

## 6. REQUEST FOR FEEDBACK ON ELECTORAL ISSUES

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### PURPOSE OF THE REPORT

1. The purpose of this report is to provide some background information regarding:
  - A request by the Local Government Commission for feedback on possible changes to the Local Government Act and the Local Electoral Act.
  - Possible submissions to the Inquiry to be held by Parliament's Justice and Electoral Select Committee on the 2004 local authority elections.

### EXECUTIVE SUMMARY

#### Review by Local Government Commission

2. The Local Government Commission is seeking views on any urgent matters that require legislative change in the Local Government Act 2002 or the Local Electoral Act 2001 prior to the 2007 elections. The Commission has requested that such comments be forwarded by 31 January 2005.

#### Inquiry by Justice and Electoral Select Committee

3. The Select Committee has recently released the terms of reference for its Inquiry into the 2004 local government elections. The Inquiry will focus on:
  - A review of the Local Electoral Act, including an assessment of the integrity of the present postal voting system.
  - Voter turnout.
  - Validity of the single transferable (STV) electoral system.
  - Management of the election, particularly in relation to the length of time it took to count the STV votes.

### STAFF RECOMMENDATIONS

It is recommended that the Council:

- (a) Receives the information.
- (b) Forwards comments to the Local Government Commission and the Justice and Electoral Select Committee as detailed in the body of the report in relation to:
  - Electoral reviews.
  - Lodging of nomination papers, deposits, candidate profile statements and photographs at the one time.
  - Authorisation of advertisements.
  - The closing of nominations and the electoral roll a week earlier than at present.
  - The early processing of returned voting documents.
  - A possible review of the present three week voting period.
  - The possibility of the District Health Board elections being held separately from the local government elections.
  - Voter participation.
  - Arrangement of candidates' names on voting documents.
  - Possible review of three week voting period.
  - Early Processing of Returned Voting Documents.
  - Standing for More Than One Community Board Within the Same Council Area.
  - Voting Methods: Internet Voting.
  - Format of Voting Documents.
  - Postal Voting v Booth Voting.
  - Management of Future Elections.
  - Election Advertising and Publicity.

## BACKGROUND

### Local Government Commission

4. Under section 32 of the Local Government Act 2002 the Local Government Commission is tasked with reviewing the operation of that Act and the Local Electoral Act 2001 and is required to report to the Minister of Local Government as soon as practicable after the 2007 elections. The Commission is also tasked with reporting to the Minister by 1 July 2005 if it considers that any amendments should be made to these Acts before the 2007 elections.
5. The Commission has written to all local authorities seeking details of issues arising from the legislation that should be addressed in time for the 2007 elections. The Commission believes that only urgent matters requiring legislative change should be included in its 2005 report to the Minister and that these should focus on:
  - matters relating to local elections, including representation reviews; and
  - matters relating to the implementation of the LGA and LEA.
6. Comments are requested by 31 January 2005.

### Inquiry by Justice and Electoral Select Committee

7. The Justice and Electoral Committee has resolved to initiate an inquiry into the 2004 local authority elections with the following terms of reference:

1. *Assessment of the Local Electoral Act 2001 and Regulations*

Undertake an analysis of whether the principles of the Local Electoral Act 2001 and regulations have been achieved. On the basis of that, identify any aspects of the legislation which could require reform prior to the 2007 local authority elections. Specifically:

- Review and report on the process and outcome of the representation reviews undertaken in 2003/04 under the 2002 amendment to the Act;
- Consider current arrangements for agency oversight of local authority and district health board elections, and whether other arrangements would be more effective;
- Assess the integrity of the postal voting system; assess whether current mechanisms for making and considering complaints for alleged/actual breaches of electoral law are sufficiently robust;
- Review the law relating to the order of listing of candidates on the ballot paper;
- Assess the desirable length of the postal voting period;
- Given the “community of interest” feature of the Act, consider whether or not there should be any limitations on numbers of positions individuals can be nominated for in one local authority election period and whether or not residency in a community board area/ward/city/district/region should be a prerequisite to candidacy;
- Review the effects and levels of campaign spending limits.

2. *Participation and Elector Turnout*

- Consider the implications of local authority election turnout figures, and the trends in those figures;
- Undertake a comprehensive analysis of elector turnout, including comparisons between local authorities and with previous elections, and an assessment of informal votes and returned blank forms;
- Obtain feedback from voters (through qualitative research, including focus groups) about their participation or otherwise in the elections, the nature of the ballot paper and the material included with the ballot paper;
- Identify what factors influenced elector turnout (including the extent to which particular factors affect turnout, such as the use of Single Transferable Vote (STV), the impact of a vigorous mayoral contest or a controversial local issue);
- Identify the approach of local authorities and others in New Zealand and overseas in encouraging elector turnout, and the effectiveness of those approaches;

- Assess whether voting was sufficiently accessible for all groups (for example, people with disabilities);
- Review the effectiveness of the STV public education programmes, and co-ordination between the various programmes;
- Consider whether the public information (including advertising) for electors was adequate, and whether one agency should be responsible for all voter education;
- Review the effectiveness of advertising in raising voter awareness of the elections;
- Review the impact of the media coverage of the elections;
- Report on other forms of voting and assess their merits on a comparative basis with postal voting;
- Assess whether a school civics education programme might affect election turnouts and encourage greater participation in our democracy.

### 3. *Electoral Systems*

- Review the means available to local authorities and electors to review the electoral system which they utilised in 2004;
- Analyse the operation of STV for district health boards and for local authority elections, including the adequacy of preparation for the use of STV for all district health board and some local authority elections;
- Assess the responsibilities and accountabilities of electoral officers for the conduct of local elections;
- Assess the management and impact of different electoral systems (STV and First Past the Post) being operated through the same ballot paper, including the desirability of separate ballot papers. Compare the level of spoilt ballot papers, especially in those areas that only used STV and those that only used STV for district health board elections. Consider whether there should be only one electoral system at local level or whether voter education and ballot paper design could overcome the potential confusion of having two systems operating at once;
- Assess the impact of STV on representation, including of population groups and different geographic areas;
- Assess the impacts of the electoral systems on election outcomes, including cohesion, operational effectiveness, continuity and party affiliation.

### 4. *Election Management*

- Identify which agency, agencies, individual or individuals were responsible for the various aspects of the management of the election, and comment as appropriate on how they exercised their responsibility;
- Consider whether the process used by the Department of Internal Affairs to license the use of the STV calculator to count votes was adequate and could be improved;
- Review the level of scrutiny and the extent of trialling of the STV processing and counting systems prior to election day;
- Review and report on the delays in completing the election count in some areas, and the operation of the processing and counting systems (including whether there were contingency plans in place in case of systems failure);
- Consider the role of local authorities in contracting out vote processing and counting (including any performance targets and sanctions in the contracts). Investigate the difference in methodology used in the processing of votes between different organisations;
- Assess the quality and accessibility of the voting data that is made publicly available after elections.

## **DISCUSSION**

8. It will be recalled that all Councillors and Community Board members were invited to attend a seminar on 21 December 2004, when the following issues were discussed:

## **Representation Reviews**

9. It was noted that as this Council conducted a review prior to the 2004 elections, it will not be required to hold a further review until prior to the 2010 elections, although there is nothing to stop the Council holding a further electoral review prior to the 2007 elections, if it so decides.

## **Lodging of Nomination Papers**

10. For the first time in 2004, candidates were able to lodge their nomination papers, deposits, candidate profile statements and photographs at different times. This new provision was introduced because of a perception that candidates would otherwise delay submitting their nominations until the last minute, to avoid giving their opponents an opportunity to read their profile statements prior to the close of nominations.
11. This new provision caused difficulties for some electoral officers and also for some candidates, and the Council therefore recommends that the legislation be amended to again require all elements of the nomination to be lodged at the one time, rather than being submitted separately.

## **Authorisation of Advertisements**

12. In 2004, a new requirement was introduced that all candidate advertisements and publicity contain an authorisation statement. The present provisions of the Local Electoral Act require a residential or business address to be shown, notwithstanding the fact that in some cases candidates will be placed in some personal danger or have their privacy compromised by this requirement, particularly where a candidate is a member of the Police force and is thus enrolled on the undisclosed Parliamentary roll. The Council therefore recommends that section 113(2)(b) of the Local Electoral Act be amended to delete the requirement for such advertisements to include the address or place of residence or business of the person or persons for whom or at whose direction the advertisement is published.

## **STV**

13. The Select Committee will be addressing the use of STV voting in the course of its Inquiry into the 2004 elections.
14. Whatever the merits or otherwise of STV, it was agreed that the Council should advise the Select Committee that in its opinion the use of two different electoral systems on the same voting document caused substantial confusion for voters, and was a major factor in the reduced voter participation experienced at the 2004 elections.

## **Possible Separation of District Health Board and Local Authority Elections**

15. In those cases (such as the Marlborough District Council elections) where STV voting was used for both the Council and District Health Board issues, there were relatively few informal votes, as electors were required to use the same electoral system for all issues. However, it is evident that there was a significant degree of voter confusion where both FPP and STV issues were included in the one voting document. This confusion would not be mitigated or overcome if two separate voting documents were included in the one envelope, and it was therefore agreed that if STV is to be used for future District Health Board elections then stand-alone DHB elections should be held, on a different date to the triennial local authority elections.

## **Need for More Time Between the Close of Nominations and the Commencement of the Voting Period**

16. All electoral officers now engage one of two mailhouses to undertake the printing of the voting packs containing the voting documents and the candidate profile statement booklets. Because there are only two service providers geared up to undertake this task, they are stretched to the limit in completing this work in time for the voting packs to be distributed within the present statutory timeframe. The Council therefore recommends that the legislation be amended to provide for both nominations and the electoral roll to close a week earlier than at present, to allow more time for this work.

## **Voter Participation**

17. Indications are that voter turnout across the country may be down 5% on the 2001 elections. The drop in voter turnout is consistent with a trend seen over the last few elections and is not surprising given the advent of a new electoral system. Local Government New Zealand is currently conducting a survey of voters from seven councils and will use this research to understand more about voter behaviour.
18. Post-election research commissioned by the Christchurch City Council disclosed that:
  - The primary reasons for not voting were lack of information about candidates, didn't know the candidates, too busy to vote and not interested in voting.
  - The reasons for voting (in order) were given as can't complain if you don't vote, my right to vote, to have my say, my duty to vote.
  - Of those who voted, only a small proportion voted either immediately or at the last moment.
  - The top three information sources for those who did vote were, firstly, the candidate information booklet (by far), letterbox material and local newspaper coverage.
19. A number of voting initiatives have been trialled in recent years at the English local government elections in an endeavour to increase turnout, and the most effective of these has proven to be postal voting, which of course is already used for all New Zealand local government elections. Claims that a return to booth voting would result in increased voter turnout are fallacious, as illustrated by the Hutt City Council's decision to revert to booth voting for the 1992 elections, when voter turnout decreased by 20%. The only real way of increasing voter turnout is to make voting mandatory, as in Australia. However, this would introduce significant new problems (including the phenomenon of the donkey vote) and is not recommended.
20. Earlier research commissioned by the Christchurch City Council following the 2001 elections disclosed that (as expected) persons in the younger age group are the least likely to vote. The Christchurch City Council has therefore developed a Civics Resource Pack, which it is planning to distribute through local schools. This initiative would be reinforced if a 'Civics' subject were to be introduced as part of the standard school curriculum, as is done in a number of other countries, including the USA.
21. The Council strongly supports any initiatives to increase voluntary elector participation in future elections.

## **Arrangement of Candidates' Names on Voting Documents and Candidate Information Booklets**

22. This year, each local authority was able to decide whether the names of the candidates were to be arranged on the voting documents in alphabetical order, pseudo random order or random order. In the case of Christchurch, all issues (including the Regional Council and District Health Board issues) were arranged in random order. However, in the case of some other authorities, a variety of arrangements were employed, ie some issues were arranged either in pseudo random or random order, with the names of the candidates for the remaining issues being arranged in alphabetical order. This created some confusion for voters, and it is considered desirable that, rather than each local authority being given a choice, one particular order should apply nationally.
23. In the case of the 2004 Christchurch City elections, random order was received extremely well by voters, and the Electoral Officer received no complaints at all regarding its use. It is considered that random order likewise provided benefits for candidates, and the Council therefore recommends that the legislation be amended to require the names of candidates to be listed in random order for all issues at future local authority and DHB elections.

24. In 2004, the names of the candidates were arranged in alphabetical order in the candidate information booklets which were included in the voting packs, notwithstanding the fact that in cases of some Councils the candidates names were arranged in a different order on the voting documents. The Council considers that the names of the candidates should be listed in the same order on both the voting documents and in the candidate information booklets.

#### **Possible Review of Three Week Voting Period**

25. The Council considers that the three week voting period is too long, both voters and candidates, and that there would be advantages in reducing it to two weeks, provided the shortened voting period does not fall wholly within the school holidays.
26. In the Council's opinion, two weeks is more than sufficient for voters to receive the voting documents, decide for which candidates they wish to vote and to return the completed voting document prior to the close of voting.
27. The Council recognises that in the case of those electors who are enrolled with overseas postal addresses, it would be necessary for the voting packs to be posted prior to the commencement of the voting period, to allow them to be received, completed and returned prior to the close of voting. It is therefore suggested that any amendment to the present legislation providing for a shorter voting period could contain a provision permitting the early posting of voting packs to electors with overseas postal addresses.

#### **Early Processing of Returned Voting Documents**

28. At present, the legislation requires separate resolutions approving the early processing of the returned voting documents to be passed by each authority for whom the elections are being conducted (eg in the case of Christchurch, it was necessary for separate resolutions to be passed by the Christchurch City Council, the Canterbury Regional Council and the Canterbury District Health Board). Significant difficulties would arise if one of these authorities decided not to approve the use of early processing, allowing the returned voting documents to be scanned and the votes to be electronically recorded (but not totalled) prior to the close of voting. Early processing has now become the national norm, and provides significant logistical and financial advantages, with no disbenefits. The Council therefore recommends that the legislation be amended to provide for the automatic use of early processing at future elections and polls.

#### **Standing for More Than One Community Board Within the Same Council Area**

29. At present, the legislation permits a person to stand as a Community Board candidate in more than one community within the same local authority district. For example, at the 2004 elections one candidate stood for two separate community boards within Christchurch city.
30. Where a local authority is divided into wards, a candidate for election to the Council cannot stand in more than one ward. The Council considers that a similar provision should apply in the case of Community Board elections within the same Council area, and that the LEA should be amended accordingly.

#### **Voting Methods: Internet Voting**

31. The Local Electoral Act 2001 (section 5) provides for the following voting methods:

*"voting method" means any of the following methods of voting that are prescribed for use at an election or poll:*

- (a) the method of voting commonly known as booth voting*
- (b) the method of voting commonly known as postal voting:*
- (c) any form of electronic voting:*
- (d) any method of voting involving a combination of more than 1 of the methods of voting*
- (e) any other method of voting (however described)"*

32. Although the Act provides for “*any form of electronic voting*” the voting methods prescribed in the current regulations are limited to booth voting and postal voting.
33. The Council accepts that a number of major security issues remain to be resolved with regard to the authentication of votes cast via the internet. However, it considers that the regulations should be amended to allow local authorities the option to consider internet voting as an additional form of voting if it is convinced that any security issues have been resolved and that there would be benefit in providing such an option.

#### **Format of Voting Documents**

34. Apart from its concern regarding the inclusion of two separate electoral systems on the same voting document, the Council also considers that some improvements could be made to the present approved voting document so that (for example) a much bolder colour is used to differentiate between FPP and STV issues, if these are to be included in the same document in future elections.

#### **Postal Voting v Booth Voting**

35. The Council notes that postal voting for local authority elections was introduced in the mid 1980s, in an effort to arrest the progressive decline in voter participation which was being experienced at that time. The Council considers that postal voting is still by far the most effective voting method, and that while some improved local arrangements should be made for voters to place completed voting documents in ballot boxes strategically located in supermarkets, local libraries and service centres, it could not support a general return to booth voting in place of postal voting.

#### **Management of Future Elections**

36. The Council considers that the present arrangements for local elections to be conducted under the aegis of locally appointed electoral officers are satisfactory, and should be continued. The Society of Local Government Managers (SOLGM) holds regular seminars for electoral officers, to acquaint them with ongoing changes in the election legislation, and recommended best practice.
37. The conduct of local elections is a long-standing role and responsibility of local government. It should be emphasised that the difficulties which arose in relation to the District Health Board elections related to only a small part of the overall election process - the electoral processes worked smoothly for all FPP elections and all STV elections, other than those with which electionz.com and Datamail were involved. The delays which were encountered did not involve a failure of the legislation, the electoral system, local authorities, electoral officers or the use of STV. There were simply performance issues relating to two particular companies contracted to undertake parts of the election process on behalf of some local authorities/district health board electoral officers.

#### **Election Advertising and Publicity**

38. The Council notes that a comprehensive STV public education programme was undertaken and that extensive television and other advertising was also arranged to encourage people to enrol.
39. However, the Council considers that for future elections it would be advisable if the Internal Affairs Department were to receive additional funding to enable a more comprehensive national advertising programme to be undertaken, to encourage people to vote at their local elections. It is noted that the Department received significant funding to undertake such advertising in 1989, when the first elections were held for the new local government units created as a result of the significant local government reforms which took place at that time.