

MASSEY UNIVERSITY COUNCIL APPOINTMENTS AND ELECTION STATUTE 2024

1. Title and Commencement

- 1.1 The Council of Massey University makes this Statute under sections 279 and 284 of the Act.
- 1.2 This Statute may be cited as the Council Appointments and Elections Statute 2024.
- 1.3 This Statute comes into force on 6 March 2025.
- 1.4 The following Statutes are repealed from the date that this Statute comes into force:
 - (a) Massey University Council Election (Academic Staff Member) Statute 2023;
 - (b) Massey University Council Election (Professional Staff Member) Statute 2023;
 - (c) Massey University Council Election (Student Member) Statute 2024;
 - (d) Massey University Council Electronic Election Statute 2024; and
 - (e) Massey University Council Appointments Statute 2024

2. Application

- 2.1 This Statute applies to:
 - (a) each Council member;
 - (b) the Returning Officer;
 - (c) any person who is eligible to be elected as a member of the Council; and
 - (d) any person who is eligible to vote in an Election.

3. Purpose of this Statute

- 3.1 The purpose of this Statute is:
 - (a) to govern the appointment of members to the Council, who are appointed by Council resolution in accordance with the University's Constitution and the Act; and
 - (b) in relation to the appointment of elected Council members, to also govern:
 - (i) the eligibility for nomination as a Candidate in an Election;

- (ii) the eligibility to vote in an Election;
- (iii) the Election Process; and
- (iv) determination of Election results.

4. Appointment of Vice-Chancellor by virtue of office

- 4.1 The Council will, by resolution, appoint the Vice-Chancellor as a member of the Council by virtue of holding office as the Chief Executive of the University.
- 4.2 The Vice-Chancellor will be a member of the Council for the period that they hold that office.

5. Appointments on the nomination of the Vice-Chancellor

- 5.1 The Council will, by resolution, appoint as members of the Council 4 people who are able to provide the knowledge, skills and experience to meet the needs of the University as specified by Council, following nomination by the Vice-Chancellor. At least one of those people must be Māori.
- 5.2 The Council will consult with Ngā Kaiwhakapūmau on the people nominated by the Vice-Chancellor. The decision to appoint members, following consultation, is the responsibility of the Council.

6. Appointments by Election

- 6.1 In accordance with section 278 of the Act and the University's Constitution, the Council will appoint as members:
 - (a) one Permanent Member of the Academic Staff who has been elected by the Permanent Members of the Academic Staff of the University, for a term of four years or until they cease to be a Permanent Member of the Academic Staff, whichever is the earlier event;
 - (b) one Permanent Member of the Professional Staff who has been elected by the Permanent Members of the Professional Staff of the University, for a term of four years or until they cease to be a Permanent Member of the Professional Staff, whichever is the earlier event; and
 - (c) one Student enrolled at the University who has been elected by the Students of the University, for a term of two years or until they cease to be an enrolled Student, whichever is the earlier event.
- 6.2 Elections provided for in this Statute are held when a Council member's term is due to expire or there is a casual vacancy in accordance with the Act.

Eligibility to be appointed by Election and Eligibility to Vote

General eligibility to be an elected member of the Council

- 6.3 To be eligible to be elected to the Council under this Statute, a person must:
- (a) be nominated as a Candidate, in the form and within the timeframe specified by the Returning Officer;
 - (b) agree to comply with the Massey University Election Rules; and
 - (c) not be disqualified from appointment under section 277 of the Act or the University's Constitution.

Academic Staff member

- 6.4 In addition to meeting the requirements in clause 6.3, to be eligible to be elected to the Council as an Academic Staff member, a person must be a Permanent Member of the Academic Staff.
- 6.5 To be eligible to vote in an election for an Academic Staff member on the Council, a person must be a Permanent Member of the Academic Staff.

Professional Staff member

- 6.6 In addition to meeting the requirements in clause 6.3, to be eligible to be elected to the Council as a Professional Staff member, a person must be a Permanent Member of the Professional Staff.
- 6.7 To be eligible to vote in an election for a Professional Staff member on the Council, a person must be a Permanent Member of the Professional Staff.

Student member

- 6.8 In addition to meeting the requirements in clause 6.3, to be eligible to be elected to the Council as a Student member, a person must be a Student of the University.
- 6.9 To be eligible to vote in an election for a Student member on the Council, a person must be a Student of the University.

Election Process

- 6.10 Each Election must be conducted:
- (a) by the Returning Officer;
 - (b) through an electronic voting system;
 - (c) using the first past the post voting methodology;
 - (d) in accordance with the Election Process; and
 - (e) in accordance with the Massey University Election Rules.
- 6.11 In addition to the Returning Officer's powers and responsibilities specified in this Statute, the Returning Officer also has the power to settle any question that may arise under this Statute for which no provision is made.

- 6.12 The Returning Officer may issue such rules as they consider appropriate to ensure the fair and proper conduct, and campaigning, of elections.
- 6.13 Without limitation, such rules may include restrictions on the mode and timing of campaigning, and on the amounts that may be spent in campaigning by or on behalf of any Candidate.

Appointment of elected members after an Election

- 6.14 Subject to clause 6.13, following an Election the Council will appoint each successful Candidate:
- (a) as a member of the Council; and
 - (b) for a term consistent with clause 6.1 of this Statute and clause 6 of Schedule 11 of the Act and the University's Constitution.
- 6.15 The Council must not appoint any person who is ineligible for appointment under section 277(1) of the Act.

7. Matters to consider when appointing members (section 278 of the Act)

- 7.1 The Council will, as far as is reasonably practicable, reflect:
- (a) the ethnic and socio-economic diversity of the communities served by the University; and
 - (b) the fact that approximately half the population of New Zealand is male and half the population is female.
- 7.2 In addition (and subject to paragraph 7.3), when appointing one or more Council members, the Council must appoint people who, in the Council's opinion:
- (a) have relevant knowledge, skills, or experience;
 - (b) are likely to be able to fulfil their individual duties to the Council;
 - (c) together with the other members of the Council, are capable of undertaking their responsibilities, duties, and functions; and
 - (d) can meet the needs of the University and support the sound governance of the University.
- 7.3 When appointing one or more elected members, each elected member is to be treated as meeting any relevant knowledge, skills or experience requirements.

8. Term of office

- 8.1 Unless specified otherwise in this Statute, each Council member appointed under this Statute will be appointed for a period of not more than 4 years.
- 8.2 The maximum number of occasions on which a person, other than the Vice-Chancellor, may be appointed as a member of the Council is the number that, for that person,

ensures that the total period for which they are a member of the Council does not exceed 12 years.

9. Casual Vacancies

9.1 A casual vacancy will arise if:

- (a) a Council member dies, or resigns in accordance with clause 7(1) of Schedule 11 of the Act;
- (b) the Council, by resolution, dismisses the Council member under clause 7 of Schedule 11 of the Act; or
- (c) the Council member is removed under clause 12 of Schedule 11 of the Act.

9.2 Subject to clause 9.3, if the office of a Council member of the University becomes vacant before the end of the Council member's term of office, another person must be appointed to the office by the procedure by which the Council member became a member. Accordingly, if there is a casual vacancy of an elected member, there must be an Election Process (as set out in Appendix 1) to elect a Candidate to be duly appointed to the Council.

9.3 In accordance with clause 9 of Schedule 11 of the Act, if the office becomes vacant within 6 months before the end of the Council member's term of office, the Council may decide that the vacancy does not need to be filled.

Definitions

Academic Staff means a staff member on or deemed to be on the University's academic payroll or system for payment

Act means the Education and Training Act 2020

Candidate means a candidate for election under this Statute as a member on the Council

Constitution means the Constitution of Massey University Council Notice 2024, which may be amended from time to time

Council means the Council of the University

Election means an election of one or more members of the Council conducted under this Statute

Election Process means the process set out in Appendix 1 of this Statute

Massey University Election Rules means the election rules prepared by the Returning Officer to ensure the fair conduct of the Election and of campaigning in connection with the Election, that are included in Appendix 2 of this Statute or otherwise published by the Returning Officer

Permanent Member, in relation to the Academic Staff or Professional Staff of the University:

- (a) means a member of the staff who:
- (i) is employed, on a full-time or part-time basis, for a period ending, unless sooner terminated, on the member's resignation or retirement; or
 - (ii) has been employed, on a full-time or part-time basis, whether under an employment agreement for a fixed term or otherwise, for at least 3 months; or
 - (iii) has been employed, on a full-time or part-time basis, whether under an employment agreement for a fixed term or otherwise, for less than 3 months and whose employment is, in the opinion of the Vice-Chancellor, likely to continue for at least 3 months from the date of commencement of that employment.
- To avoid doubt, unless the Vice-Chancellor decides otherwise, the Vice-Chancellor will have the opinion that a staff member's employment agreement is "likely to continue for at least 3 months from the date of commencement of that employment" if the staff member has an employment agreement for a period of at least 3 months (even if that staff member has not been employed for 3 months by the date of the Election);
- (b) does not include (to avoid doubt) a person on a casual contract with the University, or a volunteer at the University

Professional Staff means a staff member on or deemed to be on the University's professional payroll or system for payment

Returning Officer means the Director Governance and Assurance (including an acting Director Governance and Assurance), or another person appointed by the Council as the returning officer

Statute means this Council Appointments and Elections Statute [2024], which may be amended from time to time by resolution of the Council

Student means a person who is enrolled in a qualification or programme at the University, or who has accepted an offer of enrolment into a qualification or programme of study at the University. To avoid doubt, a micro-credential or certificate of proficiency is not a course or programme for the purpose of this definition

University means Massey University

Vice-Chancellor means the person holding office for the time being as the Chief Executive Officer of the University, and includes any person for the time being acting in that capacity

Content Manager [Director, Governance and Assurance]

Approved By [Council]

Date approved [date]

Appendix 1 – Election Process

1. This Appendix sets out the process that will be followed for each Election.

Determining Election date and list of eligible Electors

2. The Returning Officer will:
 - (a) determine the date of the Election and report that date to the Council; and
 - (b) compile a list of the Electors at a date determined by the Returning Officer.

Notification of Election

3. The Returning Officer will publish a Notification of Election that:
 - (a) specifies that an Election will take place, and what member(s) will be elected through the Election;
 - (b) identifies the number of vacancies;
 - (c) requests the nomination of candidates for the Election, and specifies that each nomination must be in the form specified by the Returning Officer; and
 - (d) specifies the closing date for the receipt of nominations; and.
 - (e) the dates or period during which the election will be held.
4. The Returning Officer may receive a nomination by email, by post, or in hard copy at the address specified by the Returning Officer.
5. The Returning Officer will assess each nomination received before 5pm on the Nomination Deadline, and will accept a nomination unless paragraphs 6 or 7(a) apply.
6. The Returning Officer must reject any nomination:
 - (a) in respect of a nominee who is ineligible for appointment under section 277(1) of the Act;
 - (b) that breaches the Massey University Election Rules, and the Returning Officer is reasonably satisfied that the breach will have a material effect on the outcome of the Election; and
 - (c) that is received after 5pm on the Nomination Deadline.
7. If the Returning Officer receives a nomination that is not in the form specified by the Returning Officer, the Returning Officer (at the Returning Officer's sole discretion) may:
 - (a) reject the nomination; or
 - (b) request that the nominee resubmit the nomination in the form, and by the date, specified by the Returning Officer. If those requirements are not met, the Returning Officer must reject the nomination.
8. If a nomination is rejected, the Returning Officer will notify the nominee in writing.

Withdrawal of Candidate

9. A Candidate may withdraw their nomination at any time before 5pm on the Nomination Deadline. A withdrawal will be effective only if it is in writing and signed by the Candidate.

Retirement of Candidate

10. The Returning Officer will determine that a Candidate has retired if:
- (a) the Candidate is found to be, or becomes ineligible for appointment under section 277(1) of the Act;
 - (b) the Candidate dies;
 - (c) the Returning Officer considers, based on clear evidence, that the Candidate is incapacitated; or
 - (d) the Returning Officer has received written notice from the Candidate that they are retiring before the Returning Officer Publishes:
 - (i) an Election Declaration; or
 - (ii) a Notice of Elections.
11. If the Returning Officer determines that a Candidate has retired, the Returning Officer will:
- (a) notify eligible Electors of the retirement in the manner that the Returning Officer sees fit; and
 - (b) ensure that, if any votes have been cast for a retired Candidate, those votes are void.

Election Declaration

12. If the number of Candidates does not exceed the number of vacancies to be filled (including following the retirement of a Candidate), the Returning Officer will:
- (a) publish an Election Declaration that sets out the nominated Candidate(s) that will be duly appointed as members to the Council; and
 - (b) ensure that no Election is held.

Voting Instructions and Voting

13. No later than the closing day of the Election, the Returning Officer must send Voting Instructions to each Elector at:
- (a) the Electors' University email address; or
 - (b) any email address that the Elector has nominated for the purpose of communicating with the University.
14. The Voting Instructions must include:
- (a) instructions as to how to cast a vote in the Election;

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- (b) the days of the Election, including the closing date and time of the Election; and
 - (c) the name and statement of each Candidate for Election (as set out in the accepted nomination).
15. Subject to paragraphs 20 to 23, the Returning Officer will consider that a vote is valid if:
- (a) the Elector's vote is entered into the electronic voting system in accordance with the Voting Instructions;
 - (b) the Elector has not previously recorded their vote;
 - (c) the Elector's vote is recorded on the days of the Election; and
 - (d) the Elector has not breached the Massey University Election Rules.

Counting of Votes

16. As soon as reasonably practicable after the close of the Election, the Returning Officer will count the votes by the means that the Returning Officer prescribes.

Determination of Result

17. Subject to paragraphs 20 to 23, in accordance with the first past the post voting methodology, the Returning Officer will determine that the Candidate with the most votes will be declared elected.
18. If there is an equal number of votes for 2 or more Candidates, and the addition of a vote would entitle any of the Candidates to be declared elected, the Returning Officer must determine by lot which Candidate will be declared elected.
19. If there is more than one vacancy, the Candidates with the most votes will be elected to the vacant positions.

Breaches of, or issues regarding, Election Process

20. If, before Publishing the Declaration of Result, the Returning Officer considers that a Candidate, a person acting on behalf of the Candidate, or an Elector has materially breached the Massey University Election Rules or this Statute, the Returning Officer, may, at their absolute sole discretion:
- (a) notify the relevant Candidate, person, or Elector of the identified breach;
 - (b) give the Candidate, person, or Elector a reasonable opportunity to be heard; and
 - (c) after considering any submissions:
 - (i) declare a Candidate's nomination, the Elector's vote, or the entire Election to be invalid; or
 - (ii) declare that no action is to be taken.

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21. If, before Publishing the Declaration of Result, the Returning Officer receives a complaint or becomes aware of an issue regarding the Election Process, the Returning Officer may investigate that complaint or issue.
22. If, following that investigation, the Returning Officer is satisfied that there has been a breach of the Massey University Election Rules or this Statute, which has materially affected the outcome of the Election, the Returning Officer may, in their sole discretion, declare the votes for one or more Candidates invalid, or the entire Election invalid.
23. If the Returning Officer declares that the entire Election is invalid, the Returning Officer will restart the Election Process. If a Candidate's nomination is declared to be invalid by the Returning Officer after or during the Election, any votes cast for that person will not be counted.

Publication of Declaration of Result

24. No later than one month after all votes have been counted, the Returning Officer must Publish the Declaration of Result. The Declaration of Result may include the number of votes cast for each Candidate.

Recount

25. Within 7 days from the date that the Declaration of Result is Published, a Candidate may apply to the Returning Officer for a recount.
26. On receiving an application, the Returning Officer will undertake a recount by such means as they think fit.
27. Following the recount, the Returning Officer will:
 - (a) notify the applicant in writing of the result of the recount; and
 - (b) if the Returning Officer determines that, as a result of the recount, the Declaration of Result is incorrect, the Returning Officer will declare through a notice that is Published that:
 - (i) the Declaration of Result was incorrect and, if the Returning Officer thinks it appropriate to do so, the number of votes cast for each Candidate; and
 - (ii) the name of the Candidate duly elected.

Destruction of votes

28. The Returning Officer must arrange for all records of Elector's votes to be destroyed in a manner that ensures the confidentiality of voting information:
 - (a) no earlier than one month after the Declaration of Result has been Published; or
 - (b) if an application for a recount has been received, no earlier than one month after the recount has been undertaken.

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Definitions

Candidate means a nominee who is eligible to be a candidate for election under this Statute as a member on the Council, and whose nomination has not been rejected by the Returning Officer

Declaration of Result means the result of the Election

Election means an election of one or more members on the Council conducted under this Statute

Election Declaration means a notice Published by the Returning Officer when the number of Candidates is not greater than the number of vacancies

Election Process means the process set out in Appendix 1 of this Statute

Elector means a person on the list compiled by the Returning Officer as being eligible to vote in the Election

Massey University Election Rules means the rules prepared by the Returning Officer to ensure the fair conduct of the Election that are included in Appendix 2 of this Statute or otherwise published by the Returning Officer

Nomination Deadline means the day appointed for the closing of nominations of Candidates for Election as members on the Council

Publish means to include in hard copy or electronic form in magazines, newsletters, websites that are published by the University. Publishes has the same meaning

Returning Officer means the person appointed by the Council as the returning officer (including an acting returning officer) to conduct elections

University means Massey University

Voting Instructions means an email issued by the Returning Officer that provides for electronic voting by means of a secure system which ensures each Elector is only able to cast one vote

Appendix 2 - Massey University Council Election Rules

1. This Appendix sets out the Massey University Council Election Rules with which each Candidate must comply. The defined terms in these Massey University Council Election Rules have the same meaning as they are defined in the Council Appointments and Elections Statute [2024].
2. The Returning Officer may amend these Massey University Council Election Rules from time to time, by Publishing the amended Massey University Council Election Rules.

Official Profile Statement

3. As part of their nomination, each Candidate must submit to the Returning Officer a factual and accurate written statement (**Official Profile Statement**) of no more than 200 words that contains:
 - (a) the information that the Returning Officer has prescribed in the Nomination Form; and
 - (b) a passport-like photo of the Candidate.
4. For the avoidance of doubt, professional designations, pepeha and other cultural introductions are not included in the 200 word count of the Official Profile Statement.¹
5. If the Candidate's nomination is accepted, the Returning Officer will Publish the Candidate's Official Profile Statement during the Election Process.
6. The University is not responsible or liable for Publishing an Official Profile Statement that includes any inaccuracies or omissions.

Conduct during an Election Process

7. At all times when campaigning, each Candidate (and person campaigning on behalf of the Candidate) must comply with their obligations as a student or staff member at Massey University, including complying with the applicable Code of Conduct, all policies, rules, statutes and procedures of the University and the relevant laws of New Zealand.
8. Candidates (and those campaigning on behalf of a Candidate) must comply with any directions of the Returning Officer in relation to campaign conduct and campaign material issued at any time before or during an Election.
9. Each Candidate must not:
 - (a) use undue influence to get a voter to vote or to abstain from voting;
 - (b) publish, distribute, broadcast or exhibit (or have anyone publish, distribute or exhibit) a statement of fact that a Candidate knows is false in any material way.

¹ Candidates are supported to introduce themselves in ways and languages that are culturally affirming to them. Candidates are to use good judgement regarding word length of introductions and take care not to repeat or overlap content included in their core Official Profile Statement.

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10. Any behaviour by a Candidate during an Election Process that breaches these Massey University Election Rules may be dealt with in accordance with the Council Appointments and Elections Statute [2024], the relevant Code of Conduct, policy, rule, or procedures of the University.