

## DELEGATIONS

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### *General and Procedures*

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#### **1. The Role of the Delegations Manual**

This Delegations Manual has been adopted by the Waimakariri District Council to define methods and means of operation and managerial and administrative relationships. The Manual is related to other key documents including Council's Bylaws and other formal expressions of policy, especially the annual plan and long-term plan.

The Delegations Manual is a key tool in assisting the Council achieve its goals effectively. Progress and results will be monitored by appropriate reports to committees. The relevance of the Delegations Manual to the achievement of the long-term plan and annual plan can be reviewed as part of this monitoring process.

#### **2. Philosophy of the Council Regarding Delegations**

The Waimakariri District Council believes that it is essential, in the interests of good management and effective administration, to encourage the delegation of decision making to the lowest competent level. This will achieve best use of the abilities of elected representatives and officers, minimise the cost of material, technical and financial resources, promote the development of effective managers and minimise bureaucratic interference in the daily affairs of the District's residents.

Authority and responsibility are inseparable. Those with responsibility for a task or function should always have the authority to carry it out effectively. Those with authority should always be responsible for its wise use. Delegations will not however remove from the Council and management ultimate accountability for the affairs of this Council.

It is the statutory function of this Council to lead and guide the good management of the District by determining primary goals and objectives, by setting strategies and policies for their achievement and to encourage their achievement through the considered use of committees and the appointment of a Chief Executive.

Officers in turn implement and administer those policies, contribute substantially to their formulation and provide and manage the infrastructures on which the District is based. Delegation focuses and sharpens this relationship and assists in the better achievement of the respective functions of elected representatives and officers.

In accordance with Section 39(C) of the Local Government Act 2002, the Council must maintain a clear separation between regulatory and service delivery functions. The management structure must also reflect this separation. The delegations to both committees and staff have been written to coincide with this statutory imperative.

A power to hear evidence or consider a proposal is not a delegation and is not therefore generally included in this Manual. It is assumed that all committees, subcommittees and officers have

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authority to hear any matter within their jurisdiction and submit a report or recommendation to a higher authority unless that is prohibited by law.

### **3. Characteristics of Delegations**

The delegator does not lose the function, power or duty by delegation and may exercise this concurrently with the delegatee;

The delegatee, while having the authority to make a decision under delegation, has the right not to exercise that delegation and therefore not make a decision. In such instances, the delegatee should refer the matter to the delegator.

It is implicit that a delegation may be revoked at any time without notice;

The delegatee is acting on behalf of the Council when exercising delegated authority;

The law recognises, in certain circumstances, the right of individuals acting in good faith to rely on the apparent authority of a delegatee to enforce a decision of a delegatee, whether or not the delegatee in fact had the authority claimed.

If a delegatee's decision is invalid it cannot be ratified by the delegator. The correct action is generally for the matter to be considered in full again by the delegatee, assuming it is within the delegatee's power to determine the matter at issue;

There is nothing in Schedule 7, clause 30(6) of the Local Government Act 2002 that entitles a local authority or committee to rescind or amend a decision made under a delegation. The Council would be bound by the decision to the extent that the decision had already become binding on the Council by the operation of law and could not be reversed.

The delegations contained in this Manual are made in accordance with the Local Government Act 2002 and any other statutory authority permitting delegation.

Functions that Council cannot delegate:

Under the Local Government Act, the Council can delegate all statutory powers other than the following list:

- a) The power to make a rate;
- b) The power to make a bylaw; or
- c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or
- d) The power to adopt a long-term plan, annual plan or annual report; or
- e) The power to appoint a Chief Executive; or
- f) The power to adopt policies required to be adopted and consulted on under the Local Government Act in association with the long-term plan or developed for the purpose of the local governance statement.
- g) The power to adopt a remuneration and employment policy.

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#### **4. Delegation to Officers**

Unless a contrary intention is indicated every delegation shall be to a stated officer or position and not to an individual or the membership of a group in their personal capacities. In every case of this type the delegation shall survive any change in the occupier of any such office.

#### **5. Delegations to be in Writing**

Every delegation under this Manual shall be in writing and shall define with reasonable precision the nature, purpose and bounds of a given delegation.

#### **6. Appointment of Enforcement Officers**

The Council has delegated the appointment of enforcement officers to the Chief Executive. Prior to issuing a warrant of appointment, the Chief Executive receives a report from the relevant Department Manager recommending the legislation/bylaw to apply for each staff member or member of an organisation authorised to act on behalf of the council with enforcement.

It is noted that an enforcement officer's powers come from being appointed rather than a sub-delegation. Therefore it is not necessary to have sub-delegations for these powers.

#### **7. Sub-delegation**

Every committee, the Chief Executive and each Department Manager may further delegate any power granted to them in this Manual or otherwise by the Council either generally or specifically, and may impose any term or condition upon that sub-delegation. Sub-delegations will normally be limited to staff in the first three tiers of management. Warrants of Appointment will usually be sufficient for all other staff authorised to act for enforcement of legislation or Council bylaws.

#### **8. Reporting Decisions**

A delegatee need not generally report decisions to the delegator except that all tenders accepted under delegated authority are to be reported by the delegatee (in this case either a Department Manager, the Management Team, or a Standing Committee) to the next higher level of authority (either the Chief Executive via the Management Team, Standing Committee or Council) at the earliest opportunity.

#### **9. Term of Delegation**

Unless any delegation is expressed to be for a definable term, it shall continue until revoked by the delegator or Council, or withdrawn in any way by operation of law.

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#### **10. Policy and Delegated Decision Making**

In reaching a decision under delegated authority full regard must be had to both:

- (a) any Council policy applying to an issue; and
- (b) all relevant facts applying to the case.

Should any delegatee, having considered all the facts of the case, be unable to make a decision which complies with Council policy on any matter, the correct action is then to refer the matter to the Council if a decision cannot be made in compliance with any policy applying to the decision to be made.

#### **11. Amendments to this Manual**

This Manual shall be maintained by the Governance Manager who shall amend it in accordance with:

- (a) any instruction to that effect given by the Council and any delegatee authorised to amend this Manual; or
- (b) any need for typographical, grammatical or other minor amendment where the intention of the Council in the matter of a delegation is not altered.

This Manual will be revised after each Triennial Election. This will be initiated by the Governance Manager.

#### **Glossary**

##### **Activity:**

The particular branch of the Council's functions (eg water, sewerage, library) as opposed to the particular accounts which comprise that activity.

##### **Cost Centre Controllers:**

Officers nominated by the Management Team to assume responsibility for particular activities within the Council's functions so as to ensure agreed works are completed and the budget is not overspent.

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#### **Delegation:**

Delegation in this Manual means the assignment of a duty or power of action to another together with the authority to carry out that duty or complete the action assigned with responsibility for the outcome.

#### **Department Manager:**

A manager who is responsible for a Department of the Council.

#### **Management Team:**

The **Management Team** comprises the Chief Executive, and the six Department Managers, being the General Manager Community and Recreation, General Manager Finance and Business Support, General Manager Planning, Regulation and Environment, General Manager Utilities and Roothing, General Manager Strategy, Engagement and Economic Development and the General Manager Organisational Development and HR.