

5. MEMORANDUM OF UNDERSTANDING FOR SISTER CITIES

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The purpose of this report is to present a Memorandum of Understanding outlining the roles and responsibilities between the Council and the Sister City Committees. The draft Memorandum has been considered by the International Relations and Sister Cities Subcommittee.

CONTEXT OF REPORT

When the Council considered the Strategy for Sister Cities, staff were requested to report back, recommending a legal status for the Sister City Committees.

Legal opinion was sought and discussions held with members of the Sister City Committees. The outcome of the discussions was that a Memorandum of Understanding identifying the roles and responsibilities of both the Council and the Sister City Committees in respect of the existing Sister City relationships would assist both parties carry out their respective roles.

LEGAL OPINION

Denis Sheard, of Buddle Findlay provided the following comment on the legal status of Sister Cities:

"...I struggle to understand why there needs to be an organisational structure for these sister city relationships. I see these arrangements as a "partnership", but not in the sense of a trading partnership to which the Partnership Act 1908 will apply. These are not arrangements instituted "with a view to profit", which is the key element of a trading relationship. There is no reason why the respective city corporation should not reduce their agreement to writing with a formal execution. That "partnership" agreement will provide for those constitutional matters, which define and govern the relationship. It can set out what the parties hope to achieve from the relationship, how they will give effect to the "working" arrangement between them, the means by which activities will be funded and what happens to any surplus funds if the parties should agree to go their separate ways.

While commonly a bank account would have joint signatures, there is nothing preventing a bank account being opened in the name of one of the partners (suitably identified as being a "partnership" account) with an obligation to provide annual audit certificates as to expenditure of funds from that account. While the members of the partnership will have joint and several liability for the debts incurred with their authority I imagine it is very unlikely that unbudgeted expenditure will be incurred (although budget overruns must be a possibility) and the activities will be largely of a promotional or trading nature...."

Mr Sheard identified the advantages and disadvantages of a number of different legal structures that could be considered and these were shared with the Chairs of the Sister City Committees. They felt it was unnecessary to pursue a legal status.

MEMORANDUM OF UNDERSTANDING

The following Memorandum of Understanding incorporates the key issues the Sister City Chairs felt should be clarified:

MEMORANDUM OF UNDERSTANDING

The Parties: The Sister City Committees of Christchurch
and
The Christchurch City Council

Background

Christchurch City Council has six sister city relationships that it has developed for the purposes of increased international understanding between the people of Christchurch, and the people of six international cities.

The Christchurch City Council and the Christchurch community ("the community") have agreed to support the sister city relationships through the provision of time and initiatives, and, the community in doing so has taken responsibility to manage the relationships.

The Christchurch City Council and Sister City Committees have agreed a Strategy for Sister Cities.

Intentions and Responsibilities

The parties will work together to meet the objectives outlined in the Strategy for Sister Cities.

The Christchurch City Council requests of the Sister City Committees that they:

- Act as a voluntary community agency to foster and encourage exchanges of people and culture at a people to people level through existing sister city relationships, in line with the Strategy for Sister Cities
- Ensure available resources are used to encourage as wide as possible involvement by the community
- Do not enter into any activity of a financial nature exceeding funds that have already been paid to the Committee through grants from the Christchurch City Council or other funding they have secured
- Maintain a non political stance
- Determine each year a set of objectives for that year and a proposed programme of activity with expected measurable outcomes and budget requirements, in a time frame compatible with the Christchurch City Council Annual Plan process
- Provide an annual report at the end of each financial year detailing the outcomes of activities undertaken, the community reach achieved and the Committee's financial position against budget
- Hold Committee meetings, as required whereby proposed activities, and activities being undertaken by the Committee are discussed, agreed and acted upon
- Uphold the objectives of the sister city movement and those specifically agreed within the Christchurch City Council Strategy for Sister Cities
- Shall not bind the Christchurch City Council to any obligation, unless that obligation has been agreed in writing by the Christchurch City Council.

The Christchurch City Council agrees to provide the following support to the sister cities programme:

- The provision of a meeting room, free of charge, in which the Committees can hold their meetings
- An annual grant of a minimum of \$3,000 for each Committee
- Additional grant funding, agreed through the annual plan process, to be used as seeding money for projects identified within the Committees' annual plan
- Every three years, commencing 2003, the Council will carry out a review of each of the Sister City Committees to ensure it continues to meet the expectations of the Council as agreed within the Strategy for Sister Cities
- Secretarial servicing for the Sister City Committee meetings
- Some staff resource per Committee to maintain the communication between the Committee and the international city to city contact, and assist with the management of projects the Committees agree to undertake
- An annual plan timetable providing the dates for reporting and presenting forthcoming budgets
- Use of the "Christchurch The Garden City, The City That Shines" logo on all correspondence, business cards, presentation plaques and other work of the Sister City Committees.

The parties acknowledge that:

- In signing these Terms of Reference the parties do not intend to create any legal relationships between them but to set out their actual intentions. Except for the obligation not to bind the Council without the Council's written consent, it is agreed that the parties shall not have any legal remedies against the other for failing to adhere to the terms and conditions of these Terms of Reference
- The Christchurch City Council may terminate these Terms of Reference upon one year's written notice to the Sister City Committee
- The Christchurch City Council reserves the absolute right to change or amend these Terms of Reference at any time, at the Christchurch City Council's sole and absolute discretion

CONSULTATION

Discussions have taken place with the Chairs of the Sister City Committees, and through the chairs the members of the committees, on the proposed agreement between the Council and the Sister City Committees. The International Relations and Sister Cities Subcommittee, the Chairs of the committees and their membership have agreed that the above wording meets the objectives of both parties.

- Recommendation:**
1. That the above Memorandum of Understanding between the Christchurch City Council and the six existing Sister City Committees be approved by the Council.

2. That the Chairs of the Sister City Committees be invited to meet with the Mayor to sign the Memorandum of Understanding for Sister Cities on behalf of their respective committees.