

AUDIT AND RISK MANAGEMENT SUBCOMMITTEE AGENDA

THURSDAY 7 MAY 2009

AT 1PM

IN THE NO 1 COMMITTEE ROOM, CIVIC OFFICES

Subcommittee: The Mayor, Mr Bob Parker
Councillors David Cox, Bob Shearing, Gail Sheriff and Chrissie Williams,
and Messrs John Hooper and Michael Rondel.

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1. APOLOGIES

2. CONFIRMATION OF MINUTES

Attached.

It is recommended that the Subcommittee confirm the minutes of the meeting of 4 February 2009, both open and public excluded sections.

3. RESOLUTION TO EXCLUDE THE PUBLIC

Attached.

5. RESOLUTION TO RESUME OPEN MEETING

6. LEGISLATIVE COMPLIANCE PROJECT

General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officer responsible:	Legal Services Manager
Author:	Chris Gilbert

PURPOSE OF REPORT

1. That the Audit and Risk Management Subcommittee recommend that the Council approve the implementation of a Legislative Compliance Programme aligned with and forming part of the existing Council Risk Management Policy and Framework.

EXECUTIVE SUMMARY

2. Legislative Compliance Programme - The development of a Legislative Compliance Programme that will be aligned with and form part of the existing Council Risk Management Policy and Framework.
3. Identification of Key Legal Risks - The identification of the Key Legal Risks facing the Council as an organisation.
4. Develop an understanding of differing perspectives on Legal Risk - For the purpose of enhancing the Council Risk Management Policy and Framework consider the impact on the Key Legal Risks of the differing capacities of the Council ie Council as policy developer; Council as enforcement agency; Council as regulator; Council as consent holder; Council as corporate citizen; Council as employer; Council as asset manager; Council as a governance entity; Council in its capacity as stakeholder of other entities e.g. CCHL.
5. Delegations Register - The linking of the Officers' Delegation Register to the Legislative Compliance Framework to enable identification of relevant statutory provisions to particular delegated powers. These will then be aligned with and form part of the Council Risk Management Policy and Framework.

FINANCIAL IMPLICATIONS

6. There is no specific budget approved for this project. Funding will have to be identified and secured from existing budgets. The initial review is estimated to require 0.5 FTE for six months. A solicitor in Legal Services can be assigned to this work. The scope design overview and monitoring of the project can be contracted to an external contractor who has already completed similar assignments for other territorial authorities. The estimated cost is \$30,000.00.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

7. Not applicable.

LEGAL CONSIDERATIONS

8. From 1 July 2009, Council Legal Compliance actions will be reported on by Audit New Zealand. The Council has responsibilities principally in the Local Government Acts 1974 and 2002. However, in addition there are some 36 other significant legislative enactments that the Council must comply with ranging from the Biosecurity Act 2002 to the Transport Act 1962 (list **attached**). In addition to the 36 core statutes there are many other statutes that impose responsibilities on the Council. Being able to monitor and ensure compliance with these statutory obligations is essential to demonstrate good governance. There are a number of Public Standards and Policies relating to legal risk management that the Council's operators will be measured against. At present the Council does not in any formal manner measure and report against these standards. It is probable that Audit will use these standards as the benchmark.

Have you considered the legal implications of the issue under consideration?

9. Yes, discussed above.

6 Cont'd

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

10. Not applicable.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

11. Not applicable.

ALIGNMENT WITH STRATEGIES

12. Not applicable.

Do the recommendations align with the Council's strategies?

13. Not applicable.

CONSULTATION FULFILMENT

14. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Audit and Risk Management Subcommittee recommend that staff prepare a report to the Council on legal compliance by 1 July 2009. The report shall provide options and costings for a comprehensive Legal Compliance Programme and shall include:

- (i) Examination of existing systems and processes and their efficacy.
- (ii) Review of existing systems and processes against National Standards.
- (iii) Review the linkage of the Officer Delegations to a Legislative Compliance Programme.
- (iv) Identification of key legal risks such as monitoring compliance with various consents held by the Council and other potential risks such as contracts or responsibility as property owner.

6 Cont'd

BACKGROUND

15. As a new initiative, an assessment could be undertaken of the following:

- (a) The work previously undertaken to develop a legislative compliance programme for the Council with a view to determining the extent to which it can be incorporated either whole or as to part into this project.
- (b) What systems/processes are already in place in various business units in Council to ascertain:
 - (i) the extent to which they identify key legal risks relevant to that particular area of operations;
 - (ii) to ascertain the effectiveness of the existing systems and processes in identifying and mitigating against key legal risks (eg insurance, risk assessment, sharing risk).

Preference should be given to those areas of higher risk eg resource consents; building consents; OSH; HSNO; LOGIMA; LIMs; prosecutions/enforcement; governance; built assets.

The analysis would be undertaken against a template reflecting best practice.

- (c) Delegations Register – Review and link the Officers' Delegations to a Legislative Compliance Framework to enable identification to linkage of relevant statutory provisions to particular delegated powers. These will then be aligned with and form part of the existing Council Risk Management Policy and Framework.
- (d) Identification of Key Legal Risks - The identification of the Key Legal Risks facing Council as an organisation.
- (e) Develop an understanding of differing perspectives on Legal Risk - For the purpose of enhancing the Council Risk Management Policy and Framework consider the impact on the Key Legal Risks of the differing capacities of the Council ie the Council as policy developer; Council as enforcement agency; Council as regulator; Council as consent holder; Council as corporate citizen; Council as employer; Council as asset manager; Council as a governance entity; Council in its capacity as stakeholder of other entities eg CCHL.

DESIGN OF A LEGISLATIVE COMPLIANCE POLICY FRAMEWORK

16. Policy Framework - A legislative compliance policy framework should be designed as part of a wider strategy to identify and mitigate against key legal risks. Such a policy framework will be adopted by the CEO and the Executive Team.

17. The Legislative Compliance Policy Framework should have regard to the following:

- (a) Council Risk Management Policy and Framework;
- (b) The Key Legal Risks facing the Council;
- (c) AS/NZS 4360 2004 Risk Management Standard;
- (d) SNZ 4360:2000 Risk Management for Local Government;
- (e) NZS/AS 3806:2006 Legal Compliance;
- (f) SOLGM Legal Compliance Programme;
- (g) ISO 31000 proposed standards.

6 Cont'd

18. Key Legislative Provisions - The key pieces of legislation affecting Council operations should be identified. Once identified it should then be determined how they interact with the Key Legal Risks facing the Council.
19. Relevant Council business units - Review and assess the Key Legal Risks for the Council to ensure that these are aligned with the relevant business units and the relevant legislative provisions to determine ownership of compliance.
20. Other components - the Legislative Compliance Policy Framework should include the following:
 - (a) Allocation of roles and responsibilities for the programme should be:
 - (i) Executive Team – to endorse and actively support the legal compliance responsibilities within the Council at large and their divisions in particular in the creation of a culture of compliance;
 - (ii) Groups – to identify and record specific compliance requirements and allocate responsibilities accordingly;
 - (iii) All Staff - should recognise the importance of legal compliance in their daily work and to collectively and individually contribute to a culture of compliance. Job descriptions should include a reference to compliance responsibilities where appropriate;
 - (iv) Finance and Audit – to support the programme and identify and report non-compliance;
 - (v) Legal Services Unit – to support the programme, to be a central point of coordination and to report to the Chief Executive and the Executive Team;
 - (vi) Legal Service Providers - will provide advice and assistance.
 - (b) Training and Development – the Legislative Compliance Policy Framework requires all relevant staff to be trained as required to ensure they have the requisite knowledge;
 - (c) Continuous Improvement – the Legislative Compliance Policy Framework provides that where examples of non-compliance or incomplete compliance are identified, systems should be modified and/or training undertaken as appropriate and as part of divisional/departmental business improvement programmes;
 - (d) Complaints Handling – the Legislative Compliance Policy Framework requires procedures to be in place to record and respond to complaints from staff, ratepayers and customers;
 - (e) Monitoring and regular reporting of compliance is to be provided through:-
 - (i) Exceptions based reporting by Council officers;
 - (ii) Team meetings;
 - (iii) Project Team meetings and reports;
 - (iv) Divisional reports;
 - (v) Bi-annual Risk and Assurance Reports to the Executive Team;
 - (vi) Audit reports to the Risk and Audit Committee;
 - (vii) External Audit Management Review and Report.

Link to Delegation Register

21. Delegations Register- the Legislative Compliance Framework shall be linked to the Officers' Delegation Register by the identification of relevant statutory provisions to particular delegated powers. These will then be aligned with and form part of the existing Council Risk Management Policy and Framework.
22. Policy Framework - A policy should be developed to ensure the Officers' Delegation Register is kept up to date in relation to statutory amendments and developments. The linkage should be "live" online and closely managed and controlled by nominated persons.

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Project Plan and Project Resources

23. Project Plan – a detailed project plan for the development, adoption and implementation of the Legal Compliance Framework programme should be developed. That project plan should provide for the following:
- (i) Identification of the outputs of the project;
 - (ii) Timeline for completion of the project;
 - (iii) Definition of each stage of the project;
 - (iv) Identification of required resources for the project including roles ie Project Sponsor, Project Manager etc;
 - (v) Allocation of internal/external resources to the project;
 - (vi) Development of a project budget;
 - (vii) Development of a consultation plan for consultation within Council;
 - (viii) Development of a reporting and review framework for the project.
24. Allocation of resources - It is proposed to design and implement the project based on significant use of Council internal resources supplemented by an external provider. Those external resources would be utilised in the following manner:
- (a) Overall design of the project;
 - (b) Input into the detail of the Project Plan;
 - (c) Assistance with the development of the Legislative Compliance Policy Framework including the identification of relevant legislation;
 - (d) Project Management and reporting.

NZS/AS 3806:2006

25. Of particular interest is a new New Zealand Standard NZS/AS 3806:2006 "The Australian Standard Compliance Programmes". This has just been adopted by Standards New Zealand. The new standard provides principles and guidance for designing, developing, implementing and improving a flexible, responsive effective and measurable compliance programme within an organisation. The standard records the following principles:

Commitment

Principle 1: Commitment by the governing body and top management to effective compliance that permeates the whole organisation.

Principle 2: The compliance policy is aligned to the organisation's strategy and business objectives, and is endorsed by the governing body.

Principle 3: Appropriate resources are allocated to develop, implement, maintain and improve the compliance programme.

Principle 4: The objectives and strategy of the compliance programme are endorsed by the governing body and top management.

Principle 5: Compliance obligations are identified and assessed.

Implementation

Principle 6: Responsibility for compliant outcomes is clearly articulated and assigned.

Principle 7: Competence and training needs are identified and addressed to enable employees to fulfil their compliance obligations.

Principle 8: Behaviours that create and support compliance are encouraged and behaviours that compromise compliance are not tolerated.

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Principle 9: Controls are in place to manage the identified compliance obligations and achieve desired behaviours.

Monitoring and Measuring

Principle 10: Performance of the compliance programme is monitored, measured and reported.

Principle 11: The organisation is able to demonstrate its compliance programme through both documentation and practice.

Continual Improvement

Principle 12: The compliance programme is regularly reviewed and continually improved.

7. INTERNAL AUDIT ACTIVITY REPORT - FEBRUARY 2009/APRIL 2009 QUARTER THREE

General Manager responsible:	General Manager Corporate Services DDI 941 8528
Officer responsible:	Senior Auditor
Authors:	G Nicholas, Senior Auditor / Murray Harrington , PWC Partner

PURPOSE OF REPORT

- The purpose of this report is to provide a brief periodic update on the status of internal audit activities completed by PricewaterhouseCoopers and Graeme Nicholas within the Council and includes:
 - the status of audit projects in the current year's programme;
 - executive summaries for reports completed during the quarter ending April 2009;
 - issues outstanding from previous quarters.

EXECUTIVE SUMMARY**Programme Status**

- The programme for 2008/09 was approved by the Executive Team in June 2008 and is being progressed.

Value to the Council

- The reviews in the 2008/09 Internal Audit Planning process have a focus on:
 - governance, regulatory and communication processes;
 - fraud prevention and human resources;
 - reviews in respect of both major capital and operational spend;
 - improving business process within Council.

The diverse nature of the scopes covered continues to provide a wide range of assurance across the Council.

- We continue to be mindful that in the current economic environment, we are observing increasing pressures on both organisations and individuals and that within each of our reviews a heightened level of awareness from ourselves and management may be required. Wherever possible we look to assist with the identification of business improvement and efficiency opportunities. The current period has seen a lot of activity progressed. Many reviews are in the final stages of reporting. We are bringing together common themes of interrelated reviews in order to put logical organisational initiatives in place. An example of this includes common themes from the procurement, contract management and capital programme reviews.

THE 2008/09 PROGRAMME**Internal Audit Review Status**

- Summarised below is the status of each of the internal audit reviews for the 2008/9 year which have been completed:

Completed	Review complete, management comments received and final report issued
Draft Report	The field work has been completed and the draft audit report is awaiting review
In progress	Review underway
Planned	Review planned, high level terms of reference drafted

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Review and ref #	Comments	Key Resource	Status	Reporting to Committee status
2007/08 Programme				
Environmental Enforcement (09-14)	Reviewed with GM	CCC	Complete	Reported May 09
Consents & Compliance (09-19)	Reviewed with GM	CCC	Complete	Reported May 09
EPA financial practices (09-10)	Reviewed with GM	CCC	Complete	Reported May 09
Canterbury Development Corporation Relationships (09-26)	Draft to be reviewed	PwC/ CCC	Draft Report	
Capital programme group (09-13)	Draft to be reviewed	CCC	Draft Report	
Budgeting and forecasting processes (09-22)	Draft to be reviewed	CCC	Draft Report	
Contract management (09-11)	Draft to be reviewed	PwC	Draft Report	
Electronic Transfers (09-17)	Draft to be reviewed	PwC	Draft Report	
SAP Security (09-18)	Draft to be reviewed	PwC	Draft Report	
Procurement Effectiveness (09-16)	Draft to be reviewed	PwC	Draft Report	
Capital Endowment Fund (09-09)	Progressing	PwC/ CCC	In progress	
Fraud prevention (09-23)	Progressing	PwC/ CCC	In progress	
IT Network security (09-12)	Report being drafted	PwC	In progress	
Major Events management	Terms of reference agreed	PWC/ CCC	Planned	
Payroll Processing	Commencing May 2009	PwC/ CCC	Planned	
IT Disaster Recovery planning (09-25)	Defining the Terms of Reference	PwC	Planned	
Project Management methodology (09-28)	Defining the Terms of Reference	PwC	Planned	
Community Housing (09-27)	Planned for June 2009	CCC	Planned	
IS Strategic Plan (09-30)	Defining the Terms of Reference	PwC	Planned	

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Risk Categories of Issues Reported This Quarter

6. In each review under the co-sourced arrangement, findings are classified according to the ratings outlined below.
7. Given the size of the Council and its relative complexity from an operational perspective, it is expected that a number of issues will be identified during the course of the year where further improvements can be made (both from an internal control and an efficiency/effectiveness perspective). The ratings in the table below will be a combination of potential opportunities for improvement identified and control related issues.
8. In PwC's experience, it is normal practice to report summarised outcomes from the reviews in this fashion; with the focus of many Audit Committees turning to the status of key findings where agreed management actions may not have been taken within agreed timeframes. The Subcommittee should note that delays may sometimes occur due to shifting management priorities and/or resourcing issues.

Review	Total Number			
	High	Moderate	Low	Total
Totals carried forward from last report	29	168	124	321
Environmental Enforcement	1	3	1	5
Consents & Compliance		3	3	6
EPA Accounting review		1	3	4
Total issues to date	30	175	131	336
Issues resolved to date	23	110	93	226
Issues Outstanding to date	7	65	38	110

* See Appendix B (**attached**) for a description of items rated with a "high" priority

9. The findings relating to our reviews are broadly classified as being High, Significant, Moderate or Low priority.
10. These ratings are defined as follows:
 - **High:** Very significant potential exposure or area of critical importance. Urgent management action required.
 - **Moderate:** Exposure exists but with some mitigating factors. Management action required within the next six months.
 - **Low:** Low level of potential exposure to the organisation. Action required is only of a low priority or housekeeping nature.

New Issues Reported

11. **Attached** as Appendix A are the executive summaries of the reports prepared this quarter.
12. A detailed report for each review completed has been provided to management which sets out agreed management action plans as approved by the review sponsor.

Outstanding Issues Reported

13. A database of audit issues is maintained. These are reported to General Managers for regular follow up.

8. CORPORATE FINANCE REPORT FOR QUARTER ENDED MARCH 2009

General Manager responsible:	General Manager Corporate Services, DDI 941-8528
Officer responsible:	Corporate Finance Manager
Author:	Diane Brandish

PURPOSE OF REPORT

1. The purpose of this report is to provide the Audit and Risk Management Subcommittee with an update on key financial and treasury matters for the quarter ending March 2009.

TREASURY

2. The table **attached** as Appendix 1 shows that the Council remained well within its financial ratio policy limits. Council funding requirements remain below the levels predicted in the 2008/09 Annual Plan due to delays in delivering the capital programme. The liquidity ratio stands at 12 per cent against a plan ratio of 3 per cent. This is the result of a decision to fund our borrowing through 90 day debt while interest rates continue to fall.
3. In March we raised \$60 million of five-year Floating Rate Notes at 175bp over the 90 day BKBM. The funds were on-lent to Civic Building Limited and to Vbase.

4. Recent issuances of a similar tenor are:

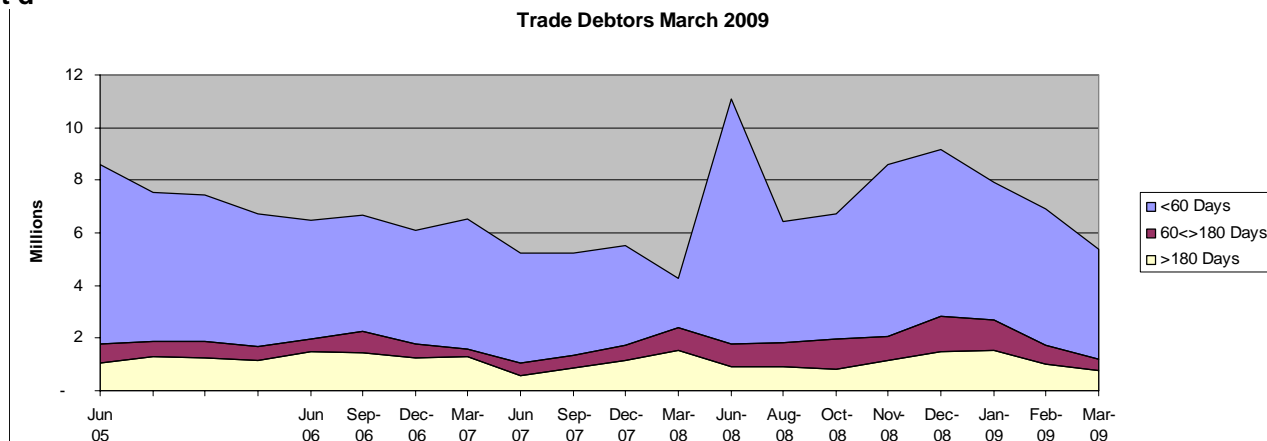
<u>Issuer</u>	<u>Fix/FI</u>	<u>Amount</u>	<u>Rating</u>	<u>Margin</u>
Wholesale				
Watercare services	FI	\$40m	AA	200
Watercare services	Fix	\$130m	AA	200
Retail				
BNZ	Fix	\$50m	AA	175
Auckland City Council	Fix	\$150m	AA	200
Fonterra	Fix	\$800m	A+	340

5. Standard and Poor's (S&P) have advised that they have revised our foreign currency rating from AA+ stable to AA+ negative watch. This is to reflect a revision of the Crown rating on 13 January 2009, an organisation cannot rank higher than the sovereign. The delay in the revision for Christchurch City Council and CCHL resulted from an accidental oversight by S&P when the government revision took place. This revision is of no consequence to the Council or CCHL as we do not deal in foreign currency. S&P in their release emphasise that our local currency rating remains unchanged.
6. We are in discussion with CCHL regarding their payment of an extraordinary dividend to cover the shortfall in our opening balance. This is the result of the delay in resolving the issues around the charitable trust.

DEBTORS

7. There has been a significant improvement in debt management over the last three months with a \$3.4 million reduction in the overall balance. The main drivers for this are a \$2.4 million reduction in SAP debt and a reclassification of \$2.1 million of invoicing within consents recognising those which are not yet due for payment. This reduction is offset by a \$900,000 increase in building consents resulting from clearing the backlog of applications.

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**YEAR END AUDIT**

8. Audit New Zealand's Letter of Undertaking and Audit Arrangements Letter have been received. These letters set out Audit's approach to the year end audit; copies of the letters are attached to the public excluded agenda as Appendix 2. The areas of focus and proposed fees are in line with those of previous years and contain nothing of concern. Staff are working with the auditors to identify ways in which the fees might be reduced without compromising the quality of the audit.

INSURANCE REVIEW

9. As part of the year-end insurance renewal all policies have been reviewed to ensure that cover is still required and that it is adequate. Under our current Fidelity policy our cover is limited to \$1 million. After discussions with the internal auditors we are recommending that cover be increased to \$5 million. The premium for \$1 million is \$15,600 and the incremental cost is expected to be around \$20-25,000 if we retain the excess at \$25,000. (Fidelity Insurance covers theft by an employee.) Other than adjusting the sums insured there are no further changes recommended to the existing cover.
10. The Council's insurance programme consists of:

<u>Policy</u>	<u>Insurer</u>
Material Damage	NZI, QBE
Business Interruption	NZI, QBE
Motor Vehicle	NZI
Fine Arts	Lloyds Syndicate
Combined Professional Indemnity and Public Liability	Riskpool
Fidelity	AIG New Zealand
Personal Accident	ACE Insurance
Corporate Travel	ACE Insurance
Forest and Rural Fires	NZI, QBE
Directors and Officers	QBE
Standing Timber	NZI
Disaster Protection	LAPP

11. Uninsured risks were also reviewed and a schedule of these is attached to the public excluded agenda as Appendix 3. We have requested details of providing machinery breakdown cover for the Biosolids drying plant and the Landfill Gas Treatment Plant. No further change is recommended.

FINANCIAL AND LEGAL CONSIDERATIONS

12. There are no financial or legal implications.

STAFF RECOMMENDATIONS

It is recommended that:

- (i) The report be received.
- (ii) The Audit New Zealand Letters of Undertaking and Audit Arrangement Letter be accepted.

7. 5. 2009

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9. ORAL UPDATE BY GENERAL MANAGER CORPORATE SERVICES

The General Manager Corporate Services will provide a verbal update to the Subcommittee.

10. ISSUES FOR FUTURE MEETINGS

11. NEXT MEETING

THURSDAY 7 MAY 2009

AUDIT AND RISK MANAGEMENT SUBCOMMITTEE

RESOLUTION TO EXCLUDE THE PUBLIC

Section 48, Local Government Official Information and Meetings Act 1987.

I move that the public be excluded from the following parts of the proceedings of this meeting, namely items 2 and 4.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED	REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER	GROUND(S) UNDER SECTION 48(1) FOR THE PASSING OF THIS RESOLUTION
2.	CONFIRMATION OF MINUTES) GOOD REASON TO	
4.	ORAL UPDATE BY LEGAL SERVICES MANAGER) WITHHOLD EXISTS) UNDER SECTION 7	SECTION 48(1)(a)

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

Item 2	Maintain Legal Professional Privilege	(Section 7(2)(g))
Item 4	Maintain Legal Professional Privilege	(Section 7(2)(g))

Chairman's

Recommendation: That the foregoing motion be adopted.

Note

Section 48(4) of the Local Government Official Information and Meetings Act 1987 provides as follows:

“(4) Every resolution to exclude the public shall be put at a time when the meeting is open to the public, and the text of that resolution (or copies thereof):

- (a) Shall be available to any member of the public who is present; and
- (b) Shall form part of the minutes of the local authority.”