

**Ministry of Civil Defence  
& Emergency Management**

16 May 2003

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Wellington Regional Council  
**19 MAY 2003**

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H. Stone	[Signature]
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Dear Howard,

**Civil Defence Emergency Management Group Administrative Issues**

Please accept my thanks for your efforts in bringing partners together towards successfully forming your CDEM Group.

It is not the Ministry's position to advise local government on the conduct of committee business. However, several local authority staff have sought clarification of advice on administering CDEM Group joint committees, contained in guidelines issued in December of last year *DGL 1/02 Working Together: The formation of CDEM Groups*. This letter has therefore been sent to all regional CEOs to provide that generic advice - some of which may be applicable for your consideration.

Openness and transparency of process:

Clearly CDEM Group joint committee meetings are a routine part of normal local government business subject to the Local Government Official Information and Meetings Act and are called, publicly notified and open to the public and media in a transparent manner. Many CDEM Groups have taken the positive opportunity afforded by their formation to publicise how they are working together to provide safer communities. Where a CDEM Group has formed without such transparency, it should as soon as practicable comply with s46(6) of LGOIMA by giving public notice of the meeting's nature.

Delegation and ratification of decisions:

For the CDEM Group to carry out its functions and duties effectively, it is preferable that each council's representative be given adequate delegated authority to act on behalf of that council as provided for in the Local Government Act (1974 s114q & 2002 Schedule 7). This delegation may be full, or limited (e.g. in terms of financial commitment), and decisions outside of the delegation must be taken back to, and ratified by respective councils. The need for this delegation is consistent with advice offered in our CDEM Group formation guidelines of December 2002 and earlier guidance.

Joint Committee quorums

The issue of joint committee quorums regrettably did not arise during development of the Ministry's formation guidelines. Opinion has been sought as to whether the quorum of a joint committee, as for example a CDEM Group, must consist of a representative from each of the local authorities that have formed the joint committee. Our legal opinion and advice is yes. Under the Local Government Act 1974 a joint committee is a committee of each local authority as provided by section 114S, and the quorum of a committee of a local authority is to include at least one member of "the local authority", as is provided by section 1141 (4)(b).

Under the Local Government Act 2002 from 1 July 2003, clauses 30(8) and 23(3)(b) of Schedule 7 re-enact the effect of the earlier provisions.

The reference to "the local *authority*" can be read multiple times, for as many local authorities as comprise the joint committee, as opposed to in the singular. The reference can also be read as being "*local authorities*", plural, on the basis that section 33 of the Interpretation Act 1999 provides that in statutes, words in the singular include the plural, and words in the plural include the singular.

To ensure that the CDEM Group can carry out its decision-making in an effective and timely manner, the solution is to either ensure that either all members are present at the infrequent full CDEM Group meetings - for example by coinciding with other full meetings such as mayoral forums, or by the Group establishing a fully-delegated sub-committee able to work on a standard majority quorum provided for under the local government acts and model standing orders (NZS9202: 2001). Such a sub-committee (which is a sub-committee of each and every member) is ideally given full-delegated authority from the Group for its functions, duties and powers (LG Act 2002 schedule 7). The sub-committee would be required to report back to the full Group committee on a regular basis, with decisions outside of delegations still requiring individual council approval.

#### Equality of membership and voting rights

The Ministry's formation guideline *DGL 1/02 Working Together: The Formation of CDEM Groups* is in error at page 30 in suggesting that a proportionate voting system may be considered by the CDEM Group -this was based upon incorrect advice at the time. In terms of joint committee voting rights, the option of using a proportionate voting system is not available. The presumption in the Local Government Acts is that each representative has one vote, aligning with the joint committee principle of equality of membership.

#### Constitutions

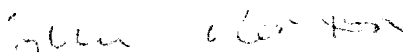
Whilst the CDEM Act 2002 contains no direct requirement, most groups around the country have developed a Constitution - often built upon earlier Memoranda of Understanding. Constitutions are desirable as they:

- Serve as a 'ready reference,' or briefing material by condensing for clarity the CDEM Act and other requirements; and
- Document partnership principles, shared goals, and administrative arrangements for working together that are not detailed in the CDEM or local government acts - such as delegated authorities and sub-committee roles.

Constitutions can remain **valid** permanently or until dissolved by agreement, or transferred to the administrative arrangements within a CDEM Group Plan or within all member councils' standing rules.

The joint committee issues listed above have been discussed with Local Government New Zealand and referred within the Department of Internal Affairs - responsible for the administration of the Local Government Act 2002. In the first instance my staff are available to assist your CDEM Group in resolving these, and other CDEM related issues you may require assistance with.

Yours sincerely



John Norton

Director: Ministry of Civil Defence & Emergency Management