



Local Government New Zealand

te pūtahi matakōkiri

**RECOMMENDED GOOD PRACTICE
FOR
GOVERNANCE OF REGIONAL TOURISM
ORGANISATIONS**

FEBRUARY 2004

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RECOMMENDED GOOD PRACTICE FOR GOVERNANCE OF REGIONAL TOURISM ORGANISATIONS

Foreword

Local Government New Zealand and the Regional Tourism Organisations New Zealand are pleased to present to you this best practice guide for governance of Regional Tourism Organisations (RTOs).

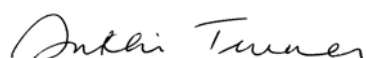
Local Government New Zealand and the Regional Tourism Organisations New Zealand have, with funding from the Minister of Tourism, begun a comprehensive response to the New Zealand Tourism Strategy 2010. Since the Strategy was released in May 2001, both organisations have been working on a series of projects to improve knowledge of the tourism industry within the local government sector.

One of the key projects for *Local Government New Zealand* is *Postcards from Home*, the local government tourism strategy. *Postcards from Home* responds to the actions in the New Zealand Tourism Strategy and focuses on key actions to clarify roles and strengthen the current position of local government on tourism issues.

This Guide is a product of one of those key actions and is the result of an effective partnership between Local Government New Zealand and the Regional Tourism Organisations of New Zealand. This partnership was formalised with a Memorandum of Understanding between Local Government New Zealand and the Regional Tourism Organisations (RTOs) signed earlier this year.

The Best Practice Guide aims to provide information to both councils and RTOs to enable them to improve their governance structures, enhance the stability and effectiveness of RTOs and strengthen partnerships with the private sector. While the guide showcases the range of alternative structures available, it also recognises the need for individual councils and regions to choose a structure that best suits their own needs.

The Guide has been produced by Alan Bickers of Catalyst Management Services and is the result of many hours of reading legislation, deeds, and board accountability documents and interviewing Council and RTO staff. My sincere thanks to those who gave their time for this project.



Sukhi Turner
LGNZ Economic Development Spokesperson
February 2004

RECOMMENDED GOOD PRACTICE FOR GOVERNANCE OF REGIONAL TOURISM ORGANISATIONS

1. INTRODUCTION

1.1 Background

This Guide has been prepared for *Local Government New Zealand* and Regional Tourism Organisations New Zealand as a specific action¹ proposed in “***Postcards from Home – the Local Government Tourism Strategy (2003)***”.

1.2 Scope of the Guide

1.2.1 The scope of this Guide is to provide an outline of “best practice” for Regional Tourism Organisations (RTOs) in regard to governance and accountability to their funding local authorities.

“Best practice” does not mean an exclusive “one best way” but represents the successful application of available theory into practice which is commonly agreed by practitioners, in terms of current knowledge, to be the “best” way to do something.

1.2.2 “Governance” can be described as the means by which the purpose, direction, policies, actions and behaviours of an organisation are influenced, directed and/or controlled by its governing body.

1.2.3 In relation to this Guide, the scope of governance which is considered includes:

- governance structures/models for RTOs,
- board appointments,
- board members’ performance,
- board members’ remuneration,
- board members’ induction and training, and
- internal governance issues (committees).

1.2.4 Users of this Guide should also have regard for recommended good practice for RTO’s operations developed by Regional Tourism Organisations New Zealand (RTONZ).

¹ Refer Action 4.4.

1.3 Process of Development

- 1.3.1 The process of development of this Guide involved a survey of all RTOs to identify the current governance structures/models and practice in relation to the various aspects comprising the content of the brief (refer 1.2.3).
- 1.3.2 Examples of documentation were collected from RTOs and reviewed to identify exemplars of good practice which could be utilised in the development of this Guide.
- 1.3.3 Interviews were held with RTOs, involving chairpersons, chief executives and others, as well as funding local authorities and other persons with expertise in the sector. In this regard the RTOs selected for interviews comprised the range of governance models/structures under consideration.
- 1.3.4 The Guide was developed by Catalyst Management Services Ltd with input and assistance from Brookfields, Solicitors, utilising information collected from the above sources and supplemented by Local Government New Zealand's "KnowHow Guides". The content of the draft Guide was reviewed by Destination Planning Ltd, RTONZ Executive, the Ministry of Tourism and Local Government New Zealand.
- 1.3.5 Catalyst Management Services Ltd acknowledges the assistance and input received from these parties.

1.4 Structure of the Guide

- 1.4.1 The content of this Guide comprises the following sections:

- Section 2* – The role of local government in tourism.
- Section 3* – The role and functions of Regional Tourism Organisations.
- Section 4* – How tourism fits into local government.
- Section 5* – Possible governance structures.
- Section 6* – Board issues.
- Section 7* – Relationships with funding local authorities.
- Section 8* – Performance management of Regional Tourism Organisations.

- Section 9* – Regional Tourism Organisations and Economic Development Agencies.
- Section 10* – Regional Tourism Organisations and Maori Regional Tourism Groups.

- 1.4.2 The Guide is supplemented by a variety of “case studies” which are intended to describe the practical application of the principle referred to.
- 1.4.3 The appendices are suggested formats/templates for various applications.
- 1.4.4 It is important that, in relation to the constitution of the various governance structures, local authorities seek specific legal advice as this is an area of complexity and the requirements of local authorities will vary.

2. THE ROLE OF LOCAL GOVERNMENT IN TOURISM

2.1 New Zealand Tourism Strategy

- 2.1.1 The New Zealand Tourism Strategy 2010 sets out a comprehensive range of principles, objectives and enablers to promote the sustainable development of the industry to 2010. The vision of the Strategy is:

“In 2010, visitors and their host communities understand and embrace the spirit of manaakitanga (hospitality) while, New Zealanders’ environment and culture is conserved and sustained in the spirit of kaitiakitanga (guardianship) and, tourism is a vibrant and significant contributor to the economic development of New Zealand.”

The Ministry of Tourism has noted in the implementation of the Strategy, that cooperation with other stakeholders in the tourism industry is essential to ensure that the objectives of the Strategy are met. Important stakeholders are:

- Local Government,
- Regional Tourism Organisations,
- Tourism New Zealand,
- Maori Regional Tourism Groups.

amongst others.

- 2.1.2 To ensure that local communities support and benefit from tourism, the NZ Tourism Strategy recommended that:

- local government build its commitment to tourism in terms of awareness raising, planning and relationships,
- **Regional Tourism Organisations (RTOs)²** work with partners to better align destination marketing and management,
- initiatives to increase understanding and support for tourism among stakeholders be implemented,
- Maori representation in tourism at regional and national levels be increased.

- 2.1.3 The Strategy also recommended that the structure of the tourism sector is designed to deliver:

- a partnership approach between public and private sectors,

² The terms “RTO” and “NewRTO” are used in this Guide. It is not intended that there is any difference in the meaning of these terms.

- effective partnership with and participation of Maori,
- strengthened links between operators, local government/RTOs and central government.

2.1.4 Some of the key recommendations of the Strategy relating to the role of local government and RTOs include:

- “ • *Local Government builds stronger links with NewRTOs and increases funding levels and certainty by July 2002. This will support their expanded role in both regional tourism planning and development and also the realization of local and regional benefits.*
- *NewRTOs work closely with regional and local government to closely align destination marketing and destination management.*
- *By mid 2002, NewRTOs will be established and take an enhanced role in:*
 - *Destination marketing and management*
 - *Domestic and international marketing*
 - *Regional tourism planning and development, and*
 - *Facilitating provision of services to tourism operators.”*

2.1.5 The Strategy provided the overarching context under which local government developed its strategy “**Postcards from Home**” and for this Project.

2.2 Local Government Tourism Strategy (May 2003)

2.2.1 The Local Government sector responded to the NZ Tourism Strategy with “**Postcards from Home – the Local Government Tourism Strategy**” (2003) based on recognising the importance of tourism and the strong role for local authorities in ensuring that their communities benefit from tourism.

2.2.2 “**Postcards from Home**” noted the very wide range of roles which local authorities can play in tourism including:

- owner of tourism facilities/services,
- operator of tourism facilities/services,
- funder of tourism marketing/services,
- community facilitator,
- planners of infrastructure, services and facilities,
- regulator, and/or
- providers of infrastructure, services and facilities.

2.2.3 The Vision of the Strategy was:

“Local government will lead, enable and work in partnership with other stakeholders to ensure a successful and sustainable tourism sector.”

2.2.4 The stated Mission of the Strategy is:

“We are engaged in the tourism sector in order to optimise social, economic, environmental and cultural outcomes for communities, through planning for sustainable development, facilitating growth and managing effects.”

2.2.5 The Strategic Aims are as follows:

- “*
- 1. To provide and manage tourism–related infrastructure in consultation with the private sector and relevant stakeholders.*
 - 2. To engage communities in planning for tourism which is socially, economically, environmentally and culturally sustainable.*
 - 3. To take a lead role in destination management by forming partnerships with key stakeholders.*
 - 4. To facilitate regional tourism marketing and continue with enabling and operational roles in product development.”*

2.2.6 In respect of the Strategic Aims the following outcomes are relevant in the context of this Guide:

Strategic Aim 2:

- “*
- Communities have articulated their tourism goals in Long-Term Council Community Plans.*
 - Regional tourism strategies have been prepared where needed in order to guide development and inform statutory plans.”*

Strategic Aim 3:

- “*
- More effective and efficient management of destinations through improved co–ordination of stakeholder groups. This is required at national, regional and district/city levels.”*

Strategic Aim 4:

- “*
- Certainty of long–term funding for Regional Tourism Organisations.*
 - Continued close working partnerships between councils and Regional Tourism Organisations.”*

The target for achievement of these outcomes is 2010.

2.2.7 The following specific action has provided the basis for this Guide:

Action 4.4 “Develop a range of options that reflect local needs for structuring Regional Tourism Organisations and other local marketing activities”.

2.3 Strategic Context

The development of this Guide has had regard to the following strategic context within the tourism sector:

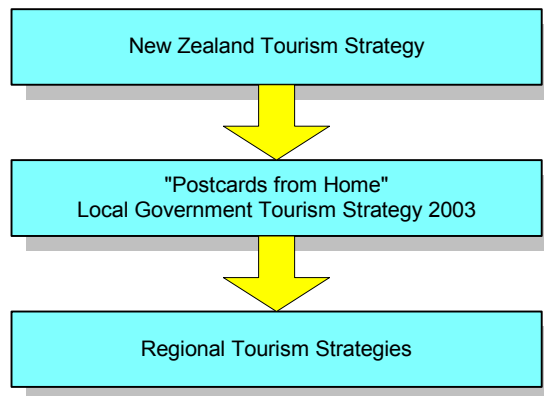


FIGURE 2.1 – CONTEXT OF TOURISM STRATEGIES

3. ROLE & FUNCTIONS OF RTOs

3.1 General

The New Zealand Tourism Strategy 2010 used the term “NewRTOs” to challenge the sector to consider changing roles and structures which might be required to address the recommendations of the strategy.

In particular, the Strategy called for a reduction in the number of RTOs and significant expansion of their role into destination management and product development.

The following sections relating to common goals of RTOs and their functions and activities is derived from “*NewRTOs and NZ Peak Tourism Organisation Guidelines*” (June 2003).³

3.2 Common Goals

3.2.1 The common goal of the NewRTOs is defined in the following terms:

“As delivery agencies for Local Government RTOs seek to grow domestic and international visitor expenditure in the region, to provide sustainable economic, environmental, social and cultural benefits to the local community.”

3.2.2 The significance of this goal is its relationship to purpose of local government which is discussed in section 4 of this Guide.

3.3 Common Key Functions

3.3.1 The primary activity of NewRTOs “*generic destination branding and promotion of the region to attract international and domestic visitors.*”

3.3.2 Other activities of NewRTOs which may be considered at a similar level of importance include:

- advocating for and facilitating planning for destination management; and
- facilitating or providing support to the tourism industry for business development and/or product development.

3.3.3 In the context of their relationship with local authorities, it is important that NewRTOs clearly define their goals and effectively communicate these to their funding local authorities.

³ Source: Destination Planning Ltd, Wellington.

There is a potential risk to RTOs if goals are not effectively communicated as funding from local authorities may be at risk. RTOs generally promote the “region” as a tourism destination and not necessarily specific districts or areas within that region (unless they are also funded to do that). The potential conflict of regional benefits versus local interest may lead to confusion amongst some funding local authorities unless the RTOs’ goals are well defined.

CASE STUDY RTOs GOALS

The goals of the West Coast RTO (Tourism West Coast) are formally described as follows:

- “ 1. *To provide, through its activities, a regional profile which will enhance the West Coast economy and result in increased employment opportunities for West Coasters. To the extent of its ability to do so, such promotion may involve working with non–tourism sectors of the economy.*
2. *To increase the visitor spend by increasing:*
- a. *Domestic visitor nights;*
 - b. *International visitor nights;*
 - c. *Length of stay on the West Coast.*
3. *To enhance the quality of the West Coast experience by:*
- a. *Fostering the co–operation of tourist and related operators;*
 - b. *Promoting the understanding of visitor benefits to West Coast residents and territorial local authorities;*
 - c. *Encouraging the development of quality product appropriate to the West Coast experience.*
4. *To promote the principles and benefits of sustainability accruing from a quality tourism experience.”*

The goals articulate clearly the role of Tourism West Coast in relation to marketing of the region as a tourism destination as well as providing support to the local industry sector for product development and facilitating co–operation.

[Source: Tourism West Coast Incorporated: Rules]

3.4 Other Functions/Activities

- 3.4.1 In addition to their key functions, NewRTOs may be involved in other functions/activities, either on a commercial basis or by agreement with specific funding organisations. Some typical functions/activities include:

- training/seminars for local tourism operators,
- managing *i*-Sites and booking agencies,
- operating a convention bureau,
- event development/management.

3.4.2 Surplus revenue from other functions/activities may be utilised to meet overheads or provide a contribution towards the core functions/activities of NewRTOs.

3.5 Relationships with other Tourism Organisations

3.5.1 The following table⁴ describes the primary roles of NewRTOs and other “Peak Tourism Organisations” within New Zealand.

Organisation Type	Primary Role
National Tourism Organisation (NTO)	International marketing of New Zealand as a visitor destination.
Regional Tourism Organisation (RTO)	International and domestic marketing of the region as a visitor destination.
Maori Regional Tourism Group (MRTG)	Maori tourism sector capacity development and promotion.
District Tourism Organisation (DTO)	District tourism advocacy.
Local Tourism Group (LTG)	Local tourism networking.

⁴ Source: Destination Planning Ltd, (2003); “New RTO and NZ Peak Tourism Organisation Guidelines”, Wellington.

4. HOW TOURISM FITS INTO LOCAL GOVERNMENT

4.1 Purpose of Local Government

4.1.1 The wide range of areas of involvement of local authorities in tourism has been outlined in section 2.2.2 of this Guide. It is important to understand the rationale for this involvement in the context of the statutory mandate of local government, in general, and the community mandate of individual local authorities.

4.1.2 The Local Government Act 2002 provides the basis for local authorities' mandate to undertake/fund any activity/function on behalf of their community.

4.1.3 The purpose of local government is:

- “ (a) To enable democratic local decision-making and action by, and on behalf of, communities; and*
- (b) To provide the social, economic, environmental and cultural well-being of communities, in the present and for the future.”⁵*

It is paragraph (b) which has particular relevance to the involvement of local authorities in tourism and their relationship with RTOs.

4.1.4 The role of local authorities is defined as:

“(to) give effect, in relation to its district or region, to the purpose of local government . . .”⁶

Hence, local authorities are established to promote the social, economic, environmental and cultural well-being of their communities and their involvement in tourism must be related to that.

4.1.5 In addition to the local authority's own organisation (the “council”) there may be various “council organisations”⁷ which work with the local authority to promote social, economic, environmental and cultural well-being of a community. These organisations may include trusts settled by the local authority, companies in which the local authority owns shares, partnerships, joint ventures, etc.

Council organisations are further differentiated into “council-controlled organisations” and “council-controlled trading organisations”. These terms are described in greater detail in sections 5.4 – 5.6 of this Guide.

⁵ Local Government Act 2002. Refer s.10.

⁶ Ibid. Refer s.11.

⁷ Ibid. Refer s.6 for definition.

4.2 Community Outcomes

- 4.2.1 Local authorities must undertake a process not less frequently than every six years to identify **community outcomes** and priorities.⁸ This must be carried out in collaboration with other bodies capable of influencing either the identification or promotion of the community outcomes and priorities. The RTO may be one of the bodies which collaborates with a local authority in this process.
- 4.2.2 An outcome is a desired result or state of affairs – the things that the community thinks are important for its well-being. Outcomes should not be confused with “outputs”. (This is discussed further in Section 8 of this Guide).
- 4.2.3 Community outcomes are a community judgement and, therefore, belong to the community, not to the local authority. The local authority does not necessarily have to agree with them or adopt them. The local authority’s key decision comes in deciding how it will contribute to the outcomes that the community has identified.⁹
- 4.2.4 In relation to community outcomes the local authority’s role is:
- (a) to facilitate the process of identifying community outcomes,
 - (b) promote or achieve the outcomes (to the extent that the local authority agrees), and
 - (c) monitor progress towards the achievement of the desired outcomes.

4.3 Local Authority’s Plans

- 4.3.1 All local authorities are required to adopt a “Long-Term Council Community Plan” (LTCCP).¹⁰ This sets out the local authority’s priorities over the medium to longer term and how the local authority intends to contribute to community well-being over the life of the LTCCP.
- 4.3.2 To the extent determined appropriate by the local authority the LTCCP must set out the following:
- the community outcomes,
 - how these have been identified,
 - how the local authority will contribute to these.¹¹

⁸ Ibid. Refer s.91.

⁹ For further information on this refer to “The KnowHow Guide to Decision Making – Under the Local Government Act 2002” available from Local Government New Zealand.

¹⁰ Local Government Act 2002. Refer s.93.

¹¹ Ibid. Refer Schedule 10, Part 1, Clause 1.

The LTCCP must also include forecast financial statements for its various activities and functions.

- 4.3.3 In relation to “council–controlled organisations”¹² the LTCCP must describe the nature and scope of activities, key performance targets and other measures and forecast financial statements.
- 4.3.4 Local authorities are also required to have an annual plan¹³ which contains the annual budget and forecast financial statements for the local authority and any council–controlled organisations.

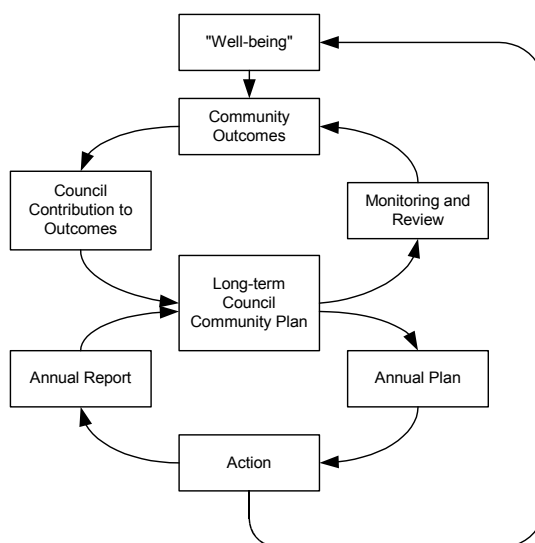


FIGURE 4.1 – THE LOCAL AUTHORITY’S PLANNING FRAMEWORK

[Source: “The KnowHow Guide to Decision–making – Under the Local Government Act 2002]

- 4.3.5 In terms of this Planning Framework it is desirable that the local authority’s involvement in tourism (as funder, provider, etc) is stated through the LTCCP and annual plan and related to community outcomes and well–being.

**CASE STUDY
TOURISM AND COMMUNITY WELL–BEING**

The following extract from an Auckland City Council report identifies the contributions that tourism makes to the economic well–being of the Auckland Region. The Auckland City Council has agreed to fund Tourism Auckland through its Annual Plan (and consequently its Long–Term Council Community Plan). The justification for local authority funding is the economic benefit that accrues from promoting Auckland as a tourist destination.

¹² These are described in more detail in Sections 5.4–5.6 of this Guide.

¹³ Local Government Act 2002. Refer s.95.

“Tourism is New Zealand’s largest foreign exchange earner. The economic benefit of tourism is spread widely throughout the community, not just to tourism businesses. For example, in the year 2001 only 25,900 of 40,640 Full Time Equivalent (FTE) jobs in the Auckland Region sustained by tourism were involved in employment directly in tourism businesses.

Tourism accounts for 9.5% of (the direct FTE) jobs New Zealand-wide (149,000 of the 1,573,767 total), and tourism expenditure accounts for 9.3% of GDP. However, from an Auckland regional perspective tourism accounts for only 5.1% of (direct FTE) jobs and 5.6% of GDP.

Tourism Auckland’s goal is to eliminate the gap between national tourism benefit and employment outcomes and corresponding Auckland region outcomes. This will be achieved by growing the economic benefit from tourism to the Auckland region, measured as a percentage of the region’s GDP and employment, to levels at least equal of the national outcomes.

Competitive Auckland identified tourism as one of six high-potential industries capable of being growth platforms for Auckland. While tourism creates relatively low value-adding jobs (currently \$40,500 GDP per employee) it is an important stepping stone for lower-skilled workers. Competitive Auckland also identified that, of future growth in the Auckland region, 44% of this growth would come from tourism and this would, therefore, form an important part of the economic development strategy for the region.

Tourism Auckland is one of 26 regional tourism organisations (RTOs) in New Zealand and is responsible for the destination marketing of the Auckland Region. Its annual budget for the year ended July 2002 was \$2.18 million, made up of contributions from six of the Region’s seven territorial authorities. In addition, Auckland tourism operators voluntarily contribute to joint venture promotions, or provide services in kind on a project by project basis. These contributions totaled around \$2 million for the year ended 30 June 2002.”

[Source: Auckland City Council, City Enterprises, November 2002]

4.4 Specific Strategies

- 4.4.1 Both the New Zealand Tourism Strategy (refer paragraph 2.1 of this Guide) and the Local Government Tourism Strategy (refer 2.2) have identified the contribution tourism makes to the economic well-being of the nation and regions/districts.

Many local authorities have developed economic development strategies and have established or collaborated with **economic development agencies** (EDAs) in order to implement such strategies.

- 4.4.2 In some cases tourism is treated as a specific sector within an economic development strategy and in other instances, particularly where tourism is significant, there will be separate **regional tourism strategies**.

Such regional tourism strategies should desirably identify:

- a vision for tourism in a region,
- the desired outcomes for tourism and strategies to achieve them,
- the allocation of responsibilities to various bodies for the implementation of strategies,
- the outputs to be delivered and the performance targets and measures by which these can be monitored.

4.4.3 These regional tourism strategies will, therefore, define the role of both the local authorities, EDAs and RTOs and the relationships between the parties.

4.4.4 The Auditor-General has identified the benefits of local authorities having a well-defined economic development strategy prior to investing in any form of economic development, including tourism.¹⁴ This identified that local authorities can be involved through:

- direct investment,
- funding third parties to provide services,
- subsidizing local authority charges,
- facilitating initiatives,
- providing agency services, and/or
- aligning local authority activities to economic development goals.

The way in which a local authority becomes involved should be identified in the LTCCP (refer 4.3.2). The purpose of its involvement in regard to any desired outcome (either broad economic development or specifically tourism) should be clearly identified in a regional tourism strategy.

If this is provided, the local authority will be clear about:

- why it is involved in tourism,
- how it is involved in tourism,
- what it seeks to achieve, and
- how much it will invest.

4.4.5 A possible relationship between the strategic documents can be depicted as follows:

¹⁴ Controller and Auditor-General, (2002); "Local Authority Involvement in Economic Development Initiatives".

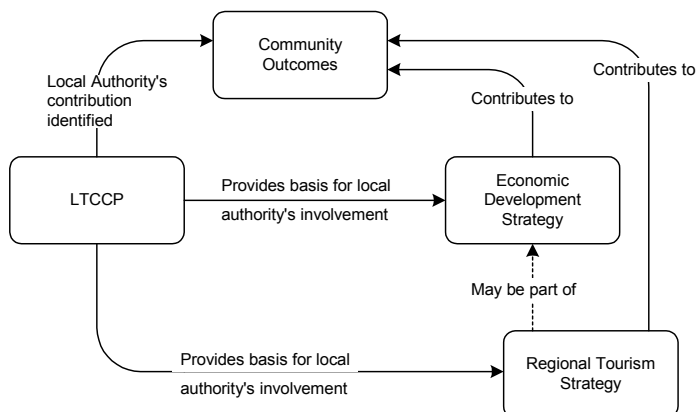


FIGURE 4.2 – RELATIONSHIP OF STRATEGIC DOCUMENTS

**CASE STUDY
RTO's CONTRIBUTION TO ECONOMIC DEVELOPMENT**

The Partnership Wellington Trust is the formal RTO entity for Wellington (trading as “Positively Wellington Tourism”). The principal object of the Trust is “**to achieve sustainable economic growth for the benefit of the public of Wellington.**”

This principal object of the Trust is very wide in its potential application, but is also focussed on Wellington (City) as distinct from a wider region.

The detailed objectives of the Trust include:

- *maximizing the City's share of regional consumer spending through strategic campaigns promoting the City . . . as a destination for shopping, leisure, entertainment and events,*
- *enhancing the profile of City businesses, promote strategic alliances and private sector partnerships,*
- *further enhancing the recognition of Wellington and giving support to the Wellington Region as a key and desirable visitor destination,*
- *ensuring marketing initiatives are focussed on increasing the sustainability of Wellington's commercial sector.*

These objectives identify strong recognition of the contribution of tourism to Wellington's economic well-being and provide justification for local authority investment in marketing and promotion of the City and specific events.

[Source: Partnership Wellington Trust Incorporated]

5. POSSIBLE GOVERNANCE STRUCTURES

5.1 Scope of Options

- 5.1.1 In considering possible governance structures for a RTO, local authorities need to decide whether they desire some form of in-house structure, an “arm’s length” but controlled structure or a totally independent structure. The political philosophy of the local authority in relation to service delivery is likely to be a significant determinant i.e. in-house versus contractual arrangements. Other factors also need to be considered, such as the importance of tourism to community well-being.

Research has identified that there are a range of possible governance models/structures suitable for RTOs. These include:

- Council Departments and Business Units,
- Council Organisations, and
- Independent Organisations.

- 5.1.2 The following sections discuss these options, their legal status, establishment, accountability provisions and the possible advantages and disadvantages.

In respect of identifying possible advantages/disadvantages of options the following matters have been considered:

- the implications of legal status of the RTO,
- the relationship of the RTO with funding local authorities,
- the funding sources and their continuity,
- accountability arrangements,
- transparency of use of public funds,
- transaction arrangements,
- efficiency and effectiveness,
- relationships with industry stakeholders, and
- skill base.

- 5.1.3 Specific options are appropriate to certain situations and circumstances and it is stressed that no one option is recommended as suitable in all situations. Indeed, in some situations multiple options may be acceptable e.g. a trust or an independent agency.

5.2 Council Departments

- 5.2.1 This structural option involves establishing a division, department, section, team or unit¹⁵ within the local authority’s organisation which is

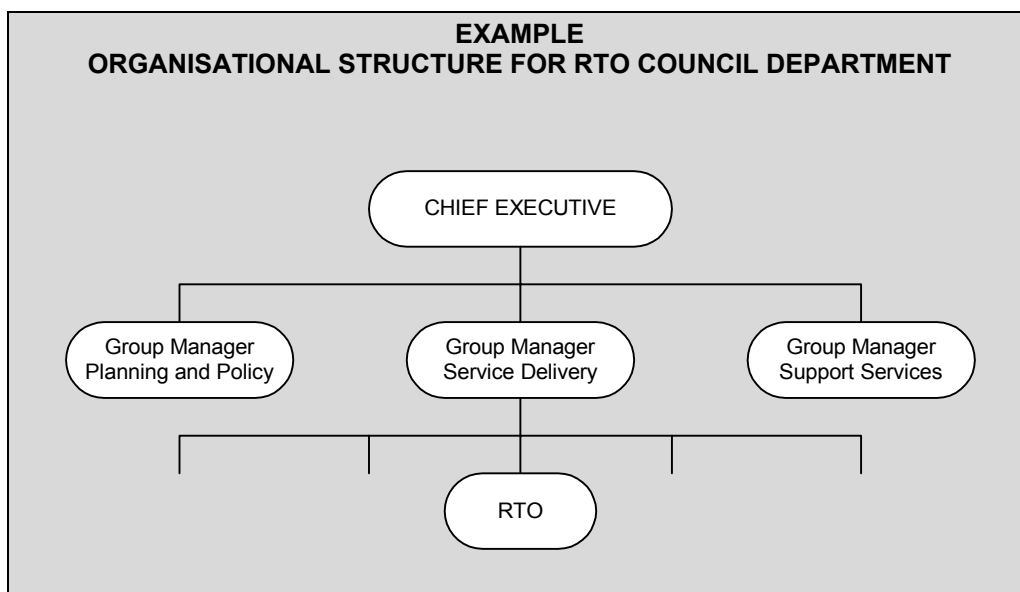
¹⁵ Terminology will vary.

dedicated to the specific role of a RTO. Ultimately, this organisational unit will be accountable to the local authority's chief executive through the normal management hierarchy. The organisation level of the unit is likely to be directly related to the importance of tourism to the local authority.

5.2.2 Such an organisational unit will not have an independent legal identity as it is part of the territorial authority. The unit may, however, have a unique branding.

5.2.3 The unit can be established through the action of the local authority's chief executive¹⁶. He/she is able to determine the internal management structure of the local authority's organisation within the parameters of the Local Government Act and any specific policies that his/her Council may have established.

Consideration needs to be given to the functional grouping and level within the local authority where the RTO will be established. It is likely that a RTO which was a council department would operate in a position subordinate to the major functional groupings of the local authority's structure. The following is a theoretical example of the possible organisational structure of a council department RTO.



5.2.4 The outputs to be delivered by a (RTO) Council department may be established in the council's annual plan, but because these are generally of a "high level" it may be more appropriate for the department to have its own, more detailed annual business plan.

¹⁶ Local Government Act 2002. Refer s.42(2).

5.2.5 A local authority which operates a RTO as a council department may appoint a committee or sub-committee¹⁷ to provide advice on appropriate policies to be implemented by the (RTO) department and to monitor its performance.

As governance structures committees and/or sub-committees are subordinate to the council, and are subject to the policies of the local authority. They are established by resolution of the council.

Such resolutions should specify:

- the role and responsibilities of the committee/sub-committee,
- its membership¹⁸ and its chairperson (presiding member),
- its delegated powers, including authority to appoint sub-committees and to sub-delegate, and
- its reporting and accountability requirements.

It is recommended good practice that the members of any committee/sub-committee are selected for the knowledge, skills and/or experience that they can contribute to the role and responsibilities. It is desirable that, in considering membership of any committee/sub-committee with oversight of a (RTO) council department, that consideration be given to appointing persons who can contribute positively to that role. This may include tourism stakeholders.

The term of appointment of any committee/sub-committee is coincident with the term of the local authority and, therefore, any committee/sub-committee must be reconstituted following the triennial election.

5.2.6 It may be appropriate in some situations for two or more local authorities to enter into a “shared services” arrangement for one to provide the RTO. In such circumstances, they may also establish a “joint committee”¹⁹. A joint committee is a committee of all of the local authorities who would need to agree on the committee’s role, responsibilities, membership, delegated powers, etc.

A joint committee must comprise at least one elected member from each of the participating local authorities and may also include other persons. Care must be taken in relation to the establishment of a joint

¹⁷ Committees are accountable to the council. Subcommittees are accountable to a standing committee.

¹⁸ A committee must comprise at least one elected member of the local authority.

¹⁹ Local Government Act 2002. Refer Schedule 7, Clauses 30(1)(b) and (8)–(10).

committee, particularly in regard to its delegated powers, because these may constitute a “joint venture” and, as such, would be a “council–controlled organisation” (refer 5.4.3). This can be a very technical matter and local authorities should seek professional advice on the establishment of any proposed structure.

Detailed information on “shared services” arrangements may be found in 5.7 of this Guide and in SNZ HB 9213:2003 “Local Government Service Delivery Options”.

If a committee/subcommittee is appointed it is important to ensure the distinction between governance and management is maintained because the (RTO) department is accountable through the local authority’s management structure to the chief executive and not to the committee/subcommittee, albeit that the committee/subcommittee may have advisory/monitoring responsibilities.

5.2.7 Remuneration of committee/sub–committee members is determined in accordance with Schedule 7, Clause 6 of the Local Government Act 2002,

5.2.8 The reporting and accountability arrangements for any organisational unit will be established through the council’s policy and may include:

- annual budget,
- outputs to be delivered,
- key performance targets and other measures,
- frequency and content of reports.

5.2.9 The possible advantages/disadvantages of the council department option for a RTO are as follows:

COUNCIL DEPARTMENT POSSIBLE ADVANTAGES
1. As part of local authority no special accountability requirements apply.
2. Use of public funds as for other local authority activities subject to normal local authority requirements.
3. Minimal transaction costs as no contractual arrangements involved.
4. Not subject to tax.
5. Low compliance requirements and associated costs as part of local authority.
6. Outcomes can be related to LTCCP and community outcomes.
7. Strong linkages between tourism and other council functions/activities.
8. Encourages local authority’s direct engagement with tourism.

POSSIBLE DISADVANTAGES

1. As part of the local authority's organisation may not have an identity as a dedicated RTO.
2. May not be perceived by stakeholders as a tourism-focused entity.
3. Must trade in the name of the local authority.
4. Must compete for funding with other council departments through the LTCCP and annual plan processes.
5. May not be effective in performing role if tourism is not seen as important.
6. May not operate efficiently as subject to local authority and procedures which may inhibit flexibility.
7. May not be able to relate effectively with stakeholders as part of the local authority structure unless specific liaison arrangements are utilised.
8. May be less attractive to industry investors who are unwilling to contribute funds to the local authority on top of rates and user charges.
9. May not be able to attract appropriately qualified staff because of their reluctance to be part of a "council" organisation.

5.2.10 Using a council department as a RTO may be an appropriate model where tourism is a dominant component of a district's economy and where a local authority has significant direct involvement in tourism facilities and services. Nevertheless, there are many possible disadvantages with this model because of its potential lack of "identity".

CASE STUDY RTO – COUNCIL DEPARTMENT

"*Tourism Rotorua*" is an operational department Rotorua District Council. The Council has a high level of commitment to tourism through its regional brand identity:

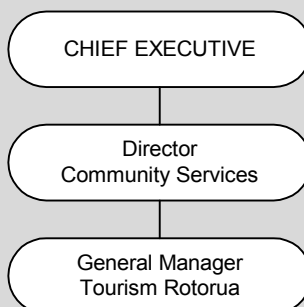
"Expressed visually via our logo "Rotorua-Feel the Spirit", manaakitanga is Rotorua's catchcry and it holds powerful promise. It is our invitation and our challenge toward ourselves as locals and one we extend toward the 1.5 million visitors we host each year, to experience and feel the special essence of this extraordinary slice of New Zealand."

[Source : Rotorua District Council : Annual Plan 2003/2004]

The long-term council community plan (LTCCP) identifies a key policy area of "marketing 'Destination Rotorua'".

A "Rotorua Tourism Strategic Plan" has been developed, together with the "Rotorua Visitor Industry : Draft Strategic Plan" which provides the focus for *Tourism Rotorua's* activities.

With the organisation structure *Tourism Rotorua* operates at third tier of management.



Rotorua District Council has established a “Tourism Advisory Board” which is elected by the tourism industry and the Council. This is not a Committee of the Council. The board meets monthly and has several “portfolio groups”.

Tourism Rotorua reports monthly on delivery of outputs and other indicators.

Tourism Rotorua could easily be considered a business unit of Rotorua District Council, given its commercial style of operation and branding.

[Source : Rotorua District Council]

5.3 Council “Business Unit”

5.3.1 This structural option is a variation of the council department option and the distinction between the two is not great.

Although the term and concept of “business unit” is widely used in the local government sector there is no statutory definition of the term nor is there any consistent application. In general, a business unit is an accounting and management concept representing “commercialisation” of the way in which the local authority undertakes an activity or delivers a service.

The Controller and Auditor-General²⁰ has provided a description of business units which identifies the main characteristics as:

- (a) Semi-autonomous management,
- (b) Commercial operation, and
- (c) Primary objective of recovering costs or making a profit.

Another definition is “*a management entity within a local authority which marshals physical and human resources to provide services and undertake works*”²¹.

²⁰ Controller and Auditor-General (June 1994); “Governance of Local Authority Trading Activities”, Refer paragraph 501.

²¹ Transfund New Zealand (1999); “Programme and Funding Manual”. Refer 6.3.

Generally a business unit would have a clearer identity than a council department.

- 5.3.2 A business unit is part of the local authority's organisation and is not a separate legal entity. It is, therefore, subject to the same statutory provisions and local authority policies and its staff are employed by the local authority's chief executive.

Nevertheless, the concept envisages a business unit as having greater operational freedom than in-house council departments.

A business unit may have its own brand identity.

The common reasons for establishing business units are:

- the implementation of a purchaser/provider model within the local authority,
- a more transparent and commercial approach to delivery of services while retaining control within the local authority,
- evaluation of the need for continued local authority direct involvement in an area of service delivery and possible transition to an arm's length structure.

- 5.3.3 The Controller and Auditor-General²² has recommended a process and requirements for the establishment, management and accountabilities of business units. The local authority should adopt a policy establishing the business unit key elements of which are:

- (i) Statement of purpose and strategic goals,
- (ii) Operating philosophy and strategies,
- (iii) Required outputs,
- (iv) Performance measures and targets,
- (v) Financial budgets,
- (vi) Reporting and accountability requirements (content and frequency),
- (vii) Specific delegations,
- (viii) Identification of resources allocated,
- (ix) Specific requirements relating to use of resources,
- (x) Specific requirements relating to commercial arrangements.

- 5.3.4 The use of business units is a means of separating a local authority's specifier/purchaser functions from service delivery/provider functions with services being provided by the business unit on a documented

²² Controller and Auditor-General (June 1994); "Governance of Local Authority Trading Activities". Refer paragraphs 604–624.

and clearly specified basis for an agreed level of funding (i.e. service price).

In general, when they establish business units to deliver services, local authorities should ensure they:

- are clear about their objectives;
- set realistic and attainable goals;
- establish appropriate policies governing the delegated authorities of the business unit;
- maintain a balance of control and autonomy to allow the business unit to operate in a commercial manner; and
- establish an appropriate accountability framework for the business unit.

5.3.5 The minimum basis of accountability for a (RTO) business unit should be an annual business plan which contains at least the following information:

- statement of purpose,
- assessment of the market in which it operates,
- outputs to be delivered,
- operating philosophy and strategies to be implemented,
- financial budgets,
- performance measures and targets.

A more formal relationship within the council's organisation involving a "service (level) agreement"²³ is the preferred basis of accountability for performance, particularly where the RTO may operate some of the local authority's tourism facilities e.g. information centres. Service agreements are referred to in greater detail in 7.3 of this Guide.

²³ A "service (level) agreement" is a form of internal document in which the desired outputs are specified and the funding to be provided for such service delivery is quantified.

The operating relationship for a (RTO) business unit can be represented as follows:

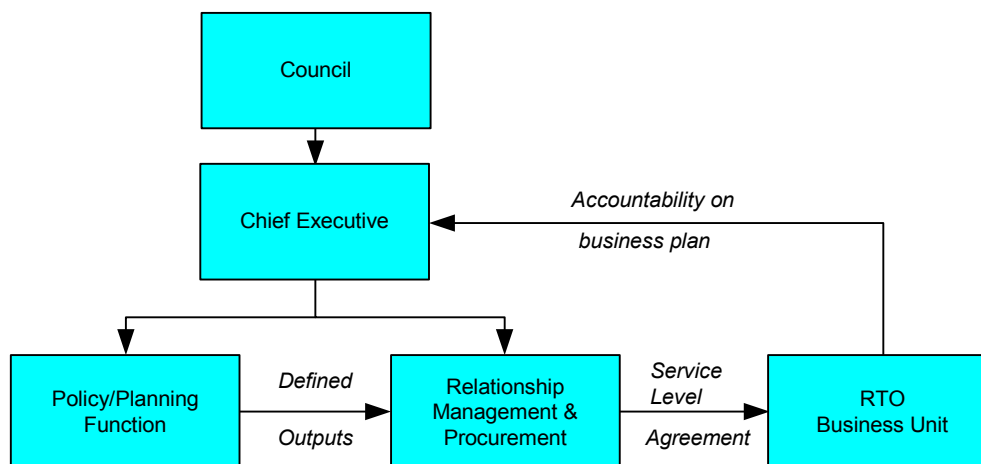


FIGURE 5.1 – TYPICAL BUSINESS UNIT RELATIONSHIP

- 5.3.6 In order to provide a greater focus and to incorporate stakeholder interest, a local authority may appoint a “business board” for the tourism activity. This is technically a committee or subcommittee of the local authority and the provisions of 5.2.5 and 5.2.6 of this Guide apply to any such “business board”. The function of the business board can only be advisory in respect of the development of strategies and policies which need to be adopted by the council. Nevertheless, the council may delegate specific responsibilities subject to the limitations of the Local Government Act²⁴.
- 5.3.7 Although a business unit is part of the overall organisation of the local authority and, therefore, subject to all the normal accountability provisions of the local authority, it is appropriate that they be treated as an “activity” for the purposes of the annual report.²⁵

Routine reporting to any “business board”, should be, at least quarterly, against the desired outputs, budgets, performance measures and targets in the annual business plan or service agreement. As part of the local authority’s organisation, it would be normal to expect that a business unit would report monthly to the chief executive and, possibly, the council. To assist in monitoring, significant variances against targets/budgets should be identified and commented on.

The staff of a RTO business unit must remain ultimately accountable to the local authority’s chief executive who is, in turn, accountable to

²⁴ Local Government Act 2002. Refer Schedule 7, Clause 32(1).

²⁵ Ibid. Refer Schedule 10, Part 3.

the council. Any business board needs to respect this requirement and not seek to direct RTO personnel or the chief executive. They may, however, “request” the chief executive that certain actions occur or “recommend” these to the council.

5.3.8 The possible advantages/disadvantages of council business units as an option for RTO structure are as follows:

LOCAL AUTHORITY BUSINESS UNIT POSSIBLE ADVANTAGES	
1.	Likely to have a specific focus on its tourism role, given the dedicated functions.
2.	May have more scope to raise trading revenue and undertake commercial activities.
3.	Relatively straight forward accountability requirements.
4.	Separate business plan may enhance transparency and may be treated as an “activity” for reporting purposes.
5.	Low transaction costs as service level agreements are usually uncomplicated.
6.	No taxation implications, or specific compliance requirements.
7.	Likely to be more effective than council department because of specific focus and identity.

POSSIBLE DISADVANTAGES	
1.	Does not have a separate legal identity from the local authority.
2.	Business board does not have true governance function as it is primarily an advisory structure.
3.	Subject to local authority’s policies and procedures which may inhibit flexibility.
4.	Must compete for funding with council departments through LTCCP and annual plan process.
5.	May not be efficient – possible local authority internal cost allocation.
6.	May not be effective in delivering desired outcomes, unless there are clear performance targets and strong lines of accountability.
7.	Stakeholders may consider they have insufficient influence on direction and operation of RTO.
8.	May not be able to recruit appropriately qualified staff, unless a strong brand is promoted with commercial culture.

5.3.9 The use of the business unit model is likely to be appropriate for a RTO where tourism is a major component of a district’s economy and a local authority is heavily committed to directly promoting and supporting tourism and has available to itself the necessary capability to achieve this. The business unit model allows for a more “commercial” style of inhouse service delivery with branding as a possibility, and is likely to be more effective than a council department. The use of a “business board” as an advisory structure for governance is a potential advantage. (Refer 5.2.10 – Tourism

Rotorua's Advisory Board performs many, but not all, functions expected of a business board).

5.4 Council Organisations

5.4.1 A local authority may establish an organisation to undertake a function or deliver a service on its behalf. This may include the function of a RTO.

The Local Government Act 2002²⁶ defines three types of entities:

- council organisation (CO),
- council-controlled organisation (CCO), and
- council-controlled trading organisation.

“Organisation” is defined to mean any partnership, trust, arrangement for the sharing of profits, union of interest, co-operation, joint venture or other similar arrangement.

5.4.2 The Act defines “council organisation” as:

- “ (a) a company—
- (i) in which equity securities carrying voting rights at a meeting of the shareholders of the company are—
 - (A) held by 1 or more local authorities; or
 - (B) controlled, directly or indirectly, by 1 or more local authorities; or
 - (b) an organisation in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—
 - (i) control, directly or indirectly, of 1 or more of the votes at any meeting of the members or controlling body of the organisation; or
 - (ii) the right, directly or indirectly to appoint 1 or more of the trustees, directors, or managers (however described) of the organisation.”

5.4.3 “Council-controlled organisation” is defined as:

- “ (a) a company—
- (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
 - (A) held by 1 or more local authorities; or
 - (B) controlled, directly or indirectly, by 1 or more local authorities; or
 - (b) an organisation in respect of which 1 or more local authorities have, whether or not jointly with other local authorities or persons,—
 - (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the organisation; or
 - (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the organisation.”

5.4.4 The difference between the two definitions is that for a CCO the local authorities hold the majority of votes in an organisation, or can appoint

²⁶ Refer Part 1, s.6.

the majority of directors or trustees. Hence, for the purposes of RTO governance structures two types of structures are applicable:

- companies in which one or more local authorities have a majority of voting shares or can appoint a majority of directors, or
- other organisations, such as trusts, in which one or more local authorities either have majority voting rights or can appoint the majority of board members.

5.4.5 The Act also defines a “council–controlled trading organisation” (CCTO) as a CCO which operates a trading undertaking for the purpose of making a profit.

5.4.6 Appendix A contains a flow chart²⁷ which provides for differentiation between a CO, CCO and CCTO.

5.4.7 The local authorities associated with CO and CCOs (which includes CCTOs) have specific obligations which are summarised in the following table²⁸:

THE LOCAL AUTHORITY MUST	COUNCIL ORGANISATION (THAT IS NOT A CCO)	CCO
Consult on establishment	No	Yes
Have a policy on appointment and remuneration of directors	Yes	Yes
Agree to or seek to modify a statement of intent	No	Yes
Monitor performance	Yes	Yes

The obligations of the CO or CCO, in turn, are as follows:

THE ORGANISATION MUST	COUNCIL ORGANISATION (THAT IS NOT A CCO)	CCO
Prepare a statement of intent	No	Yes
Prepare a half yearly report and an annual report	No	Yes
Comply with Parts I to VI of LGOIMA ²⁹	No	Yes

The specific requirements for statements of intent and reports are referred to in section 7.2 of this Guide.

²⁷ Copyright © 2003 Brookfields, Auckland. Used by permission.

²⁸ Local Government New Zealand (2003); “The KnowHow Guide to Governance – Under the Local Government Act 2002”.

²⁹ Local Government Office Information and Meetings Act 1987.

5.4.8 Any proposal to establish a CCO is subject to a special consultative procedure³⁰. The special consultative procedure requires that the local authority must, amongst other things, prepare a “proposal” to establish a CCO which should include:

- the reasons for the proposal,
- the proposed objectives for the organisation,
- the nature and scope of the activities the organisation is to undertake,
- the expected impact of those activities on the community outcomes,
- the expected impact of the proposal on the local authority’s overall operations, and
- the expected impact of the proposal on the social, economic, environmental and cultural well-being of the community.

Recommended good practice would be to prepare an “establishment plan” as the basis for that consultative procedure which includes:

- preparing a constitution for the CCO,
- preparing an initial statement of intent,
- appointing an initial board of directors,
- assessing the resource needs of the CCO,
- developing procedures for the transfer of assets and undertakings from the local authority to the CCO or the acquisition of assets by the CCO (or both) and the negotiation of the compensation for the assets from the CCO to the local authority,
- notifying debtors of any liabilities that are to be transferred to the CCO,
- developing procedures for appointing a chief executive for the CCO and for transferring staff from the local authority or hiring other staff (or both), and
- registering the CCO (if a company) or lodging the Deed of Trust.

5.4.9 RTOs are more likely to be CCOs (or CCTOs) if they have an ownership relationship with the funding local authorities.

For the purposes of RTOs’ governance structure the following types of CCOs are considered:

- (a) Companies, which can:
- (i) Be unlisted, or

³⁰ Local Government Act 2002. Refer s.56 and s.88.

- (ii) Have “charitable” status to avoid liability for taxation (often referred to as “charitable companies”).

(Listed companies are unlikely to be acceptable as a CCO option for RTOs because the growth of value of shares, which is a primary objective of a listed company, is not a relevant factor for a RTO reliant on local authority funding).

- (b) Trusts, which can be:
 - (i) “Ordinary”³¹,
 - (ii) Charitable,
 - (iii) Trading trust.

There is a significant difference between a company and a trust. Although both have a legal identity separate from those persons who established or manage them, a company has a power of general competence. A trust, however, is legally empowered to do only those things specifically provided for in its trust deed. This may be restrictive and trustees are usually careful to ensure they do not exceed their legal authority and incur personal liability. Hence, trusts are generally regarded as a suitable vehicle to hold assets while companies are better for trading purposes.

Local authorities should seek specialist professional advice on the establishment of these forms of CCOs.

5.4.10 The main mechanism for delivery of the RTO’s functions is for the local authority to contract with the CCO. The mechanism would be implemented on the same basis as outsourcing to an independent (RTO) entity.

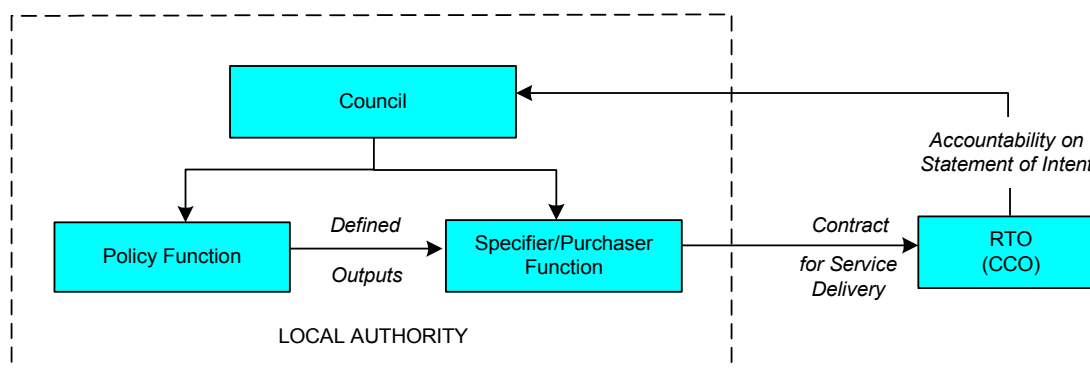


FIGURE 5.2 – SERVICE CONTRACT WITH COUNCIL–CONTROLLED ORGANISATION

³¹ “Ordinary trust” means an inter–vivos trust which is a trust for the life time of those parties involved.

5.4.11 The provisions of LGOIMA³² effect CCOs in regard to the availability of information and the role of the Ombudsman. CCOs may refuse to release information for a variety of reasons, including:

- enabling the conduct of commercial activities (including conducting negotiations) without prejudice or disadvantage,
- protecting a trade secret or information that would otherwise prejudice the commercial position of the CCO,
- protecting the privacy of a member of the public,
- protecting the health and safety of the public,
- avoiding the prejudice of measures that protect the public from material loss,
- maintaining legal professional privilege, or
- preventing the use of official information for improper gain or advantage.

Before any information can be withheld under any of these grounds, the CCO must be satisfied that withholding information is not outweighed by other considerations which make it desirable in the public interest to release the information.

The Act also allows a CCO to avoid publication of information in financial statements or statements of intent or reports which would not be available under one or more of the grounds contained in the LGOIMA.

The Ombudsman can review a decision by a CCO or local authority not to release information, or to put conditions on the release of information, or to make charges for information. The Ombudsman has the power to recommend that the local authority release information or remove conditions. The local authority can override an Ombudsman's recommendation, but must pass a resolution in open council within 20 days of the Ombudsman making a recommendation. Such a resolution may be challenged in the High Court, but only on the grounds that the local authority was mistaken in law.

The Local Government Act 2002 extends the coverage of the Ombudsmen Act 1975 to all CCOs. This Act gives the Ombudsman the power to investigate complaints by any person that an action, omission to act, or decision made by a public body has negatively affected that person.

³² Local Government Official Information and Meetings Act 1987.

- 5.4.12 CCOs are subject to audit by the Auditor-General although, in practice, this will be carried out either by Audit New Zealand or an independent Auditor engaged by the Auditor-General.

The Auditor-General has identified a significant number of trusts and other entities that are “controlled” by local authorities within the terms of the Public Audit Act 2001 and will be subject to his statutory audit. He has noted³³ as follows:

“We have observed that a number of local authorities do not have a clear idea of the entities that they have an interest in and may, in fact, control for the purposes of the Act. Our review of controlled entities under the Act has required them to give some attention to this. The Local Government Act 2002 requires them to undertake a further review of their associated entities to determine those that are “council–controlled organisations” and “council organisations” under that Act.

As noted above, the term “public entity” includes a “council–controlled organisation” as defined in the Local Government Act 2002. The definition of “council–controlled organisation” in that Act is slightly wider than the definition of a controlled “public entity” under the Public Audit Act, as it uses a threshold of 50% for control.

The definition of “council–controlled organisation” is also wider than the definition of a local authority trading enterprise (LATE) under the Local Government Act 1974, as it includes both profit and non–profit entities.

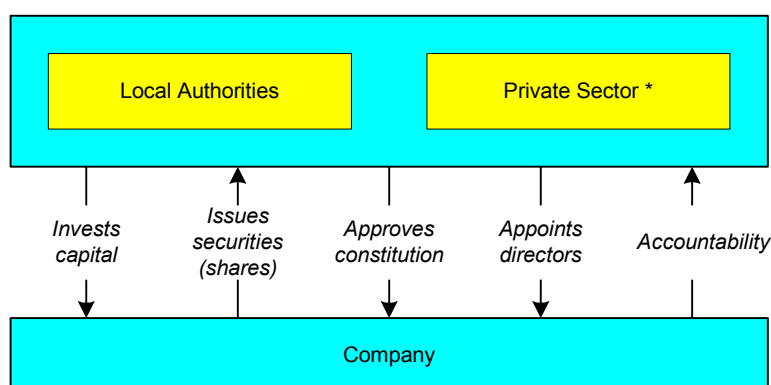
This means that a small number of entities not currently audited by the Auditor-General have become public entities, by virtue of the definition of “council–controlled organisation”. The definition has applied from 25 December 2002. The accountability and reporting requirements for council–controlled organisations apply from 1 July 2003.”

5.5 Companies

- 5.5.1 A “company” is a separate statutory legal entity which can carry on business in circumstances that the owner(s) (shareholder(s)) are not regarded as carrying on the business personally or in partnership. The shareholder(s) do not have personal liability for the actions of the company and have therefore “limited liability”, except to the extent that they may hold shares in the company that they have not fully paid for.

³³ Controller and Auditor-General, (2003); “Local Government : Results of 2001–2002 Audits”. Refer paragraphs 2.123–126.

A company is incorporated and operates under the terms of the Companies Act 1993. The shareholders, which may be one or more local authorities, possibly in conjunction with the private sector, provide the capital of the company in return for equity securities (usually voting shares). Shareholders approve the company's constitution and appoint directors. The company's board of directors governs the company, appoints its managers and is accountable to the shareholders.



* For a joint venture company, the private sector party would be a shareholder together with the local authority.

FIGURE 5.3 – BASIC CONCEPT OF COMPANY

Prior to the enactment of the Companies Act 1993, a distinction was made between “private” and “public” companies. This terminology is still in common use but it is now more correct to refer to “listed” and “unlisted” companies. There are other “types” of companies, such as companies limited by guarantee and “charitable” companies, the latter being the one most likely to be encountered by local authorities. By way of explanation:

Unlisted company³⁴

An unlisted company is a company that does not have its shares listed on a stock exchange for trading in by the public. Where the CCO is an unlisted company it is required to have a statement of intent.³⁵

Listed company

A listed company is one whose shares are listed on a stock exchange to allow the public to buy and sell shares.

³⁴ Not a legally defined term, but refers to a company which is not a “listed company”.

³⁵ Local Government Act 2002. Refer s.64(2).

Charitable company³⁶

This is a company which is incorporated for “charitable” business purposes which are entrenched³⁷ in the company’s constitution. The company’s “charitable” status needs to be specially approved by the Inland Revenue Department, in order to receive the taxation benefits granted to “charities”. A charitable company is required to have a statement of intent.³⁸

The fact that a company operates on a “not for profit” basis does not necessarily mean that it is a charitable company.

Some RTOs have been established as charitable companies with the sole shareholder being a charitable trust (refer 5.6.1). This structure does not necessarily mean that the RTO is not a CCO and the test will depend on the specific relationships between the local authority, the trust board, trustees and the charitable company. (Refer also 5.4.12).

5.5.2 A RTO which is a (CCO) company would usually enter into a service contract with the funding local authorities.

5.5.3 The shareholding local authorities appoint the directors of the RTO and must have a policy for this (refer 6.2.2). Where there are two or more shareholding local authorities, it is desirable that there be a common policy for appointment of directors and a shareholders’ agreement which sets out the rights of the individual local authorities in respect of appointments.

One mechanism that has proved useful is the use of a joint (shareholders’) committee with representatives from each shareholding local authority. This committee may also have delegated responsibility from the local authorities to exercise the shareholders’ rights to:

- appoint the CCO’s directors,
- approve the statement of intent,
- monitor of CCO’s performance,
- attend company meetings, including the annual meeting, and
- approve directors’ remuneration.

(Refer also to 5.2.7 and 5.7.4 of this Guide).

³⁶ Not a legally defined term.

³⁷ Entrenched provisions are those which are only amended through a specified procedure.

³⁸ Local Government Act 2002. Refer s.64(1).

5.5.4 A (CCO) company must fulfil all the normal requirements of companies under the Companies Act 1993 but, in addition to these, has specific accountability requirements as a CCO to:

- prepare an annual statement of intent for approval by the shareholding local authorities,
- prepare half yearly and annual reports/accounts for audit by the Audit Office, and
- be subject to LGOIMA (refer 5.4.11).

The content of the statement of intent and statutory reports is specified in the Local Government Act and is referred to later in this Guide (refer 7.1 and 7.3).

Under the Companies Act 1993, there is an obligation for an annual meeting of the company (i.e. of shareholders and directors). This must be held within six months of the company's balance date³⁹. This allows shareholders to exercise their constitutional rights. The normal business of the annual meeting will be:

- consideration of the annual report (audited financial statements, directors' reports, etc),
- appoint/reappoint directors,
- fix directors' remuneration, and
- appoint the company's auditors⁴⁰.

5.5.5 The possible advantages/disadvantages of a (CCO) company as an option for RTO structure are as follows:

CCO COMPANY POSSIBLE ADVANTAGES	
1.	Has independent legal status and limits liability of shareholding local authorities – not seen as "council".
2.	Ability to appoint skilled and experienced, independent directors.
3.	Independent of local authority and able to operate with more flexibility.
4.	Able to trade and source alternative funding.
5.	Funding from local authorities usually fixed on basis of contracted outputs.
6.	Likely to be highly focussed on its functions and delivery of contracted outputs.
7.	Likely to be very efficient because they have greater flexibility and are not subject to local authority procedures and overhead cost structures.
8.	Likely to be highly effective and potentially entrepreneurial, because not constrained by local authority procedures.
9.	Able to develop good relationships with industry stakeholders, because of perceived "independence" from local authorities.
10.	Likely to be able to attract appropriately skilled staff because of their independent status and tourism forms.

³⁹ Companies Act 1993. Refer s.120.

⁴⁰ For a CCO the auditor is the Auditor-General. (Refer 5.4.12).

POSSIBLE DISADVANTAGES	
1.	Possible council and community perceptions of loss of “public control”.
2.	Requires greater governance skill and effort from shareholding local authorities.
3.	Accountability requirements (statement of intent), greater than for some other options.
4.	May not be seen as “transparent” in use of funding.
5.	Linkage to LTCCP and community outcomes is indirect through contracted outputs.
6.	Transaction costs greater than some other options (separate audit, statement of intent, shareholders’ requirements).
7.	Subject to taxation (unless “charitable company”), specific CCO compliance requirements and associated costs.
8.	May require greater effort to ensure local authority’s functions and activities are well-aligned with tourism.

5.5.6 The use of a CCO company is likely to be appropriate where the funding local authorities want an “arm’s length” relationship with the RTO. The model will also provide a clear focus on the RTO’s activity, a commercial culture and operational flexibility. The model will also be suited to a RTO which seeks alternative revenues from its activities, including providing services on a commercial basis to its stakeholders or undertaking trading activities of a reasonable scale. [Latitude Nelson (refer 5.7.4 Case Study) is a jointly-owned CCO company].

5.6 Trusts

5.6.1 A trust is a separate legal entity established under a deed of trust which settles assets on a trust for the benefit of specified parties. The three key parties involved are:

- (a) Settlor – the party that establishes the trust and “settles” (transfers) the assets to the trust;
- (b) Trustees – the persons who hold ownership of the assets (the “legal” owners) and manage them for the benefit of the beneficiaries; and
- (c) The beneficiaries – those who receive the benefits of the trust, (the “equitable” owners) and can enforce the “trust” against the Trustees.

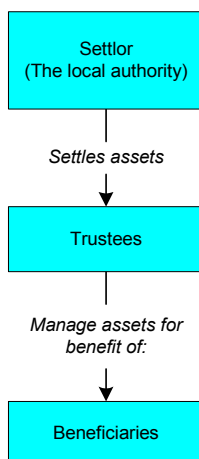


FIGURE 5.4 – BASIC CONCEPT OF A TRUST

Trusts can be either:

- (i) “Ordinary” Trust⁴¹
These are the most common forms of inter-vivos trusts. They have a maximum life of 80 years and are established by deed setting out the objects of the trust, appointment of trustees, etc.
- (ii) Charitable Trust
This is a trust established for “charitable” purposes, e.g. education, and preferably incorporated under the Charitable Trusts Act 1957. A charitable trust board is subject to a higher level of scrutiny than an ordinary trust and may have no limit on its life so can continue indefinitely until it is wound up. The powers of a charitable trust board are governed by its deed and, if it is registered, by the provisions of the Act. The “charitable” status of the trust needs to be approved by the Inland Revenue Department, in order to receive the taxation benefits granted to “charities”.
- (iii) Trading Trust
A trading trust is a relatively new term and is essentially an inter-vivos trust which owns and runs a business as opposed to most inter-vivos trusts which simply own and manage assets for their beneficiaries. Trading trusts are often viewed with suspicion by parties who wish to trade with them, as there is always the question whether they have the power to enter into a contract or agreement. They have the potential to be suitable in situations where it is desirable for any reason to separate or insulate ownership and management of assets from the person(s) who receive the benefit of the income of the business. They are

⁴¹ A trust created by deed.

unlikely to be suitable for a CCO without very careful consideration and specific advice.

Trustees must comply with the provisions of the Trustee Act 1956 and the deed of trust.

Specific obligations include:

- acting in the best interests of all present and future beneficiaries of the trust,
- acting impartially towards beneficiaries,
- taking appropriate advice, and
- exercising the care, diligence and skill that a prudent person would exercise in relation to managing the trust's affairs.

5.6.2 If the local authority establishes the trust and is the settlor then it can exercise control through:

- terms of the trust deed,
- approval of the statement of intent,
- appointment of trustees, and
- monitoring performance and receiving reports.

The contract of service between the funding local authority and the trust is a further means of control that can be exercised, but this is common to other CCO structures.

The Controller and Auditor-General has recommended good practice regarding entities such as trusts⁴²:

“A local authority should:

- Specify key accountability arrangements when setting up a trust or other non-profit entity,*
- Draw up a formal service agreement which documents the scope and purpose of the association between the entity and the local authority, defines the services to be provided, and specifies how the entity will be held to account for delivery of those services,*
- Follow an objective process for appointing the governing body, based on a documented set of competencies relevant to the functions and activities of the entity,*

⁴² Controller and Auditor-General, (2001); “Local Authority Governance of Subsidiary Entities”.

- (d) *Establish a means (conceivably in the context of its own annual planning process) for the local authority to approve or endorse the entity's philosophy, direction and strategies, planned programmes and activities, financial and non-financial targets/ and outcome measures, and*
- (e) *Put in place an agreed framework for regular reporting against stated measures of performance, in order to provide the local authority with information as to how the entity is meeting the terms of its service agreement and contributing to the achievement of agreed outcomes."*

5.6.3 The terms of the trust deed will specify how trustees are appointed and their tenure. It is common for the settlors of the trust, i.e. local authorities, to have the right of appointment of trustees. The process of appointment is the same as for (CCO) companies and subject to the same policy (refer 6.2).

Where two or more local authorities have the right of appointment, it is desirable that there be a common policy on appointment of trustees and an agreement between the local authorities covering their individual rights.

As for a (CCO) company a useful mechanism is a joint committee of the local authorities with delegated responsibilities for:

- approving the statement of intent,
- appointment of trustees,
- monitoring the CCO's performance,
- representing the local authorities at meetings with the trust board, and
- approving trustees' remuneration.

5.6.4 A (CCO) trust must meet all the normal legal obligations of any trust, but in addition, has specific accountability requirements as a CCO:

- preparing an annual statement of intent for approval by the local authorities,
- preparing half yearly and annual reports,
- being subject to LGOIMA, and
- subject to audit by the Audit Office⁴³.

The content of the statement of intent and reports is specified in the Local Government Act and is referred to later in this Guide (refer 7.2).

⁴³ The Auditor-General may appoint Audit NZ or an independent firm of auditors to undertake the audit on his behalf.

It is recommended good practice that the trust deed require that the board have an annual meeting with the settling local authorities.

- 5.6.5 It is common practice for trusts to establish companies to undertake trading activities, particularly where the terms of the trust deed may not permit the trust to do this.

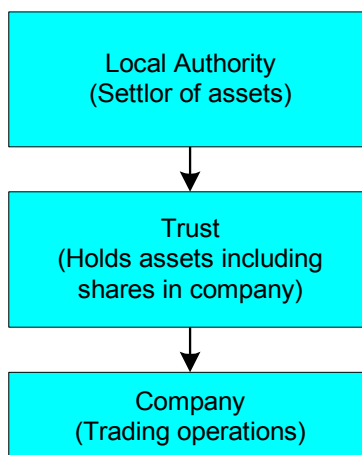


FIGURE 5.5 – TRUST-OWNED COMPANY

This model is used to establish these – called “charitable company” model (refer 5.5.1).

- 5.6.6 The possible advantages/disadvantages of a (CCO) trust as an option for RTO structure are as follows:

CCO TRUST	
POSSIBLE ADVANTAGES	
1.	Has independent legal status and limits liability of local authorities – not seen as “council” but usually perceived well by community, especially if charitable.
2.	Ability to appoint skilled and experienced independent trustees.
3.	Independent of local authority.
4.	More likely to attract alternative community/industry funding than some other structures.
5.	Is able to trade directly or establish subsidiary entities which can trade.
6.	Funding from local authorities usually fixed on basis of contracted outputs.
7.	Likely to be highly focussed on its functions and delivery of contracted outputs, because funding is dependent on performance.
8.	May be efficient because not subject to local authority procedures and corporate overhead costs.
9.	May be effective because of focus.
10.	Able to develop good relationships with industry stakeholders, because of perceptions of “trust” models and independence from local authorities.
11.	Likely to be able to attract appropriately skilled staff, because of focus on tourism and identity.

POSSIBLE DISADVANTAGES

1. Powers are limited by scope of trust deed.
2. No limitation of liability of trustees.
3. Possible council perceptions of loss of “public control”.
4. Requires greater formal governance skill and effort from local authorities.
5. Accountability requirements (statement of intent), greater than for some other options.
6. May not be seen as “transparent” in use of funding.
7. Linkage to LTCCP and community outcomes is indirect through contracted outputs.
8. Transaction costs greater than some other options (separate audit, statement of intent, shareholders’ requirements).
9. May be subject to taxation (unless “charitable trust”), specific CCO compliance requirements and associated costs.
10. May require greater effort to ensure local authority’s functions and activities are well aligned with tourism.

CASE STUDY CCO TRUST

Tourism Dunedin Trust was settled by the Dunedin City Council to perform the RTO’s function. The principal object of the Trust is:

“ . . . to promote Dunedin and, in particular, to strive towards the economic advancement and development through tourism of Dunedin and the Coastal Otago Region.”

The trust deed empowers the Trust to undertake the following functions and activities (amongst others):

- *co–ordinate joint venture marketing campaigns with the private sector and publicly–funded regional tourism organisations,*
- *research and record tourist statistical information and monitor visitor numbers in order to provide future forecasts and visitor research information,*
- *promote, support and bid for events and conventions that bring economic benefit to, or cost–effectively increase the profile of, Dunedin,*
- *improve the quality of service and hospitality in Dunedin through the effective delivery of customer service training programmes to the wider service industry,*
- *encourage the operation and delivery of visitor information services that provide quality services achieving excellent customer satisfaction,*
- *enter into funding agreements and other contracts that are necessary or desirable to achieve the objects of the Trust,*
- *maximise Dunedin’s share of regional consumer spending through strategic campaigns promoting Dunedin throughout New Zealand and overseas,*
- *enhance the profile of Dunedin businesses that have the potential to grow tourism through promoting strategic alliances and private sector partnerships,*
- *further enhance the recognition of Dunedin and give support to Dunedin as a key and desirable visitor destination.”*

The Council has the power to appoint trustees, set their term of appointment and to remove trustees. Trustees must be appointed for their commercial and private sector experience and ability to contribute to the objects of the trust. The Council also appoints the chairperson of the Trust.

This is regarded as a RTO model which sets clear purpose, allows trustees a reasonably wide scope of activity, but retains strong control for the local authority through the appointment provisions and other CCO accountability mechanisms.

[Source : Tourism Dunedin Trust Deed]

- 5.6.7 The Trust model is better suited to holding and managing assets than providing services on a commercial basis or undertaking extensive trading operations. The use of a CCO Trust as a RTO model is likely to be appropriate where the funding local authorities want an “arm’s length” relationship but not a total commercial operation i.e. recognising elements of public good. The trust deed can limit the powers of the model. The model allows for a focus of the RTO’s activity, a semi-commercial culture and operational flexibility. Trusts are often better attracting alternative funding or services in lieu of funds than other models.

5.7 Multiple Local Authority Arrangements

- 5.7.1 Many RTOs will be delivering services on behalf of two or more local authorities. The governance and service delivery arrangements relating to these situations require some additional consideration. The mechanism for this can be through a shared services arrangement or jointly-owned RTOs.

Local authorities need to take care to ensure that they do not inadvertently create a joint venture through the application of this model (refer also 5.2.5).

- 5.7.2 If a council department or business unit is the delivery structure, then the only direct governance input possible would be through a “joint committee” structure (refer 5.2.6).

A joint committee is a committee of all the local authorities⁴⁴ and hence, the roles and responsibilities, delegated powers and reporting and accountability arrangements must be resolved by each of the local authorities. The appointees are made by the participating local authority and members appointed can only be removed by the appointing local authority.

The chair of a joint committee is appointed by the committee.

⁴⁴ Local Government Act 2002. Refer Schedule 7, Clauses 30 (8) and (9).

While joint committees offer an opportunity for two or more local authorities to participate in the governance of the regional tourism activity, the mechanism can be cumbersome and inefficient, because of the need for ratification of decisions by all participating councils, unless there is adequate delegation. It does allow participating local authorities to monitor the RTO's performance at a more detailed level than would otherwise be possible under a shared services arrangement.

5.7.3 Under any shared services model it is highly desirable that the local authorities agree on the basis of funding the RTO's operations and delivery of services. The service delivery mechanism can be established in various ways, but recommended good practice⁴⁵ has identified the following model:

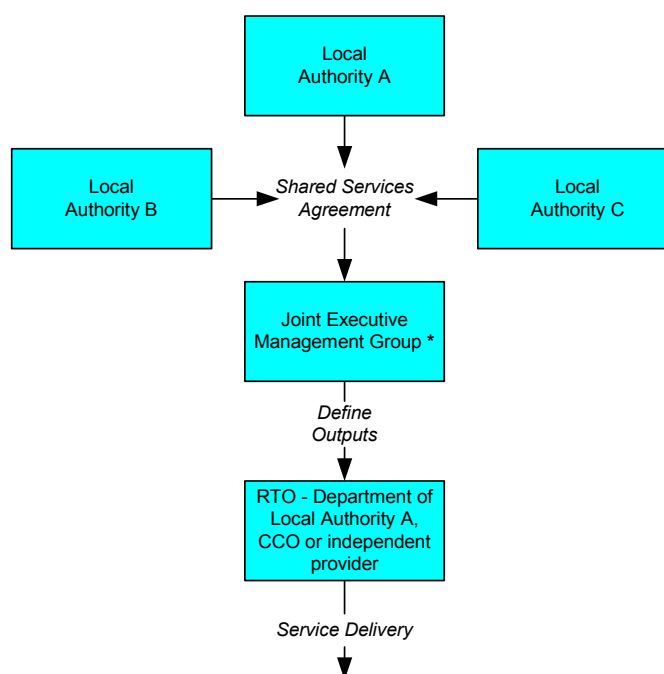


FIGURE 5.6 – TYPICAL ARRANGEMENT FOR SHARED SERVICES MODEL

* The purpose of the joint executive management group is to implement the policies and requirements of the participating local authorities and the terms of the shared services agreement. Depending on the extent of delegation, this may be deemed to constitute a joint venture and council, therefore, a controlled organisation (CCO).

5.7.4 RTO's may also be a CCO of two or more local authorities, either as a company or a trust. In such cases, the participating local authorities have responsibility to:

⁴⁵ Refer, SNZ HB 9213 : 2003 "Local Government Service Delivery Options", section 4.4.

- have a policy on appointment and remuneration of directors,
- make appointments of directors,
- approve the CCO’s statement of intent, and
- monitor the CCO’s performance.

It is highly desirable that there is a uniform approach to these matters by the participating/shareholding local authorities. A useful mechanism to ensure that this is achieved effectively is for there to be a “shareholders’ agreement” between the participating local authorities which sets out the rights of the individual local authorities and provides for the establishment of a joint (shareholders’) committee with delegated authority to:

- appoint directors to the CCO,
- approve the statement of intent,
- monitor the CCO’s performance,
- attend company meetings, including the annual meeting, and
- approve directors’ remuneration.

(Refer to 5.2.6 of this Guide)

Each of the shareholding local authorities would need to adopt a common policy for the appointment of directors.

The governance structure can be depicted as follows:

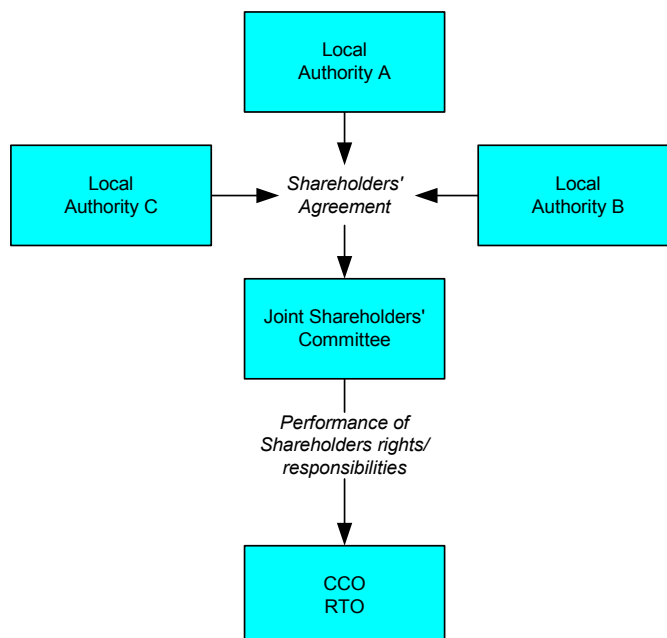


FIGURE 5.7 – GOVERNANCE STRUCTURE FOR JOINTLY-OWNED CCO

**CASE STUDY
CCO (JOINTLY OWNED) COMPANY**

Nelson City Council and Tasman District Council have jointly established a council–controlled trading organisation “Tourism Nelson Tasman Ltd” (trading as “Latitude Nelson”).

The purpose of the RTO is:

“To achieve orderly management of the Company’s assets, delivering a social and economic return to shareholders and the region’s population, through coordination of destination marketing, destination management development and visitor information activity.”

[Source: Statement of Intent 2003/2004]

The shareholding local authorities have established a joint “Shareholders’ Group” comprising:

- Mayors of both Districts,
- Chairs of both Councils’ Finance Committees,
- Chief Executives and Corporate Services Managers of both local authorities.

The Shareholders’ Group which meets quarterly is a monitoring body which negotiates and approves the Statement of Intent and the performance of the RTO and its 5 Directors. The two Councils have a common policy on the appointment of Directors. This arrangement is an appropriate method of governance for a multi–local authority owned CCO. It avoids the RTO having to deal with the shareholding local authorities on an individual basis and ensures a regional consensus on the RTO’s activity.

The strengths of this model have been identified by the RTO and local authorities as:

- separate identity of the RTO,
- transparent funding of RTO by local authority with clear objectives,
- strong direction provided by the RTO,
- quality of the Directors, and
- role of the Shareholders’ Group in monitoring the RTO’s performance.

[Source : Latitude Nelson, Nelson City Council and Tasman District Council]

5.7.5 The service delivery arrangements between a jointly–owned CCO and the individual local authorities can take two forms:

- individual service contracts between the RTO and the funding local authorities (the most common arrangement used), or
- a joint service contract through a Joint Executive/ Management Group as shown in 5.7.3.

5.7.6 Some of the advantages of a joint/shared approach to regional tourism functions will include:

- a common region–wide strategy (as distinct from individual districts),
- economies of scale,
- development of synergies between individual districts.

It is, however, important that there be a medium to long-term agreement between the participating local authorities on RTO funding.

5.7.7 Joint/shared approach to RTO functions is particularly suitable where:

- local authority objectives are compatible,
- expectations for service delivery by the RTO are common,
- greater utilisation of resources is possible, and
- independence of political/district identity must be retained.

5.8 Independent Organisations

5.8.1 There are three possible organisations which are independent of the local authority which could be RTOs. These are:

- incorporated societies,
- trusts, and
- companies.

5.8.2 Incorporated Society

- (a) An incorporated society is “*a society of not less than 15 persons, associated for any lawful purpose but not for pecuniary gain . . .*”⁴⁶
- (b) Incorporated societies are governed by the provisions of the Incorporated Societies Act 1908 and have an independent legal identity (body corporate) and its members are not liable for debts of the society.
- (c) Societies are incorporated through a process of registration by their members. They must have rules (constitution) which provide for the following (amongst other things):
 - objects (purposes),
 - how persons may become members,
 - how general meetings may be conducted,
 - how the officers of the society are appointed,
 - control and investment of funds.
- (d) An incorporated society is able to enter into contracts with other parties, but may not engage in operations involving pecuniary gain for its members.

⁴⁶ Incorporated Societies Act 1908. Refer s.4(2). “Persons” includes corporate bodies (refer s.29). Hence, a company may be a member of an incorporated society.

- (e) Incorporated societies are usually governed by a committee or board elected by the members. The rules of the society will define the process by which that occurs and the term of appointment. The rules will also specify the process for election of officers (president, chairperson, etc).

Societies are able to remunerate their officers if this is provided for in their rules.⁴⁷

- (f) The annual accounts of an incorporated society must be approved by a general meeting and it would be normal practice for these to be audited.
- (g) The possible advantages/disadvantages of using an incorporated society as an RTO are as follows:

INCORPORATED SOCIETY POSSIBLE ADVANTAGES
<ol style="list-style-type: none"> 1. Could be strongly focussed on functions and likely to be representative of tourism interests. 2. Not subject to local authority's policies and procedures – able to be flexible. 3. Outputs can be clearly specified in service contract. 4. Funding from local authority is transparent and related to LTCCP and desired community outcomes. 5. Potentially close relationship with stakeholders who are most likely to be members. 6. Modest compliance requirements but subject to taxation except for “member” transactions.

POSSIBLE DISADVANTAGES
<ol style="list-style-type: none"> 1. Separate legal entity but there may be concerns about governance by funding local authorities and community. 2. Local authorities may not be able to influence membership of society's committee which could be dominated by sectoral interests. 3. May be issues about eligibility for membership. 4. May not be perceived as efficient organisational model, because of perceptions of “management by committee”. 5. Sectoral interests within membership and committee could be disruptive. 6. Public accountability may be “blurred” because it is based only on service contract. Main accountability to members. 7. May not be able to attract staff if there is concern with stability of funding stream. 8. Greater effort needed to ensure local authority's functions and activities are well aligned with tourism.

⁴⁷ Ibid. Refer s.5.

- (h) An incorporated society is likely to be an appropriate model for a RTO where tourism is foundational to a district's economy, there is a sound tourism infrastructure and a large number of enterprises involved in the sector who can commit to common aims and objectives.

CASE STUDY INCORPORATED SOCIETY

Tourism is the dominant “driver” of economic activity in Queenstown which is a premier tourist destination. Sustainable tourism is a desired community outcome for the District. There are a large number of tourist related businesses.

“Destination Queenstown” is an incorporated society which is the RTO for the Queenstown area.

The constitution provides that “commercial ratepayers” are eligible for membership which includes entities giving a proportion of rates to a landlord.

The affairs of Destination Queenstown are governed by a Board of Directors appointed on the following basis:

- seven Directors, elected at the annual meeting to represent sectoral interest groups (2 for major corporate businesses, 2 for non–corporate businesses, 2 for accommodation providers and 1 for retail/service/professional providers),
- an officer appointed by the Queenstown Lakes District Council, plus
- the Mayor of the Queenstown Lakes District (without voting rights).

The Directors elect their own Chair.

A Strategic Review Board of 25 members representing a wide cross sectoral interests meets at least twice a year. This Board has an important role in representing community and tourism perspectives. Its functions include:

- reviewing Destination Queenstown’s strategic plan,
- reviewing the annual business plan which is the basis for local authority funding,
- monitoring performance of the RTO, and
- reviewing the annual report.

The local authority funding is totally sourced from a targeted rate on commercial property and there is, therefore, a direct linkage between the funders (commercial ratepayers) and membership of the incorporated society.

The reported advantages of this model are that it is strongly led by the tourism sectors. The potential weakness is that the basis of the local authority funding may not be consistent with desired community outcomes, but the role of the Strategic Review Board, representing community and the tourism sector, is designed to avoid this occurring.

When comparing the Queenstown model with the Rotorua model (Council Department) the fundamental difference is that, in the latter case, there is a strong desire by the Rotorua District Council to maintain direct control over the RTO’s activities. In Queenstown the District Council considers that governance through the tourism stakeholders provides better strategic direction and direct accountability for funding raised for the RTO’s activity from targeted rating of this sector.

[Source : Destination Queenstown and Queenstown Lakes District Council]

5.8.3 Independent Trust and Companies

- (a) The concept of trusts has been explained in 5.6.1. A RTO may be an independent trust (i.e. local authorities may not have been involved in its establishment). It would be established by settlor(s) in the normal manner and may have “charitable” status, but not necessarily so.
- (b) Such an independent trust is a legal entity, and subject to the provisions of its deed may be able to enter into contracts for delivery of services with local authorities or to obtain revenues from other sources.
- (c) RTOs could be a company independent of local authorities i.e. it would have private shareholding and directors. Such a company may be active in tourism venue management, marketing, promotions, operating visitor centres, etc.
- (d) Companies have independent legal identity and can enter into contracts with local authorities. The following is the typical relationship for a local authority contracting for RTO services from an independent organisation.

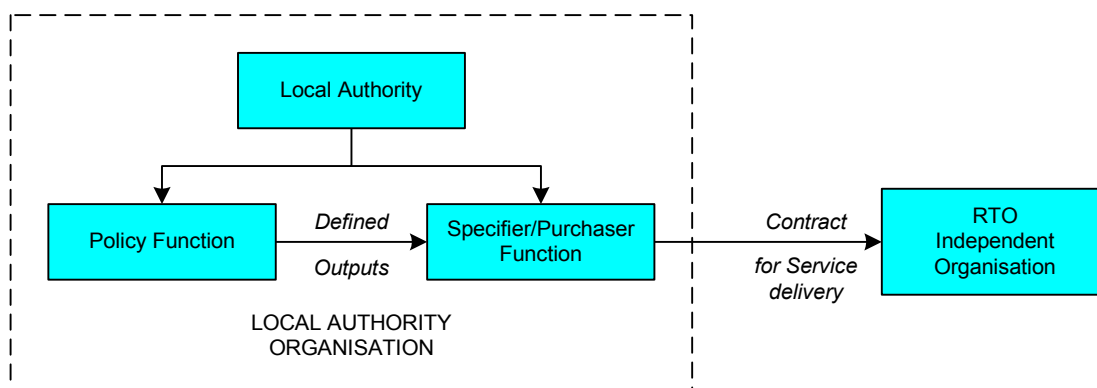


FIGURE 5.8 – CONTRACTS WITH INDEPENDENT ORGANISATIONS

- (e) Local authorities should be satisfied with the “substance” of any trust or company with which they are contemplating a contract for service including:
 - financial resources,
 - quality of governance,
 - quality of management,
 - past performance/activities,
 - resources (personnel, systems, premises), and
 - any potential conflicts of interest.

In the case of a trust the local authority should ensure that the provisions of the trust deed permit the trust to contract with the local authority to deliver services.

They should consider any potential risks for the expenditure of public funds.

Contracts should be subject to an annual performance review, but continuity of funding is desirable. This is discussed in Section 7.3.4 of this Guide.

- (f) The possible advantages/disadvantages of utilising an independent organisation such as a trust or company (which is not a CCO) to perform the functions of RTO are as follows:

INDEPENDENT ORGANISATION POSSIBLE ADVANTAGES	
1.	“Arm’s length” contractual relationship with funding local authorities.
2.	Totally flexible in method of operating and likely to have strong commercial culture.
3.	Will be focussed on the delivery of contracted outputs, but may have a variety of commercial interests.
4.	Is able to seek alternative revenues from other commercial arrangements, including industry stakeholders.
5.	Potentially should be very efficient and effective, particularly if the contractual arrangements are contestable.
6.	Likely to attract well–skilled staff, because of public sector flexibility of operation.

POSSIBLE DISADVANTAGES	
1.	No “ownership” by funding local authorities and no ability to influence governance.
2.	Contractual arrangement must be precise or may be costly for local authorities to vary.
3.	Perceptions of unnecessary “profit” to private sector from public funds.
4.	Accountability only on basis of contract.
5.	Transaction costs could be high.
6.	Industry stakeholders could be isolated from providing input to direction and strategies.
7.	Greater effort needed to ensure local authority’s functions and activities are well aligned to tourism.

- (g) The use of independent agencies (either trusts or companies) may be appropriate where tourism is one of several strategic areas of economic activity for the region/district, but not necessarily dominant. The local authority does not have or wish to establish a council organisation to undertake the role of the RTO.

5.9 Comparison of RTO Models

- 5.9.1 The following table is a comparison of some of the features of the various RTO governance models referred to in earlier sections of this Guide: This does not include totally independent entities such as independent trusts or companies.

COMPARISON OF RTO GOVERNANCE MODELS					
Feature	Council Department	Business Unit	CCO Company	CCO Trust	Incorporated Society
Legal status	Part of local authority	Part of local authority	Independent entity with strong governance linkages.	Independent entity with very strong governance linkages.	Independent entity – local authority may be a member.
Managerial independence	Subject to local authority's policies	Subject to local authority's policies but likely to be more "commercial" and flexible.	Able to operate commercially without excessive bureaucracy, has power of "general competence".	Able to operate commercially but controlled by trust deed.	Subject to its constitution able to operate commercially without excessive bureaucracy.
Funding implications	Substantially reliant on local authority funding.	Substantially reliant on local authority funding but may manage other revenue earning businesses.	Reliance on local authority funding but can trade freely to source alternative revenues.	Reliance on local authority funding but can trade freely to source alternative revenues. May be more likely to receive industry financial grants.	Reliant on local authority funding but able to source alternative revenues and member support and able to trade.
Governance implications	Governed by local authority and possibly a committee. Accountable within local authority structure.	Governed by local authority who may appoint an advisory board. Independently accountable through local authority structure.	Governed by own board appointed by local authority. Subject to statement of intent and other specific accountability requirements.	Governed by trustees who may be appointed by local authority. Subject to statement of intent and other specific accountability requirements.	Governed by elected committee. Local authority's rights will be specified in constitution. Annual meeting required.
Transaction arrangements with local authority and costs	Annual plan/business plan applies. Very low transaction costs.	Annual business plan and internal service agreement applies. Low transaction costs.	Service contract. Modest transaction costs.	Service contract. Modest transaction costs.	Service contract. Modest transaction costs.
Relationship with stakeholders	May not relate well. Stakeholders have no input to governance.	Stakeholders may be able to input advisory board but no governance role.	Can relate well. Stakeholders can nominate directors.	Can relate well. Stakeholders may have appointment rights.	Can relate well. Members appoint governing body but local authority input may be limited.
Compliance costs and taxation	Minimal compliance costs and no taxation implications.	Minimal compliance costs and no taxation implications.	Significant compliance costs (e.g. separate audit). Subject to taxation unless classified a "charitable".	Significant compliance costs (e.g. separate audit). Subject to taxation unless classified a "charitable".	Modest compliance costs. Subject to taxation except "member's transactions".

5.10 Summary

5.10.1 There are a variety of structural models that can be used to perform RTO functions for local authorities. In considering an appropriate model some of the factors that may be relevant include:

- desired community outcomes,
- the extent and nature of the local authority's involvement with tourism,
- the political philosophy of the local authority in relation to the way it delivers services,
- the scale of tourism activity and size of the market,
- the number of local authorities who may wish to fund the RTO's activities and any desire to have a joint governance model,
- the nature and magnitude of stakeholder groups and their interests,
- the role of tourism in the economy of the region,
- whether local authorities seek involvement in RTO governance and management or contract delivery of outputs.

5.10.2 The view of communities and local authorities will vary on all of the foregoing considerations and, therefore, no single RTO structure will be appropriate in all situations.

5.10.3 A suggested method for identifying a suitable model for a RTO structure is contained in the following figure:

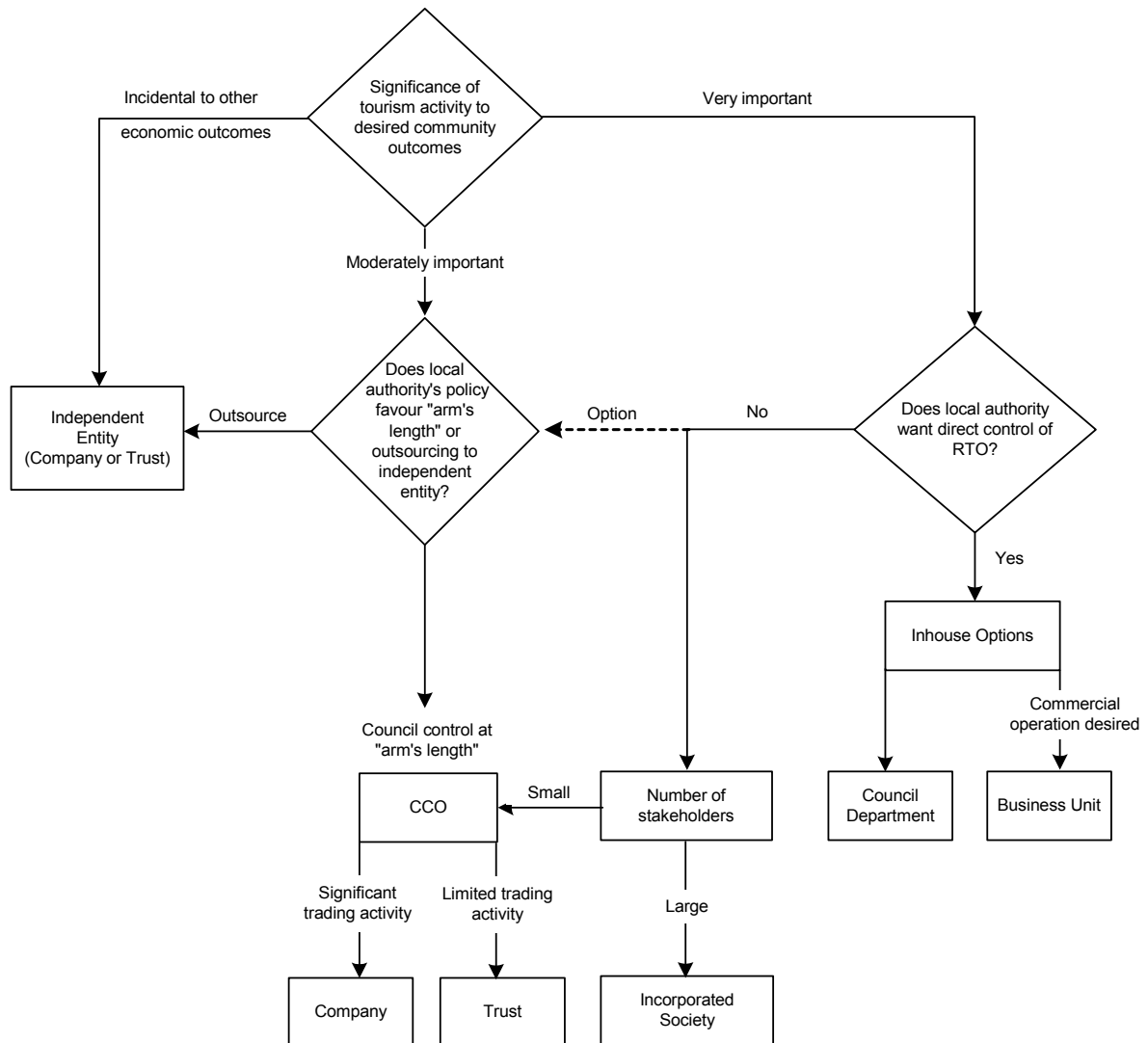


FIGURE 5.9 – A SUGGESTED METHOD OF SELECTING RTO MODEL

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6. BOARD ISSUES

6.1 Local Authorities' Involvement in Appointment of RTO Board Members

6.1.1 Under many of the RTO structures described in Section 5 of this Guide, the local authority is likely to be involved with the appointment of the members of the governing board. These will include:

- council committees,
- business boards,
- trustees, and
- directors of council organisations (COs).

6.1.2 A local authority's powers of appointment of members of committees (and business boards) has been referred to in 5.2.5 of this Guide.

The power of appointing of trustees will be specified in the relevant trust deed, and this may lie, at least in part, with local authorities.

Directors of companies are appointed by the shareholders in accordance with the provisions of the company's constitution and the Companies Act 1993. In the case of a company which is a CCO, the local authority is the relevant shareholder with the power of appointing directors.

Where one or more local authorities are responsible for the appointments there are specific matters to be addressed in terms of the Local Government Act 2002.

6.1.3 This section of the Guide outlines recommended good practice in respect of such appointments.

6.2 Appointment Policy

6.2.1 Directors⁴⁸ have the following general functions:

- assisting the organisation to meet the objectives of the statement of intent and constitution,
- developing strategies to deliver the desired outcomes and contracted outputs,
- developing/approving policies for the operation of the CCO,
- ensuring that the management of the CCO implements the approved strategies and policies,
- approving business plans and annual budgets,

⁴⁸ Reference to "directors" of CCOs is used in the context of this Guide to refer to both trustees and directors of companies which are council-controlled organisations.

- ensuring that the CCO has appropriate systems for financial and non-financial control,
- selecting the chief executive of the CCO,
- providing information on the performance of the CCO to the shareholders, and
- acting as effective stewards of CCO assets and liabilities.

Directors need the appropriate skills to fulfil the above roles.

6.2.2 Local authorities must adopt a policy⁴⁹ that sets out an “objective and transparent process” for identifying and considering the skills, knowledge, and experience required of the directors of a CCO. The policy should have regard to the range of council organisations (commercial, non-commercial, large and small) that a local authority may have and also appointment and remuneration of directors.

A local authority may only appoint a person whom it considers has the skills, knowledge or experience to guide the organisation, given the nature and scope of its activities, and contribute to achieving the objectives of the organisation.

6.2.3 There is no statutory restriction on the appointment of elected members or employees of the local authority. Notwithstanding, care should be still taken when appointing elected members or employees of the local authority as directors of CCOs as:

- appointing elected members or employees to boards of CCOs may create a conflict between their obligations to the CCO and their obligations to the local authority,
- community perceptions of such appointments are generally negative.

Appointments of elected members to boards of directors tend to arise out of perceived lack of control over the activities of a CCO. The Auditor-General⁵⁰ considers there are other ways of ensuring that CCOs are responsive to the concerns of the local authority such as:

- selection and appointment processes that ensure that successful non-councillor applicants understand and accept the needs and priorities of the local authority and of the community,
- a clear statement of the local authority’s expectations of the board,

⁴⁹ Local Government Act 2002. Refer s.57.

⁵⁰ Controller and Auditor-General, (2001); “Local Authority Governance of Subsidiary Entities”.

- a robust process for developing and agreeing the statement of intent,
- regular discussion between the board and council on the key issues and objectives,
- a commitment from directors to a “no surprises” policy on matters which are likely to cause community concerns,
- ongoing communication between the board chairperson and the local authority, and between the RTO’s managers and local authority officers on matters of common interest.

In a similar vein, care should be taken when appointing local authority employees as directors of CCOs. The Auditor-General⁵¹ has recommended that local authority employees should not be placed in a position of potential conflict of interest between obligations to the CCO and their duties to advise their empowering local authority on the performance of the CCO, and obligation to follow council policies.

6.2.4 The objective of having such a policy is to ensure that the best people are appointed as directors of CCOs and that the public is aware of the appointment. Directors of CCOs must be appointed on the basis of their skills and knowledge. With this objective in mind local authorities should consider the following:

- publication of the policies on appointment of directors in their local governance statement,
- adoption of the policy via special consultative procedure,
- explanation of any departures from the policy if and when they occur (this is mandatory under s.80 of the Act),
- advertisement of vacancies on boards of directors of the local authority’s key CCOs.

6.2.5 The policy itself should contain statements concerning:

- the core competencies that the local authority considers are necessary for directors of CCOs,
- the procedures that the local authority will follow when appointing the directors of CCOs,
- policies on management of conflicts of interest (in practice this might be a reference to a standard document such as the New Zealand Institute of Directors’ Code of Ethics),

⁵¹ Controller and Auditor-General, (June 1994); “Governance of Local Authority Trading Activities”. Refer paragraphs 312 and 327.

- the mechanisms by which the council will communicate its expectations to, and manages the performance of directors of CCOs,
- remuneration of directors.

Appendix B contains a sample policy for appointment and remuneration of directors of CCO's.

CASE STUDY DIRECTORS' APPOINTMENT POLICY

Nelson City Council and Tasman District Council are the joint (equal) shareholders of Tourism Nelson Tasman Ltd. They have developed a common policy on the appointment of directors to meet the requirements of s.57 of the Local Government Act 2002. Some elements of that policy are as follows:

"Directors should have the following generic attributes:

- *strong thinking abilities, including the capacity to think strategically,*
- *articulate, able to convey thoughts in a concise and clear manner,*
- *have courage to be counted on important matters and force debate,*
- *have a clear commitment to the responsibilities of a director,*
- *relevant business experience and/or the ability to gain an in-depth familiarity with the company and its business area,*
- *ability to objectively take into account all points of view in making decisions,*
- *respect for colleagues and staff,*
- *unimpeachable ethics.*
- *proven commercial experience or commercial potential,*
- *positive attitude to public ownership and the principles of good corporate citizenship,*
- *ability to understand financial issues,*
- *sympathetic to the needs of Nelson/Tasman.*

Establishment of Director Pool

1. *A pool of potential directors will be established and maintained.*
2. *This pool will be derived by:*
 - *advertising publicly for expressions of interest,*
 - *requesting suggestions from appropriate groups,*
 - *recording the names of suitable persons known to the two councils.*
3. *Directors selected for the pool will be requested to provide details of their curriculum vitae.*
4. *The Combined Shareholders Committee will be responsible for regularly reviewing the list of potential directors.*

Process for Appointment of Directors

1. *An Advisory Panel shall be formed comprising the two council CEO's and a professional Management Consultant.*
2. *The Advisory Panel will review the pool of potential directors and prepare a shortlist. After interviewing candidates and reference checking as necessary, the Advisory Panel will recommend the required number of directors in a report to the two councils.*
3. *The councils will then consider, approve and appoint directors of council organisations.*

Reappointment of Directors

1. *Where a director's term of appointment has expired and they are offering themselves for reappointment, the process outlined in this section will apply, subject to the provisions of the constitutions of the companies.*
2. *A representative of the Advisory Panel will make confidential enquiries from the Chairperson and other members. These enquiries will seek to ascertain:*
 - *whether the skills of the incumbent add value to the work of the board,*
 - *whether there are other skills which the board meets,*
 - *the maturity of the board. There may be circumstances where many of the board are new and further change would seriously weaken the board. Conversely, there may be a need for new blood.*

3. *The Advisory Board will consider the information obtained and form a view on the appropriateness of reappointment or making a replacement appointment.*
4. *Where it is the opinion of the Advisory Panel that reappointment is appropriate then the reappointment will be recommended to the Council.*

Appointment of Elected Members as Directors

Where the Council wishes to appoint or reappoint a director who is also an elected member or staff member, this will be handled according to the above policy.”

[Source : Nelson City Council & Tasman District Council]

6.3 Size of the Board

6.3.1 The Institute of Directors⁵² has identified that the optimum number of directors to achieve maximum efficiency and effectiveness of any given board will depend on a variety of factors, including organisation size, nature, scope and diversity of the business.

6.3.2 A board that is too large may not give directors the opportunity of effective participation in board discussions and decisions or may unnecessarily prolong meetings.

On the other hand, a board that is too small may limit the breadth of knowledge and experience that would otherwise be available to it.

6.3.3 It is not practical to specify the optimum size of a board. Under the various RTO structures it is noted that the current size of boards varies from 2 to 16.

Appropriate size of boards of CCOs is likely to be of the order of 3 to 6.

6.4 Membership of the Board

6.4.1 A balanced board will need a mix of skills and experience amongst its members. Drawing directors from a single source or background, or grouping together a number of narrowly focussed specialists may limit the board's perspective and, consequently, its potential effectiveness.

6.4.2 The exact mix of skills for directors of CCOs will vary depending on the structure of the CCO and its objectives. As a starting point, the ideal director of a CCO would have the following attributes:

- intellectual ability,
- an understanding of governance issues, including financial management and accountability requirements,

⁵² Reference: Institute of Directors in NZ, (1998); BP 1998/1; “Best Practice for New Zealand Directors – Board Composition and Mix”, (1998).

- either business experience or experience in the “subject matter” of the CCO (i.e. tourism, marketing, etc) or both,
- sound judgement,
- a high standard of personal integrity,
- the ability to work as a member of a team.

Directors will usually also be able to contribute specialist or professional skills to the work of the board. The board may include persons who have qualifications and/or experience directly related to specific sectors within the tourism industry, such as accommodation or transport. Other areas of expertise which are relevant to composition of the board are tourism management, marketing, public relations/communications, tourism, planning, local government.

- 6.4.3 “Executive” directors means persons who are managers of the CCO and are also appointed to the board, e.g. a managing director.

While executive directors can contribute a depth of knowledge about the activities of the CCO to the board’s deliberations, they may not provide the objectivity and independent judgement that may be required.

The appointment of executive directors to the board of a CCO needs to be carefully considered in terms of the local authority’s policy.

- 6.4.4 The interest of a CCO and its shareholders are best served by selecting the best people available to serve on the board. This may need to have regard for the interests of the RTO’s stakeholders. There is not, however, any need beyond this to achieve any age, gender or ethnic mix of board membership.
- 6.4.5 Directors should be appointed for a fixed term and reappointment should not be assumed or automatic. In order to ensure continuity and retention of corporate knowledge there should be a cycle of retirements.

A useful model is to appoint directors for a 3–year term and for one third of the board to retire by rotation each year. Reappointment should not be automatic, but subject to the director’s performance and the skills required of the RTO’s board. Some local authorities operate a policy of a maximum of two terms (i.e. 6 years) for appointment of directors except in exceptional circumstances.

6.5 Appointment of Chairperson

- 6.5.1 It is usual practice for a board to elect its own chairperson. Provision can be made, however, in a trust deed or company constitution for the local authority or authorities to appoint the chairperson.

6.5.2 Appointment of an effective chairperson is vital to the success of any board. A CCO chairperson plays a much wider role than merely chairing the meetings. The chairperson:

- is the ceremonial “head” of the CCO and often plays a major role as the public face of the CCO,
- provides leadership to other directors,
- is the major contributor to reviews of the performance of other members of the board, and
- along with the chief executive of the CCO is the primary point of contact between the local authority and the CCO.

6.5.3 In addition to the normal skills required of a director, the chairperson should have additional skills of:

- leadership,
- presiding over meetings,
- guiding and mentoring the chief executive,
- evaluating performance of other directors,
- representing the CCO to funders and other stakeholders,
- providing vision and leadership, and
- promoting compliance with the relevant statutory requirements.

Consequently, it is appropriate that additional consideration be given to the selection of the chairperson over other directors.

6.6 Process of Appointment

6.6.1 The local authority’s policy on appointment of directors to a CCO must be “objective and transparent”.⁵³

6.6.2 The Auditor-General⁵⁴ has advised that the process should demonstrate that the local authority has:

- identified the skills, experience and other attributes required of directors,
- sought expressions of interest in positions available from individuals who might be able to bring such skills to the board,
- evaluated applicants or nominations against objective criteria, and

⁵³ Local Government Act 2002. Refer s.57(1).

⁵⁴ Controller and Auditor-General, (1994); “Governance of Local Authority Trading Activities”.

- selected from applicants or nominated persons, those most likely to be effective directors.

When incumbent directors are being considered for reappointment it is important that the chairperson is consulted by the appointing local authorities responsible for selecting and appointing directors to ensure the skill requirements of the board are understood.

- 6.6.3 Before accepting appointment as a director it is normal that the prospective appointee be able to conduct a process of due diligence of the CCO given that directors have statutory responsibilities and may potentially be liable for actions of the board or CCO.
- 6.6.4 The process of recruitment and appointment may be managed by the local authority or may involve external professional advice. It is important that the person/agency responsible for managing the process has specific relevant experience in recruiting persons for governance responsibilities.
- 6.6.5 Where more than one local authority is involved in the appointment of directors, it is highly desirable that there be a formal agreement between local authorities on the appointment process and a common appointment policy.

It is also common in such situations for there to be a joint appointments or shareholders' committee which has the delegated authority to conduct the appointment process on behalf of the shareholding local authorities. (Refer 5.7.4).

- 6.6.6 In some RTO situations there may be mechanisms for specific stakeholder groups to make nominations or to appoint representatives to a governing body i.e. a trust. The same principles of recommended good practice for appointments should be applied in such situations.

6.7 Directors' Induction and Continuing Education

- 6.7.1 New directors to a RTO should be inducted to equip them to perform their role effectively from the outset without an excessively extended "learning curve".

Responsibility for induction of newly appointed directors lies with the chairperson, in conjunction with the chief executive. Induction should not be left to the new director(s) to initiate.

- 6.7.2 New directors should be supplied with background documents such as:
- the RTO's constitution,
 - statement of intent,

- last annual report,
- current strategic plan,
- current business plan,
- most recent board reports and accounts,
- RTO's organisational structure, and
- contact details of directors and senior management.

6.7.3 The chairperson and chief executive should meet with the new directors to brief them on the general operations of the RTO including:

- current mission, vision, key goals and strategies,
- board administration, including operating procedures, meeting dates, times and venues,
- biographies and background of other directors and senior management,
- relationships with RTO's funding local authorities and key stakeholders,
- administrative matters, including payment of remuneration,
- financial and non-financial performance,
- current issues facing the RTO.

Other specific matters may also need to be discussed.

6.7.4 Directors should be afforded an opportunity to be informed about trends and issues that may affect the tourism sector and the RTO's business. Arranging for directors to receive copies of specialist publications is a good means of doing this. The chief executive should also ensure that directors receive, on an informal basis, copies of relevant information generated both by the RTO and other agencies which may impact on its work.

6.7.5 Directors should also ensure that they keep up to date about issues affecting their governance responsibilities. This may involve attending conferences, seminars and/or workshops from time to time. It will also include being aware of relevant local authority issues, such as desired community outcomes, LTCCP and relevant policy decisions.

It is important that the board adopts a policy dealing with director's participation at such opportunities including:

- the nature of the events which a director may attend on behalf of the RTO,
- the basis of payment/reimbursement of registration fees, travel, meals and accommodation expenses (in full or a contribution),
- the process by which approval is granted,

- the procedure for authorizing payment of director's reimbursable expenses.

It is likely that for most RTOs that directors' involvement in such activities would be directly related to the tourism sector. Nevertheless, it may be appropriate for RTO directors to be involved in other forms of professional development, but this should be identified in the policy or treated on a case-by-case basis.

6.8 Directors'/Board Performance Reviews

6.8.1 Reviewing the performance of a board collectively and also individual directors can greatly assist the performance of governance in a RTO in a number of ways:

- clarifying the role of the board and the responsibilities of directors,
- reviewing the effectiveness of the collective performance of the board for governance of the RTO,
- reviewing the relationship between the board and management of the RTO,
- reviewing the individual contribution of directors to the work of the RTO's board, and
- assist with succession planning for the RTO's board.

"Directors have told us that after they initiated board performance appraisals their meetings went more smoothly, they got better information, they acquired greater influence, and they paid more attention to long-term corporate strategy.

Done properly, board performance appraisals may also improve the working relationship between the board and management – a powerful argument in itself for doing them"⁵⁵.

6.8.2 Types of Performance Reviews

Reviews can take different forms:

- formal or informal,
- collective or individual.

The techniques for performance reviews differ depending on the chosen form of evaluation.

⁵⁵ Conger JA, Finegold D and Lawler EE, (January/February 1998); "Appraising Boardroom Performance", Harvard Business Review.

Ideally, the board should agree on the form of the performance review with which directors are comfortable. Unless this occurs, the review may, itself, become an “issue” for the directors and the outcome may be counter-productive, the opposite to which is desired.

6.8.3 Content of performance reviews

The core issues which need to be considered in relation to performance reviews include:

- effectiveness of the board,
- managing relationships with the chief executive,
- internal governance,
- effectiveness of board meetings, and
- performance of directors/chairperson.

Where the board has developed a “charter” (refer 6.10.2) this would form an appropriate basis for a review of the board’s performance.

The following is a suggested menu of items for possible consideration in a board/director performance review:

CORE ISSUE	SPECIFIC CONSIDERATIONS
Key governance functions	Reviewing RTO’s role, goals and key functions. Establishing/approving strategic direction policies, and business plans. Monitoring implementation of RTO’s performance. Managing risks to RTO. Managing relationships with stakeholders. Being accountable to local authorities and other funders.
Relationship with Chief Executive.	Setting clear expectations for performance. Understanding issues. Providing support. Monitoring and reviewing performance. Reviewing remuneration and rewarding performance.
Internal governance	Committees. Delegations. Policy Register. Register of Interests.
Meetings of Board	Frequency and duration. Consider the right issues (forward vs backwards). Structure and content of Agenda. Programme for meetings (specific issues for different meetings). Decision making.

CORE ISSUE	SPECIFIC CONSIDERATIONS
Individual Directors	Attendance at meetings. Preparedness for meetings. Strategic perspective. Understanding and performing governance functions. Constructive input to discussion. Conduct, team work, conflicts.
Chairperson (additional requirements)	Consistency and even-handedness. Leadership of board "team". Focus. Time management of meetings. Judgement and decision-making. Communication with Directors. Mentoring.

6.8.4 Initiating and Conducting the Review

Responsibility for initiating a review of directors'/board performance should be the responsibility of the chairperson. For any board which has not previously undertaken a performance review, it would be less threatening for the review to be a collective review of the board's performance and to be informal. While the board can do this itself under the leadership of the chairperson, it is desirable to utilise a neutral facilitator, experienced in such reviews.

Any collective review of board performance should be complemented by informal reviews of individual directors by the chairperson. Usually, this can be done effectively through individual discussions.

More formal reviews of board performance will involve the use of confidential survey forms completed by all members of the board for collation by an independent party who would provide a report to the board on the results.

Formal evaluations⁵⁶ of directors on an individual basis can involve self-evaluation and separate evaluation by the chairperson followed by a discussion between the two. More comprehensive forms of review can involve a "360°" process, where all directors and senior management review performance of individual directors.

⁵⁶ The Institute of Directors in New Zealand (Inc) and the Crown Companies Monitoring and Advisory Unit have recommended procedures for board, directors' and chairperson's evaluations.

6.8.5 Recommended Good Practice for RTOs

RTOs should, as a minimum, conduct an annual review of collective board performance on an annual basis. This should be undertaken by a skilled facilitator, independent of the RTO, on either a formal or informal basis.

A suggested form of board performance review for completion by individual directors and independent collation is included as Appendix B.

Chairpersons of RTO boards should meet individually with directors at least annually, to discuss with them their performance as a board member.

6.9 Board Committees

6.9.1 Except for the council committee (refer 5.2.5) or business board models (refer 5.3.6) the board of an RTO may appoint committees at its discretion. In the case of the council committee or business board, sub-committees may be permitted but the authority to appoint these needs to have been given by resolution of the council when it established the committee or business board.

6.9.2 It is important to ensure that any committees which are appointed are to support the governance functions of the board. To that end committees may be an effective means of involving stakeholders or sector groups in the shaping of the RTO's strategies.

Committees are also a useful means to allow board members to undertake more detailed investigation of key issues for further consideration by the full board.

Committees may be delegated with authority from the board to undertake some specific functions such as approving a specific commercial arrangement negotiated by the chief executive.

6.9.3 Many organisations establish a "finance committee" or an "audit committee" of the board with designated responsibilities for monitoring the state of the RTO's financial performance, authorising payments above the chief executive's limit, or monitoring the RTO's risks.

6.9.4 Whether or not any RTO board decides to establish committees will depend on various factors:

- the size of the governing board,
- the scale and scope of the RTO's functions,
- the issues to be addressed by the board,

- the skills of the board members, and/or
- the stakeholder relationships to be managed.

6.9.5 Any committees must be established by resolution of the board which should specify:

- the role and responsibilities of the committee,
- whether it is to be a standing⁵⁷ or “ad hoc”⁵⁸ committee,
- its membership and convenor,
- any delegated authority, and
- its reporting requirements.

6.10 Governance Practices

6.10.1 It is appropriate that boards of RTOs have internal governance practices which are appropriate to the board. The minimum requirements of such internal governance practices should include:

- register of directors’ interests (which should be available to all directors),
- procedures for authorisation of directors’ remuneration payments and expenses (refer 6.11.4),
- policy for directors’ attendance at conferences, seminars, etc (refer 6.7.5),
- appointment of committees (refer 6.9.5),
- delegations to chairperson, other directors or committees, and
- financial delegations to the chief executive.

6.10.2 Some boards find it helpful to develop a “charter” for the operation of the board. This is not common for RTOs, but may have application. The content of the charter would be determined by the board itself, but could possibly cover:

- the board’s role and responsibilities,
- the role of directors in respect of the board’s role and responsibilities,
- expected behaviours of directors towards each other,
- protocols for directors’ contact with the chief executive and staff of the RTO, and
- protocols for communications from the RTO.

⁵⁷ Having an ongoing function and life.

⁵⁸ Established for a specified purpose only.

Where any RTO board has developed a charter, it would form an appropriate criterion against which the board's performance would be reviewed (refer 6.8.3).

6.10.3 RTO boards should ensure that the chief executive maintains a register of board policies and that these are reviewed at regular intervals by the board.

6.10.4 It is helpful if the board establishes a "programme" of activities for its meetings.

It is relatively common for meetings of any board to "fall in a rut" and spend an excessive amount of time reviewing past issues and performance. While this is a necessary and important governance function, the greater opportunity for the board to add value to the RTO is through "forward thinking". As a guide, it is suggested that at least half the board meeting should be devoted to strategic issues.

One means of achieving that is to develop a programme of matters to be considered by the board over the year so that at each meeting, in addition to the routine business, there is a specific matter of significance to the RTOs operations, which is considered in depth. Some suggested matters for such a programme are:

- review of the strategic plan,
- drafting of the statement of intent,
- stakeholder management,
- communications strategy,
- annual report,
- relationships with funders,
- risk management, etc.

6.11 Directors' Remuneration

6.11.1 It is considered appropriate that the directors of a RTO are remunerated for their involvement, because of the contribution they make, the time involved and the responsibilities and potential liabilities they accept. This is particularly relevant where directors are appointed as individuals independent of any stakeholder group or commercial entity involved in tourism.

6.11.2 Generally speaking the board does not approve the **aggregate** remuneration of its members as that would be the function of shareholders. The board may approve individual levels of remuneration within the aggregate.

For council committees and business boards the level of remuneration is subject to Schedule 7, Clause 6 of the Local Government Act 2002.

For council–controlled organisations the remuneration of board members will be determined by the shareholding council(s) of the company or as appropriate parties under any trust deed. A joint shareholders’ committee may have delegated authority to approve directors’ remuneration (refer 5.7.4). This would usually be done by resolution at the annual meeting of the RTO.

Recommended good practice would be for the chairperson of the RTO to have prior discussions with the shareholders’ representatives and propose any review of remuneration, with the justification, for informal agreement prior to the annual meeting so that formal approval is non–contentious.

- 6.11.3 Remuneration of board members should be set at a fair and reasonable level, having regard for the contribution of their skills, the time that is involved and their responsibilities.

As trustees or directors of companies, RTO board members incur legal responsibilities and obligations. It is appropriate that they are remunerated for so doing. Many trustees and directors are likely to be independent professionals or self–employed and the level of remuneration should be adequate to provide reasonable compensation for their investment of time and loss of usual income. An excessively low level of remuneration may deter qualified and experienced persons from making themselves available. On the other hand, given that “public money” is involved, the level of remuneration should be justifiable.

Board members will be called upon to prepare for and attend RTO board meetings and be involved in other activities. As a general guide the duration of board meetings will be matched by equivalent time in preparation.

The following hypothetical case study identifies typical board member’s annual time commitment.

EXAMPLE
RTO BOARD MEMBERS' ANNUAL TIME COMMITMENT

The following is a summary of the typical time commitment of a member of an RTO board:

1. Monthly Board Meetings (11 per year):		
(a) Preparation	3 hours each	33
(b) Board Meetings	3 hours each	33
2. Annual Strategic Planning Workshop (including preparation)		10
3. Stakeholder liaison (3 meetings per year – 2 hours each)		6
4. Committees and other governance duties		20
5. Conference attendance		8
6. Representation duties (6–8 per year) – 1½ hours each		<u>10</u>
Total time involvement		<u>120</u> hours

It would be usual to expect that the chairperson's time commitment will be at least double that of ordinary board members. He/she will be in regular and frequent contact (at least weekly) with the chief executive of the RTO, plan the agenda for board meetings with the chief executive, liaise with other board members, attend meetings with funding local authorities and other stakeholders.

6.11.4 For board members of trusts and companies, recommended practice would be to establish an annual fee for their services which would be payable monthly. There should be a board policy which outlines the procedure for payment of director's remuneration and expenses which is transparent.

Board members should also be reimbursed for expenses incurred on the RTO's behalf, such as travel (including personal vehicle), toll calls, etc.

As a guide, it would be usual to fix the chairperson's remuneration at double that of ordinary board members, given that his/her time commitment will be proportionally greater.

6.11.5 The following table sets out a suggested scale for RTO board members' remuneration based on the level of funding received from local authorities.

RTO's Annual Turnover	Annual Remuneration	
	Chairperson	Ordinary Board Member
Over \$2 million	\$20,000 – \$25,000	\$10,000 – \$12,500
\$1 – \$2 million	\$15,000 – \$20,000	\$7,500 – \$10,000
\$500,000 – \$1 million	\$10,000 – \$15,000	\$5,000 – \$7,500
Under \$500,000	\$7,500 – \$10,000	\$3,000 – \$5,000

6.11.6 The approval of board members' remuneration is usually done as the aggregate amount. The following case study demonstrates a typical approach to its calculation. The chairperson's remuneration is based on twice that of an ordinary member, having regard to the additional time commitment (refer 6.11.3).

**EXAMPLE
AGGREGATE REMUNERATION OF RTO BOARD**

The RTO receives a total of \$1.75 million of funding from local authorities. It operates as a council-controlled organisation.

The RTO is governed by a board of 6 directors. The remuneration of the board has been fixed by the shareholders at the annual meeting of the CCO at a total of \$60,000 per annum.

The distribution of this amount must be determined by the board and can be calculated as follows:

Ordinary directors	= 5
Chairperson	= $\frac{2}{7}$ equivalent ordinary directors
Total	= 7 equivalent ordinary directors

Theoretical calculations:

Ordinary director's remuneration	= \$60,000/7
	= \$8,571
Chairperson	= 2 x \$8,571
	= \$17,142

"Rounding Off" calculations:

Based on the theoretical calculation, an appropriate distribution would be:

5 ordinary directors @ \$8,600 each	= \$43,000
Chairperson	= <u>\$17,000</u>
Total	= \$60,000

Board Resolution:

The board would adopt a resolution along the following lines:

"That the chairperson's annual remuneration be fixed at \$17,000 and directors' annual remuneration at \$8,600 each. Remuneration shall be paid in equal monthly payments."

6.11.7 Where the RTO is a CCO individual directors' remuneration must be disclosed in the annual report (refer 7.3.6).

7. RELATIONSHIPS WITH FUNDING LOCAL AUTHORITIES

7.1 General Scope of Relationships

7.1.1 The relationships between the funding local authority(ies) and the RTO can be broadly categorized under three headings:

- constitutional arrangements,
- accountability requirements, and
- funding agreements.

7.1.2 In the case of council departments and business units, there are no statutory provisions relating to constitutional documents, although it is recommended practice that business units should be subject to a specific policy (refer 5.3.3).

Council organisations, particularly trusts or companies, have statutory requirements surrounding their establishment (refer 5.4.8).

Trusts require a trust deed which specifies the powers of the trustees. Companies require a constitution which meets the provisions of the Companies Act.

These are areas of complexity and local authorities should obtain independent professional advice on the drafting of these critical constitutional documents. Constitutions of RTOs are usually publicly available from the RTO itself or from the New Zealand Companies website and may be of assistance in the development of the constitution of a RTO.

With independent organisations (trusts or companies) local authorities have no input to the constitutional arrangements with the possible exception of an incorporated society if the local authority is a member with specific authority.

7.1.3 Accountability requirements are covered by:

- (a) Statements of intent for CCOs,
- (b) Performance reports for all governance models.

Performance reporting by council departments and business units will generally be established through the local authority's internal policies and procedures.

Performance reporting to CCOs is required under the Local Government Act on a six-monthly basis and the minimum content is specified. Additional levels of reporting can be imposed through the statement of intent or the funding agreement.

Performance reporting by independent organisations can only be imposed as a condition of the funding agreement.

- 7.1.4 The funding agreement between the local authorities and the RTO is the critical document governing their relationship.

For council departments this will be through the annual business plan and council policy (refer 5.2.8).

For business units the minimum basis should be the annual business plan, but the preferred arrangement should be a service (level) agreement (refer 5.3.5).

For CCOs the “service contract” should be the basis for funding and reporting (refer 5.4.10).

This arrangement should also apply to independent organisations (refer 5.8.3(d)).

7.2 Statements of Intent

- 7.2.1 A CCO must have a “statement of intent” (Sol) which is agreed annually between the CCO and the shareholding local authority(ies). The Sol must not be inconsistent with the CCO’s constitution. The Sol must comply with the requirements of the legislation⁵⁹. The Sol must be delivered in the final financial year prior to that which it applies.

The Sol is potentially a powerful governance tool through which a local authority can exercise control over the activities of a CCO. Hence, its preparation needs careful consideration. The Sol can be changed as the instigation of local authorities. Hence, development of the Sol is an important function for both the board of the CCO and the local authority. The Auditor-General⁶⁰ has recommended that:

“Councils should ensure that the reviews they conduct on the SCI (now Sol) are rigorous, and set out clearly their expectations for company performance. They should use the annual process for negotiating the SCI to review the rationale for their involvement as shareholders and their intentions for the business against their overall objectives as councils.”

⁵⁹ Local Government Act 2002. Refer s.64 and Schedule 8, Clause 9.

⁶⁰ Controller and Auditor-General, (June 1994); “Governance of Local Authority Trading Activities. Ref paragraph 419.

7.2.2 The purpose of a Sol is:

- provide an opportunity for shareholding local authorities to influence the direction of the CCO,
- provide a basis for accountability of the directors of the CCO to the shareholding local authorities for the performance of the CCO,
- state publicly the activities that the CCO will engage in and the objectives to which they will contribute.

7.2.3 The Sol must be specific for the financial year to which it applies and the two subsequent years and contain the following information:

- the objectives of the group,
- a statement of the board's approach to governance of the group (refer 7.2.4),
- the nature and scope of the activities to be undertaken by the group,
- the ratio of consolidated shareholders' funds to total assets (and the definitions of those terms),
- the accounting policies of the group,
- the performance targets and other measures by which the performance of the group may be judged in relation to its objectives,
- an estimate of the amount or proportion of accumulated profits and capital reserves that it is intended to be distributed to shareholders,
- the kind of information the group must provide to the shareholders during those financial years, including the information included in any half yearly report (including what prospective financial information is required and how it will be presented),
- the procedures to be followed before any member of the group subscribes for, purchases or otherwise acquires shares in any company or other organisation,
- any activities for which the directors seek compensation from any local authority (whether or not the local authority has agreed to provide compensation). If the CCO has undertaken to obtain compensation or has obtained compensation for any activity, this amount must be recorded in the annual reports of both the CCO and the local authority,

- the directors' estimate of the commercial value of the shareholders investment in the group and when and how that value will be reassessed (if this is appropriate), and
- any other matters the directors and shareholders agree to include in the statement.

Appendix D contains a sample Sol for a CCO.

7.2.4 The Auditor-General⁶¹ has recommended that a CCO board have a statement on governance might contain the following information:

- (a) Structure, function and obligations of the board including such information as the role, the size of the board, any committees and delegations to those committees, executive and non-executive directors, obligations of the board in relation to statements of intent, reporting.
- (b) Guidance and resources provided to directors including ongoing training, succession planning, a code of conduct, performance evaluation procedures for the board.
- (c) Significant policies in place for accountability including policies for communication with stakeholders and other shareholders, risk management policies and procedures, selection procedures for a Chief Executive.

7.2.5 The process for preparation of the Sol is set out in the Local Government Act 2002. The directors of the CCO must prepare a draft Sol on or before the first of March preceding the financial year to which the statement relates i.e. draft statements of intent for the 2005/6 financial year must be prepared by 1 March 2005. Copies of that draft must be delivered to the shareholding local authorities.

The shareholders then have until 1 May to make comments on the draft, but must return comments as soon as possible. The directors of the CCO must consider any comments and then deliver a completed soil to the shareholding local authorities on or before 30 June.

7.2.6 The Act sets out two ways of modifying a Sol during the year.

The first is where the board wishes to modify a statement. The board must give shareholding local authorities written notice of the proposed change, and then consider any comments on the modification. Shareholders have one month to comment on any proposed

⁶¹ Controller and Auditor-General, (2001); "Local Authority Governance of Subsidiary Entities".

modification, unless the shareholders and directors agree on a shorter period (as might happen in emergencies).

The second process is a slightly more limited one where the shareholders wish to modify the statement by including or omitting matters of the kind listed in clause 9(1)(a) to 9(1)(i) of Schedule 8 to the Act.

These matters include:

- objectives,
- nature and scope of activities,
- performance targets and measures,
- information to be provided to shareholders.

The shareholders can require a modification by passing a resolution to make a modification and notifying the directors of that resolution. Before giving notification, the shareholders must have regard to the objectives they have for the organisation and consult the directors on the matters referred to in the notice.

Modification of a Sol should be used infrequently. On the one hand frequent changes by directors will not promote good relations with the shareholders and may lead to adverse performance reviews. On the other hand shareholding authorities that make frequent use of this process may, in the long run, find themselves unable to recruit and retain competent people to serve as directors of CCOs. Nevertheless, the ability to modify the Sol provides an opportunity for the local authority to control the direction of the CCO's business and, in particular, approve important transactions.

7.3 Service Agreements/Contracts

7.3.1 Commissioning of service delivery from a RTO should be based on mutually agreed terms which are documented to record the obligations of the parties for delivery of outputs, the level of funding to be provided, the basis for accountability and assist in overall management of the relationship.

7.3.2 In the case of RTO models which are "controlled" by the funding local authorities, i.e. council departments, business units and CCOs, this commissioning/accountability is desirably a service agreement.

In the case of independent organisations the mechanism needs greater precision and a formal contract agreement needs to be prepared and executed by the funding local authorities and the RTO.

7.3.3 The suggested content of a service agreement is as follows:

- (a) Preamble—definition of the parties i.e. RTO and funding local authority(ies) including term of agreement.
- (b) General description of the desired community outcomes and the outputs to be provided by the RTO for the local authority(ies) and their relationship to the LTCCP.
- (c) Specific Output Requirements (e.g. output description and specifications, performance/quality criteria, volume/quantity of outputs) and performance measures and targets to be achieved by the RTO.
- (d) Cost/price of outputs to funded/paid by local authority(ies).
- (e) Basis of payment e.g. equal monthly payments, payments for volume, specific achievements.
- (f) Arrangements for varying the output specification or amending volume/scope of service or adding new services.
- (g) Reporting requirements.
- (h) Performance issues (i.e. penalties for non-performance).
- (i) Resolution of disputes.
- (j) Other matters e.g. renewal, representatives.

A suggested form of service agreement is set out in Appendix E.

CASE STUDY FUNDING AGREEMENT
The scope of the 3-year Funding Agreement between a RTO and a funding local authority includes the following:
1. Preamble: – council authorisation, – term of Agreement, – the annual amount to be paid.
2. Council's Obligations: – provide agreed level of funding, – monitor and review RTO's performance, – meet with RTO to review progress, agree service requirements and performance measures.
3. RTO's General Obligations: – contribute to long-term economic growth of visitor industry, – advocate for and represent tourism interests, – promote the destination, – increase domestic visitors and extend length of stay, – undertake market research, – growth convention business, – manage visitor information centres.

4. RTO's Specific Obligations:
 - Projects with additional dedicated funding.
5. RTO's Reporting and Liaison Requirements:
 - Meet with council officers to establish service requirements and performance measures,
 - liaison arrangements with council,
 - quarterly performance reports,
 - twice-yearly attendance at committee.
6. Performance Review Arrangements
7. Basis of Funding:
 - annual base funding,
 - project specific funding,
 - terms of payment,
 - basis for review,
 - termination of funding.

7.3.4 **“PostCards from Home”**⁶² has identified that a desirable outcome for 2010 is *“certainty of long-term funding for RTOs”*. An indication of success will be long-term funding agreements between local authorities and RTOs. The action that is desired to achieve such an outcome is a flexible model approach to long-term funding contracts with RTOs, such as a “rolling budget with regular reviews”.

Ideally, both the funding local authorities and RTOs should have reasonable certainty about the base funding of the key functions. For local authorities this funding of RTOs should be identified in the LTCCP and annual plan (refer 4.3). For RTOs their certainty for funding should be provided through the service agreement/contract.

RTOs need to be able to undertake their planning and activities within a guaranteed funding horizon of 2–3 years. Local authority funding of RTOs on an annual basis (i.e. through the annual plan process only) through which all funding is fully contestable each year is counter-productive for all parties. RTOs will devote significant effort to managing the funding relationship to the possible detriment of performing their key functions.

A recommended practice is for the service agreement/contract to provide for at least base funding to have a 3-year rolling term with annual review as described in the following case study:

⁶² Local Government Tourism Strategy (May 2003).

EXAMPLE ROLLING FUNDING ARRANGEMENT		
<p>Through its LTCCP and Annual Plan process for the 2004/2005 financial year, the district council has agreed to fund the RTO on a 3-year term (2004/2005 – 2006/2007) on the following basis:</p>		
Financial Year	Base Funding for Core Functions	Project Specific Funding
2004/2005	\$750,000	\$100,000
2005/2006	\$770,000	\$125,000 *
2006/2007	\$795,000	Not determined
* Subject to confirmation		
<p>The service contract specifies the “core functions” for which the base funding is to be applied. An annual “addendum” to the service agreement would identify the deliverables of the projects for which additional specific funding is to be provided.</p> <p>Towards the end of 2004/2005 the district council and RTO negotiates for the year following the initial 3 year term (i.e. 2007/2008) as follows:</p>		
Financial Year	Base Funding for Core Functions	Project Specific Funding
2005/2006	\$770,000	\$125,000
2006/2007	\$795,000	\$95,000
2007/2008	\$810,000	\$100,000 *
* Subject to confirmation		
<p>Towards the end of the 2005/2006 term the district council and RTO would negotiate funding for 2008/2009.</p> <p>This “rolling” 3-year term for funding provides both the district council and RTO with a greater level of certainty.</p>		

7.4 RTO Reporting

- 7.4.1 It is an essential element of accountability for the funding they receive from local authorities that RTOs report to their funders on the results that have been achieved. While regular liaison between the RTO and its funders is appropriate and desirable, there is also a need for more formal written reports.
- 7.4.2 The frequency and basis of reporting by the RTO should be agreed between it and the funders.

A suggested minimum frequency of reporting by the RTO is every three months (i.e. quarterly). While more frequent reporting, such as monthly may be practicable for council departments or business units,

the value of monthly reporting may not be justified for other models of RTOs. Where RTOs are using outcomes as a basis for reporting, the effort of collecting information and compiling the report may be significant. Hence, there needs to be a balance between a local authority seeking information from the RTO in order to monitor effectiveness and cost involved in the exercise.

In terms of the key functions of RTOs (refer 3.3), local authorities should be monitoring the effectiveness of the RTO's activities, i.e. is the funding producing value for money. In this regard funding local authorities may not require detailed financial performance reporting i.e. management accounts, unless the RTO is undertaking extensive trading activities, including operating facilities under contract to the local authority.

7.4.3 RTOs which are CCOs have a statutory obligation to report to their shareholding local authority on a six-monthly basis.⁶³ The report must include the information required by the statement of intent (refer 7.2.3).

7.4.4 RTOs should provide, at least, the following information in their reports to the funding local authorities.

- (a) Statement of the outputs delivered, including quality and quantity achieved.
- (b) Statement of the outcomes achieved during the period and year to date, measured in the terms agreed with the local authority.
- (c) Significant variances in the outputs delivered or outcomes achieved in relation to targets, including commentary on the variance.
- (d) Current and anticipated issues which may impact on the RTO.

7.4.5 RTOs should provide an annual report on their performance/ achievements to the funding local authorities, irrespective of the nature of the entity (i.e. including "independent organisation"). This should include, at least, the information recommended in 7.4.4 for the full year compared with the previous year.

It would be appropriate for the RTO to provide commentary on the market and trends in tourism that impact on the desired outcomes of any tourism strategy.

⁶³ Local Government Act 2002. Refer s.66.

7.4.6 Where the RTO is a CCO, it is required to produce an annual report which contains specific information⁶⁴:

- (a) A comparison of the RTO's performance against the statement of intent;
- (b) An explanation of material variances between actual performance and the targets of the Sol;
- (c) Any dividend to be paid (not likely in the case of a RTO, except where it undertakes trading activities with the objective of being profitable);
- (d) Audited financial statements;
- (e) The Auditor's report;
- (f) Any other information required by the Sol.

The requirements of the Financial Reporting Act 1993 apply which includes disclosure of remuneration of directors.

7.5 Monitoring of RTOs by Local Authorities

7.5.1 Local authorities are required to monitor and report on progress in achieving the desired community outcomes (refer 4.2.1, 4.2.4 and 4.3.4 of this Guide)⁶⁵. It is up to each local authority to decide how to undertake such monitoring, but it must seek input of other organisations, such as the RTO, who are contributing to the achievement of the outcomes.

The basis of monitoring can be illustrated as follows:

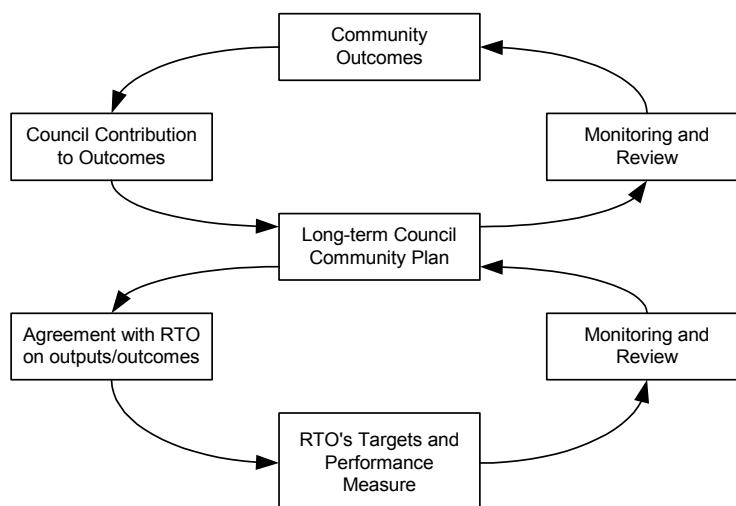


FIGURE 7.1 – FRAMEWORK FOR MONITORING

⁶⁴ Ibid. Refer s.67, 68 and 69.

⁶⁵ Ibid. Refer s.92.

7.5.2 In the case of a RTO which is a CCO, the shareholding local authorities have specific obligations.⁶⁶ These include undertaking regular performance monitoring to evaluate the RTO's contribution to the achievements of:

- the local authority's objectives for the organisation,
- the desired results specified in the Sol, and
- the overall aims and outcomes of the local authority.

Generally, organisations which have the requisite expertise and devote adequate time to establishing well focussed performance measures and targets, will be effective at monitoring their performance.

In this regard, experience has shown that the more effective mechanisms are committees which include both local authority representation and private sector expertise.

7.5.3 Monitoring is assisted by informal communications between the RTO and funding local authorities such as:

- (a) Regular meetings between the management of the RTO and local authority,
- (b) Occasional, possibly quarterly, meetings between RTO chairpersons and chief executives, senior politicians/ executives of the local authority.
- (c) Briefing of council committees and stakeholders' groups by the RTO.

7.5.4 Local authorities which fund RTOs need to be able to account to their communities for the investment that they make in tourism promotion via the RTO. In order to do that they need to be kept informed and must effectively monitor the RTO's performance.

Formal monitoring processes, via reports from the RTO, are the main basis for such assurance. Notwithstanding informal communication between the RTO and its funders, the value of the formal mechanisms provide local authorities, elected members and their officials with added information to enable them to monitor progress towards achievement of community outcomes and provide assurance that the investment of public funds is justified.

⁶⁶ Ibid. Refer s.65.

- 7.5.5 For the RTO regular and comprehensive reporting to funding local authorities (at formal and informal levels) offers advantages beyond accountability requirements. Such contact can assist in ensuring continuity of funding, can identify issues which can be addressed by the local authority and RTO, either jointly or independently, through changes in strategy or specific action, or may result in other specific projects being undertaken by the RTO and funded by the local authority.

EXAMPLE MONTHLY REPORT OF RTO								
The following template outlines a monthly report of an RTO to its board:								
1. <u>STATISTICAL DATA:</u>								
Performance Measure	Month				Year to Date			
	This Year	Last Year	% Change	Target	This Year	Last Year	% Change	Target
Accommodation Establishments								
Daily Capacity								
Monthly Capacity								
Occupancy rate (%)								
Visitor arrivals								
Visitor nights								
Length of stay								
2. <u>ORIGIN OF VISITORS:</u>								
International (specified countries)								
Domestic (specified regions)								
3. <u>MARKETING ACTIVITIES:</u>								
(a) International								
(b) Domestic								
4. EVENTS AND CONFERENCES								
5. PUBLIC RELATIONS								
6. PUBLICATIONS AND CORPORATE COMMUNICATIONS								
7. LOCAL ISSUES								

8. PERFORMANCE MANAGEMENT OF RTOs

8.1 Concepts

8.1.1 Sections 7.3, 7.5 and 7.7 of this Guide describe typical processes by which local authorities engage RTOs to provide services and how the RTOs performance can be monitored (refer Figure 7.1).

It is important to understand the various terms that are used in relation to these functions.

8.1.2 **Outcomes** mean the results, impacts or consequences of the activities of the RTO and local authority.

Outputs mean the services which are delivered by the RTO.

Inputs mean the resources which are employed or utilised by the RTO to produce outputs such as money, personnel, materials, etc.

8.1.3 Inputs are used to produce outputs which, in turn, contribute to achievement of the desired outcomes. The relationship can be depicted as follows:

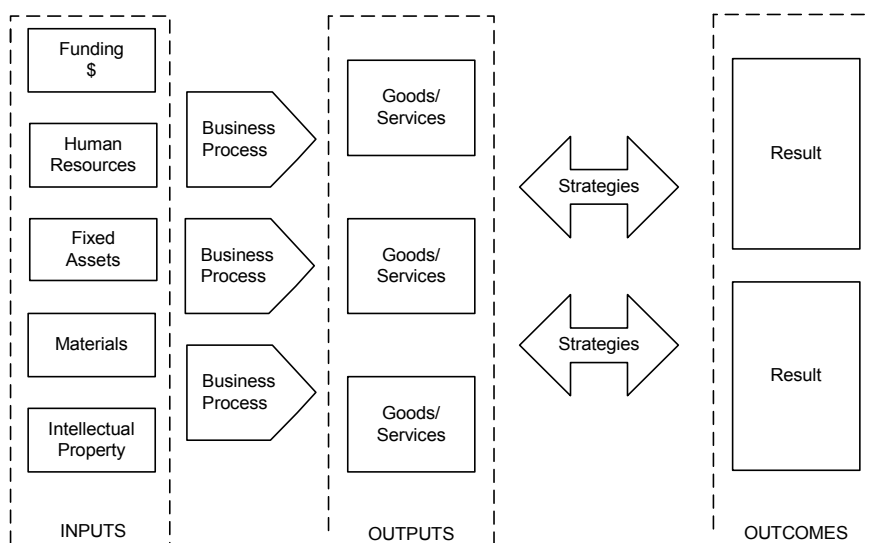


FIGURE 8.1 – RELATIONSHIP OF INPUTS/OUTPUTS/OUTCOMES

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This diagram shows that the relationship between outcomes and outputs is based on choice of strategy. In other words, *“If we want to achieve a particular outcome, what strategy should we use?”*

The relationship between outputs and inputs is based on business processes. *“How do we utilise the inputs we have at our disposal to deliver the required service?”*

The process is as follows:

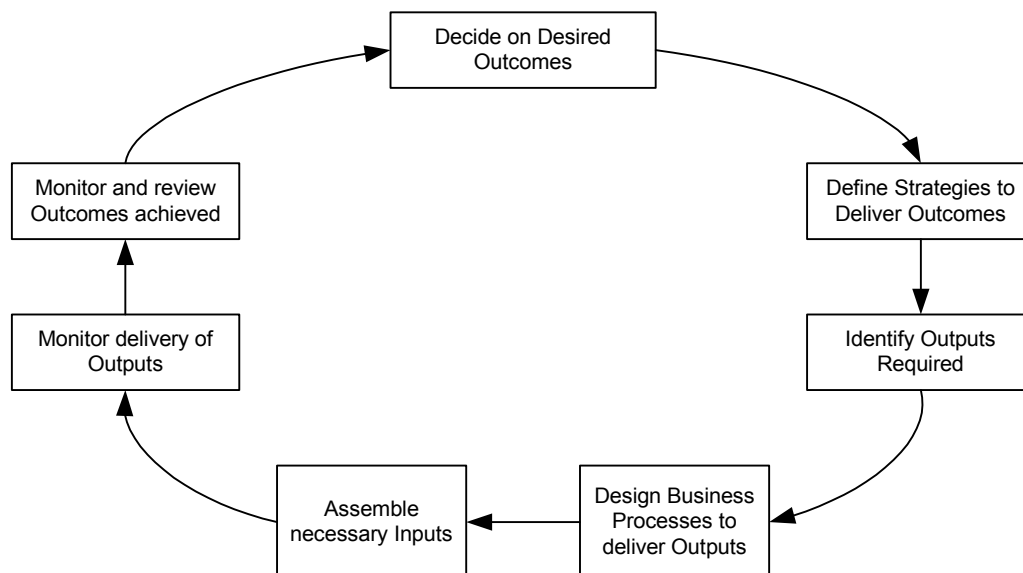


FIGURE 8.2 – PROCESS OVERVIEW

8.2 Community Outcomes

8.2.1 Local authorities must identify the desired community outcomes (refer 4.2.1). Having done that they must identify in the LTCCP how they will contribute to these (refer 4.3.2). They may deliver services themselves, charge a CCO with responsibility for delivery or engage an independent organisation, through a contractual arrangement to do this.

8.2.2 Some of the information required to be included in the LTCCP⁶⁷ is as follows:

“1 Community outcomes

... .

(a) describe the community outcomes . . .

(b) describe how the community outcomes have been identified:

(c) describe how the local authority will contribute to furthering community outcomes:

... .

(e) outline how the local authority will, to further community outcomes, work with—

(i) other local organisations and regional organisations; and

⁶⁷ Local Government Act 2002. Refer Schedule 10, Part 1.

The suggested minimum content of those documents has been described in 7.3.3 of this Guide and includes:

- general description of desired community outcomes,
- specific outputs to be delivered by the RTO,
- output performance measures and targets.

8.3.2 Hence, the concept is that outputs to be delivered by the RTO and funded by the local authority must be directed at the community outcomes. It is important that the documentation reflects this concept in practice.

It is particularly important that the focus of the business relationship is on delivery of outputs and achievement of outcomes and not directed at inputs.

8.3.3 An output is the specific service to be delivered by the RTO. It should be expressed in terms which allow for performance to be measured and for targets to be set.

8.4 Performance Measures

8.4.1 The Audit Office has recommended the following basis for performance measurement of outputs:

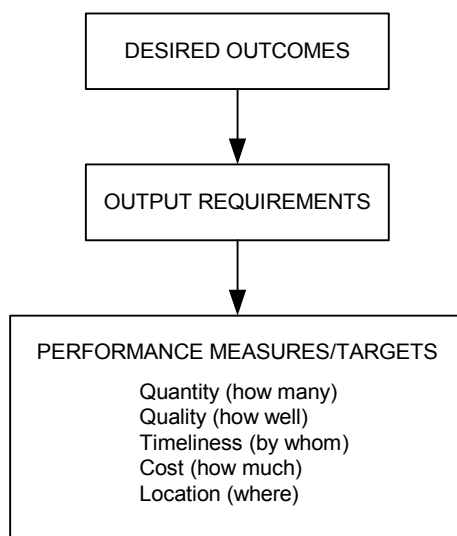


FIGURE 8.3 – BASIS FOR PERFORMANCE MEASURES

[Source: The Audit Office, (1990); “Performance Reporting in the Public Sector”.]

Performance measures must be representative of the characteristics of the outputs which are to be delivered by the RTO under its service agreement/contract with the local authority.

The choice of performance measures should reflect the strategy choice i.e. how the planned outputs will lead to achievement of desired outcomes.

8.4.2 The Auditor-General⁶⁹ has also suggested that good performance measures must be appropriate and reliable.

Appropriate performance measures between a RTO and funding local authorities are likely to be:

- relevant to the interests of stakeholders,
- understandable, transparent and trackable,
- complete.

Reliable performance measures are likely to be neutral and verifiable.

8.4.3 The “Balanced Scorecard”⁷⁰ is a multi-dimensional model for aligning efforts in different areas towards common desired outcomes. The original Balanced Scorecard comprised four perspectives that identify, measure and report on key performance indicators in:

- a financial perspective,
- a customer perspective,
- an internal business processes perspective, and
- a learning and growth perspective.

The Balanced Scorecard technique is used by some local authorities to develop performance measures.

A good Balanced Scorecard will have a mix of outcome measures and output measures. This mix of measures is likely to be relevant to RTOs.

The concept of “lead indicators” and “lag indicators” suggested by the Balanced Scorecard method is helpful when compiling a mix of measures for a RTO. These recognise the “cause and effect” relationship that exists between outputs and outcomes. “Lead indicators” are performance measures that relate to delivery of outputs while “lag indicators” relate to outcomes. Using a mix of lead and lag indicators can assist in identifying whether or not a strategy is appropriate to achieve desired outcomes i.e. is there a strategic linkage between the outputs and outcomes.

⁶⁹ Controller and Auditor-General, (2001); “Reporting Public Sector Performance”.

⁷⁰ Kaplan RS and Norton DP, (1996); “The Balanced Scorecard”, Harvard Business School.

**EXAMPLE
LEAD/LAG INDICATORS**

A business entity has defined its desired outcome as a specified proportion of the market within its area of operations. Its lag indicators are:

- total sales revenue, and
- market share.

It measures total sales performance through its own internal business systems while the total market sales for the area are measured by a trade association through annual returns.

It has identified a series of strategies to achieve the desired outcomes including:

- product development,
- quality customer service,
- employee upskilling.

The lead indicators that it is using include:

- brand/product recognition,
- customer satisfaction,
- repeat customers,
- employee retention.

8.5 Typical Performance Measures

8.5.1 Research⁷¹ amongst RTOs has identified that there are two main categories of performance measures that are considered relevant to RTOs:

- national, and
- regional.

National performance measures or indicators reflect the collective marketing of New Zealand as a single product, e.g. the number of international visitors.

Regional measures are relevant because RTOs compete for market share in both the domestic and international markets. An example of such a measure would be the proportion of international visitor nights spent in the region.

8.5.2 Covec Limited have developed for Regional Tourism Organisations of New Zealand the following “Key Performance Indicators” (KPIs) for national, regional and local levels:

⁷¹ Covec Limited, (2003); “RTO Research and Monitoring Review”.

Level/KPI	Domestic	International
National		
Number of Visits to NZ		
Number of Visitor Nights Spent in NZ		
Visitor Nights in Commercial Accommodation in NZ		
Total Visitor Expenditure in NZ		
Total Economic Benefit to NZ		
% of Visitors "Satisfied" – with National Tourism Experience		
Regional		
% of National Visitor Nights Spent in Region		
% of National Nights in Commercial Accommodation		
% of National Visitor Expenditure Spent in Region		
% of National Economic Benefit in Region		
Economic Benefit as % of Regional GDP		
% of Visitors "Satisfied" with Regional Tourism Experience		
Local		
% of Regional Visitor Nights in Local Area		
% of Regional Nights in Commercial Accommodation		
% of Regional Visitor Expenditure Spent in Local Area		
% of Regional Economic Benefit in Local Area		
Economic Benefit as % of Local GDP		
% of Visitors "Satisfied" with Local Tourism Experience		

KEY PERFORMANCE INDICATORS FOR RTOs

[Source: Covec Limited (2003)]

There is a strategic relationship between the outputs that RTOs may be contracted to deliver and the desired outcomes (see Fig 8.1). The outputs are measured by KPIs and these may indicate that a RTO has delivered the outputs required. Whether or not the desired outcomes have been delivered will depend on the appropriateness of the selected strategy. The relationship between RTO performance measures and outcomes is still a subject of research and further development.

CASE STUDY PERFORMANCE MEASURES – OUTCOME BASED

A RTO has targeted the following desired outcomes for its "domestic marketing" activity:

- growth in domestic visitor nights,
- growth in weekend night occupancy,
- growth in hotel revenue from weekend occupancy.

The RTO has developed a series of strategies to achieve these desired outcomes. In order to monitor performance it has established the following measures:

- domestic visitor nights and growth rate,
- weekend occupancy and growth rate,
- Sunday occupancy and growth rate.

These measures are directly related to the desired outcomes and are collected by the RTO through confidential surveys completed by the accommodation providers.

CASE STUDY PERFORMANCE MEASURES – OUTCOME BASED

A RTO has agreed on a vision:

“For (the region) to become New Zealand’s premier food, wine and lifestyle destination”.

They have established specific targets for desired outcomes for:

- visitor numbers,
- visitor nights, and
- visitor expenditure.

The performance measures that are utilised to monitor these outcomes are:

- share of New Zealand market growth for commercial visitors,
- visitor origins,
- visitor numbers,
- visitor expenditure.

Two of these measures are directly related to desired outcomes viz visitor numbers and visitor expenditure.

The other two measures are not well related to desired outcomes i.e. growth of market share and visitor origins. The vision relates to “premier” destination and hence, market share compared with other destinations would be an appropriate measure, but it needs a related outcome and target. Visitor origins would be an appropriate measure if there was a desired outcome to target specific countries or grow visitor numbers from a specific region in the international visitor market.

There is no performance measure that is related to the desired target for visitor nights.

Hence, these measures while having interest and significance in themselves could be improved through relevant strategic linkages.

CASE STUDY PERFORMANCE MEASURES – OUTPUT BASED

An RTO has been charged by its funding local authorities to deliver the following outputs:

- tourism development plan,
- data collection for visitor numbers, origin of domestic/international visitors,
- preparation of visitor guide and distribution.

Such outputs form part of the “marketing” activity to achieve positive outcomes for the region, but these are unclear.

The performance measures related to the outputs simply relate to whether or not the output has been delivered i.e. “achieved/not achieved”. More appropriate indicators are desirable such as:

- timeliness (when is the output to be delivered e.g. completion of the development plan),
- location (where are the visitor guides to be distributed),
- quality (is the data accurate or is there stakeholder satisfaction).

The simple “achieved/not achieved” performance measure for outputs can be improved through consideration of parameters for quantity, quality, timeliness, cost and location.

9. RTOs AND ECONOMIC DEVELOPMENT AGENCIES

9.1 Strategic Considerations

9.1.1 Tourism is an important driver of economic growth in New Zealand. In 2002 there were more than 2 million international visitors to the country who contributed over \$6 billion to the economy.⁷² Provisional figures⁷³ for the year ending March 2002 indicate that the tourism industry contributed \$14.6 million to the New Zealand economy or 9% of GDP and supported 150,000 full-time equivalent jobs. Tourism was the second largest export earner behind the dairy industry.

9.1.2 The economic impact of tourism varies from region to region and in some areas it is the dominant economic driver, while in others it may contribute a relatively small proportion of total economic activity. (Refer 4.3.5 of this Guide “Case Study – Tourism and Community Well-being”).

9.1.3 “Economic Development” has been defined as:

“the capacity of regional economies to provide jobs, income and other economic resources required to achieve or maintain a healthy standard of living and quality of life for the population in a given area.”⁷⁴

9.1.4 Tourism forms a sector amongst the suite of economic drivers in any region.

The relationship between a region’s economic development strategy and the regional tourism strategy is referred to in Section 4.4 of this Guide.

The Auditor-General⁷⁵ has suggested that local authorities:

- should have a clearly expressed economic development strategy,
- should invest in facilitation rather than costly (and higher risk) direct investment,

⁷² Source: Tourism Research Council New Zealand; “New Zealand Tourism Forecast: 2003–2009”.

⁷³ Source: Tourism Research Council New Zealand (May 2003).

⁷⁴ Source: Economic Development Study Advisory Committee, Urban Centre, Cleveland State University, USA.

⁷⁵ Controller and Auditor-General, (2002); “Local Authority Involvement in Economic Development Initiatives.”

- need to access adequate expertise, experience and capability,
- may need to share expertise.

These recommendations apply to local authority investment in tourism, either individually or as a subset of overall economic activity.

9.1.5 Local authorities, either singly or collectively, may establish inhouse “economic development units” (EDUs) or “arm’s length” “economic development agencies” (EDAs) charged with the responsibility for implementing regional economic development strategies.

9.2 Possible Governance Structures

9.2.1 The range of possible governance structures for EDAs (or EDUs) is effectively the same as RTOs:

- council departments,
- council business units,
- council–controlled organisations (companies or trusts),
- independent organisations (incorporated societies, companies or trusts).

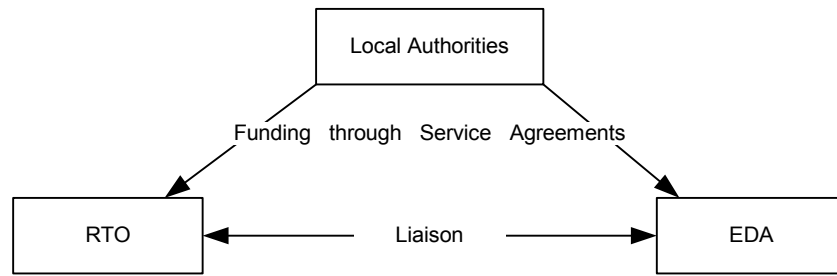
Similarly, several local authorities within a region may collaborate to fund services to be delivered by an EDA under a “shared services” arrangement as described in 5.7 of this Guide.

9.2.2 The recommended best practice for local authorities commissioning services from an EDA is also identical to that used for a RTO.

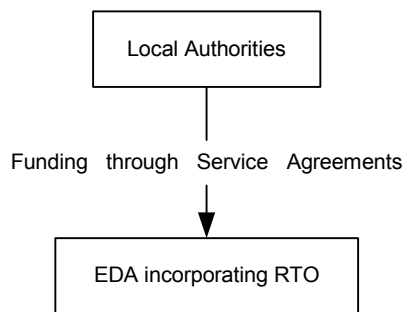
9.2.3 Given these similarities in governance structures and commissioning arrangements, it is appropriate to consider if there are disadvantages from combining the EDA and RTO into a single governance structure. Such arrangements operate successfully in specific regions under a range of governance structures e.g. trusts, companies, etc.

9.2.4 EDAs and RTOs do not undertake the same functions but there is often a lot of common ground. A region that has successfully positioned itself as an attractive place to visit has a head start in attracting students, permanent residents and commercial businesses. Nevertheless, although a region may be promoted as having plenty of job opportunities and as being attractive for setting up industry, this does not necessarily encourage leisure visits. Investment in visitor destination marketing should also be considered as adding value to business and resident attraction programmes which are functions normally undertaken by EDAs.

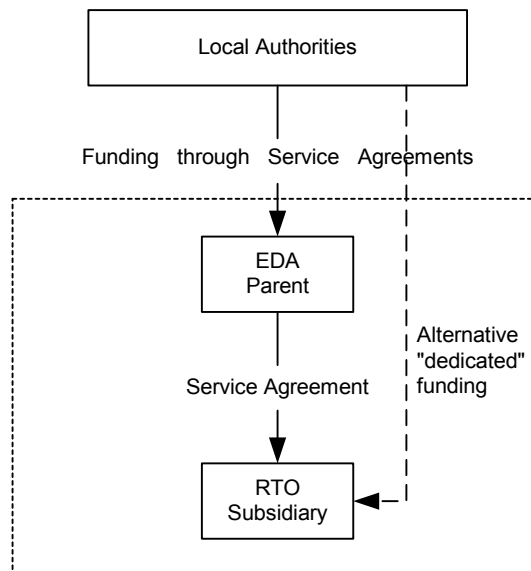
9.2.5 The relationship between RTOs and EDAs can be classified under three generic governance structures:



MODEL A - INDEPENDENT AGENCIES



MODEL B - FULLY INTEGRATED MODEL



MODEL C - SUBSIDIARY MODEL

FIGURE 9.1 – EDA/RTO GOVERNANCE STRUCTURES

Models B and C can be referred to as “combined” EDA/RTO structures.

In respect of Model C (Subsidiary) the EDA and RTO are each independent legal entities, but the RTO is a subsidiary of the EDA. It may be that the nature of the governance models differs e.g. the EDA may be a trust while the RTO may be a company of which the EDA is sole shareholder. (Refer 5.6.5).

- 9.2.5 Each of these options has been successfully applied. The appropriateness of the options would appear to be contingent on the extent to which tourism is a significant economic driver in a region.

Model A is generally appropriate where tourism is a major economic driver. Models B and C are appropriate where tourism is not major, but C offers an opportunity to have a dedicated RTO function and to be able to “ring fence” the funding stream for tourism.

There are potential synergies and advantages through utilising some common directors on both EDA and RTO under Model A.

- 9.2.6 The possible synergies to be achieved from combining EDAs and RTOs include:

- a more integrated regional marketing campaign,
- improved regional brand consistency,
- gaining greater economies of scale for some overheads and activities such as image library development,
- broader strategic perspective on infrastructure and planning issues which affect various sectors of a region’s economy (for example addressing air access from both a freight and passenger perspective), and
- integration of industry development resources with destination marketing.

It should be noted that these synergies can also be achieved by independent RTOs and EDAs cooperating closely. Both types of organisations tend to attract highly committed people to senior management positions and this can lead to patch protection and non-alignment of activity.

- 9.2.7 Tourism stakeholders are often concerned that the tourism activities within a combined EDA/RTO will lose focus and that insufficient tourism industry expertise will be maintained at senior management level. It is important not to integrate tourism and economic development with the hope one set of strategies and tactics will work for both. The complex nature of the tourism industry distribution chain and consumer decision-making process mean that quite different tactics are required. It is probable that a fully integrated model is more likely to succeed in provincial regions where the EDA and RTO organisations are smaller and often have more budgetary constraints. There is insufficient evidence to advocate for EDA/RTO amalgamation

as a best practice model throughout New Zealand. Again the key issues, regardless of each region's structures are role clarity and avoidance of resource duplication.

- 9.2.8 Arguments for a fully integrated EDA/RTO based on economies of scale should be carefully examined. In particular, the detailed costings and assumptions behind any benefit/cost analysis should be critically appraised.

It is important that the respective EDA and RTO functions are delivered effectively under any combined structure. Assessing the advantages should not only consider the cost savings, but also any potential reduction in effectiveness of the combined EDA/RTO.

9.3 Advantages/Disadvantages of Combined EDA/RTO

POSSIBLE ADVANTAGES	
1.	Combined agencies offer potential economies of scale, but avoiding duplicated structures.
2.	Potentially better integration of regional tourism strategy within over all regional economic development strategy – better alignment of goals and strategies.
3.	Single governance mechanisms and reduced compliance and transaction costs.

POSSIBLE DISADVANTAGES	
1.	Potential loss of focus on tourism.
2.	Risk of fragmentation of tourism activity if staff are engaged in multiple sectors. Tourism strategy may not be focussed.
3.	Risk of funding to tourism activity being reduced.
4.	May not have staff with skills required for RTO functions which operate under specific paradigms.
5.	Success/failure of RTO functions largely linked to wider EDA functions.

CASE STUDY COMBINED RTO-EDA STRUCTURES	
<p>While there are currently three examples of combined EDA/RTO models, these models have not been established long enough to measure and report on improvements in tourism outcomes for the regions.</p> <p>Possible savings or purchasing efficiency may occur at CEO and admin level, however the same number of staff and resources are likely to be required to deliver typical RTO marketing programmes. Careful analysis of synergies and operational savings should be carried out.</p> <p>Under current government policy, EDAs have been better positioned to access strategy development and implementation funding. As a result, a number of combined EDA/RTOs have been successful in gaining tourism industry development funding under economic development strategies. A change in government policy could close off this opportunity.</p>	

- There are a number of risks in combined entities including a perceived loss of focus on tourism resulting in erosion of tourism industry support.
- Regardless of structure, determining role demarcation and partnerships between RTOs and EDAs (especially in branding and industry development) is critical.

[Source : Destination Planning Ltd, (2003); "NewRTOs and NZ Peak Tourism Organisation Guidelines"]

10. RTOs AND MAORI TOURISM GROUPS

10.1 Strategic Considerations

10.1.1 The New Zealand Tourism Strategy 2010 highlighted the need for increased Maori participation in tourism at all levels, including regional tourism planning, development and marketing.

10.1.2 A Maori Regional Tourism Group (MRTG) is recognised by the local RTO as the primary sector group for Maori tourism in the region. It usually comprises commercial operators and is funded by industry membership and/or Government grants. (Examples are Maori in Tourism Association (Rotorua) or Tai Tokerau Maori and Cultural Tourism Association).

The primary role of MRTG is to promote and develop the capacity of the Maori tourism sector.

There is no hierarchical relationship between RTOs and MRTGs but a relationship built on collaboration. The parties may contract between themselves for delivery of service.

10.1.3 “**Postcards from Home**”⁷⁶ advocates co-ordination between MRTGs and local authorities/RTOs. This can be achieved in a number of ways:

- (a) Regular liaison between the MRTG and RTO.
- (b) MRTG input to the development of the regional tourism strategy.
- (c) Establishment of “Maori Tourism Committee” within the RTO governance/management structures (e.g. Rotorua).
- (d) MRTG representation in the governance structure of the RTO.
- (e) Memorandum of Understanding between RTO and MRTG.

All of the foregoing can be utilised successfully. The choice should be based on consideration of the scale of Maori tourism in a region, the nature of the desired outcomes and strategies contained in the regional tourism strategy, the governance model under which the RTO operates and the skills and expertise required under the directors’ appointment policy.

Several Maori Regional Tourism Groups (MRTGs) and RTOs have worked together for the benefit of their regions.

10.1.4 RTOs should give consideration to an appropriate mechanism for integrating MRTG’s activities with the regional tourism strategy.

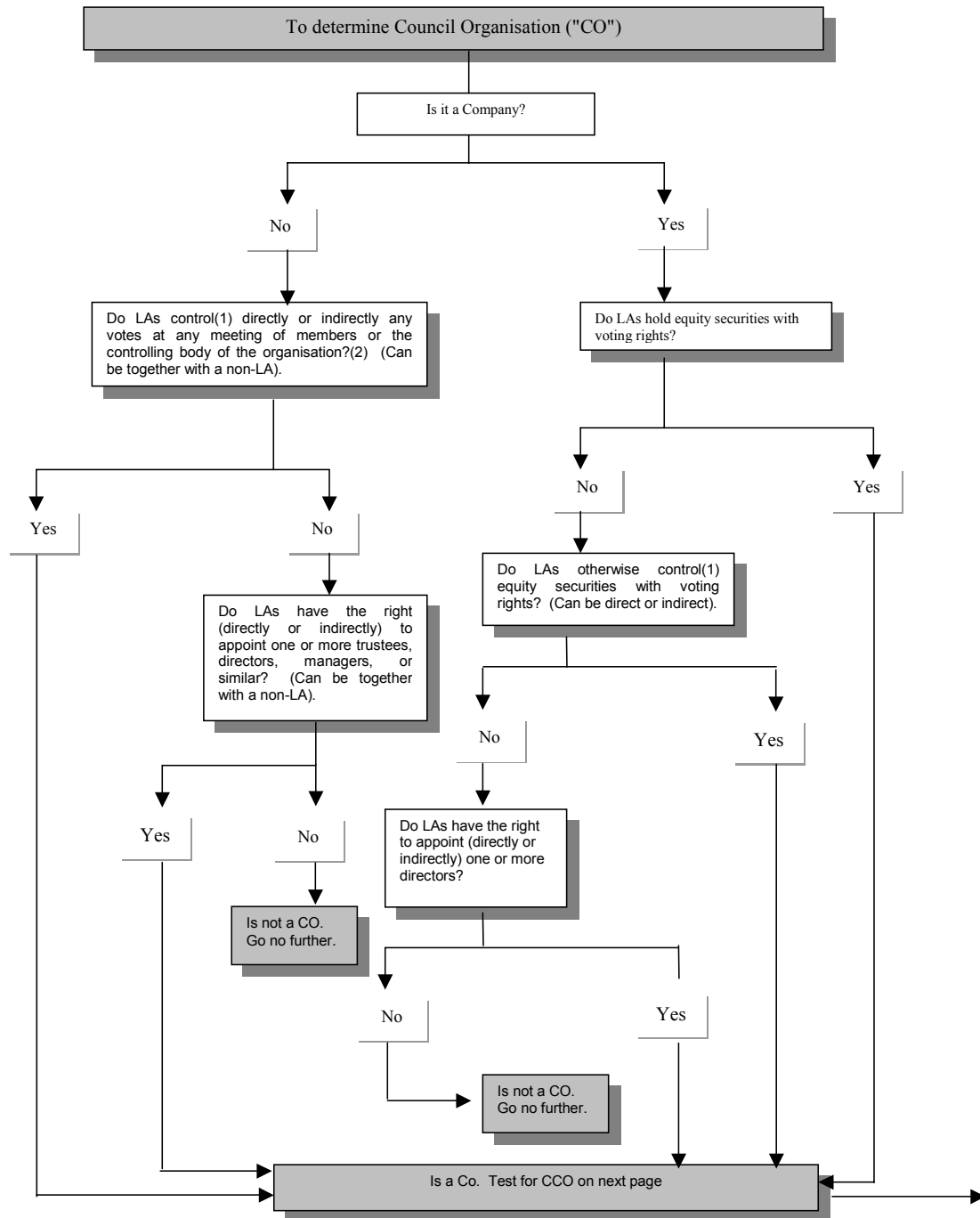
Local authorities and RTOs should also refer to “Local Government Relationships with Maori” (July 2002) for further information.⁷⁷

⁷⁶ Local Government Tourism Strategy (May 2003).

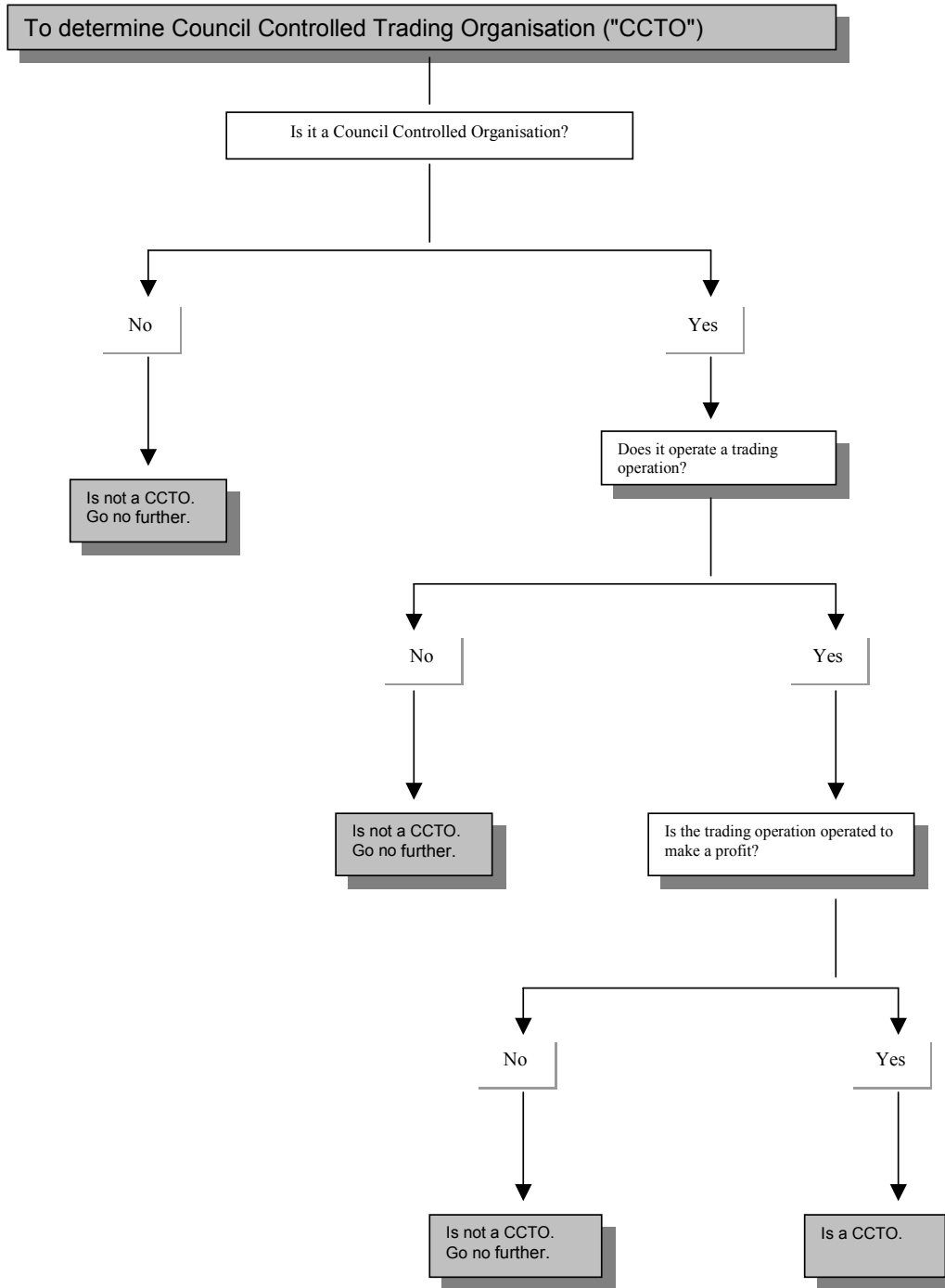
⁷⁷ Prepared for Local Government New Zealand and Te Puni Kokiri.

APPENDIX A

TESTING FOR DIFFERENTIATION BETWEEN A CO, CCO AND CCTO



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APPENDIX B

SUGGESTED FORM FOR BOARD PERFORMANCE REVIEW

Mark 0 – 5

1 = Occasional/Ineffective

5 = Regularly/Very Effective

A. Key Governance Functions:

1. Does the board determine and periodically review the RTOs role, goals and key functions?
2. Does the board establish and periodically review strategic direction and policies?
3. Does the board periodically monitor the RTO's performance in relation to its strategic direction, policies and business plans?
4. Does the board periodically review risks to the RTO and the management of those?
5. How effective is the board in monitoring relationships with the RTO's stakeholders?
6. Is the board accountable in terms of its statement of intent, service agreement/contract, annual report to its local authority and other funders?

Total score for Key Governance Function

[Rating: 25 and over = Very Good; 19–24 = Satisfactory;
13–18 – Fair; 12 and less = Poor]

B. Relationship with Chief Executive:

1. Has the board set clear expectations for the chief executive's performance?
2. Is communication between the board and chief executive open and frank?
3. Is the board effective in monitoring the chief executive's performance?

4. Does the board regularly review the chief executive's remuneration and reward performance?

Total score for Relationship with Chief Executive
[Rating: 17 and over = Very Good; 13–16 = Satisfactory;
9–12 = Fair; 8 and less = Poor]

C. Governance Practices

1. Does the board delegate effectively?
2. Are policies recorded in a policy register and regularly reviewed?
3. Is the Register of Director's Interests available and up to date?

Total score for Governance Practices
[Rating: 13 and over = Very Good; 9–12 = Satisfactory;
5–8 = Fair; 4 and less = Poor]

D. Board Meetings

1. Are board meetings held sufficiently frequently and of sufficient duration to be effective?
2. Are meetings well-balanced between reviewing past performance and forward planning?
3. Is the structure and content of the agenda appropriate to effective consideration of important issues?
4. Is there a programme of specific issues for consideration by the board?
5. Do board meetings produce sound decisions based on good information and input from all directors.

Total score for Board Meeting
[Rating: 21 and over = Very Good; 6–10 = Satisfactory;
11–15 = Fair; 10 and less = Poor]

SUMMARY OF BOARD PERFORMANCE REVIEW

- A. Key Governance Functions
- B. Relationship with chief executive
- C. Governance Practice
- D. Board Meetings

Score	Rating

APPENDIX C

SAMPLE POLICY FOR APPOINTMENT AND REMUNERATION OF DIRECTORS OF COUNCIL ORGANISATIONS

Introduction

The Kiwi District Council either owns or has an interest in a number of council organisations (COs).

Each of these organisations delivers services, provides advice, or in some way supports the achievement of the objectives in the council's long-term council community plan.

The Local Government Act 2002 requires that the council may appoint a person to a directorship of council organisations only if the council considers the person has the skills, knowledge and experience to:

- guide the organisation given the nature and scope of its activities,
- contribute to the achievement of the objectives of the organisation.

The council is required to adopt a policy setting out an objective and transparent process for identifying and considering the skills required of a director of a council-controlled organisation (CCO), and appointing the directors of CCOs.

Skills

The council considers that any person that it appoints to be a director of a CCO should, as a minimum, have the following skills:

- intellectual ability,
- an understanding of governance issues,
- either business experience or other experience that is relevant to the activities of the organisation (or both),
- sound judgment,
- a high standard of personal integrity,
- the ability to work as a member of a team.

Appointment Process

When vacancies arise in any CCO the council will follow the following process for appointing directors.

The council will decide in open council whether to advertise a particular vacancy or make an appointment without advertisement. When making this decision the council will consider:

- the costs of any advertisement and process,
- the availability of qualified candidates,
- the urgency of the appointment (e.g. a CCO that is without a quorum cannot hold board meetings).

APPOINTMENT BY ADVERTISEMENT

Where the council decides to advertise a vacancy, it will form an ad hoc committee to consider applications and make a recommendation to the council. The Mayor, or a councillor nominated by the Mayor, will chair the committee.

A shortlist of candidates will be prepared by the Mayor, the chairperson of the committee charged with responsibility for monitoring the CCO and the chief executive.

The shortlisted candidates will be interviewed by the relevant committee and the committee will report to council on each of the candidates. The committee may make a recommendation if it wishes to do so.

APPOINTMENT WITHOUT ADVERTISEMENT

Where the council decides not to advertise a particular vacancy it will refer the matter to the council committee that is responsible for monitoring the CCO.

The council committee will consider the appointment at its next scheduled meeting. The committee will identify a shortlist of candidates whom it considers meet the above criteria and will forward those to council together with a report explaining why these candidates meet the criteria. The committee may make a recommendation.

FINAL APPOINTMENT

The council will make a decision in committee (thus protecting the privacy of natural persons). Public announcement of the appointment will be made as soon as practicable after the council has made its decision.

An elected member who is under consideration to fill a particular vacancy may not take part in the discussion or vote on that appointment.

Conflicts of Interest

Kiwi District Council expects that directors of COs will avoid situations where their actions could give rise to a conflict of interest. To minimise these situations the council requires directors to follow the provisions of the New Zealand Institute of Directors' Code of Ethics. All directors are appointed "at the pleasure of the council" and may be dismissed for breaches of this code.

Remuneration

Remuneration of directors of COs is a matter of public interest.

Where the council is the sole shareholder in a particular organisation the council will set director's remuneration either by resolution at the annual general meeting or will review salaries on an annual basis (for those organisations that do not have such a meeting). In reaching a view on the appropriate level of remuneration for directors of council organisations the council will consider the following factors:

- the need to attract and retain appropriately qualified people to be directors of the CCO,
- the levels and movement of remuneration in comparable organisations (the council will retain professional advice on remuneration levels and movements),
- the objectives of the CCO (in particular whether or not the CCO operates on a charitable basis),

- the past performance of the CCO,
- whether the CCO is operating as a trading undertaking, and
- the financial situation of the CCO.

In cases where the council cannot exercise direct control, such as in an organisation where it is one shareholder among many, it will conduct its own monitoring of salaries against the above factors and will publicly disclose the name of any CCO which it considers is not complying with the above factors.

[Source: Local Government New Zealand, (2003); “The KnowHow Guide to Decision Making – Under the Local Government Act 2002 – Governance”]

APPENDIX D

SAMPLE STATEMENT OF INTENT FOR A COUNCIL-CONTROLLED ORGANISATION

1. INTRODUCTION

The name of the CCO, the location of the registered office of the CCO, contact details for the chairperson and the Chief Executive of the CCO (other directors and/or officers of the company may be included if desired).

A list of the subsidiaries of the CCO (if any).

A statement that the CCO is a council-controlled organisation for the purposes of the Local Government Act 2002 and of the legislation under which the CCO operates (e.g. Companies Act 1993, Trustee Act 1956.) A statement of whether or not the CCO is a for-profit CCO or a not-for-profit CCO.

The first year covered by the statement of intent and the two subsequent years.

The objective(s) of the CCO and subsidiaries as stated in the company constitution.

2. NATURE AND SCOPE OF ACTIVITIES

A list of the activities that the CCO will engage in, and for each:

- a description of the activity,
- its expected contribution to the overall objective(s) of the CCO or other reason for engaging in the activity,
- the performance targets and other measures by which the activity may be judged in relation to its objectives.

3. FINANCIAL DISCLOSURE

The ratio of consolidated shareholders funds to total assets (and the definitions of those terms).

The accounting policies of the group (e.g. a definition of the accounting entity, revenue recognition, depreciation, cost of capital, asset valuation procedures).

The procedures to be followed before any member of the group subscribes for, purchases or otherwise acquires shares in any company or other organisation.

Any activities for which the directors seek compensation from any local authority. (Not required for a not-for-profit CCO).

The directors estimate of the commercial value of the shareholders investment in the group and the manner in which, and the times at which, that value will be reassessed.

An estimate of the amount or proportion of accumulated profits and capital reserves that it is intended to be distributed to shareholders, i.e. dividend policy. (Not required for a not-for-profit CCO).

Larger CCOs (and especially the for-profit CCOs) should consider including full forecast financial statements, including statements of financial performance, statements of financial position, and statements of cash flow. (Some of the other items will require that the CCO

have prepared this information, and in any case some of the information will be required by other legislation especially for companies).

Any particular financial constraints imposed on the CCO by shareholders and not disclosed elsewhere, e.g. debt:equity ratios should be no more than x.

4. OTHER DISCLOSURE

Other matters that the directors and shareholders have agreed to include in the statement, or which the shareholders have resolved should be included in the statement.

The kind of information to be provided to the shareholders by the group during those financial years, including the information included in any half-yearly report (including what prospective financial information is required and how it will be presented).

5. GOVERNANCE STATEMENTS

Information on:

- **structure, function and obligations of the board** including such information as the role, the size of the board, any committees and delegations to those committees, executive and non-executive directors, obligations of the board in relation to statements of intent and reporting.
- **guidance and resources provided to directors** including ongoing training, succession planning, a code of conduct, performance evaluation procedures for the board.
- **significant policies in place for accountability** including policies for communication with stakeholders and other shareholders, risk management policies and procedures, selection procedures for a Chief Executive.

[Source : Local Government New Zealand, (2003); "The KnowHow Guide to Decision Making – Under the Local Government Act 2002 – Governance"].

APPENDIX E

SUGGESTED FORM OF SERVICE AGREEMENT

The Agreement is entered into between *[RTO's name]* and *[Local Authority/Authorities]* for the period ending *{Date}*.

The RTO will undertake the functions and/or deliver the services specified in this Agreement and attached Schedules and will receive payment for such functions/services on the basis outlined.

1. GENERAL

1.1 The general description of the functions/services to be performed by the RTO is as follows:

- (a) *[Describe functions/services in general terms]*
- (b) *[Describe functions/services in general terms]*

...

1.2 *[Description of community outcomes and local authority's objectives to which the RTO's functions/services contribute].*

1.3 The RTO agrees that it is their general intention to perform functions and undertake services in an efficient, effective and economic manner, so that they contribute to the *[Local Authority's]* objectives in respect of tourism and contribute to desired community outcomes.

2. SPECIFIC OUTPUT REQUIREMENTS

The attached Schedules identify the specific output requirements to be delivered by the RTO including:

2.1 Outputs, service specifications, how service is to be delivered, recipients of service, quality standards, performance requirements.

2.2 The estimated volume/quantity of services to be delivered, including performance targets/measures or outcomes to be achieved.

2.3 The price to be paid for the outputs to be delivered by the RTO.

2.4 Payment will be made monthly by *[Territorial Authority]* not later than 20th of month following delivery of service. Payment shall be made on the basis contained in the Schedule and shall not be varied except as provided for in this Agreement.

3. VARIATION OF FUNCTIONS/SERVICES

3.1 Where *[Local Authority]* seeks to vary the volume/quantity of service to be delivered by the RTO, either up or down the payment for services shall be adjusted on a pro-rata basis; provided, however, where the variation of volume/quantity exceeds 15% of the monthly/annual scheduled volume/quantity either party may request an adjustment of price.

3.2 Where *[Local Authority]* wishes the RTO to vary the specific service requirements or to undertake a function/service which is unscheduled and is not incidental to any other functions/service the price to be paid by the local authority to the RTO shall be subject to mutual agreement.

4. LIAISON

- 4.1 The RTO undertakes to liaise quarterly with [*Local Authority*] in respect of the functions/services delivered in relation to:
- the RTO's performance in respect of functions/services,
 - effectiveness in relation to [*Local Authority's*] objectives, and desired community outcomes,
 - quality of delivery, and/or
 - efficiency and cost of delivery.

5. REPORTING BY RTO

- 5.1 The RTO shall report monthly/quarterly to [*Local Authority*] in writing, not later than 15 working days following the end of the period on the delivery of services.
- 5.2 Such reports shall include:
- statement of the outputs delivered,
 - quality of outputs in terms of service standards and performance requirements,
 - the volume/quantity of outputs, delivery, outcomes achieved, compared with targets,
 - current or anticipated issues which the RTO considers may impact on the delivery of outputs delivered or outcomes achieved.

6. PERFORMANCE ISSUES

- 6.1 Where the RTO fails to deliver the required outputs for the quarter, or the targeted outcomes are not achieved over two consecutive quarters, the RTO and [*Local Authority*] shall meet to review performance.
- 6.2 Persistent failure of the RTO to deliver specified outputs to the standard or quantity required over two consecutive quarters may lead to termination of this Agreement by [*Local Authority*].

7. DISPUTE RESOLUTION

- 7.1 The RTO and [*Local Authority*] agree to a co-operative approach to resolving any dispute concerning this Agreement and, in the first instance, shall endeavour to resolve any dispute by direct negotiation.
- 7.2 In the event that the parties are unable to resolve any dispute directly, they may engage a mutually acceptable mediator to assist them in resolving the dispute.
- 7.3 In the event that the parties are unable to resolve any dispute by mediation, they agree to refer the matter to arbitration by a single arbitrator in terms of the Arbitration Act 1996.

8. OTHER MATTERS

- 8.1 The RTO's Representative is:

[*Provide name, designation and contact details*].
- 8.2 The [*Local Authority's*] Representative is:

[*Provide name, designation and contact details*].

9. EXECUTION OF AGREEMENT

For and on behalf of RTO

For and on behalf of [*Local Authority*]

SCHEDULE OF SERVICES

DESIRED OUTCOME	OUTPUT REQUIREMENTS					BASIS FOR REPORTING	
Outcome Statement	Output to be delivered	Output Specification	Quality Standards	Output Quantity	Output Price	Performance Measure	Target