoske, a director of Independent Election Services, as its electoral officer. He in turn appointed Warwick Mc Naughton, Principal Advisor Democracy Services, as the deputy electoral officer. These appointments continue until the electoral officer is replaced.

#### 17.1.2 Duties of electoral officer and officials

- a. The electoral officer has the powers and duty to [1]:
  - conduct elections or polls within the Auckland local government area
  - compile and certify the electoral rolls
  - publish any public notice relating to elections and polls and the calling of nominations
  - receive nominations, candidate profile statements, and required deposits
  - issue and receive ordinary and special votes and other official documents
  - process and count votes
  - declare the results

- receive returns of electoral donations and expenses
  - investigate possible offences and report alleged offences to the police.
- b. The electoral officer is required to appoint a deputy electoral officer to perform these duties if he/she becomes incapable of doing so. The deputy electoral officer has the full powers of an electoral officer and must continue to act until the electoral officer regains capability or a new electoral officer is appointed [2].
- c. Electoral officials must make declarations before they can fulfill their duties under the Local Electoral Act [3]. Declarations remain current until 31 January of the year of the next election [4].
- d. To prevent any political intervention in the elections process, the exercise of powers under the act is legally protected from any direction by the Governing Body or local boards [5]. The electoral officer, deputy electoral officer, and other electoral officials perform their functions and duties independently of the council. Candidates for election cannot be appointed or act as electoral officials [6].
- e. The chief executive should not act as an electoral official unless there are no other reasonably practicable options available [7].

### 17.1.3 Key dates for an elections period

- a. Each election has a number of key dates and periods during which activities need to occur to ensure best practice and meet legislative procedural timeframes.

Date	Activity
Not later than 28 days before the earlier of the close of the roll or the close of nominations [1]	Public notice of election calling for nominations and announcing roll open
57th day before election day [2]	Nominations close
Between 17–23 days prior to election day [3]	Delivery of voting documents
Second Saturday in October [4]	Election day
For booth voting, 7pm on election day; for postal voting, 12pm on election day [5]	Voting closes

As soon as practicable after all valid votes have been counted [6]	Public notice of declaration of results
Within 55 days after election results are declared [7]	Return of election expenses and donations form

## 17.2 Candidate information

### 17.2.1 The roles people can stand for in Auckland local elections

- a. Elections are held every three years for the following roles:
- Auckland Council’s governing body, consisting of:
    - i. the mayor
    - ii. 20 ward councillors – elected from 13 wards
  - 149 Auckland Council local board members – elected from 21 local boards
  - District Health Board members (Auckland, Counties Manukau, Waitematā) – 7 per board
  - Licensing Trust members: Birkenhead – 6 members; Mt Wellington – 6 members; Portage – 10 members; Waitakere – 7 members; Wiri – 6 members.

### 17.2.2 Who can stand

- a. To qualify as a candidate for the positions of mayor, ward councillor, local board member, district health board member or licensing trust member, a person must be [1]:
- a New Zealand citizen
  - aged over 18
  - enrolled on the parliamentary electoral roll.
- b. Candidates do not need to reside in the area in which they are standing but will need to disclose that fact in their candidate profile statement [2].
- c. Candidates need two people to nominate them. These people must be aged over 18 and enrolled to vote at an address in the area the candidate wants to represent [3]. Candidates can obtain information on rules and procedures from the nomination forms and in the candidate information handbook. These are available

from the electoral officer, via service centres, and on the council's website [4] once the nomination period has opened.

### **17.2.3 Standing for more than one position**

- a. A candidate cannot stand for more than one governing body ward or one local board subdivision [1].
- b. If a candidate is elected to the position of mayor and governing body member, they take the position of mayor [2]. A candidate elected as a governing body member and local board member takes the governing body position [3].
- c. A person can only be a member of one local board. They can stand for election in more than one but have to declare in their profile statement [4] which local board they will choose if they are elected to more than one.

### **17.2.4 Campaigning**

There are rules on how candidates are to behave to ensure elections are fair and transparent. Rules include using council resources (see section 5), campaign costs and electoral signage (see below).

#### **a. Electoral donations**

Electoral donations are money, goods or services given to a candidate (or other person on the candidate's behalf) for use in the candidate's campaign [1]. Electoral donations, and contributions to donations, of more than \$1,500 (incl. GST) must be declared in the candidate return of donations and expenses [2]. A series of donations made by one person that adds up to more than \$1,500 must also be declared.

The following are not deemed to be donations [3]:

- volunteer labour
- goods or services provided free of charge to a candidate, or to any person on the candidate's behalf, that have a reasonable market value of \$300 or less
- money provided by the candidate for his/her campaign.

If a person or organisation pays for goods or services that would otherwise be candidate election expenses, then the reasonable market value of those items should be recorded as an election expense. If the value exceeds \$300 it should also be recorded as a donation.

Candidates are not allowed to retain anonymous donations exceeding \$1,500 [4].

## b. Campaign expenses

The amount a candidate can spend on his or her campaign relates to the population of the area they stand for and should not exceed the limits in the Candidates' guide on electoral donations and expenses (for further information see Elections on the Auckland Council website).

## 17.3 Election results

- a. Progress results are announced as soon as possible after 12 noon on election day.
- b. Preliminary results are announced once all votes received at service centres and libraries up until 12 noon on election day have been processed and delivered to the Electoral Officer. Final results are announced after all votes, including special votes, have been counted [1].
- c. Successful candidates are advised of progress and preliminary results as soon as possible by email or phone. Progress and preliminary results are released to the media and placed on the council's website [2] as soon as possible after 12pm on election day.
- d. The declaration of results can be challenged through:
  - a judicial recount, on application to a District Court Judge from a candidate up to three days after the public declaration [3]
  - or
  - a judicial inquiry, by petition filed in the District Court by a candidate or 10 electors, within 21 days of the public declaration [4].
- e. Anyone wishing to challenge the results has to provide reasons and a deposit of \$750 with the application to the Auckland District Court [5].

## 17.4 Voter Information

### 17.4.1 How voting works

- a. The electoral roll for a local election includes residential and ratepayer electors.
- b. A person is qualified to vote in Auckland's local elections as a residential elector if he/she is enrolled on the parliamentary electoral roll for the area [1]. To be eligible for enrolment, a person must be [2]:
  - over 18 years
  - a New Zealand citizen or a permanent resident.
- c. The enrolment process is the same as for national elections [3].

- d. A person who owns property within the Auckland Council area but who lives outside this area (and is on the electoral roll at a residence outside the area) can enrol as a ratepayer elector for the election of the mayor and governing body members [4]. A person who owns property within a local board area but who lives outside the local board area can enrol as a ratepayer elector for the election of the local board members. To go on the ratepayer roll, a person needs to apply to the electoral officer for the local council area in which he/she owns property but does not usually live. The electoral officer will send a form to complete, sign and return to check eligibility.
- e. If someone is registered on the unpublished electoral roll, they will need to apply to the electoral officer to receive voting papers [5].
- f. Voters who are overseas can take part in local elections. They must ensure they are correctly enrolled with an overseas postal address to receive their voting papers. Voting papers for local elections cannot be downloaded.

**g. Voting methods**

Local elections may use postal voting, booth voting, electronic voting or a combination [6]. Auckland Council's elections are held by postal vote. Voting papers are posted to all enrolled voters about a month before voting starts. The postal voting period starts three weeks in advance of Election Day.

#### **17.4.2 Voting Systems**

- a. The first past the post electoral system is used for Auckland Council elections (mayor, ward councillors and local board members) and the five licensing trust elections.
- b. Under this system, a voter ticks the circle next to the candidate they wish to elect; the candidate(s) with the most votes wins [1].
- c. The district health boards are elected using the single transferrable vote (STV) voting system. Under the STV system, a voter ranks as few or as many candidates as he or she likes [2].
- d. First preferences are counted and any candidate whose votes exceed a set amount is elected. If all positions are not filled, the surplus proportion of votes for successful candidates are redistributed among the other candidates according to voters' preferences. If the positions are not filled, the candidate with the fewest votes is excluded and the second preferences of those who voted for that candidate are counted. This process of redistributing votes continues until all positions are filled. For more information about how STV works, go to <http://www.stv.govt.nz/STV/how.htm>

### **17.4.3 Order of candidate names on voting documents**

- a. The council may resolve that candidate names are arranged on the voting document in alphabetical order of surname, pseudo-random order or random order [1]. With pseudo-random order of names, the same random order appears on each voting document. With random order of names, a different random order appears on each voting document.
- b. Auckland Council has used alphabetical order printing to date for mayoral, ward councillor and local board member candidates.
- c. Alphabetical order is easier to use and understand, and matches the way candidate names are displayed in the candidate directory.
- d. A potential disadvantage of alphabetical order printing is that there is some documented evidence, mainly from overseas, of voter bias to those at the top of a voting list. This analysis of booth voting is based on two criteria: 1) the impact on vote share and 2) the impact on election outcome. Auckland's local elections are administered by postal voting which allows for a more considered approach than booth voting. Analysis of previous election results shows that any potential advantage to those at the top of alphabetical voting lists is very small.
- e. The district health boards and licensing trusts make their own decisions about the order of names.

### **17.4.4 Kids Voting**

- a. Auckland Council runs a Kids Voting programme. This gives young people aged 11 to 15 (school years 7 to 10) the opportunity to experience an election first hand.
- b. Students learn about Auckland Council, why voting is important and how elections work. At the end of the programme, they vote for real candidates on real issues and then they see how their results compare to the official election results.
- c. In the 2016 election year, Auckland Council received a record number of registrations with more than 11,500 students taking part from 55 schools. The council plans to run more of these programmes in future election years.

## **17.5 Incumbent members standing as candidates**

### **17.5.1 Election Year Policy for Elected Members**

- a. In an election year, an incumbent member standing as a candidate has two roles:
  - as an elected member, continuing to take part in council decision-making for which he/she is provided the necessary resources

- as a candidate campaigning for re-election.
- b. Council resources must not be used for any electoral advantage. The Election Year Policy for Elected Members, adopted by the governing body after feedback from local boards, outlines the rules for managing the use of council resources during election time.
- c. The chief executive also develops a policy for the conduct of staff during an election year.

### **17.5.2 Terms of office and transitions**

- a. Members who are elected at a triennial election come into office the day after the public notice of the official declaration of results [1]. Current members' terms of office expire at the same time [2].
- b. Election day is the second Saturday in October and the public notice of results is usually one week later. Elected members take up office but are unable to fulfil their duties until they have made their declarations [3]. There may be one or two weeks between commencing office and making their declarations.
- c. The governing body and local boards typically pass resolutions setting out how decisions are to be made between the final meetings in September and the inaugural meetings. This period of time is often referred to as the interregnum period. While current members are still in office, decision-making may be delegated to a few members. During the 2016 interregnum period the governing body delegated urgent decision-making power to any two of either the mayor, the deputy mayor and a chairperson of a committee of the whole. Local Boards delegated urgent decision-making power to their chair and deputy chair.
- d. The chief executive will also make decisions during this period under existing delegations.

For information on what happens if a vacancy occurs during a political term see Section 3.3: Resignations and vacancies.

## **17.6 Inaugural meetings following an election**

### **17.6.1 Statutory declarations**

- a. The chief executive calls the first meetings following an election for the governing body and each of the 21 local boards [1].
- b. He/she also chairs the governing body's inaugural meeting until the mayor has made the declaration [2]. The mayor then chairs the meeting and the other members make their declarations.

- c. The chief executive, or nominee (usually a member of the Executive Leadership Team), chairs local board inaugural meetings and each member makes a declaration, confirmed by the chief executive (or nominee). The members then elect a local board chairperson, who makes a chairperson's declaration and chairs the meeting.
- d. The form of the declaration is prescribed in legislation. It is essentially a signed public statement that the member will perform his/her responsibilities in the best interests of the area (being the Auckland Council area for the mayor and governing body members and the local board area for each local board).

### **17.6.2 Explanation of laws affecting members**

- a. There is a legal requirement [1] for the chief executive to arrange an explanation of the Local Government Official Information and Meetings Act 1987 and other laws affecting members including:
  - the appropriate provisions of the Local Authorities (Members' Interests) Act 1968
  - sections 99, 105, and 105A of the Crimes Act 1961
  - the Secret Commissions Act 1910
  - the Financial Markets Conduct Act 2013
- b. These laws relate to pecuniary interest, corruption and bribery, improper gain, interest in contracts, use of confidential information for personal benefit (insider knowledge) and non-misleading offers of securities.
- c. In 2016 the explanation of these laws, as well as a number of other core legal requirements, was provided to elected members by way of a report presented at the first business meeting of the governing body on 1 November 2016 and the first meeting of each local board.
- d. Elected members also underwent an extensive induction programme that focused on:
  - good governance and the role of elected members as decision-makers
  - the role of staff in providing advice
  - an overview of elected members' legal obligations
  - trust and confidence in Auckland Council
  - obligations to Māori and the role of the Independent Māori Statutory Board
  - Auckland Council's shared governance model and how it works in practice.

### **17.6.3 Welcome by mana whenua**

- a. It is customary for mana whenua to welcome newly-elected local government members. At Auckland Council, this has included a formal pōwhiri for all governing body and local board elected members, prior to inaugural meetings, and a whakatau mihi at each of the inaugural meetings.

### **17.7 Referenda**

- a. Under Section 9 of the Local Electoral Act 2001, the electoral officer may be directed by the council to hold a referendum on matters such as:
  - current or future services
  - current or future policies
  - proposals relating to current or future activities or objectives of council
  - current or future wellbeing of its local government area.
- b. The council determines whether the referendum subject matter affects all or part of the Auckland local government area. Defining the area the matter relates to is important to ensure the electoral officer is able to identify all the local electors who need to be included in the referendum. Multiple referenda can be conducted at the same time or in conjunction with other elections or polls.
- c. The result of any referendum is not binding on Auckland Council unless it resolves otherwise or another law provides otherwise [1].

### **17.8 Footnotes**

#### **17. Elections**

[1] Local Electoral Act 2001, section 10(2)

#### **17.1.1 Running the elections**

[1] Local Electoral Act 2001, section 12(1)

#### **17.1.2 Duties of electoral officer and officials**

[1] Local Electoral Act 2001, sections 15 to 19

[2] Local Electoral Act 2001, section 13

[3] Local Electoral Act 2001, section 14(2)

[4] Local Electoral Act 2001, section 14(3)

[5] Local Electoral Act 2001, section 14(1)

[6] Local Electoral Act 2001, section 14(4)

[7] Local Electoral Act 2001, section 14(5)

### **17.1.3 Key dates for an elections period**

[1] Local Electoral Act 2001, section 52

[2] Local Electoral Act 2001, section 5

[3] Local Electoral Regulations, clause 51

[4] Local Electoral Act 2001, section 10

[5] Local Electoral Act 2001, section 5

[6] Local Electoral Act 2001, section 86

[7] Local Electoral Act 2001, section 112A

### **17.2.2 Who can stand**

[1] Local Electoral Act 2001, section 5

[2] Local Electoral Act 2001, section 61(2)(ca)

[3] Local Electoral Act 2001, sections 26 and 55

[4] [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz)

### **17.2.3 Standing for more than one position**

[1] Local Electoral Act 2001, section 57A

[2] Local Electoral Act 2001, section 88

[3] Local Electoral Act 2001, section 88A

[4] Local Government (Auckland Council) Act 2009, section 11AAB

### **17.2.4 Campaigning**

[1] Local Electoral Act 2001, section 103A

[2] Local Electoral Act 2001, section 112A

[3] Local Electoral Act 2001, section 103A

[4] Local Electoral Act 2001, section 103J

### **17.3 Election results**

[1] Local Electoral Regulations 2001, clause 58 and Local Electoral Act 2001, sections 85 and 86

[2] [www.aucklandcouncil.govt.nz](http://www.aucklandcouncil.govt.nz)

[3] Local Electoral Act 2001, section 90

[4] Local Electoral Act 2001, section 93

[5] Local Electoral Regulations 2001, clauses 139 and 140

#### **17.4.1 How voting works**

[1] Local Electoral Act 2001, section 23

[2] Electoral Act 2001, section 74

[3] <http://www.elections.org.nz/voters/enrol-check-or-update-now/how-enrol>

[4] Local Electoral Act 2001, section 24

[5] Local Electoral Act 2001, section 21

[6] Local Electoral Act 2001, sections 5 and 36

#### **17.4.2 Voting Systems**

[1] Local Electoral Act 2001, section 5A

[2] Local Electoral Act 2001, section 5B

#### **17.5.2 Terms of office and transitions**

[1] Local Electoral Act 2001, section 115

[2] Local Electoral Act 2001, section 116

[3] Local Government Act 2002, Schedule 7, clause 14

#### **17.6.1 Statutory declarations**

[1] Local Government Act 2002, schedule 7, clause 21

[2] Local Government Act 2002, schedule 7, clause 14

#### **17.6.2 Explanation of laws affecting members**

[1] Local Government Act 2002, schedule 7, clause 21

#### **17.7 Referenda**

[1] Local Electoral Act 2001, section 9(7)

### **Key Documents**

**Appointment and Remuneration Policy for Boards Members of Council Organisation**

**Civil Defence Emergency Management Act 2002**

**Code of Conduct**

**Code of conduct for elected members**

**Interpretation Act 1999**

**Ngāti Whātua Orākei Claims Settlement Act 2012**

**Ngāti Whātua o Kaipara Claims Settlement Act 2013**

**Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008**

**Local Boards Standing Orders**

**Local Electoral Act 2001**

**Local Government Act 2002**

**Local Government (Rating) Act 2002**

**Local Government (Auckland Council) Act 2009**

**Local Government Official Information and Meetings Act 1987**

**Public Audit Act 2001**

**Standing Orders**

