



# Local government election governance arrangements: Guidance for Civil Defence Emergency Management Groups

During the period from the official announcement of the election results to the date of the first meeting of the local authority, a state of local emergency and a notice of a local transition period will only be able to be declared/given by the Minister for Emergency Management

## Introduction

1. The purpose of this report is to clarify the governance arrangements for Civil Defence Emergency Management Groups (CDEM Group), as they relate to Mayors and Chairpersons, over the period of local government elections.
2. Section 13 of the Civil Defence Emergency Management Act 2002 (CDEM Act) provides that each local authority that is a member of a CDEM Group must be represented on the Group by one, and only one, person, being the Mayor or Chairperson of that local authority (or an elected person from the local authority, if the local authority has taken the step of delegating the authority to act for the mayor or chairperson to another elected member).
3. Section 25 of the CDEM Act provides that a CDEM Group must appoint at least 1 representative from the CDEM Group to declare a state of local emergency/local transition period for its area. In addition, the Mayor<sup>1</sup> of a territorial authority also has the ability to declare a state of local emergency/give notice of a local transition period that covers the district of that territorial authority.<sup>2</sup>

## Continuity of representation

4. Where an elected member stands unopposed or the number of candidates does not exceed the number of vacancies, then the electoral officer can declare the persons elected at the period of close of nominations.<sup>3</sup> However, that person does not have authority to act in that official capacity until they have

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<sup>1</sup> Or an elected member of the territorial authority designated to act on behalf of the Mayor, if the Mayor is absent

<sup>2</sup> If the Mayor or the person(s) appointed under s25(1) are all absent, then any other member of the CDEM Group may exercise the power to declare a state of emergency/local transition period.

<sup>3</sup>Section 63 of the Local Electoral Act

- given their oral declaration (see *Power to act* below).
5. **Mayor of Territorial Authority / Unitary Authority:** Where the Mayor<sup>4</sup> is not standing for re-election, they are still in office and have the authority to declare a state of local emergency/give notice of a local transition period up to and including the day on which the electoral officer declares the result of the election. <sup>5</sup>
  6. The new elected Mayor (even if it is the same person as the previous Mayor) comes into office the next day. <sup>6</sup> In other words, there is no period between the two terms where there is no Mayor. However, incoming Mayors (even if re-elected) are not able to make decisions in their official capacity until they have sworn an oath of office (see *Power to Act* below).
  7. **Chairperson of Regional Council:** Similar to Mayors, the previous term's Chairperson's term ends at the end of the day of the official declaration of results, even if they are re-elected to the Council. For a Chairperson re-elected, although their membership of the local authority continues, their Chairpersonship does not continue. The Chairpersonship for the new term starts when the new elected members meet and vote the Chairperson for the next term.
  8. A Chairperson also can't act in their official capacity until they have completed their oral declaration, discussed in *Power to Act* below.
- Power to Act: When does a newly elected official obtain the power to act and make decisions?**
9. Although the elected members take office on the day after the election results are declared they do not immediately have the power to act in that official capacity, until they have sworn an oath of office.
  10. It is the Chief Executive of the local authority's responsibility to call and chair the first meeting of the local authority following a triennial general election, and to instigate the process of swearing in the new members. <sup>7</sup> This usually occurs within two weeks of the declaration of official results.
  11. An exception exists to allow the first meeting following an election to occur sooner than usual, if an emergency exists. <sup>8</sup> In this situation, the Chief Executive may give notice of the meeting as soon as practicable. There are specific requirements for the business to be conducted at that meeting (including the making and attesting of the declarations required by the mayor or chairperson). <sup>9</sup>

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<sup>4</sup> or the elected member delegated authority to act for the Mayor or Chairperson

<sup>5</sup> Sections 115 & 116 of the Local Electoral Act 2001

<sup>6</sup> Section 115(1) and 116(1) of the Local Government Act 2002

<sup>7</sup> Clause 21, Schedule 7, Local Government Act 2002

<sup>8</sup> Clause 21(3), Schedule 7, Local Government Act 2002

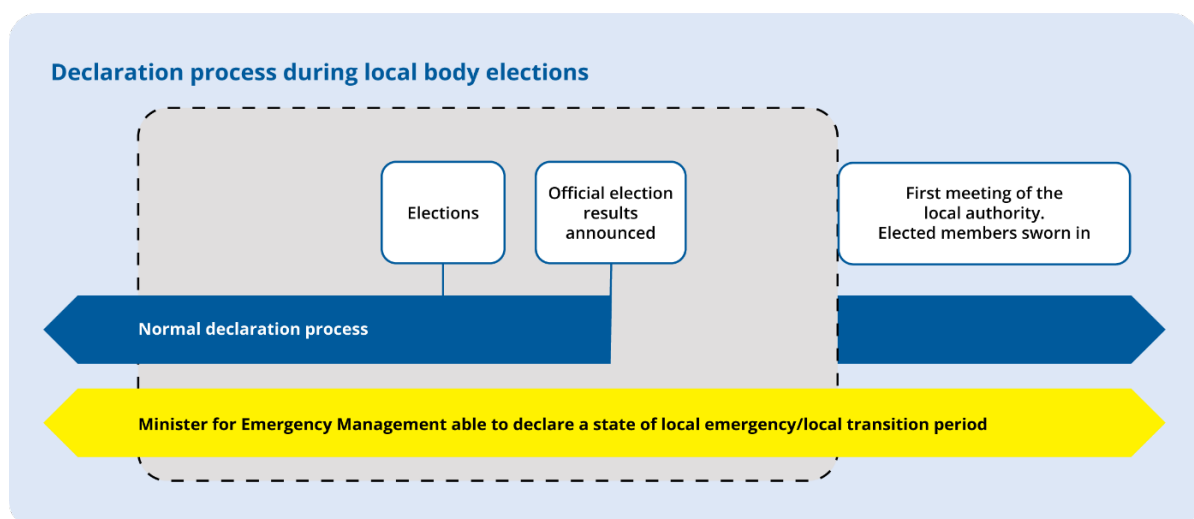
<sup>9</sup> See Clause 21(5), Schedule 7, Local Government Act 2002

## Who can declare a state of local emergency / give notice of a local transition period during this period?

12. During the period from the official announcement of the election results to the date of the first meeting of the local authority, a state of local emergency/notice of local transition period will only be able to be declared/given by the Minister for Emergency Management.
13. This could be a short period if the Chief Executive of the local authority uses his or her powers<sup>10</sup> to call a meeting in emergency circumstances with less than the usual 7 days' notice.
14. NEMA advises that the process for getting in touch with the Minister for Emergency Management is via the CDEM Group's Regional Emergency Management Advisor (REMA), who will link the local authority with the Director of Civil Defence Emergency Management and the Minister's office.

## What happens if the local authority's triennial election is postponed?

15. Where the triennial general election is postponed for a local authority (e.g. Tauranga City Council in 2022<sup>11</sup>) the local authority is not subject to the election restrictions outlined above and the normal arrangements for declaring state of local emergency or giving notice of a local transition apply.
16. The CDEM Group could appoint the person representing that local authority (i.e. the Commissioners) as the person authorised to declare a state of local emergency or give notice of a local transition period for the area of the Group<sup>12</sup>. That person also has the power to declare a state of local emergency or give notice of a local transition period for any districts within the Group's area.<sup>13</sup>



<sup>10</sup> Clause 21(3) of schedule 7 of the Local Government Act 2002

<sup>11</sup> Which has statutory appointed Commissioners under the Local Government Act 2002

<sup>12</sup> Section 25(1) of the CDEM Act

<sup>13</sup> Section 25(4) of the CDEM Act