

Report No.	19-158
Information Only - No Decision Required	

EXPLANATION OF ACTS

1. PURPOSE

1.1. The purpose of this report is to provide the Council with an overview of key legislation that you need to be aware of and have an understanding of in your role as a Regional Councillor. This report will highlight some of the key aspects of the following legislation:

- Local Government Act 2002
- Local Government Official Information and Meetings Act 1987
- Local Authority (Members' Interests) Act 1968
- Crimes Act 1961 – Sections 99, 105 and 105A
- Secret Commissions Act 1910
- Financial Markets Conduct Act 2013
- Protected Disclosures Act 2000
- Health and Safety at Work Act 2015

2. EXECUTIVE SUMMARY

2.1. There are certain legal provisions which Members must be aware of to avoid a risk of disqualification from office. There is also a requirement to have these brought to your attention at the Inaugural meeting of the Council under Clause 21 (5) of Schedule 7 of the Local Government Act 2002.

3. RECOMMENDATION

It is recommended that Council:

- a. receives the information contained in Report No. 19-158 and Annexes.

4. FINANCIAL IMPACT

4.1. There is no financial impact.

5. COMMUNITY ENGAGEMENT

5.1. There is no requirement for Community Engagement.

6. SIGNIFICANT BUSINESS RISK IMPACT

6.1. There is no significant business risk associated with this item.

7. BACKGROUND

7.1. At the first meeting of a local authority following a triennial general election there is a statutory requirement for the Principal Administrative Officer to give or arrange a general explanation of:

- a. The Local Government Official Information and Meetings Act 1987 (LGOIMA); and

- b. Other laws affecting members, including the appropriate provisions of the Local Authorities (Members' Interests) Act 1968, of the Local Government Act 2002, Sections 99, 105 (corruption and bribery of an official) and 105A (corruption of official information) of the Crimes Act 1961, the Secret Commissions Act 1910, the Protected Disclosures Act 2000 and the Financial Markets Conduct Act 2013

8. COMMENT

- 8.1. The Chief Executive and/or Group Manager Corporate and Governance are available to brief Councillors on statutory requirements for members. This information is vital for Councillors as it relates to their personal conduct as long as they hold public office. It also underpins the integrity and honesty in our local government system and should be seen as such.
- 8.2. The underlying principle of LGOIMA is the public's "right to know". In summary, official information must be available to the public unless there is good reason for withholding it. LGOIMA covers:
 - a. Formal meetings – These must be advertised in advance. Order papers must be available for public inspection and business must be conducted in open meeting except where there is good reason, in keeping with criteria in the Act, for a particular matter to be discussed in "public excluded business". (Formal resolutions or decisions **cannot** be made at informal meetings such as workshops. Workshops which come within the scope of the Local Government Act can be invaluable to gain understanding of issues and for sharing views.)
 - b. Disclosure of information to the public – Official information requested by members of the public must be supplied on request within a specified time unless, again, there is good reason not to do so. A charge can be made for supply of such information. Council must also publish a Local Governance Statement within six months of each triennial election.
 - c. Other relevant legislation is fundamentally about pecuniary interest and other conflicts of interest. Those Acts also deal with other behaviour that is inappropriate for a public official. These requirements can also extend to a Member's spouse or a company in which the Member (or spouse) has a significant interest. (It should be noted that conflict of interest is also the subject of common law.)
- 8.3. Sanctions for breaches of these provisions can be very severe. Ultimately, any decision about compliance is a matter for the Controller and Auditor General.
- 8.4. Again, any Councillor who is in any doubt, should declare any perceived interest or take advice from the Chief Executive and/or Group Manager Corporate and Governance.
- 8.5. A publication, which is available on the website of the Controller and Auditor-General, entitled "*Guidance for members of local authorities about the law on conflicts of interest*", can be downloaded from this site.
- 8.6. An overview of the relevant sections of the LGOIMA and other laws affecting members are at Annex A.
- 8.7. Declaration for the purposes of Horizons Regional Council's Annual Report. The Audit Office requires the Council to disclose in its Annual Report any financial dealings between the Council and its Councillors (including related parties) regardless of the amount. Every year each Councillor will be required to declare, in writing, whether or not he or she (or any related party) has had any financial dealings with Horizons Regional Council.
- 8.8. The definition of "related parties" includes both business and family connections. Information to be disclosed includes:

- a. the identity of each related party;
 - b. the type of transaction involved'
 - c. the amount of each transaction;
 - d. the total amounts still owing.
- 8.9. Councillors are asked to acknowledge, in writing, on the declaration (Annex B) provided under separate cover, that they have a general appreciation of the material covered by this briefing. Please return the signed copy to the Group Manager Corporate and Governance at the next Council meeting.

9. SIGNIFICANCE

- 9.1. This is not a significant decision according to the Council's Policy on Significance and Engagement.

Craig Grant

GROUP MANAGER CORPORATE & GOVERNANCE

ANNEXES

- A Summary Information on Laws affecting Members
- B Sample Acknowledgement Form