



REPRESENTATION REVIEWS

// A guide for elected members

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INTRODUCTION

Local democracy must be seen to be open, transparent and fair for people to have trust in democratic institutions. Otherwise, citizens won't engage with local government or build civic values. When people make decisions about whether to vote, trust and the belief that electoral processes are fair are critical factors.

At the national level, the Electoral Commission is responsible for parliamentary elections being fair and ensuring all votes are of equal value. At the local level, this responsibility is exercised through a council's representation review, which is a process backed up by the Local Government Commission.

At least once every six years, every council must review its representation arrangements, which are how communities hold local governments democratically accountable. This guide sets out everything elected members need to know about representation reviews, including their role, why a good review process is critical to a functioning local democracy, and what it involves. It draws heavily on the [Local Government Commission's Representation Review Guidelines](#).

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REPRESENTATION REVIEWS: WHAT ARE THEY?

The Local Electoral Act 2001 (LEA 2001) requires all councils to review representation arrangements at least once every six years. Representation arrangements are the number of elected representatives on a council, and the way in which they are elected. These arrangements are how local governments are held democratically accountable by their communities. Representation arrangements can vary from council to council, reflecting the diverse and plural nature of communities.

Representation reviews consider:

- The number of electoral areas that a district, city or region needs (e.g. wards and sub-divisions), if any, and their boundaries and names.
- The number of members (councillors and local and community board members) needed to provide effective representation.
- In the case of territorial authorities, the basis of election (at large, wards, or a mix of both), and establishment of community boards.
- In the case of a unitary authority with local boards, the membership arrangements for each local board, and whether minor alterations to local board boundaries are required.

Why representation reviews matter

- They ensure electoral arrangements are fair
- They ensure equality of access
- They enable citizens to discuss the nature of effective representation in their cities, districts and regions
- They contribute to experiences of democracy, locally and nationally
- They influence peoples' perception of whether local democracy is transparent, just and fair
- They promote confidence in the electoral process.

Also relevant to the way in which a council represents its communities is the nature of the electoral system used to elect local representatives. The two options that councils can choose from are First Past the Post (FPP) or Single Transferable Vote (STV). Although not a statutory requirement, good practice suggests that before a representation review is undertaken, councils should undertake a review of their electoral system (see below for a discussion on the advantages of the different systems).

Why representation reviews matter

Representation reviews help to ensure that:

- The process for communities' selecting their elected representatives is open and fair.
- Citizens have an equal right to stand for elected office and know that everyone's vote is of equal value;
- The public trusts in electoral processes and public institutions, which in turn supports democratic participation;
- A council's representation arrangements remain relevant and fair, taking into account changes in population, demographics and other factors;
- That a council's overall representation is sufficient for it to meet community expectations and challenges.

How often are representation reviews required?

Councils must undertake a representation review at least once every six years, unless a council chooses to undertake a review three years after its previous review. This might be due to rapid population growth, or if new representation arrangements were not working as intended. Councils that carried out a review prior to the 2022 local elections are not required to undertake another before the 2025 local elections unless they're establishing Māori wards/constituencies for the first time.

Matters to be considered in a representation review

Councils could address any of the following:

- Is the current electoral system appropriate?
- Is specific Māori representation appropriate?
- Were there any matters arising from the previous review that suggest a further review in three years' time is needed?
- Does the present number of councillors provide effective representation for communities of interest?
- Have there been significant changes in population impacting on fair representation?

For territorial authorities only:

- Is the current basis of election (that is, a ward system, an at-large system or a mixed system) appropriate?

- Are current community boards (if any) appropriate?
- If not, is there a need for the establishment of new boards, or the de-establishment or merger of current boards?

Critical factors

Before consulting on their draft representation arrangements, called the Initial Proposal, governing bodies need to be comfortable that the proposal, whether developed by an arms-length process, or by a council committee, fulfils three statutory expectations:

- That the proposal identifies communities of interest;
- That the proposal represents fair representation for communities of interest;
- That the proposal represents effective representation of communities of interest.

The process

- Identify communities of interest
- Determine effective representation for those communities
- Ensure fairness of representation for electors
- Take account of the purpose of local government in the LGA 2002.

Communities of interest

Underpinning the principles of fair and effective representation (and the representation review process itself) is the concept of “community of interest”. The concept is not defined in the LEA 2001 and may mean different things to different people. For some people, it might be the community that they perceive themselves to be a member of; for others, it might be the capacity of an area to provide for a community’s need for infrastructure and services.

Factors that might help identify a community of interest include:

- distinctive physical and topographical features (e.g., mountains, hills, rivers);
- similarities in economic or social activities carried out in the area;
- similarities in the demographic, socio-economic and/or ethnic characteristics of the residents of a community;
- a distinct local history of the area resulting in a current perception of community of interest;
- alignment with the rohe or takiwā of local iwi and hapū;
- dependence on shared facilities and services in an area, including:
 - schools, recreational and cultural facilities,
 - retail outlets, transport, and communication links.

Since communities change over time, it’s important that local authorities make sure they identify current communities of interest when carrying out their representation reviews.

A specific question territorial authorities should ask during a representation review is whether there are any identifiable communities of interest below the district level; and if so, whether these communities of interest are identifiable geographical areas and require separate representation, such as by the establishment of wards and/or community boards.

Effective representation for communities of interest

The ultimate purpose of representation reviews is to ensure that communities of interest have **effective representation**, and that such arrangements are fair, as well as being the result of a fair process. In determining the level of representation that is effective, territorial councils can have governing bodies of between 5-29 members (excluding the mayor), while regional councils can have governing bodies of between 6-14 members¹. Effective representation has two dimensions:

- Whether the way in which specific communities of interest are represented is effective. That is, are communities of interest able to exercise their voice and express views to the council, without barriers that might be created by distance or lack of representation?
- The interests of the general community – that is, the community constituting the population of the district, city, or region, as a whole. Effective representation also means that the number of representatives on the governing body is sufficient to fulfil the purpose of the council.

When considering effective representation, decision makers need to take into account not only the diversity of the population and the geographical location of particular communities of interest, but also the overall statutory role of local authorities, which encompasses overall community well-being, sustainability and the interests of future generations. In addition to deciding the level of representation for communities of interest (that is, the ideal size of the governing body and whether community boards are needed), councils must also decide how those representatives will be selected, whether by:

- elections held at large,
- wards, or
- a mix of both.

When considering this question, councils need to account for:

- the accessibility, size, and configuration of the district
- whether community boards are already in place
- the electoral system
- whether Māori wards have been established
- whether to have single-member or multi-member wards, and if the latter, how many representatives will be elected in those wards)

¹ The one exception is Environment Canterbury which has a governing body of 16 members, two of whom are chosen by Ngai Tahu.

- Whether there should be a combination of at-large and multi-member wards.

Regional councils are required to have at least two constituencies, with members being elected entirely from constituencies; none may be elected at large.

Fair representation for communities of interest

The principle of fair representation is designed to ensure that there is an “equality of votes”. In other words, peoples’ votes should have approximately equal value. The LEA 2001 attempts to achieve this equality by applying the +/-10% rule. This rule, with some exceptions (see below), requires that the number of electors per member in each ward/constituency must vary from the average across the district by no more than +/-10%.

Territorial authorities have four exceptions to the +/-10% rule (s19V(3)(a)) where this is necessary to provide for effective representation of communities of interest. They are:

- island communities
- isolated communities
- dividing a community of interest (where division would diminish effective representation)
- grouping together communities of interest with few commonalities of interest (which might lead to less effective representation).

Regional councils’ constituencies may also vary from the +/-10% rule if it is required to achieve effective representation of communities of interest.

“Institutional uncertainty in the form of regular free and transparent elections amongst a universally enfranchised adult population ... is a guarantee of accountability.

The more certain the outcome of any given election, the more undemocratic the political system. Uncertain electoral outcomes keep politicians honest and accountable.”

Paul Buchanan 2009

Please note, that a council decision not to comply with 19V(2), the +/-10% rule, must be referred to the Local Government Commission for determination, regardless of whether appeals or objections against the council’s proposal have been lodged.

TIMEFRAME AND KEY STEPS

Task	Timeframe	Role of the governing body
<p>Review electoral system:</p> <p><i>Discretionary, but strongly encouraged.</i></p> <p>CEO to prepare and table report to the governing body seeking direction on whether to review the current electoral system (whether FPP or STV), so long as the current system has been in operation for at least two terms.</p>	<p>Year one of the triennium</p> <p>Must be completed by 12 September, two years before the next election.</p> <p>A decision to hold a poll on the electoral system, or a petition calling for a poll, must be made, or received, by 11 December, two years before an election.</p>	<p>To ensure officials place the question of electoral system on the governing body's agenda and to make a decision on whether to review the electoral system or not.</p> <p>If the governing body decides to review the electoral system, then it should approve the process for seeking community and iwi/Māori views.</p>
<p>Māori wards and constituencies</p> <p>CEO to prepare a report setting out a process for investigating whether to establish or abolish Māori wards and constituencies.</p>	<p>Year one of the triennium.</p> <p>Must be completed by 23 November, two years before the next election.</p>	<p>To agree with, or amend, the CEO's recommendations.</p> <p>To oversee the process for engaging with iwi/Māori and, depending on the agreed recommendations, engage directly with iwi/hapū and Māori on the issue of Māori representation.</p> <p>Agree, or not, to establish (or to continue with) a Māori ward(s)/constituency(ies) for inclusion in the initial and final proposals.</p>

Task	Timeframe	Role of the governing body
<p>Preliminary consultation must be undertaken to understand the fairness and effectiveness of current representation arrangements, considering demographic change etc, and to develop potential options for the council's initial proposal.</p>	<p>Year two of the triennium. Must be completed in time to allow statutory deadlines, set out below, to be met.</p>	<p>Governing body agrees the process and mechanism for reviewing existing arrangements and identifying options. This may be undertaken by:</p> <ul style="list-style-type: none"> • a council committee or working party • a citizens' jury or citizens' assembly • a community organisation • panel of experts.
<p>Adopt an initial proposal which will be subject to public consultation</p>	<p>Resolution must be made: no earlier than 20 December in the year two years before election year, and no later than 31 July in the year immediately before election year.</p>	<p>Governing body must consider the options identified in the preliminary assessment and resolve to adopt an initial proposal, which sets out the council's proposed representation arrangements. These will be subject to a formal community consultation process.</p>
<p>Inform public of the resolution to adopt initial proposal</p>	<p>Public notice to be given within 14 days of resolution, and not later than 8 August in the year before election year.</p>	<p>No direct role</p>

Task	Timeframe	Role of the governing body
<p>Public consultation on the initial proposal and submissions invited.</p> <p>If no submissions received, the proposal then becomes final².</p>	<p>Date for closing of submissions cannot be less than one month after public notice.</p>	<p>Governing body considers submissions and may resolve to amend initial proposal or adopt it without changes.</p>
<p>Public notice explaining the governing body's "final" proposal (s. 19N(1)(b)) informing public of right to make appeals and objections to the LGC.</p>	<p>Within eight weeks of closing date for submissions.</p>	<p>No direct role.</p>
<p>Appeals and objections to be lodged with the LGC.</p>	<p>No later than 3 December in the year before election year.</p>	<p>No direct role.</p>
<p>Commission considers resolutions, submissions, appeals and objections and makes determination.</p>	<p>Before 11 April in election year.</p>	<p>Governing body may be involved in the LGC's deliberations, usually to</p> <ul style="list-style-type: none"> • Provide more information on its final proposal • To respond to specific questions/concerns about the proposal.

² Under *section 19V(4)*, proposals that do not comply with the +/-10% fair representation requirement are subject to confirmation by the Commission even if no submissions, appeal or objections have been lodged.

Task	Timeframe	Role of the governing body
Determination subject to appeal to High Court on a point of law ³	Appeals to be lodged within one month of determination.	No specific role, although a council could, in theory, initiate a judicial review of the LGC's determination, or be called to provide evidence during judicial review proceedings.

³ Commission determinations may also be subject to judicial review.

CRITICAL ISSUES FOR ELECTED MEMBERS

The following section discusses some of the key issues that elected members will need to consider as they undertake their representation review.

The choice between STV and FPP

Before commencing the statutory requirements associated with the representation review, it is recommended that councils consider what electoral system they should have: Single Transferable Vote (STV) or First Past the Post (FPP). This is because the type of electoral system will have an impact on the decisions made during the representation review.

The process for reviewing an electoral system must be completed by September 12, two years before a local election. Having made a decision on its electoral system, a council must advertise its decision and inform citizens of their right to require a community poll to change the council's decision. The poll needs to be supported by 5% of eligible voters within the district, be received by 11 December two years before the election, and be carried out no later than 14 March of the year preceding the year in which the local elections are scheduled.

While councils are under no mandatory obligation to review their electoral system, we recommend that they do so on a regular basis as a matter of good practice. It should be noted that a community can require a mandatory poll on this question.

First Past the Post (FPP) has been the default electoral system since the establishment of democratic local government in the middle of the 19th Century, with some exceptions. The option to adopt the Single Transferable Vote (STV) system for electing members was provided to councils in 2001. In the 2022 elections, 15 councils were elected by STV. The pros and cons of STV are summarised below.

The advantages of STV

- Fewer 'wasted' votes. In other words, fewer votes are cast for losing candidates or unnecessarily cast for a run-away winner. This means that most voters can identify a representative that they personally helped to elect. It is argued that this, in turn, increases a representative's accountability.
- With STV and multi-member constituencies, parties have a powerful electoral incentive to present a balanced team of candidates to maximise the number of higher preferences that would go to their candidates. This can promote the advancement of women and ethnic-minority candidates, who are often overlooked in favour of a 'safer' candidate under FPP.

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- STV offers voters a choice of representatives to approach with their concerns once the election is over, rather than just a single elected representative, who may not be at all sympathetic to a voter's views.
 - There are no safe seats under STV, meaning candidates cannot be complacent and parties must campaign everywhere, not just in marginal seats.
 - When voters are able to rank candidates, the most disliked candidate cannot win, as they are unlikely to pick up second, third and lower-preference votes.
 - By encouraging candidates to seek first, as well as lower-preference votes, the impact of negative campaigning is significantly diminished. STV also removes the need for tactical voting.
 - Under STV there is a more sophisticated link between a constituency and its representative. Not only is there more incentive to campaign and work on a more personal and local level, but the constituencies are likely to be more sensible reflections of where community feeling lies.

The disadvantages of the STV system

- In sparsely populated areas, STV could lead to geographically very large constituencies.
- The process of counting the results can take longer under STV, although the use of the STV calculator (developed by the New Zealand Government) means that any such delay is unlikely.
- A voting system that allows voters to rank candidates can be prone to what has been termed 'donkey voting', where voters vote for candidates in the order they appear on the ballot.
- In large multi-member constituencies, ballot papers can get rather large and potentially confusing, possibly leading to a higher percentage of discarded voting papers (for more information on the relative advantages and disadvantages see UK Engage at <https://uk-engage.org/2013/06/what-are-the-advantages-and-disadvantages-of-using-the-single-transferable-vote-stv-system/>)

Please note, a decision to change an electoral system cannot be reversed (except by a binding poll) for at least two terms.

Māori wards/constituencies

The LEA 2001 provides that Māori wards (territorial authorities) or constituencies (regional councils) may be established.⁴

⁴ At the 2022 local elections, 35 councils had either Māori wards or constituencies, a number that will have increased by the time the 2025 elections are held.



The territorial authority or regional council may, before undertaking its representation review, determine by resolution whether their representation arrangements should include specific Māori representation. Before making such a determination a council must:

1. engage with Māori and other communities (see Part 6 of the LGA 2002 for definition of “communities”) in the district or region under subpart 1 of Part 6 of the LGA 2002; and
2. have regard to their views on whether the representation arrangements for the territorial authority or regional council should include specific Māori representation.

If Māori wards/constituencies are to be established for a forthcoming election, the council involved must undertake a representation review (regardless of whether it conducted a review before the previous election).

The Local Government Commission’s role in relation to appeals and objections on representation arrangements does not extend to the question of whether Māori wards/constituencies should be established. It is limited to consideration of the detailed arrangements for such wards/constituencies, i.e., the number of wards/constituencies, their boundaries and names, and the number of members.

A decision to establish Māori wards/constituencies must be made by 23 November in the year two years before an election. While the legislation is quiet on any specific criteria that must be applied, councils should consider the principles set out in the LEA as applicable to the matter of specific Māori representation. Since a representation review is required when a council decides to establish Māori wards/constituencies, then the following needs to be considered:

- the proposed total number of members of the council and (for territorial authorities only);
 - whether all members are to be elected from either Māori or general wards, or
 - some members are to be elected from either Māori or general wards, and some are to be elected at large;
- the proposed number of members to be elected from the Māori wards/constituencies and the number from the general wards/constituencies;
 - the proposed name and boundaries of each ward/constituency
 - the proposed number of members to be elected from each Māori and general ward/constituency.

A critical first step is to determine the members to be elected from the district at-large, as they’re not included in the calculation to determine the number of members to be elected from Māori wards/constituencies.

Please note: Local authorities need to consider appropriate consultation at an early stage with iwi and hapū over the boundaries of their rohe. This helps determine the appropriate number of Māori wards/constituencies to reflect Māori communities of interest and areas of tribal affiliation. This will also help in identifying appropriate names for Māori wards/constituencies. The legislation does not provide for Māori electoral subdivisions to be constituted for community board or local board areas.

How big should the governing body be?

A fundamental question for all representation reviews is whether a council's governing body is "fit for purpose". Are there enough councillors to provide effective representation for the district as a whole and fulfil the role and purpose of the council? This is particularly relevant for areas that have growing populations because as populations grow, the ability of councillors to keep in touch with their constituents and respond to their issues becomes more difficult. In addition, the council's workload expands.

The size of the governing body, how they are elected, and whether there are Māori wards/constituencies and community boards, are also relevant in responding to increasing diversity in our communities. Local authorities need to consider what size the governing body needs to be to provide effective representation for the district/region as a whole, including:

- the diversity of the district/region;
- statutory obligations (for example, does it have the responsibilities of a unitary authority);
- the need for efficient and effective governance of the district/region.

As noted above, the number of members in a territorial authority governing body must be between 5-29 (excluding the mayor) while regional council governing bodies can have between 6-14 members.

Wards or at-large?

Whether members will be elected by wards, at large, or by a combination, is one of the most important decisions a territorial authority will make in its representation review. When considering this question, the accessibility, size, and configuration of the council's geographic area should be considered, including how easy it is likely to be for the population to have reasonable access to elected members and vice versa. The ability of councillors to engage with residents should also be considered. This includes whether councillors:

- effectively represent the views of their electoral area
- provide reasonably even representation across the area, including activities like attending public meetings and opportunities for face-to-face meetings.

Reasons for choosing wards⁵

Wards are a critical tool for ensuring communities of interest are represented on the governing body. Where communities of interest have been identified, the question to be answered is whether

⁵ As far as practicable, constituencies should coincide with territorial authority or ward boundaries, and ward boundaries to coincide with community boundaries.

those communities of interest need separate representation, by ward/constituency, on the governing body, or, in the case of territorial authorities, whether a community board will meet their representation needs. In thinking about this question, decision-makers should factor in the need to:

- facilitate community participation;
- reduce financial barriers for potential candidates;
- recognise residents’ familiarity and identity with an area;
- avoid dividing recognised communities of interest between wards/constituencies;
- avoid creating communities of interest which have few commonalities.

Where a district, city, or region has a large number of communities of interest, decision-makers should identify any common interests and consider combining the communities of interest into one or more larger wards/constituencies.

Reasons for choosing at-large electoral arrangements:

The most common reason for not introducing wards is where agreement has been reached that there is only a single community of interest; in other words, there are relatively homogenous communities. The general characteristics of territorial authorities that have opted for elections at large have included:

- the district has a relatively compact geographic area, and/or
- a shared common community of interest at the district level, and/or
- communities of interest that are spread across the district rather than being geographically distinct.

It is important, as far as practicable, to ensure that different types of electoral area boundaries are coterminous, such as wards, constituencies, community board and local board subdivisions.

Ensuring that boundaries coincide supports communities of interest and local electors’ identification with their area and may encourage participation, such as voting or standing as a candidate.

When considering whether to adopt an at-large electoral arrangement, decision-makers might also consider whether it will promote participation, as large electorates create additional “barriers to entry”, particularly the higher costs candidates need to spend on advertising and the difficulty of becoming known across the whole district. In addition, thought will need to be given to how the voices and preferences of those sections of the community who are traditionally under-represented are facilitated.

Reasons for choosing a combination of wards and at-large arrangements

In some cases, there is a need to provide representation for both discrete communities of interest as well as the interests of the district as a whole. This can be done, in territorial authorities, by electing some members by ward and others at large (a mixed system). This option may be best when there are clear district-wide communities of interest as well as specific geographically based communities of interest.

Ward and at-large members do continue to represent the areas they are elected from at the council table.

Please note: All members, regardless of the area they are elected to represent, make the same declaration on coming into office to act in the best interests of the whole district. In other words, the members under a ward or mixed system have the same obligation to the district as the members elected at large. Consequently, there is no functional difference in the decision-making role of members elected at large and members elected by way of a ward system.

Population estimates and meshblocks

The LEA requires that all ward, constituency, community, and subdivision boundaries must coincide with meshblock boundaries. A meshblock is the smallest geographic unit for which statistical data is reported by Stats NZ. It is a defined geographic area that can vary in size from part of a city block to a large area of rural land. Meshblocks are also the mechanism for allocating electors on the electoral roll, which is the primary reason for council boundaries having to comply with them. Each meshblock borders another, to form a network covering all New Zealand.

If a council is considering boundaries that do not align with meshblock boundaries, it will need to consult Stats NZ to ascertain whether meshblock boundary alterations are possible. Stats NZ may, in some cases, be able to split meshblocks or nudge meshblock boundaries to better reflect communities of interest or current property boundaries.

One of the most critical inputs to a council's representation review is an up-to-date and accurate estimate of the district, and sub-districts', population. The LEA requires that when carrying out its representation review a council must apply the "ordinarily resident population" figures derived from either:

- the most recent census, or
- more recent population estimates prepared by Stats NZ.

The Local Government Commission recommends that the most recent population estimates are used when undertaking a review, so that each council is applying population data most accurately reflecting its current situation. Local authorities must not use population statistics from more than one source in determining representation arrangements, e.g., population estimates from two different years. To do so would be in breach of the legislation and result in inaccurate populations.

Minor boundary changes

The LEA2001 enables councils to make "minor" boundary changes after three years of adopting their representation review, without going through a full representation review. The circumstances that might provide a justification for a minor boundary change are:

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- following the last representation review, changes have occurred to allotment boundaries at or near electoral boundaries;
 - a minor change to electoral boundaries is required to avoid fragmenting a community of interest;
 - as far as practicable, the proposed electoral boundaries will coincide with allotment boundaries;
 - as far as practicable, proposed ward boundaries will coincide with community boundaries (if any), and proposed constituency boundaries will coincide with district or ward boundaries.

While not subject to consultation in the way a representation review proposal is, a decision to approve a minor boundary change must be made in an open meeting and the decision must be referred to the Local Government Commission no later than 15 January in an election year. The Commission can make any inquiries it considers appropriate and must make its determination before 11 April in an election year.

Single or multi-member wards

New Zealand is known for its use of multi-member wards. These are, as the title suggests, wards that enable electors to vote for more than one candidate. Single member wards, in contrast, are like Parliamentary constituencies, where only one candidate is elected to represent the ward/constituency. Generally, the merits of multi-member wards/constituencies are that they:

- provide greater choice for voters;
- provide greater choice for residents on who to approach on local issues;
- allow sharing and specialising in responsibilities between the ward/constituency representatives.

Multi-member wards are also essential to realise the value of STV, with members of 5-7 per ward/constituency regarded as ideal.

Supporters of single member wards/constituencies argue that they provide a close direct link between local electors and their representative, thus strengthening knowledge of the council. Offsetting the benefits of such familiarity, however, is the lack of diversity in representation and the risk of being represented by a member who may be unresponsive to local concerns. In addition, there is the very likely risk that it will be more difficult to unseat the incumbents.

The community board option

As part of reviewing representation arrangements, all territorial authorities must consider whether community boards are required, regardless of whether they currently exist within the district. Noting the principle of fair and effective representation for individuals and communities, councils must consider:

- whether communities and community boards are required
- the nature of any community and the structure of any community board
- whether community boards should cover all or only parts of the district, and the rationale for the approach taken.

Community boards are often created where there is a specific community of interest that, without the community board option, would be under-represented on the governing body. Examples are rural community boards (to ensure a rural voice is not lost) and the Lakes Community Board, representing residents who live in a lakes district.

Where community boards are to be established or retained, the council must also consider whether effective representation for identified communities of interest is best achieved by way of an at-large system, a subdivision(s) of the community, or wards within the defined community. Where community boards are to be established, a similar process to that used for territorial authorities' reviews is to be undertaken, including deciding on the total number of members required (both elected and appointed)⁶ and the number of members per subdivision (if any). Where a community board is divided into subdivisions they must also comply with the '+/-10% rule'.

Appointed members

When appointing a councillor to a community board note that:

If the district is divided into wards, the members appointed to a community board must represent a ward in which the community board is located.

Where the district is divided into Māori wards and general wards, the appointed members may be from one or other of those wards or both, as long as the member to be appointed represents a ward in which the community board is physically located.

If the council is elected partly from wards and partly at large, the appointed members may only be selected from those elected from wards.

Decisions about whether to have appointed members, and how many there are to be, must be made as part of a representation review. They cannot be made at a later date.

Appointed members should make the community board declaration, as well as their declaration as a councillor.

⁶ Less than half the members of a community board can be appointed councillors.

Additional matters

In undertaking its review, the territorial authority is also required to consider the criteria that applies to local government reorganisation under the LGA 2002 (Key criteria are set out in clauses 11, 12 and 19 of Schedule 3, LGA 2002). This means considering:

- Will the proposal promote good local government of the parent district and the community area concerned?
- Will the district and the community have the resources to enable them to carry out their responsibilities, duties and powers?
- Will the district and the community have areas appropriate for the efficient and effective performance of their role?
- Will the district and the community contain a sufficiently distinct community of interest or sufficiently distinct communities of interest?

Reviewing local boards

This requirement applies to unitary authorities that have local boards. Unlike the situation of community boards, the following matters can only be dealt with by a reorganisation application, rather than through a representation review, namely:

- establishment of local board areas;
- abolition of local board areas;
- alteration of boundaries of local board areas, other than those minor changes permitted by s19JAA, LEA;
- union of two or more local boards.

Matters able to be considered through the representation review process are:

- the number of members of local boards;
- whether elected members are to be elected from the whole local board area, subdivisions, or wards (if the local board area comprises two or more wards);
- if the basis of election is subdivisions, the names and boundaries of the subdivisions, and the number of members for each subdivision;
- if the basis of election is wards, the number of members to be elected by each ward;
- where appointed members are required, the number of appointed members of local boards;
- the names of local boards.

BEST PRACTICE FOR DEVELOPING THE INITIAL PROPOSAL

Local authorities undertaking representation reviews are strongly encouraged to carry out preliminary consultation. Preliminary consultation may assist councils in identifying communities of interest and seeking views on representation options. This can assist local authorities to identify issues relevant to the review process, and enable them to consider a wider range of representation options when developing their formal proposal.

Examples of preliminary consultation before beginning the formal statutory representation review process include community surveys, discussion documents, newspaper advertising, focus groups, email groups of interested citizens, and public workshops and meetings. Targeted consultation may also be appropriate, including with iwi and hapū.⁷

Preliminary consultation is not a substitute for the formal statutory steps set out below. For example, the results of a referendum may indicate overall public opinion but should not be used as the only justification of a particular ward/constituency configuration. The review must seek to achieve the statutory principles of fair and effective representation for all individuals and communities of interest of the district/region, and not be limited to reflecting majority community views on specific arrangements.

Independent panels

Local authorities should consider using independent panels to undertake preliminary consultation and then make recommendations on options for representation arrangements. This avoids potential perceptions of parochialism and self-interest arising from elected members' involvement at least in the early stages of the review process.

When convening an independent panel:

- select people who have relevant skills, and a good knowledge of the district/region
- provide clear terms of reference

⁷ Specific consultation with iwi and hapū may be required if determining the number, area, names and boundaries of Māori wards/constituencies.

- fully brief the panel on its task, ensuring it has a good understanding of the statutory requirements for reviews.

Local authorities should also liaise with other local authorities in the region regarding the timing of representation reviews, including the possibility of carrying out joint consultation activities.

Please note: when appearing before the Commission, the impact of a representation arrangement on elected members' remuneration is not a factor that can be used when developing an initial proposal.

THE RESOLUTION

The council must adopt a resolution setting out its initial proposal for the forthcoming local elections. Within 14 days of making the resolution, but before 8 August in the year before the local elections, the council must give public notice of the proposals contained in the resolution.

That resolution must include a description of each change to its representation arrangements and be advertised so that public submissions can be made with not less than one month being allowed for public submissions. Within six weeks of the end of submissions, the council must have considered the submissions and made amendments, if necessary, to its original resolution. It must also have forwarded the final resolution to the Local Government Commission as well as publicly informed the community how to make appeals and objections. Appeals and objections must be sent by the council to the Commission no later than 20 December in the year before an election.

***Please note:** the consultation process on the council's representation resolution, while similar to the special consultative procedure, is not the same. To mitigate any risk of judicial review, any member who misses part of a hearing should ensure they have read all relevant documentation, and been briefed by officials on relevant discussion, before voting on the final resolution.*

Appeals and objections

Once a council has decided on its final proposal, **an appeal** may be made by a submitter on the initial proposal about matters related to their original submission. In addition, **an objection** may be lodged by any person or organisation if a council's final proposal differs from its initial proposal. The objection must identify the matters to which the objection relates. A council must refer their final proposal to the Local Government Commission if the proposal does not comply with the '+/-10% rule'.

On receiving appeals, objections and appeals, the Commission must:

- consider the appeals, objections, and other information forwarded to it
- determine the representation arrangements for the council (section 19R)
- complete its duties before 11 April in election year.

Determinations made by the Commission may be appealed on a point of law, in accordance with Schedule 5, Local Government Act 2002, and are subject to judicial review under the Judicial Review Procedure Act 2016.

***Please note:** there is no provision in the Local Electoral Act 2001 for the acceptance of late appeals or objections.*

Appearing before the Local Government Commission

When considering appeals and/or objections against the final proposal of a council, the Commission has the option of either making a decision based on the papers or holding a hearing at which the parties may put forward their respective viewpoints. The Commission also has the discretion to make any enquiries it considers appropriate.

Occasionally, the Commission has invited selected submitters who support council proposals to appear at hearings so that the Commission hears a balance of views. Others, such as representatives of community boards, may also be invited to ensure additional perspectives are heard by the Commission. Such invitations are made at the discretion of the Commission. See <https://www.youtube.com/channel/UCcmypgRz4tBcUbUwotxLV4g> for information and examples of councils appearing before the Commission.⁸

When making decisions, the Commission takes into account matters:

- that come before it through appeals and objections
- that are raised in submissions to a council's initial proposal, and information gained through any further enquiries the Commission considers appropriate.

Regarding a proposal before it, the Commission must rectify any element of a council's proposal that it considers does not comply with the statutory provisions, whether that element of the proposal was the subject of an appeal or objection or not. Therefore, there may be occasions when the Commission's determination is not founded on any specific proposal, submission, objection or appeal.

The Commission's determinations come into force at the upcoming elections. A council or electoral officer may act on the content of a determination to prepare for those elections.

⁸ LGC's expectation is that an elected member should take part in the council's presentation at a hearing (in addition to council officers). More information on hearings can be found in Appendix J of the LGC's guidelines.



MORE INFORMATION

Information about STV is available from DIA:

https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-STV-Information-Index

LGC (2023) Guidelines for local authorities undertaking representation reviews:

<https://www.lgc.govt.nz/assets/Representation-Reviews/Representation-Review-Guidelines-2023.pdf>

Local Government Commission Representation review page:

<https://www.lgc.govt.nz/representation-reviews/>

Local Government Electoral Legislation Act 2023:

<https://www.legislation.govt.nz/act/public/2023/0057/latest/LMS721757.html>