

Regarding the Regulatory Systems (Internal Affairs) Amendment Bill

Submission to the Governance and Administration Committee

September 2025



Taituarā — Local Government Professionals Aotearoa (Taituarā) thanks the Governance and Administration Committee (the Committee) for the opportunity to submit in respect of the Regulatory Systems (Internal Affairs) Amendment Bill. (the Bill).

Taituarā is Aotearoa New Zealand's leading membership network for professionals working in and for local government. Our thriving membership base consists of just over 1,000 members, drawn from chief executives, managers, and staff across all 78 local authorities.

What unites Taituarā members is our commitment to being our professional best, supporting local government excellence through connection, collaboration, and care for the well-being of our communities.

Taituarā strengthens the local government sector by using our members' insight and experience to influence the public policy debate. We encourage thought leadership by enabling our members to step back from the day-to-day agenda, share wisdom, create value, and build knowledge.

The Bill amends some 23 pieces of legislation. We confine our submission to the proposed amendment to the Local Authorities (Members' Interests) Act 1968 (LAMIA). In addition to the amendment itself, we would like to take the opportunity to draw Parliament's attention to the need for a first-principles review of LAMIA.

Updating the limits on contractual relationships between elected members and councils addresses a long-standing issue in the law governing member conduct.

Our members have a critical role in helping elected members understand their obligations. LAMIA is a mandatory inclusion in the first briefing that Chief Executives must arrange for an incoming council. Our members are frequently called on as 'first responders' when elected members are unsure whether they have an interest.

The Bill amends the cap on the so-called contracting rule under LAMIA. This provides that any elected member who is concerned or interested in contracts with the local authority of more than \$25,000 in any year is disqualified from office (unless they receive approval) from the Auditor-General. The Bill proposes to raise the limit from \$25,000 to \$100,000.

We support the policy rationale for LAMIA, namely that those in elected office make decisions in the public interest and without the intrusion of personal interest. The limit represents Parliament's policy judgement as to what a de minimis amount (i.e. an amount small enough that it ought not influence a members judgement)

But the limit has not been reviewed since 1982. The proposed amount, therefore, represents some attempt to bring the limit up to (or at least nearer to) 2025 dollars. To demonstrate, \$25,000 in today's dollars was worth the equivalent of \$6000 1982 dollars.

The point is that leaving the limit where it is means that a pool of small to medium-sized local business owners is disqualified from office. A successful small business owner generally has a good set of skills at managing the finances and is well connected into community networks. This is a group that the sector as a whole should be encouraging to stand.

We doubt that the contracting rule remains relevant in the modern era. In the long term, a wider review of the Members' Interests Act would ensure that it forms a coherent part of the law regarding elected member conduct.

The contracting rule is one of two main provisions within LAMIA.

The *discussing and voting* rule holds that elected members' must not vote or take part in discussion of any matter where they have a pecuniary interest (other than one in common with the public) that is before a local authority. Breaching this requirement is a criminal offence, and on conviction, a member is ousted (that is, the office is deemed to be vacant). Although it is not always easy for elected members to determine whether their interests are pecuniary or whether they are in common with the public.¹

We doubt whether the contracting rule is needed at all. Having an interest in contracts with a local authority would create a conflict of interest for an elected member that might apply to a certain area or areas of the local authority's operations. But should the fact that an elected member who owns a road contracting business that contracts with the local authority automatically rule them out from involvement in decisions around parks or libraries or water supply? It is also hard to see how an interest of this nature would not also be pecuniary and remove that member from discussion and voting on some roading matters.

The Office of the Auditor-General has noted other issues with the contracting rule. As their 2005 report² notes:

- disqualification is automatic, there is no prosecution or formal declaration of the fact (unless the elected member acts while disqualified)
- it is not clear how long disqualification lasts
- it is unclear whether the Act applies to, or should apply to CCOs.

¹ To give an example, an elected member discussing and voting on the general rate has an interest in common with all other owners of rateable property and (sensibly) then would not experience any issues under this legislation. However, where a targeted rate was over a particularly small group of ratepayers an elected member may find themselves with a pecuniary interest. These issues are not black and white – there are many variations of grey.

² Office of the Auditor-General (2005), *Local Authority Members' Interests Act: Issues and Options for Reform*. Retrieved from https://oag.parliament.nz/2005/members_on_1_August_2025.

But LAMIA in its current form is complex, outdated, and difficult to interpret and apply. It predates accrual accounting, the modern financial management provisions, and the introduction of mandatory competitive tendering for NZTA roadwork and its acceptance elsewhere. Some core concepts, such as pecuniary interest are not defined.

We submit that this is a piece of legislation that needs to be reviewed from first principles. While not in scope of the Bill, we raise this with the Committee and ask the Committee to consider drawing this matter to Parliament's attention when the Committee reports the Bill back.

The Local Government (Systems Improvement) Bill currently before the Committee contains requirements on members to follow a code of conduct and a set of standing orders that have been centrally set. There is some concern that the present practices of local authorities in managing elected member behaviour are not working effectively. This is arguable, but regardless the management of conflicts of interest is a key part of a wider set of issues, pointing to the need for a review to be advanced.

In the interim period, a solution such as allowing the limits to be set by regulation appeals to us as a pragmatic solution to keeping the limit more current.



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