



MEMBERS' STANDARDS A GUIDE 2019

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Members' Standards – A Guide

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1 Introduction

Council members stand for election with honourable intentions to serve the district, city or region. There is no training for the job.

Usually upon becoming a new member, introductory information and perhaps seminars are provided as to how the Council conducts its business. Legal issues are likely to be amongst those topics discussed.

This paper is prepared to provide a resource to which members may refer in the performance of their functions. The practical matters that come before members are infinite in their complexity, yet it is hoped that the following comments, which address principles rather than detail, will, nevertheless, be of assistance when applied to real problems.

The paper has three parts:

- Confidentiality
- Conflicts
- Administrative Law principles

While these topics have been set out as separate chapters, they are more properly three strands of the same thread. If good government is to be delivered, then the standard of integrity of the members must be the foundation of good decisions.

2 Confidentiality

Most business of the Council is to be conducted before the public and, generally, information held by the Council should be readily available to the public. The law requires a high standard of transparency to ensure that those governed know what has been done and why. Knowledge is empowering.

However, there are occasions when, for particular and limited reasons, which are specified by law, the Council must conduct its business privately and protect the privacy or confidentiality of information it holds. When the public is excluded by due resolution of the Council and when the Council holds information confidentially, then it is critical that the rules of confidentiality are observed and maintained by the members and the officers of the Council.

The Council has adopted as the rules for the conduct of its business either the New Zealand Standard for Standing Orders, or provisions to similar effect. Included there is a provision along these lines:

Subject to the provisions of the Local Government Official Information and Meetings Act 1987, no member or officer is permitted to disclose to any person, other than a member or officer, any information which has been presented or is to be presented to any meeting from which the public is properly excluded, or where it is proposed that the public be properly excluded.

The obligation to comply with Standing Orders is reinforced by the Local Government Act 2002 (**the LGA**), which provides in clause 16(1) of Schedule 7, that:

A member of a local authority must abide by the standing orders adopted under clause 27.



Then, section 238(1) of the LGA addresses default:

238 Offence of failing to comply with Act

- (1) *Every person who acts contrary to, or fails to comply with, a direction or prohibition given under this Act, or under an authority given to a local authority or to a member or officer of a local authority, commits an offence and is liable on conviction to the penalty specified in section 242(2).*

Quite simply, a breach of standing orders may be an offence that might lead to prosecution and a fine.

It might be thought that the obligation of confidentiality is less than the obligation for open government. It is not. The duty in each regard is the same.

Government must be conducted in accordance with the law. The conduct of government must be fully open until it becomes confidential according to law. Once confidentiality is imposed, that obligation must be observed with equal assurance.

Whistle blowing can be honourable. There are times and places for doing so. They do not include "going public". That is political self-promotion and is dishonourable.

The Ombudsmen's Office and the Auditor-General may be contacted and consulted with any concerns about due standards of performance by the Council. To do so is according to law and maintains the confidentiality of the Council.

Members must keep to the law. They cannot choose when to obey and when to breach the law. The constant and consistent observance of the law is a necessary standard in the delivery of good government to the community.

3 Conflicts/Bias

3.1 Members' Financial Interests

The Local Authorities (Members' Interests) Act 1968 (**the Members' Interests Act**) impacts primarily upon members. Members should be thoroughly familiar with the provisions of the Members' Interests Act as the penalties upon them for breach can be severe. The following comments are not an explanatory guide through the Members' Interests Act as our comments are limited to a few provisions only.

The Council does not provide legal advice to its members. Each member must seek his or her own independent legal advice.

The Council itself is only indirectly affected. It has some indirect concern for a member's interest, however, because of certain consequences that can follow the Members' Interests Act in the event of the breach by a member.

First, an extraordinary vacancy could result as a consequence of a breach of the Members' Interests Act, but more particularly the breach might be grounds, in certain circumstances, for impugning or challenging, a Council decision.



3.2 The Legislation

Section 6(1) of the Members' Interests Act provides that, other than when the interest is in common with the public, a member of a local authority or committee cannot discuss or vote on a question in which he or she has a pecuniary interest, that is to say, a financial one. It does not matter whether the interest is direct or indirect.

Section 6(2) of the Members' Interests Act provides that a member of a local authority or committee shall be deemed to have a pecuniary interest if:

- The member, or his or her spouse, owns 10% or more of the issued capital of an incorporated company or any company controlling that company, that has a pecuniary interest (direct or indirect) in a matter before the local authority or committee; or
- The member, or his or her spouse, is a member of the company and either of them is the managing director or the general manager of the company; or
- The member, or his or her spouse, is a member of a company controlling the company having a pecuniary interest in the matter before the local authority or committee, and either the member, or his or her spouse, is the managing director or the general manager; or
- The member, or his or her spouse, is the managing director or general manager of the company, and either of them is a member of a company controlling that company.

Subsections (2)(A) and (B) then provide:

(2A) Where the spouse or partner of a member of a local authority or of any committee thereof has, directly or indirectly, a pecuniary interest in a matter before the governing body of a local authority or before a committee thereof as the owner or one of the owners (otherwise than as a member of an incorporated company) of an estate or interest in any real or personal property or of any business or as a party to any contract or proposed contract with the local authority, the member shall, for the purposes of subsection (1), be deemed to have a pecuniary interest in the matter.

(2B) Nothing in subsection (2) or subsection (2A) of this section shall apply with respect to the spouse or partner of any member where, at the time when the member took part in the discussion of or, as the case may be, voted on the matter before the local authority or committee, the member and his spouse or partner were living apart.

Section 6(3) of the Members' Interests Act then allows for numerous exceptions. Most importantly there is an exception in subsection (3)(f), which provides that the Office of the Auditor-General may decide, on written application to it, that the pecuniary interest of a member is too remote or insignificant to be regarded as likely to influence him or her in voting or taking part in the discussion of that matter.

Section 6(4) of the Members' Interests Act is also of interest. This subsection provides that the Office of the Auditor-General may, of its own motion, or upon written application made by the member concerned, declare that an exception be made to section 6. The exception can be made for any specified matter or specified class of matters to be considered by the local authority. If the Office of the Auditor-General is satisfied that the application of section 6(1) would impede the transaction of business by the local authority, or that it would be in the interests of the electors or inhabitants of the district, an exemption may be given.



Section 6(5) directs the behaviour of a member to whom section 6(1) applies. Subsection (5) provides that any member, who under section 6(1) is prohibited from voting on or taking part in the discussion of any matter at any meeting at which he or she is present, shall declare that pecuniary interest to the meeting. The fact of the disclosure of interest, and the abstention from discussion and voting, is to be recorded in the minutes of the meeting.

The object of such a statutory provision "*is clearly to prevent councillors from voting on a matter which may affect their own pockets and, therefore, may affect their judgment*".¹ The cases make it clear that it is irrelevant whether there is or is not an actual pecuniary advantage or disadvantage as a result of the vote.

If a member has a pecuniary interest, he or she should not vote at all. In our legislation it is not just a matter of exclusion from the vote, but also exclusion from the deliberation on the particular issue.

What then are the parameters of an indirect pecuniary interest? At what point, or in what way, is the interest to be distinct from that of the public in general? Not surprisingly, because the circumstances can be infinite in their variety, the Courts have deliberately refrained from providing fixed boundaries.² Each case must be considered on its own facts.

The Courts have recognised that the constraint should not be interpreted so as to make "*the conduct of municipal business impossible*" and recognised that, "*since a contravention is made an offence punishable by a penalty, the language should only be given a meaning which it clearly bears*".³ That decision perhaps provides one parameter for the interpretation of section 6(1) of the Act.

Another element of section 6(1) of the Members' Interests Act is that the member's interest is not to be one that is shared in common with the public; it has to be "*special and peculiar to himself*".⁴ The meaning of "the public" is very vague. It will depend upon the circumstances of the case and will always be a question of degree.⁵

A number of propositions have been proposed as to the extent of an indirect pecuniary interest under section 6 of the Act.⁶ An indirect pecuniary interest may involve:

- An interest arising from a relationship and not from any specific contract or monetary connection;
- Considering whether an informed objective bystander would conclude that there was a likelihood or reasonable apprehension of bias;
- That any motives and good faith of councillors are irrelevant to whether or not they had an indirect pecuniary interest; and
- Either a potential benefit or a potential liability.

It does not matter whether a member gains or loses from his or her interest, "*the situation contemplated by the [Members' Interests Act] is a particular formalised illustration of the rule that persons charged with an obligation to make decisions should not be affected by a personal motive*".⁷

It must be emphasised that pecuniary interests are ones for members themselves to address and resolve. It is not the business of the Council to order, direct or formally advise any member what he or she should do in any particular instance.

Only the member will know sufficient detail to be able to determine his or her liability. There is no authority for the executive of the Council to provide legal advice to members as to their personal



affairs. For a member to act in breach of the legislation is an offence, upon conviction for which the penalties can be severe.

Only a member will know sufficiently from all his or her personal affairs as to whether there is such an interest. It is not straightforward. If a member is in doubt, legal advice should be sought from his or her own lawyer. Guidance, perhaps a ruling, of the Auditor-General's Office can be obtained in advance of entering into the discussion and decision-making process. They are swift and practical.

There is no authority for the Council to direct a member as to what should be done in any specific instance. The Council may care to give guidance in general terms but should avoid making any ruling. Any member who has such an interest has a duty to advise the Council and then take no part in the deliberation of the issue at hand.

A member, who has a pecuniary interest under the Members' Interests Act concerning a matter before the Council, should have no involvement with that matter at all. If the member continues to be involved, the following might occur:

- Affected persons might seek judicial review of the decision; and
- The member may be fined or be forced from the Council.

If a member has a personal interest and as a result the Court finds that the decision of the Council is affected by bias or personal motive, the Court can set aside the resolution or decision. Where more than one member has a personal interest, the Council's position is further prejudiced. Particularly, the chances of a decision being impugned, or challenged, are that much higher.

The grounds for impugning a decision are based upon the administrative law principles of "natural justice". According to these principles a decision made by the Council must be free of predetermination or bias.

3.3 Bias and Pecuniary Interests

Bias and section 6 of the Members' Interests Act are similar in some respects. An "*indirect pecuniary interest may arise from a relationship, rather than from a monetary or contractual connection and may arise in cases of potential benefit or liability*". The test is "*whether an informed objective bystander would conclude that there was a likelihood or reasonable apprehension of bias*".⁸

The test has been confirmed by the Court of Appeal in a case involving allegations of bias against a judge.⁹ Apparent bias exists where circumstances:

... might lead a fair-minded lay observer to reasonably apprehend that the judge might not bring an impartial mind to the resolution of the instant case.

The Court of Appeal also observed that:

... a reasonable member of the public is neither complacent nor unduly sensitive or suspicious.

The test for an indirect pecuniary interest and the test for bias are essentially the same. Section 6 of the Members' Interests Act has been described as "*statutory bias*".¹⁰ The main difference is that section 6 is concerned with personal liability, whereas bias is a matter of the Council's accountability to the public.



Bias is part of the administrative law principles of natural justice, which requires the Council to Members' Interests Act fairly in reaching its decisions. The fairness principle has been described in these terms:

In exercising that discretion, as in exercising any other administrative function, they [members] owe a constitutional duty to perform it fairly and honestly ... What is a fair procedure to be adopted at a particular enquiry will depend upon the nature of its subject matter. ¹¹

More particularly, in the present context "*presumptive bias through interest is a disqualifying factor in the judicial process, not because actual bias was present, but because a reasonable man might think it was*".¹² A breach, however, does not automatically invalidate a decision, nor render it void. The decision remains until it is declared by a court to be invalid and set aside.

The concept of bias, in administrative law terms, is much broader in principle than a statutory pecuniary interest because it encompasses pecuniary interest and any other personal interest or conflict.

Administrative law principles, sometimes spoken of as "natural justice", require the Council to act fairly in reaching its decisions. Among other things, that duty requires that conflicting views to be considered in any particular process are given a fair hearing and that the decision is free of predetermination or bias.

In the context of pecuniary interest of a member, the sanctions under the Members' Interests Act are directed at the member personally. He, or she, may be fined. A member may be disqualified from office for participating in Council decisions when having a pecuniary interest.

Administrative law principles are matters of public law affecting the Council, rather than private law by which a member can be subjected to sanctions. The remedy in public law, in the event of conflict giving rise to bias, is the invalidation of the Council decision, not the imposition of a penalty. It is this potential consequence of pecuniary interest that affects the Council.

The Council needs to consider the decision-making process. Is the process impartial? Might an informed objective bystander think that a member has a conflict of interest? To this extent, the duty of disclosure by members to the Council is vital.

3.4 Council Exception

Both the Resource Management Act 1991 and case law recognise the inevitability of a degree of conflict within councils when exercising certain functions. It is established, for example, that a council may object to its own district plan and apply to itself for resource consent.

Where there is inevitably an element of pre-consideration by the council of the issue it has to decide, the Courts have tolerated:

*... a departure from the standard of even-handed justice which the law requires from those who occupy judicial office, or those who are commonly regarded as holding a quasi-judicial office ...*¹³

This lesser standard of impartiality has been described in the case of councils in these terms:

... the state of impartiality which is required is the capacity in a council to preserve a freedom, notwithstanding earlier investigations and decisions, to approach their duty of inquiring into and disposing of the objections without a closed mind, so that if considerations advanced by



*objectors bring them to a different frame of mind they can, and will go back on their proposals.*¹⁴

We consider, however, that the necessary element of inevitability is lacking where one member of the Council chooses to make preliminary submissions to the Council or become publicly involved on behalf of one particular option, rather than argue his or her case in the deliberations of the Council. By taking a prior public position, he or she steps outside the Council and should not, subsequently, seek to re-join the Council in its deliberations.

The Council's actions will be tested for bias against strict rules. There must be no:

*... suspicion of bias reasonably - and not fancifully - entertained by responsible minds*¹⁵

3.5 Code of Conduct

A Code of Conduct for local authority members is now required under clause 15 of Schedule 7 of the LGA. The contents of the Code are broadly provided for in that Act and details within those broad parameters are for the members themselves to determine.

It might be thought that the following elements are suitable for consideration, amongst others, in a Code of Conduct for Council members¹⁶. There is no authority for these requirements in New Zealand and experience may well suggest different expression or further concerns. Nevertheless, members might conduct their affairs in accordance with standards such as these:

- Members hold office by virtue of the law and must always act within the law. They should make sure that they are familiar with the rules of personal conduct that the law and the Council's standing orders require.
- Members must act honestly and exercise the influence gained from that office to advance the public interest.
- Members are responsible for preventing conflicts of interest and must try to arrange their private financial affairs and personal affairs to prevent conflicts of interest arising.
- It is a member's responsibility to ensure compliance with these requirements and this guidance. members should regularly review their personal circumstances with this in mind, particularly when circumstances change.
 - An actual conflict of interest exists where a member participates in, or makes a decision that, a reasonable and objective observer might think affects the interests of the member or someone associated with the member.
 - In deciding whether a member has an interest, consider whether an ordinary person, knowing the facts of the situation, would think that the member might be influenced by it.
 - A conflict of interest does not exist where a member or other person benefits only as a member of the public.
 - If in doubt, clearance from the Office of the Auditor-General under section 6(4) of the Members' Interests Act should be gained.
- If a member has a private or personal interest in a question before the Council, the member cannot take any part in the deliberations, or vote on any decision, unless approval has been granted from the Office of the Auditor-General.



- A member should not do anything as a member that he or she could not justify to the public. A member's conduct and what the public believe about that member's conduct will affect the reputation of the Council.
- Disclosure of pecuniary and other personal interests are necessary. Personal and pecuniary interests include those of the spouses with whom a member is living, family members, friends and those arising through membership of clubs and other organisations.
- Where a member has declared a private or personal interest:
 - The member should not take any further part in the matter, and should always withdraw from the meeting while the matter is being considered; or
 - The member could then write to the Office of the Auditor-General requesting an exception under section 6(4) of the MIA; and
 - If the Office of the Auditor-General approves, then the member may continue to take part in the matter and may vote on it.
- Members may not accept a gift that may cause a conflict of interest.
- Members may not accept a gift that might interfere with honest and impartial exercise of official duty.
- Members must declare gifts and benefits arising from or concerning official duties.
- Members must apply public resources economically, only for public purposes and not for private financial benefit.
- Members must not use for personal gain whether financial, political or otherwise, any official information that is not in the public domain.
- Members must safeguard information obtained in confidence: to breach confidentiality contrary to standing orders may be an offence.
- If a member has any doubt about a pecuniary interest, the member must seek clearance from the Office of the Auditor-General.
- If there is any doubt concerning a conflict of interest, pecuniary interest or bias, members must seek independent legal advice.

3.6 Conclusion

Bias and section 6 of the Members' Interests Act work together. Section 6 is aimed at a member's personal liability, whereas bias is aimed at the Council's accountability. In particular, any decision made by the Council must be fair and impartial.

A finding of bias by the Court will necessarily involve consideration of whether the members of the Council had any direct or indirect pecuniary interest in the matter during the decision-making process.



4 Administrative Law Principles

4.1 Purpose

This is a brief introductory overview of administrative law principles, which apply to the making of all decisions by the Council. This includes decisions of the Council, whether made by the members in a formal meeting or its committees, and also decisions of officers of the Council to whom the power of decision-making has been delegated. There is an overriding obligation to make decisions fairly.

4.2 Introduction

The Council is a public body. For the purposes of how it makes decisions it is, like central government, subject to the special body of laws known as administrative law, the rules of natural justice.

The Council is subject to the same laws as any other person or body corporate. Administrative law principles are additional obligations.

The Council can be taken to court by both private and public action. An example of a private action is seeking damages against the Council for breach of contract. A public action is taken in the High Court by seeking judicial review of a Council decision.

The same set of circumstances might enable both kinds of action to be brought against the Council. Consider putting out to tender the performance of works for the Council, or the sale of land by the Council, and the manner in which the Council then decides which tender to accept or refuse. If these basic Council operational decisions are not performed correctly, it is possible that a private action may be brought in court against the Council for damages, or for judicial review of the Council's performance. It is also possible that both review and damages may be available in some circumstances.

The Council is not the same as a company or an individual. Its public nature, derived from statute, bears the requirement to comply with additional duties.

4.3 Fairness

What then are the administrative law principles, these additional duties, the failure of which to comply, can have the Council taken to the High Court for judicial review?

Three major categories of grounds for review have been recognised. One judge has spoken of illegality, irrationality and procedural impropriety. Another would have councils act in accordance with law, fairly and reasonably.

These are clearly broad principles and are of universal application. Narrower legal terms apply to certain kinds of behaviour, which are found within these requirements for fairness. Some of these must be considered in some detail, as the legal terms may well be unfamiliar to you.

4.4 Illegality

The Latin term *ultra vires* is often used by lawyers for different kinds of illegal performance by a public body. It means the Council is acting outside its powers; it is acting illegally. The Council may not have the power to take action or make a decision; it may not have the power to act in a particular way.



Although the Council now has a power of general competence, that power is constrained by the LGA itself, other legislation and the common law. This means it cannot always do whatever it wants in whatever manner it chooses.

Whenever the Council does act, by resolution of the members themselves in Council meeting, by committee, subcommittee or delegated officer, then it must act in the manner specified. Particular attention must be given to procedural compliance. A failure to comply with these statutory duties can result in the decision of the Council being *ultra vires*, that is to say, illegal.

4.5 Procedural Impropriety

The Council must act in accordance with legal procedures. For example, in hearing cases or weighing alternative submissions, the parties must be heard properly. A particular example would be the desirability of delegating Commissioners to hear the Council's own planning applications.

The second limb of procedural impropriety is the rule against bias in decision-making. In decision-making, the Council must not only proceed fairly, the decision makers themselves must also not be biased.

4.6 Bias

A public body must be seen to be impartial when making a decision. A prior contract, undertaking or commitment may make later considerations unlawful. The legal test for bias is "*a suspicion of bias, reasonably - and not fancifully - entertained by reasonable minds*". An outward appearance of impartiality is not enough.

Conversely, public statements of opinion or policy do not, alone, establish bias. The Council is entitled to have a policy in respect of its own property, for example. District plans are another instance in which presumptive bias can be contemplated yet does not invalidate hearings.

Financial interest in the outcome of a decision, not held in common with the public at large, excludes a member from speaking or voting on the consideration and decision of an issue. This is a statutory safeguard against bias and corruption, in addition to the administrative law principle of the right to unbiased decision-making.

It is a breach of natural justice for one party, or the legal adviser of that party, to take part in the confidential deliberations and adjudication of an issue. Advisers and consultants have no role in decision-making, only in providing preliminary information and guidance.

4.7 Legitimate Expectation

The principles of fairness extend to those who have a legitimate expectation that their matter will be considered and dealt with by the Council in a particular way. It is likely that the legitimate expectation is in respect of procedure rather than the result.

Legitimate, or reasonable expectation may arise either from an express promise given by, or on behalf of the Council, or from the existence of a regular practice which the claimant can reasonably expect to continue.

4.8 Improper Purpose

An improper purpose in making a decision does not necessarily mean a corrupt or fraudulent purpose. It merely means a purpose not authorised by law.



If an empowering statute expressly sets out purposes to be considered, for example, the factors that may be used in calculating liability for targeted rates under Schedule 3 of the Local Government Rating Act 2002, then consideration must be limited to those factors, not others. If the statute does not express the purposes to be considered, then those implied by the legislation as a whole are to be considered.

4.9 Irrelevant Considerations

Statutes may oblige the decision-making body to consider certain factors. These may then not be ignored. Other issues for consideration may be permitted or may be expressed as irrelevant. The direction, expressed or implied in the authorising legislation, must be followed.

Obviously, interpretation of the empowering statute will be crucial to determine whether there are factors to be taken into account or excluded from consideration. All too frequently the legislation is not clear as to the factors and great care must be taken to ensure that relevant considerations only are taken into account and that irrelevant ones are excluded from the decision-making process.

4.10 Abdication of Discretionary Powers

An abdication of discretionary powers arises if the Council, having the power to exercise its discretion, fails to do so.

One example is a failure as a result of having set an inflexible policy previously. Another is where the Council has allowed itself to be dictated to by another person or body. A final example is the delegation of the discretionary decision to another person without authority.

4.11 Reasonableness

The test for reasonableness, familiarly known by lawyers as **Wednesbury** unreasonableness was stated like this:¹⁷

... a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not ... he may truly be said ... to be acting "unreasonably".

Then, most often quoted:

... if a decision ... is so unreasonable that no reasonable authority could ever have come to it, then the courts can interfere ...

For New Zealand, the Court of Appeal has stated the test of unreasonableness in **Wellington City Council v Woolworths** in this way:

For the ultimate decisions to be invalidated as "unreasonable", to repeat expressions used in the cases, they must be so "perverse", "absurd" or "outrageous in [their] defiance of logic" that Parliament could not have contemplated such decisions being made by an elected council.¹⁸

Just because a wide majority of elected representatives, often considering the matter a number of times, have come to a decision which seemed to them to be wise policy, well made, the courts have nevertheless exercised the power to review and uphold, or reject those Council decisions.



However, we note that the very stringent test of reasonableness set out in the **Woolworths** case might not always apply, in particular where situations involving the human rights of individuals are concerned. In this respect we note the judgement of Wild J in the High Court in **Wolf v Minister of Immigration**. The case concerned an appeal against a decision of the Deportation Review Tribunal dismissing an appeal against a decision of the Minister of Immigration revoking the appellant's residence permit. Judge Wild said at paragraph 47:

*I consider the time has come to state – or really to clarify – that the tests as laid down in **GCHQ** and **Woolworths** respectively are not, or should no longer be, the invariable or universal tests of "unreasonableness" applied in New Zealand public law. Whether a reviewing Court considers a decision reasonable and therefore lawful, or unreasonable and therefore unlawful and invalid, depends on the nature of the decision: upon who made it; by what process; what the decision involves (i.e. its subject matter and the level of policy content in it) and the importance of the decision to those affected by it, in terms of its potential impact upon, or consequences for, them.¹⁹*

This approach has been further refined by the High Court in the case of **MPR v Refugee Status Appeals Authority**. Judge Duffy said at paragraph 14:

*The test for unreasonableness can vary according to the context. Decisions that are "entirely about money" or that largely involve questions of central or local government policy are subject to the test applied in **Wellington City Council v Woolworths (No 2)** [1996] 2 NZLR 537 (CA) at 545... However, it has long been recognised that a lower threshold may be applied in cases involving human rights.²⁰*

However, the Court of Appeal in the case **WK v Refugee and Protection Officer** [2018] NZCA 258 has recently affirmed that the **Wednesbury** approach remains the governing test of unreasonableness in an immigration context.

4.12 Summary

In decision-making, the Council must act within lawful authority, according to lawful procedure and produce rational results. This sounds simple. In practice, circumstances often make for difficulties. When there is doubt, the Council must act carefully.

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