
Elected Members Code of Conduct

CODE OF CONDUCT

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WAIMAKARIRI DISTRICT COUNCIL

CODE OF CONDUCT

INTRODUCTION

Schedule 7 of the Local Government Act 2002 (the Act) requires each local authority to adopt a code of conduct. Once adopted, all elected members are required to comply with the code.

1. This code of conduct provides guidance on the standards of behaviour that are expected from the Mayor and elected members of the Waimakariri District Council. The code applies to elected members in their dealings with:
 - each other
 - the Chief Executive
 - all staff employed by the Chief Executive on behalf of the council
 - the media
 - the general public.
2. This code does not apply to members of any Community Boards. Boards prepare their own code (substantially similar to this one).
3. The objective of the code is to enhance:
 - the effectiveness of the council as the autonomous local authority with statutory responsibilities for the good local government of the Waimakariri District
 - the credibility and accountability of the council within its community
 - mutual trust, respect and tolerance between the elected members as a group and between the elected members and staff.
4. This code of conduct seeks to achieve its objectives by recording:
 - an agreed statement of roles and responsibilities
 - agreed general principles of conduct
 - specific codes of conduct applying to particular circumstances or matters
5. Elected members are primarily accountable to the electors of the district through the democratic process. However members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

ROLES AND RESPONSIBILITIES OF ELECTED MEMBERS

This part of the code describes the roles and responsibilities of elected members, the additional role of the Mayor and Deputy Mayor, and the role of the Chief Executive.

6. Elected Members

Elected Members have declared that:

They will faithfully and impartially, and according to the best of their skill and judgement, execute and perform, in the best interests of the Waimakariri District Council the powers, authorities and duties vested in or imposed upon them as Councillors of the Waimakariri District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

Elected members, acting as the council, are responsible for –

- the development and adoption of council policy;
- monitoring the performance of the council against its stated objectives and policies;
- prudent stewardship of council resources;
- employment of the Chief Executive; and
- representing the interests of the residents and ratepayers of the Waimakariri District Council. (On election, the members' first responsibility is to the district as a whole.)

Unless otherwise provided in the Local Government Act 2002 or in standing orders, the council can only act by majority decisions at meetings. Each member has one vote. Any individual member (including the Mayor) has no authority to act on behalf of the council unless the council has expressly delegated such authority.

7. Mayor

The Mayor is elected by the district as a whole and as one of the elected members shares the same responsibilities as other members of council. The Mayor also has the following roles as a –

- presiding member at council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined in standing orders);
- advocate on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the council;
- ceremonial head of council;
- providing leadership and feedback to other elected members on teamwork and chairmanship of committees; and
- Justice of the Peace (while the Mayor holds office).

The Mayor must follow the same rules as other elected members about making public statements and committing the council to a particular course of action, unless acting in accordance with the rules for media contact on behalf of the council under a delegation of authority from the council.

8. Deputy Mayor

The Deputy Mayor must be elected by the members of council, at the first meeting of the council. The Deputy Mayor exercises the same roles as other elected members, and if the Mayor is absent or incapacitated, the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the powers, of the Mayor (as summarised above). The Deputy Mayor may be removed from office by resolution of council.

9. Committee Chairpersons

The council may create one or more committees of council. A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by council, and as set out in the council's *Delegations Manual*. Committee chairpersons may be called on to act as an official spokesperson on a particular issue. They may be removed from office by resolution of council.

RELATIONSHIPS AND BEHAVIOURS

This part of the code sets out the council's agreed standards of behaviour. Some of the matters described in this part of the code reflect other legislation such as the Local Authorities (Members' Interests) Act 1968. The majority of the code is material that the council has decided to include of its own initiative.

10. Relationships With Other Members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind elected members will conduct their dealings with each other in ways that –

- maintain public confidence in the office to which they have been elected;
- are open and honest;
- focus on issues rather than personalities; and
- avoid aggressive, offensive or abusive conduct.

11. Relationships with Staff

The effective performance of council also requires a high level of cooperation and mutual respect between elected members and staff. To ensure that level of cooperation and trust is maintained, elected members will –

- recognise that the Chief Executive is the employer (on behalf of council) of all council employees, and as such only the Chief Executive may hire, dismiss or instruct or censure an employee;
- make themselves aware of the obligations that the council and the Chief Executive have as employers and observe those requirements at all times;
- treat all employees with courtesy and respect (including the avoidance of familiar, aggressive, offensive or abusive conduct towards employees);
- observe any guidelines that the Chief Executive puts in place regarding contact with employees;

- not do anything which compromises, or could be seen as compromising, the impartiality of an employee;
- avoid publicly criticising any employee in any way; and
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor or the Appointment and Review Committee for the Chief Executive Officer.

Elected members should be aware that failure to observe this portion of the code of conduct may compromise the council's obligations to act as a good employer and may expose the council to civil litigation and audit sanctions.

12. Relationships with the Community

Effective council decision-making depends on productive relationships between elected members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with the council, have their concerns listened to, and deliberated on in accordance with the requirements of the Act.

Members should act in a manner that encourages and values community involvement in local democracy.

13. Contact with the Media

The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of council. From time to time, individual members will be approached to comment on a particular issue either on behalf of council, or as an elected member in their own right. This part of the code deals with the rights and duties of councillors when speaking to the media on behalf of council, or in their own right.

The rules that apply for media contact on behalf of council are contained within the Council's policy manual and are generally outlined as:

Official Council statements may be made by either the Mayor, Deputy Mayor, a committee Chairperson or the Kaiapoi Community Board Chairperson. Elected members are free to express a personal view in the media, at any time, provided the following rules are observed –

- media comments must not state or imply that they represent the views of council;
- where an elected member is making a statement that is contrary to a council decision or council policy, the member must not state or imply that his or her statements represent a majority view; and
- media comments must observe the other requirements of the code of conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff.

14. **Confidential Information**

In the course of their duties members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.

Elected members should be aware that failure to observe these provisions will impede the performance of council by inhibiting information flows and undermining public confidence in the council. Failure to observe these provisions may also expose council to prosecution under the Privacy Act 1993 and/or civil litigation.

15. **Conflicts of Interest**

Elected members must be careful that they maintain a clear separation between their personal interests and their duties as an elected member. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived). Members therefore need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.

The Local Authorities (Members Interest) Act 1968 provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year, without the authority of the Audit Office.

Additionally, elected members are prohibited from participating in any council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest. Members must declare their interests at council meetings where matters in which they have a pecuniary interest arise.

If the member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive *immediately*.

16. **Non Pecuniary Interest**

By declaring any non-financial interests in matters before Council, elected members will ensure that an impression is not created that they are using their position to promote a private or personal interest.

For example, interests can arise through the involvement of family or friends in organisations that deal with the Council, and through membership of clubs, societies and voluntary bodies.

17. **Standing Orders**

Standing Orders are a set of rules of debate that provide greater formality in the way that an organisation conducts its meetings. Standing Orders are also a means of recording organisations' agreed principles of behaviour within meetings.

Elected members must adhere to any standing orders adopted by the council. These standing orders are subject to the same legal requirements as a code of conduct with regard to their adoption and amendment.

18. **Ethics**

Waimakariri District Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will –

- claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of council developed in accordance with that determination;
- not influence, or attempt to influence, any council employee to take actions that may benefit the member, or the member's family or business interests;
- not use council resources for personal business (including campaigning);
- not solicit, demand, or request any gift, reward or benefit by virtue of their position; and
- where a gift to the value of \$100 or more is offered to a member, and accepted, immediately notify the Chief Executive.

19. **Disqualification of Members from Office**

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be or lose their status as an elector or of certain breaches of the Local Authorities (Members' Interests) Act 1968.

Under the Local Government Act 2002, local authorities, when adopting a code of conduct, must consider whether or not they will require members to declare whether they are an undischarged bankrupt. This council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgment in general. The council therefore requires elected members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

COMPLIANCE AND REVIEW

This part deals with ensuring that elected members adhere to the code of conduct and mechanisms for the review of the code of conduct.

Compliance

20. Elected members must note that they are bound to comply with the provisions of this code of conduct (Local Government Act 2002, Schedule 7, section 15(4))
21. Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members. Short explanations of the obligations that each of these has with respect to conduct of elected members is attached in the Appendix to this code.
22. Alleged breaches of the Code shall be reported to the Chief Executive Officer or Mayor as appropriate. Where it is a minor matter, the Mayor may require a Member to apologise at a subsequent Council meeting. Where it is considered that the matter is of substance, a report shall be submitted for the consideration of the Code of Conduct Committee in accordance with the Committee's Terms of Reference.
23. Where the Committee recommends to the Council any action, the exact nature of the action the Council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.
24. Where there are statutory provisions:
 - Breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authority (Member's Interests) Act 1968.
 - Breaches which result in the Council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in the member having to make good the loss or damage.
 - Breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

In these cases the Council may refer an issue to the relevant body, any member of the public may make a complaint, or the body itself may take action of its own initiative.

25. Where there are no statutory provisions, the Council may take the following action:
 - Request an apology
 - Censure
 - Removal of the elected member from Council committees and/or other representative type bodies.
 - Dismissal of the elected member from a position as Deputy Mayor or Chair of a committee.

A decision to apply one or more of these actions requires a Council resolution to that effect.

26. **Review**

Once adopted, a code of conduct continues in force until amended by the Council. The code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the code of the conduct require a resolution supported by 75 per cent or more of the members of the Council present.

Council will formally review the code as soon as practicable after the beginning of each triennium. The results of that review will be presented to Council for their consideration and vote.

APPENDIX 1:

LEGISLATION BEARING ON THE ROLE AND CONDUCT OF ELECTED MEMBERS

This is a summary of the legislation requirements that has some bearing on the duties and conduct of elected members. Copies of these statutes can be found in the councillor's lounge or in the office of the Administration Manager.

A. Local Authority (Members' Interests) Act 1968

This Act regulates situations where a members' personal interests impinge, or could be seen as impinging on their duties as an elected member.

The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authority (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

The Audit Office publication *Financial Conflicts of Interests of Members of Governing Bodies (2001)* provides further guidance on this Act.

B. Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements. Of particular importance for the roles and conduct of elected members is the fact that the chair has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should –

- create a disturbance or a distraction while another councillor is speaking;
- be disrespectful when they refer to each other or other people; or
- use offensive language about the council, other councillors, any employee of the council or any member of the public.

A publication by the Department of Internal Affairs entitled "Local Authority Meetings", provides further guidance.

C. Secret Commissions Act 1910

Under this Act it is unlawful for an elected member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to council.

If convicted of any offence under this Act a person can be imprisoned for up to 2 years, or fines up to \$1000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

D. Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to –

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of council;
- use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment of 7 years or more. Elected members convicted of these offences will also be automatically ousted from office.

E. Securities Act 1978

The Securities Act 1978 essentially places elected members in the same position as company directors whenever council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

APPENDIX 2:

GENERAL PRINCIPLES OF GOOD GOVERNANCE

The code of conduct that follows is based on the following general principles of good governance

–

(a) **Public interest**

Members should serve only the interests of the district as a whole and should never improperly confer an advantage or disadvantage on any one person.

(b) **Honesty and integrity**

Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

(c) **Objectivity**

Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Elected members should also note that, once elected, their primary duty is to the interests of the entire district, not the ward that elected them

(d) **Accountability**

Members should make decisions on merit Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.

(e) **Openness**

Members should be as open as possible about their actions and those of the council, and should be prepared to justify their actions.

(f) **Personal judgment**

Members can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.

(g) **Respect for others**

Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect the impartiality and integrity of the council staff.

(h) **Duty to uphold the law.**

Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.

(i) **Stewardship**

Members must ensure that the council uses resources prudently and for lawful purposes, and that the council maintains sufficient resources to meet its statutory obligations.

(j) **Leadership**

Members should promote and support these proposals by example, and should always endeavour to act in the best interests of the community.

APPENDIX 3:

LOCAL GOVERNMENT ACT 2002

Chief Executive

The Chief Executive is appointed by the council in accordance with sections 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the council's policies and objectives within the budgetary constraints established by the council. In terms of section 42 of the Act, the responsibilities of the Chief Executive are –

- (a) implementing the decisions of the council;
- (b) providing advice to the council and community boards;
- (c) ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised;
- (d) managing the activities of the local authority effectively and efficiently;
- (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- (f) providing leadership for the staff of the local authority;
- (g) employing staff on behalf of the local authority (including negotiation of the terms of employment for the staff of the local authority).

Under section 42 of the Local Government Act 2002 the Chief Executive employs all other staff on behalf of the local authority.