

SOUTH WAIRARAPA DISTRICT COUNCIL

20 NOVEMBER 2019

AGENDA ITEM B2

DELEGATIONS TO CHIEF EXECUTIVE TO APPOINT OFFICERS

Purpose of Report

To inform councillors of the Chief Executive's exercise of delegations during the Interim Election Period and to request further delegations to the Chief Executive to appoint officers for regulatory purposes.

Recommendations

Officers recommend that the Council:

1. *Receive the Delegations to Chief Executive Report.*
2. *Delegate authority to the Chief Executive to appoint officers to act on behalf of South Wairarapa District Council to exercise powers and functions as detailed in Table 1.*

1. Background

The Local Government Act 2002, schedule 7, clause 32 enables a local authority to delegate any of its responsibilities, duties or powers (unless expressly prohibited in legislation) for the purposes of efficiency and effectiveness in the conduct of a local authority's business.

At its meeting of 18 September 2019 the Council resolved the following to ensure the effective and efficient conduct of the Council's business over the elections period (DC2019/150):

1. To receive the Delegations to the Chief Executive during the Interim Election Period Report.
2. That subject to the limitations set out in clause 32(1) of the Seventh Schedule to the Local Government Act 2002, the Council delegates all of its responsibilities, duties, and powers to the Chief Executive for the period from the day after the declaration of the elections results until the swearing in of the new Council, subject to a requirement that the Chief Executive may only exercise this delegation after the following:
 - a. Consultation with the person elected to the position of Mayor.
 - b. May only attend to those matters that cannot reasonably await the first meeting of the new Council.
 - c. Shall be reported to the first meeting of the new Council.

2. Discussion

2.1 Exercise of the Chief Executive's delegations during the Interim Election Period

In accordance with paragraph 2(c) of the delegation recorded in Council resolution DC2019/150 officers report that the Chief Executive exercised Council's authority to appoint an Environmental Health Officer under section 28 of the Health Act 1956 during the Interim Election Period. The Chief Executive consulted with the then Mayor elect in the exercise of the delegation, in accordance with paragraph 2(a) of the delegation. With respect to paragraph 2(b) of the delegation, the appointment of an Environmental Health Officer could not await the first meeting of the new Council as the Council has an ongoing duty under section 23 of the Health Act to appoint all such Environmental Health Officers necessary for the proper discharge of its duties under the Act.

2.2 Delegation to the Chief Executive to appoint officers

Local authorities may, and in certain circumstances must, appoint officers to enforce or administer duties and functions under regulatory legislation. The authority to appoint such officers may reside with the local authority, as in the Health Act 1956 described above, or with the Chief Executive, as in the duty to appoint a licensing inspector under section 197 of the Sale and Supply of Alcohol Act 2012.

Where the authority to appoint officers resides with the local authority, the Council may expressly delegate this authority to the Chief Executive or another officer in accordance with the general delegation provisions in the Local Government Act 2002, schedule 7, clause 32 or under specific provisions in the legislation in question. Delegating the authority to the Chief Executive to appoint officers enables greater efficiency, effectiveness and consistency in delivering Council's business and ensures that any statutory duty to appoint officers, such as Environmental Health Officers, can be met as soon as possible. Such delegation is consistent with the separation between the governance and management responsibilities of a local authority and with the Chief Executive's responsibility to employ staff on behalf of the local authority under section 42 of the Local Government Act 2002. This is the usual practice of Councils.

3. Recommendation

Officers recommend that Council delegate authority to the Chief Executive to appoint officers to act on behalf of South Wairarapa District Council to exercise powers and functions, as detailed in Table 1 below. Note that at its meeting on 4 August 2010 Council delegated authority to the Chief Executive to appoint enforcement officers and issue any necessary warrants under section 38 of the Resource Management Act 1991.

Table 1 – Delegation of authority to Chief Executive to appoint officers

Legislation	Provisions	Power/function	Authority to delegate
Dog Control Act 1996	11, 12, 13	Appointment of dog control officers and dog rangers and supply of warrant of appointment	Local Government Act 2002, schedule 7, clause 32
Freedom Camping Act 2001	32	Appointment of enforcement officers and issue of warrants of appointment	Local Government Act 2002, schedule 7, clause 32
Health Act 1956	28, 121	Appointment of suitably qualified Environmental Health Officers	Local Government Act 2002, schedule 7, clause 32
Impounding Act 1955	8, 9, 10, 11	Appointment of poundkeepers, deputy poundkeepers, rangers and necessary persons	Impounding Act 1955, section 63 Local Government Act 2002, schedule 7, clause 32
Litter Act 1979	5, 8	Appointment of Litter Control Officers and Litter Wardens and supply of warrants of appointment	Local Government Act 2002, schedule 7, clause 32
Local Government Act 2002	177 ¹	Appointment of enforcement officers and issue of warrants of appointment	Local Government Act 2002, schedule 7, clauses 32 and 32A
Reserves Act 1977	8	Appointment of rangers	Local Government Act 2002, schedule 7, clause 32
Walking Access Act 2008	43	Recommendation to the Commission of appointment of officers as enforcement officers	Local Government Act 2002, schedule 7, clause 32
Waste Minimisation Act 2008	76	Appointment of enforcement officers	Local Government Act 2002, schedule 7, clause 32

3.1 Consultation

As no persons are affected by this decision, consultation is not necessary.

3.2 Legal Implications

There are no legal implications associated with this decision.

3.3 Financial Considerations

There are no financial considerations associated with this decision.

Contact Officer: Rick Mead, Environmental Services Manager and Russell O’Leary, Group Manager Planning and Environment

Reviewed By: Harry Wilson, Chief Executive

¹ Note that section 174 of the Local Government Act 2002 requires the local authority to issue a warrant to evidence the authorisation of an officer to enter private land. The warrant must be issued under the seal of the local authority and council’s policy requires the seal to be affixed pursuant to a resolution of the Council. A delegation to the Chief Executive to issue a warrant under section 174 is therefore not appropriate.