

TAMAHERE COMMUNITY COMMITTEE

Triennial Meeting

Notice is hereby given that a Triennial meeting of the Tamahere Community Committee will be held in the in the Tamahere Community Centre, Devine Road, Tamahere on **MONDAY 17 OCTOBER 2016** commencing at **7.30pm**.

Information and recommendations are included in the reports to assist the Board in the decision making process and may not constitute Council's decision or policy until considered by the Board.

AGENDA

1.	NOMINATION AND ELECTION OF MEMBERS	
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GJ Ion
CHIEF EXECUTIVE
Agenda2016\TCC\161017 TCC OP.dot

Open Meeting

To	Tamahere Community Committee
From	Gavin Ion Chief Executive
Date	7 October 2016
Chief Executive Approved	Y
Reference/Doc Set #	1623038
Report Title	Statutory Requirements

1. EXECUTIVE SUMMARY

It is my statutory responsibility under the Local Government Act 2002 to explain some of the laws affecting Elected Members. This report summarises this legislation, which is explained in greater detail in the Elected Members Survival Kit, a copy of which will be provided to each Councillor.

2. RECOMMENDATION

THAT the report from the Chief Executive be received;

AND THAT Council acknowledge the report as a general explanation of the statutory requirements under schedule 7 clause 21 of the Local Government Act 2002.

3. BACKGROUND

The Chief Executive is required to discuss various statutory matters at the first Council meeting of the term.

4. DISCUSSION

4.1 DISCUSSION

The following matters are drawn to the attention of Elected Members in accordance with the Local Government Act 2002 Schedule 7 Clause 21(5)(c).

Local Government Official Information and Meetings Act 1987

Access to Local Authority Information

All information held by local authorities must be made available to the public unless there is a good reason for withholding it. If a decision-maker is in two minds, then he or she should come down on the side of making the information available. Reasons for withholding information are stated in the above Act. The main reasons are the protection of privacy or interests of other parties, or where information should remain confidential to protect commercial interests.

Council has a duty to provide reasonable assistance to the requester but may charge for the information supplied. All responses by Council are reviewable by the Office of the Ombudsmen.

Personal information requests are dealt with under the Privacy Act 1993. Information about corporations and groups are still covered by the Local Government Official Information and Meetings Act 1987.

Under this legislation, any information provided in good faith and in accordance with the Council's duties does not give rise to legal remedies.

Local Authority Meetings

The Council must notify its meetings although failure to comply does not invalidate the meeting. Agendas and associated reports must be available for public inspection free of charge.

The Council may exclude the public from meetings in certain circumstances.

Minutes of the meetings may be inspected and copies requested by the public. The publication of defamatory matter contained in publicly available agendas or minutes is privileged, unless it can be proven that the publisher was predominantly motivated by ill will or took improper advantage of the occasion of publication. However, publication of material from public excluded parts of a meeting is not protected by qualified privileges. The same applies to oral statements.

Confidential information given to Elected Members by Council must remain confidential and must not be disclosed in public.

Local Authorities (Members' Interests) Act 1968

The Act has two main requirements:

Section 3(1) provides that no person may become, or continue as, a member of a local authority if payments made by the local authority for contracts it has made in which that person is concerned or interested, exceeds \$25,000 in any financial year, unless prior approval is obtained from the Auditor General's office, or the exceptions listed below apply.

Exceptions include:

- Any loan raised by Council
- Advertisements in newspapers
- Leases granted by Council
- Compensation under the Public Works Act 1987
- Supply of goods made during a state of civil defence emergency.

The above provisions also apply to:

- A member's spouse
- A company where the member owns 10% of issued capital.
- A company where a member or spouse is a managing director or general manager.

Section 6(1) provides that members must not vote or take part in the discussion of any matter before the local authority in which they have a pecuniary interest (other than one in common with the public) unless any of the exceptions set out in section 6(3) apply. Notably, section 6(3)(f) provides that the Auditor-General may decide, on written application to it, that the pecuniary interest of a member is too remote or insignificant and therefore unlikely to influence that member in voting or taking part in the discussion of the particular matter. Breach of section 6(1) constitutes an offence, and a conviction can result in severe penalties.

Spouse and company interests also apply (see section 3(1)), and members must declare pecuniary interests at meetings. A declaration and abstention from voting are recorded in the minutes.

Crimes Act 1961

It is my duty to bring to your attention sections 99, 105 and 105A of the Crimes Act 1961:

Section 99 – Interpretation. In this part of the Act, unless the context otherwise requires:

“Bribe” means any money, valuable consideration, office, or employment or any benefit, whether direct or indirect.

“Official” means any person in the service of Her Majesty in right of New Zealand (whether that service is honorary or not, and whether it is within or outside New Zealand), or any member or employee of any local authority or public body, or any person employed in the Education service within the meaning of the State Sector Act 1988.”

Section 105 Corruption and bribery of official

- (1) Every official is liable to imprisonment for a term not exceeding 7 years who, whether within New Zealand or elsewhere, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or any other person in respect of any act done or omitted, or to be done or omitted, by him in his official capacity.

- (2) Every one is liable to imprisonment for a term not exceeding 7 years who corruptly gives or offers or agrees to give any bribe to any person with intent to influence any official in respect of any act or omission by him in his official capacity.

Section 105A. Corrupt use of official information

Every official is liable to imprisonment for a term not exceeding 7 years who, whether within New Zealand or elsewhere, corruptly uses [or discloses] any information, acquired by him in his official capacity, to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or any other person.”

Secret Commissions Act 1910

This legislation brings to members’ attention that it is an offence to give or receive gifts, rewards, or other consideration during the course of conducting the affairs of Council.

“Consideration” as defined in the Act means:

“valuable consideration of any kind; and particularly includes discounts, commissions, rebates, bonuses, deductions, percentages, employment, payment of money (whether by way of loan, gift or otherwise howsoever) and forbearance to demand any money or valuable thing.”

This includes any gift or other consideration given or offered or agreed to be given to any parent, husband, wife, or child or any agent, or to his/her partner, clerk or servant.

Local Government Act 2002

The attention of members is drawn to sections 44, 45, 46 and 47 of the Local Government Act 2002, which relates to financial loss incurred by local authorities, as a result of unlawful expenditure of money, the unlawful sale of an asset, a liability having been unlawfully incurred, or intentional or negligent failure to collect money the local authority is lawfully entitled to receive. If the Auditor-General is satisfied that a loss has been incurred, the loss is recoverable as a debt due to the Crown from each member of the local authority jointly and severally.

Health and Safety in Work Act 2015

The Act came into force on 4 April 2016. It provides a significant change to the previous health and safety legislation and places more onerous obligations on organisations to keep their workers safe.

A key new term introduced by the Act is “PCBU” or “Person conducting a Business or Undertaking”, The PCBU, i.e. the Council, must ensure, so far as reasonably practicable, the health and safety of all workers who work for the PCBU, and must, so far as is reasonably practicable, provide and maintain a work environment that is without risk to health and safety. The duties of a PCBU also include the provision of information, training and supervision necessary to keep all persons safe, and to monitor the health of workers and conditions of the workplace for the purpose of preventing injury and illness.

Another significant change to the previous legislation is the specific duty placed on those holding governance, or senior management. These persons are “Officers” under the Act and are in a position to exercise significant influence in relation to the management of business. For the purposes of the Act, the Mayor, councillors and the Chief Executive are Officers. Officers have to keep up to date with health and safety matters, gain an understanding of the risks and hazards associated with Council business, ensure that the PCBU has and uses appropriate resources to eliminate and minimise risks, and ensure that the PCBU has and implements processes for complying with duties under the Act.

Under the Act, employers have to involve employees in the development of health and safety policies and provide a significant voice for employees in health and safety matters. Council has dedicated health and safety representation among staff.

Penalties for failing to comply with the requirements of the Act are considerable and range from high fines to imprisonment.

Financial Markets Conduct Act 2013

This Act governs how financial products are created, promoted and sold, and the ongoing responsibilities of those who offer and trade them. It also regulates the provision of some financial services.

The Act controls offers of financial products (debt, equity, managed investments products), and is likely to affect Council should it choose to go direct to the market with an offer of its own debt securities, such as bonds. Furthermore, the Act sets out the disclosure requirements for offers of financial products.

The Act also provides for fair dealing in relation to financial products and prohibits misleading or deceptive conduct and false, misleading or unsubstantiated representations. Elected members are in a similar position as company directors, i.e. they could be personally liable for misleading statements.

Note: The above Act has repealed the Securities Act 1978.

Legal Disputes – Insurance Arrangements

Council is insured for material damage, public and statutory liability and in respect of professional negligence claims. The insurance policy does not cover judicial review proceedings or claims in contract.

If Council has a legal dispute or potential legal dispute with a ratepayer, members must ensure that they do not become involved in the dispute, or act other than in the best interests of Council. Otherwise, Council’s position could be compromised, with the result that insurance cover is not available.

Bylaws

Over the past few years the Council has been working to rationalise the number of bylaws. The list of current bylaws is as follows:

- WDC Speed Limits Bylaw 2011 and Amendments to Schedules
- WDC Livestock Movement Bylaw 2011
- WDC Fires in the Open Air Bylaw 2012
- WDC Water Supply Bylaw 2014
- WDC Dog Control Bylaw 2015
- WDC Keeping of Animals Bylaw 2015
- WDC Cemeteries Bylaw 2016
- WDC Public Places Bylaw 2016
- WDC Reserves and Beaches Bylaw 2016
- WDC Trade Waste and Wastewater Bylaw 2016
- WDC Freedom Camping Bylaw 2016
- WDC Trading in Public Places Bylaw 2008 and FDC Trading in Public Places Bylaw 2008
- WDC Public Places Liquor Control Bylaw 2009 and FDC Liquor Control Bylaw 2008
- FDC Food Hygiene Bylaw 2010
- FDC Brothel Bylaw 2010
- FDC Waste Bylaw 2009.

5. CONSIDERATION

5.1 FINANCIAL

Contract values can be important in this context.

5.2 LEGAL

This report covers key legislation which elected members need to be aware of.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

This matter is not considered significant.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	This report is for information only.				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
	✓		Internal
	✓		Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

Comment: This report is about raising awareness of elected members about legislative requirements.

6. CONCLUSION

There are a number of various legislative matters that Elected Members need to understand and be informed about.

7. ATTACHMENTS

Nil.

Open Meeting

To	Tamahere Community Committee
From	Gavin Ion Chief Executive
Date	11 October 2016
Chief Executive Approved	Y
Reference/Doc Set #	1621274
Report Title	Appointment of Chairperson and Deputy Chairperson

1. EXECUTIVE SUMMARY

At the triennial meeting the Community Committee is required to appoint a Chairperson and a Deputy Chairperson.

2. RECOMMENDATION

THAT the report from the Chief Executive be received;

AND THAT is appointed Chairperson of the Tamahere Community Committee;

AND FURTHER THAT is appointed Deputy Chairperson of the Tamahere Community Committee.

3. BACKGROUND

Schedule 7 of the Local Government Act 2002 identifies the need for the appointment of a Chairperson and Deputy Chairperson for each Community Committee.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

The Local Government Act 2002 requires that a Chairperson and Deputy Chairperson is appointed at the triennial meeting. The members need to decide on nominations for these positions. In the event there is more than one nomination then the Chief Executive will conduct an election by way of show of hands. In the event that the election is tied, the result will be determined by drawing a name out of a hat.

I also wish to point out that all members of the Community Committee are eligible for election as Chairperson and Deputy Chairperson - it does not matter whether the person was elected or appointed by Council.

4.2 OPTIONS

Members must decide on whom to elect to the two positions. This must be conducted by way of election and resolution of the Community Committee.

5. CONSIDERATION

5.1 FINANCIAL

Nil

5.2 LEGAL

The Local Government Act 2002 requires the Community Committee to appoint a Chairperson and Deputy Chairperson.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

This report is about the appointment of Chair and Deputy Chair which will be determined at the meeting.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	The Community Committee must agree on a Chairperson and Deputy Chairperson at this meeting in order to ensure the appropriate governance structure is in place.				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
	✓		Internal
	✓		Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households

			Business
			Other Please Specify

Comment: This meeting is an opportunity to determine the views of the Committee around the appropriate people to fill the role of Chairperson and Deputy Chairperson.

The matter needs to be determined by resolution of the members. Clearly, all members are affected by this decision.

6. CONCLUSION

This report fills a procedural requirement around the appoint of a Chairperson and Deputy Chairperson to oversee the conduct of meetings.

7. ATTACHMENTS

Nil

Open Meeting

To	Tamahere Community Committee
From	Gavin Ion Chief Executive
Date	12 October 2016
Chief Executive Approved	Y
Reference/Doc Set #	1621380
Report Title	Appointment of a Secretary

1. EXECUTIVE SUMMARY

The Community Committee must agree on a Secretary at this meeting in order to ensure the appropriate governance structure is in place.

At the triennial meeting the Community Committee is required to appoint a Secretary.

2. RECOMMENDATION

THAT the report from the Chief Executive be received;

AND THAT is appointed Secretary of the Tamahere Community Committee.

3. BACKGROUND

Schedule 7 of the Local Government Act 2002 identifies the need for the appointment of a Secretary for each Community Committee.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

The Local Government Act 2002 requires that a Secretary is appointed at the triennial meeting. The members need to decide on nominations for this position. In the event there is more than one nomination then the Chief Executive will conduct an election by way of show of hands. In the event that the election is tied, the result will be determined by drawing a name out of a hat.

I also wish to point out that all members of the Community Committee are eligible for election as Secretary - it does not matter whether the person was elected or appointed by Council.

4.2 OPTIONS

Members must decide on whom to elect to the position. This must be conducted by way of election and resolution of the Community Committee.

5. CONSIDERATION

5.1 FINANCIAL

Nil

5.2 LEGAL

There are no specific requirements.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

The appointment of a Secretary is a key step in facilitating the operation of the Committee.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	The meeting is being asked to make a decision about a Secretary. This is a decision about the appointment of a Secretary. This is a decision which involves the Committee.				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
			Internal
	✓		Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

Comment: The process to appoint a Secretary will be undertaken at the meeting.

6. CONCLUSION

The matter needs to be determined by resolution of the members. Clearly, all members are affected by this decision.

7. ATTACHMENTS

Nil

Open Meeting

To	Tamahere Community Committee
From	Gavin Ion Chief Executive
Date	12 October 2016
Chief Executive Approved	Y
Reference/Doc Set #	1623040
Report Title	Date and Time of Meetings

1. EXECUTIVE SUMMARY

The Community Committee needs to agree on a schedule of meetings at its inaugural meeting. As there have been no identified problems with the meeting schedule the status quo is being proposed subject to the suggestion that the Community Committee does not meet in January, April, July and October.

2. RECOMMENDATION

THAT the report from the Chief Executive be received;

AND THAT the Tamahere Community Committee holds its meetings on the first Monday of each month commencing at 7.30pm except for the month of June (due to a public holiday);

AND FURTHER THAT the meeting in June 2017 be held on 12 June 2017;

AND FURTHER THAT it is suggested no meeting is held in the months of January, April, July and October in line with Council practice.

3. BACKGROUND

Schedule 7, clause 21 of the Local Government Act 2002 requires that a schedule of meetings should be adopted at the first meeting after the triennial elections.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

The Council meeting calendar is being drafted at present for adoption on 27 October 2016.

In order to be fair to all parties (public, Council, staff and members of the Committee) it is suggested that the existing practice of meeting on the first Monday of the month continues.

During the last term, Council trialled a meeting schedule that incorporates four months in which meetings are not held. This enables staff to make progress on issues raised without having to worry about writing numerous reports.

The system has functioned well under the proviso that meetings can be organised if needed. In the months when meetings are not scheduled, the Community Committee might choose to hold workshops to discuss topics in depth. These are less formal and can be a productive way to assess individual issues.

4.2 OPTIONS

Members should be aware that the Council calendar is very full and it is difficult to suggest constructive alternatives to the status quo. It is also noted that the status quo works well, so there is no real need to change it.

5. CONSIDERATION

5.1 FINANCIAL

Nil.

5.2 LEGAL

The Community Committee is required to adopt a schedule of dates for its ordinary meetings in order to comply with the requirements of schedule 7 clause 21 of the Local Government Act 2002.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

The proposed time and date for the meetings fits in with the rest of the Council calendar.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	The Committee needs to agree a meeting timetable which suits its needs.				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
	✓		Internal
	✓		Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

Comment: The Committee will decide this matter as part of the meeting.

6. CONCLUSION

A meeting schedule for forthcoming meetings is required by the Local Government Act. The status quo of the meeting at 7.30pm on the first Monday of the month is suggested.

7. ATTACHMENTS

Nil.

Open Meeting

To	Tamahere Community Committee
From	Gavin Ion Chief Executive
Date	7 October 2016
Chief Executive Approved	Y
Reference/Doc Set #	1622788
Report Title	Community Committee Charter

1. EXECUTIVE SUMMARY

This report draws attention to the Community Committee Charter that was put in place a number of years ago. This is an opportunity for the new Committee to review the Charter.

2. RECOMMENDATION

THAT the report from the Chief Executive be received;

AND THAT the Tamahere Community Committee confirms the Community Committee Charter as attached.

3. BACKGROUND

Council, in conjunction with the various Community Boards/Committees, put in place Charters a number of years ago that effectively provides terms of reference.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

Schedule 7 clause 32 of the Local Government Act 2002 requires Council to reconfirm the delegation to the Community Boards/Committees. This is scheduled to happen on 1 November 2016.

4.2 OPTIONS

This report is for the Committee to confirm a Charter which will be submitted to Council for adoption on 1 November so that the Community Committee have terms of reference. Consideration

4.3 FINANCIAL

Nil.

4.4 LEGAL

Schedule 7 clause 32 of the Local Government Act 2002 required Council to reconfirm the role of Community Boards/Committees.

4.5 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

Council has put in place Community Committee Charters, which outline the general rules governing the operation of Community Committees.

4.6 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	<p>The Chief Executive will discuss this matter at the meeting.</p> <p>The Charter provides clear guidance on how the Community Boards/Committees will operate and what their responsibilities will be. The Charter should assist with progress in relation to Community Outcomes.</p> <p>The link to the four well-beings is indirect. It is related to creating an environment in which the four well-beings can be considered.</p> <p>The Charter does not specifically single out any particular group or nationality.</p>				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
			Internal
✓			Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

Comment: This matter will be discussed at the first meeting of each Community Board and the four identified Community Committees.

5. CONCLUSION

The terms of reference (by way of a charter) need to be determined by Council in terms of delegations to each Community Board and applicable Community Committees.

6. ATTACHMENTS

Community Committee Charter –Tamahere

TAMAHERE COMMUNITY COMMITTEE CHARTER

1. Purpose

The Tamahere Community Committee (hereafter referred to as the 'Committee') is set up jointly by the Waikato District Council ('the Council') and the Tamahere community to work collaboratively in dealing with local issues in the Tamahere area.

2. Roles and Delegations

The role of the Committee shall be as follows:

- (a) The Council's roles are:
 - i) To give effect to local identity and preferences.
 - ii) To make the local authority more responsive to the community's preferences and more accountable for their actions.
 - iii) To increase efficiency.

- (b) The Committee's role is to express the community's views on local issues to the Council. In order to achieve this the Committee is required to:
 - i) Represent and act as an advocate for the interests of the local community.
 - ii) The consideration of and reporting on of all matters referred to it by the Council or any matter of interest or concern to the Committee.
 - iii) Maintain an overview of services provided by the Council within Tamahere
 - iv) The preparation of submissions to the budgetary process of the Waikato District Council for expenditure within Tamahere through the Long Term Plan or Annual Plan (whichever is applicable).
 - v) Communication with community organisations and special interest groups within the local area.
 - vi) Any other function and duties as may be delegated from time to time to the Committee by the Council.
 - vii) To oversee and provide governance support to projects as agreed with Council.
 - viii) To ensure appropriate health & safety systems are in place and operating for any works undertaken at the direction of the Committee.

3. Exemptions

- (a) Any delegation of authority given to the Committee by the Council can be withdrawn by resolution of the Council at any time, without reference to the Committee.

- (b) Any sub-delegation of these responsibilities, duties and powers by the Committee is hereby expressly prohibited pursuant to Clause 32(3) of Schedule 7 of the Local Government Act 2002.

4. Membership

- (a) The Committee shall consist of not fewer than five elected members nor more than twelve elected members plus the relevant appointed member from Council.

- (b) The appointed member should be, in the first instance, the councillor elected to the Tamahere Ward or such other person that the Council may from time to time appoint.

Continued...

5. Election and Election Process

- (a) The elected members shall be elected on a three-yearly cycle.
- (b) The elections shall be held by public meeting conducted by the Chief Executive of the Waikato District Council or his/her nominee. The three-yearly election meeting shall be conducted in a manner deemed appropriate by the Chief Executive.
- (c) Council will advertise the public meeting and call for nominations to the Committee.
- (d) The Committee may co-opt members to assist it as required as long as the number of members does not exceed the maximum specified in paragraph 3(a).
- (e) The Council may assist in filling vacancies as appropriate.

6. Chairperson

- (a) The Committee shall appoint a Chairperson from within its membership. The Chairperson may be an elected Committee member or the member appointed by Council.
- (b) The Committee shall appoint a Deputy Chairperson from within its membership. The Deputy Chairperson may be an elected Committee member or the member appointed by Council.

7. Funding

- (a) The Committee can make an application to Council's Discretionary & Funding Committee for accessing the Rural Ward Discretionary Fund and the Events Fund for the funding of specific projects or events. These grants are available for projects and initiatives in rural areas and areas that are not served by a community board.
- (b) Council currently has an annual allocation of \$10,000 which any community committee can apply to for supporting its operation.

8. Meeting Procedures

- (a) The Committee shall follow the general principles of the New Zealand Standards (NZS 9202: 2003) Model Standing Orders for Meetings of Local Authorities and other public bodies including Amendment No 1.
- (b) Any variance to the Standing Orders can be decided by simple majority vote of those present at a meeting.
- (c) A quorum of members of the Committee shall consist of no fewer than five (5) members.

9. Abolition of the Committee

The Committee may be abolished by resolution of Council in consultation with or as a result of a request from the Committee.

Open Meeting

To	Tamahere Community Committee
From	Gavin Ion Chief Executive
Date	11 October 2016
Chief Executive Approved	Y
Reference/Doc Set #	1622739
Report Title	Code of Conduct

1. EXECUTIVE SUMMARY

To draw to the attention of elected members the existence of the Code of Conduct and to have a discussion about how it operates.

2. RECOMMENDATION

THAT the report from the Chief Executive be received.

3. BACKGROUND

The Local Government Act 2002 (Schedule 7 clause 15) requires all Councils to put a Code of Conduct in place. This Council duly did so in 2002. A copy of the Code of Conduct is attached.

Some minor amendments are required to reflect legislative changes and these are shown through tracked changes.

4. DISCUSSION AND ANALYSIS OF OPTIONS

4.1 DISCUSSION

The Code of Conduct sets out what is expected of elected members and how they should behave in Council situations. There is an expectation that elected members will behave with dignity and respect towards staff, the public, other elected members and other interested parties.

The Code of Conduct was put in place by a previous Council but is binding on the new Council and its successors. In general terms, the Code of Conduct was based on a standard developed by Local Government New Zealand, and is largely common sense.

A review of the Code of Conduct is not required at this time as it was reviewed earlier this year. However, it would be useful for elected members to identify any suggested changes at this time. In practice, the Code of Conduct may only be amended if there is a 75% majority of Council supporting the changes.

4.2 OPTIONS

Elected members need to be aware of the Code of Conduct. In practice it has been invoked infrequently because the conduct of members has been consistent with the intent of the policy.

5. CONSIDERATION

5.1 FINANCIAL

Nil.

5.2 LEGAL

Council is required to have a Code of Conduct in place as a requirement of the Local Government Act.

5.3 STRATEGY, PLANS, POLICY AND PARTNERSHIP ALIGNMENT

The Code of Conduct deals with how elected members behave and affect others. The Code provides a series of guidelines and procedures to protect affected parties.

5.4 ASSESSMENT OF SIGNIFICANCE AND ENGAGEMENT POLICY AND OF EXTERNAL STAKEHOLDERS

(Ascertain if the Significance & Engagement Policy is triggered or not and specify the level/s of engagement that will be required as per the table below (refer to the Policy for more detail and an explanation of each level of engagement):

Highest levels of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Tick the appropriate box/boxes and specify what it involves by providing a brief explanation of the tools which will be used to engage (refer to the project engagement plan if applicable).</i>	<p>The Code of Conduct was originally prepared after consultation with Council and after consideration of best practice.</p> <p>The Code of Conduct governs the behaviour of elected members and the discussion they have on all matters. There is no direct link to any individual community outcome.</p> <p>There is no direct link to one or more of the well-beings.</p> <p>There are no specific Tangata Whenua issues associated with the establishment of a code of conduct.</p>				

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
	✓		Internal
	✓		Community Boards/Community Committees
			Waikato-Tainui/Local iwi
			Households
			Business
			Other Please Specify

6. CONCLUSION

The Code of Conduct is a robust document that has operated in a manner generally consistent with the behaviour of elected members.

The Code of Conduct can only be changed by a vote of more than 75% of the members present. The Council will review the Code at the Council meeting on 1 November 2016

The Code of Conduct can only be amended or replaced. There must always be a Code of Conduct in place.

7. ATTACHMENTS

Code of Conduct

Code of Conduct – Council and Community Committees

Policy Owner	Chief Executive
Approved By:	Waikato District Council
Resolution Number	WDC1310/25
Effective Date	April 2016
Next Review Date:	April 2019

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PART ONE: INTRODUCTION

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

In the context of this report, the term “elected members” refers to Councillors and Community Committee representatives.

This code of conduct provides guidance on the standards of behaviour that are expected from all the elected members of the Waikato 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.

This code also applies to all Council committees, sub-committees and Community Committees.

In accordance with section 54 (2) of the Local Government Act 2002, the Code of Conduct does not apply to Community Boards. Community Boards are, however, not excluded from adopting their own Code of Conduct.

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 Waikato 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 management.

This code of conduct seeks to achieve its objectives by recording:

- an agreed statement of roles and responsibilities (recorded in Part Two of this Code)
- agreed general principles of conduct (recorded in Part Three of this Code)
- specific codes of conduct applying to particular circumstances or matters (also recorded in Part Three of this Code).

Elected members are primarily accountable to the electors of the district through the democratic process. However elected 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.

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

- **Public interest.** Elected 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.
- **Honesty and integrity.** Elected 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.
- **Objectivity.** Elected 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.
- **Accountability.** Elected 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.
- **Openness.** Elected members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.
- **Personal judgment.** Elected 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.
- **Respect for others.** Elected 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.
- **Duty to uphold the law.** Elected members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.
- **Stewardship.** Elected 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.
- **Leadership.** Elected members should promote and support these proposals by example, and should always endeavour to act in the best interests of the community.

PART TWO: ROLES AND RESPONSIBILITIES

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

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.

Recent changes to the Local Government Act have provided additional powers to the Mayor. These powers relate to:

- The appointment of the Deputy Mayor and Committee Chairpersons
- The determination of the Committee structure
- Leadership of budget, plans and key policy discussions.

Deputy Mayor

The Deputy Mayor may be appointed by the Mayor. If the Mayor declines to do this, then 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.

Committee Chairpersons

As noted above, the Mayor has the power to appoint Chairpersons and to form Committees. If the Mayor declines to do this then 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.

Councillors

Councillors 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
- representing the interests of the residents and ratepayers of the Waikato 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 elected member has one vote. Any individual elected member (including the Mayor) has no authority to act on behalf of the Council unless the Council has expressly delegated such authority.

Community Boards

Within the Waikato District there are five community boards:

- Huntly Community Board
- Ngaruawahia Community Board

- Onewhero-Tuakau Community Board
- Raglan Community Board
- Taupiri Community Board

The community board elected members, acting as the community board, have the role to:

- represent, and act as an advocate for, the interests of its community
- consider and report on all matters referred to it by the Waikato District Council, or any matter of interest or concern to the community board
- maintain an overview of services provided by the Waikato District Council within the community
- prepare an annual submission to the Waikato District Council for expenditure within the community
- communicate with community organisations and special interest groups within the community
- undertake any other responsibilities that are delegated to it by the Waikato District Council.

Chief Executive

The Chief Executive is appointed by the Council in accordance with section 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:

- implementing the decisions of the Council
- providing advice to the Council and community boards
- 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
- managing the activities of the local authority effectively and efficiently
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority
- providing leadership for the staff of the local authority
- employing staff on behalf of the local authority (including negotiation of the terms of employment for the staff of the local authority).

The Chief Executive is accountable to Council directly and not to Community Boards or Community Committees.

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

Meeting Attendance

Elected members are expected to attend and participate in all Council meetings, Standing Committee meetings and sub-committee meetings to which they have been appointed, unless they have submitted an apology or obtained a leave of absence in advance for non-attendance.

Councillors are expected to attend all workshops and those hearings that are held as part of the consultation process on Council documents, such as the Annual Plan and Long Term Plan.

From time to time, working parties will be established by the Council or a Standing Committee to achieve specific outcomes. Elected members are expected to make themselves available to be appointed to an equitable share of these working parties, and to attend all meetings of those to which they are appointed.

Appointments to Other Bodies

At the first meeting following the triennial elections and on other occasions (as appropriate) Council will appoint elected members to a variety of other bodies.

These appointments will be made on the basis of the best person for the specific role bearing in mind the skills required, the views of the Council and location of the elected member.

PART THREE: RELATIONSHIPS AND BEHAVIOURS

This part of the code sets out the 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.

Relationships with Other Elected 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
- avoid aggressive, offensive or abusive conduct
- treat people with courtesy and respect
- remain attentive and engaged in meetings.

Elected members shall maintain the respect and dignity of their office in their dealings with each other, Council officers and the public.

Elected members should also note that discussions are not subject to privilege.

Elected members will act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Council and the community.

Elected members should remember that they have no personal power to commit the Council to any particular policy, course of action or expenditure and must not represent they have such authority if that is not the case.

Elected members will not make comments regarding other elected members or Council officers which are improper or derogatory.

In the performance of their official duties, elected members should refrain from any form of conduct which may cause any reasonable person unwarranted offence or embarrassment.

Elected members should dress in business attire for the meeting, function or gathering, they are attending on behalf of Council.

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, instructor 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 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, but especially in ways that reflect on the competence and integrity of the employee
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor or the Chief Executive's Performance Review Sub-Committee.

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.

Elected members should raise operational issues with the Chief Executive in the first instance. If it is a routine matter such as repairing a pothole, cutting of vegetation or footpath repairs, the issue should be logged with Customer Delivery who will enter the issue into our service request system. This enables progress on these issues to be monitored.

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.

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. Media spans the full range of traditional, current and emerging social mediums including, but not limited to printed material, verbal discussions and all forms of electronic and digital material.

From time to time, individual elected 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 elected members when speaking to the media on behalf of Council, or in their own right.

The following rules apply for media contact on behalf of Council:

- the Mayor is the first point of contact for the official view on any issue. Where the Mayor is absent, any matters will be referred to the Deputy Mayor or relevant committee Chairperson
- the Mayor may refer any matter to the relevant committee Chairperson or to the Chief Executive for their comment
- no other elected member may comment on behalf of Council without having first obtained the approval of the Mayor. The only exception is providing information on Council activities through columns in community newspapers or newsletters or websites.

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
- 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.
- the elected member should ensure that any comments made do not compromise Council's statutory responsibilities. For example, it would not be appropriate to comment on matters subject to legal proceedings or consent hearings before the Policy & Regulatory Sub-Committee.

Meeting Decisions

Every elected member who has the right to speak can lawfully express his or her opinion at any Council or Committee meeting within the limits imposed by Standing Orders. These meetings are open to the media and their comments may be reported.

Once a matter has been determined at a Council meeting, it becomes the Council's position until it is lawfully changed by a subsequent Council decision. All elected members and staff will respect this position.

The Mayor can make statements that accurately report Council decisions.

Committee Chairs can make statements that accurately report their Committee's decisions, or factual statements about Council or Committee decisions.

Elected members have the right to voice their own opinion to the news media, on Council/committee decisions, but they must state clearly when they are expressing a majority, collective Council view and when they are expressing a personal, minority opinion.

Confidential Information

In the course of their duties elected 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, circulate or disclose (verbal or written) 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.

Information Received in Capacity as an Elected Member

Any information received by an elected member in his/her capacity as an elected member that relates to the ability of Council to give effect to any provision of the Local Government Act 2002 or any other statute under which Council has responsibilities shall be disclosed by that elected member to the Mayor, all other applicable elected members and, if appropriate, the Chief Executive.

This duty of disclosure will require elected members to whom information may be offered on the basis that confidence be preserved to inform the intended provider of the information of the duty of disclosure and to decline to receive the information if that duty is likely to be compromised.

Responding to Queries Involving Liability Issues

Elected members need to ensure they respond to queries in an appropriate manner and with due regard to the legal position of Council. At times, elected members are asked to become involved in legal disputes or insurance claims. Such matters should be referred to the Chief Executive. It is important that Council act in an appropriate manner with regard to legal and insurance issues. Often our insurance cover depends on the way we address or manage an issue.

Training, Conferences and Induction

Following the triennial election, the Chief Executive will organise induction training for all elected members who require it. This will address the role of elected members and provide valuable information about what an elected member needs to know.

Council has a budget for training and development of elected members. From time to time consideration will be given to attendance at the Local Government Conference, Zone meetings and Planning Conference. Other conferences or meetings may also be considered.

If an elected member wishes to attend a conference or meeting, then he or she should discuss this with the Mayor.

Decisions on training, attendance at meetings, and attendance at conferences will be made by Council.

In the case of a Community Board or Community Committee elected member, an approach should be made to the Chairperson.

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). Elected 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 Act 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.

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 elected member's immediate family or business interests contract with the authority or have a pecuniary interest. Elected members must declare their interests at Council meetings where matters in which they have a pecuniary interest arise.

Elected members shall annually make a general declaration of interest as soon as practicable after becoming aware of any such interests. These declarations are recorded in a register of interests maintained by Council. The declaration must notify the Council of the nature and extent of any interest, including:

- any employment, trade or profession carried on by the elected member or the elected member's immediate family for profit or gain
- any company, trust, partnership etc for which the elected member or their immediate family is a director, partner, trustee or beneficiary
- the address of any land in which the elected member has a beneficial interest and which is in the Waikato District Council
- the address of any land where the landlord is the Waikato District Council and:
 - the elected member or their immediate family is a tenant, or
 - the land is tenanted by a firm in which the elected member or immediate family is a partner, or a company of which the elected member or immediate family is a director, or a trust of which the elected member or immediate family is a trustee or beneficiary
- any other matters which the public might reasonably regard as likely to influence the elected member's actions during the course of their duties as an elected member.

If the elected 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 elected member should seek guidance from the Chief Executive immediately.

Elected members should be guided by best practice, transparency and prudence in assessing interest situations. Bearing these principles in mind, elected members must disclose the interest so it can be considered.

Elected members may also contact the Office of the Auditor General for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the elected member may seek an exemption to allow that elected 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 Office of the Auditor General for contractual payments to elected members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by Council. Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

Standing Orders

Elected members must adhere to any standing orders adopted by Council under the Local Government Act 2002. These standing orders are subject to the same legal requirements as a code of conduct with regard to their adoption and amendment.

Ethics

Waikato 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 elected member, or the elected member's family or business interests
- Only use Council resources (including facilities, staff, equipment and supplies) effectively and economically in the course of their duties, and within other guidelines, and not in connection with any election campaign or other personal business.
- not solicit, demand, or request any gift, reward or benefit by virtue of their position
- where a gift or hosted event in excess of \$100 excluding GST or more in value is offered to an elected member, this must be declared on Council's interest register.

Acceptance of substantial gifts, favours or hospitality may be construed as a bribe or perceived as undue influence. Working meals and social occasions should be undertaken in an appropriate manner.

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 are convicted 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 elected 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.

PART FOUR: 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

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)).

Elected 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.

Dealing with Complaints

There are two stages to a complaint:

- (a) Receiving and/or informally mediating the complaint.
- (b) Formalisation and investigation of the complaint, should it remain unresolved.

- (a) Receiving and/or informally mediating the complaint

When an issue arises the complainant should attempt to resolve the issue themselves with the party or elected member involved.

Should this be unsuccessful, the complainant should approach the Mayor (or Deputy Mayor in the absence of the Mayor) for an informal mediation between the parties.

If the informal mediation is unsuccessful, the complaint should be submitted in writing to the Mayor, (or Deputy Mayor in the absence of the Mayor). The complaint is confidential and will be acted on immediately.

Any allegation of a breach of a code of conduct must make a specific allegation of a breach of the code of conduct, and provide corroborating evidence.

- (b) Formalisation and Investigation of the Complaint

The Mayor (or Deputy Mayor in the absence of the Mayor) or nominee will convene an internal investigative group of four persons comprising a representative of both parties and two independent internal parties, (determined by the convener). Please note that a person can be either a witness or a representative (on the internal investigative group) but not both.

In extenuating circumstances, external parties may become involved as determined by the convener.

The internal investigative group will be chaired by the convener and will investigate, determine and make a decision on the breach and related consequences. The internal investigative group will provide a confidential report to Council.

The report once considered by Council will remain confidential.

Responses to Breaches of the Code

The exact nature of the action the internal investigative group may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

- breaches relating to members' interests render elected 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 elected 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 internal investigative group (via 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.

Where there are no statutory provisions, the internal investigative group may decide on any of the following actions:

- 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.

The internal investigative group will work with Council to implement its decision.

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 conduct require a resolution supported by 75 per cent or more of the elected 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 TO THE CODE OF CONDUCT

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 Council library or in the office of the Chief Executive.

Local Authority (Members' Interests) Act 1968

This Act regulates situations where an elected member's 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 elected 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 elected member's spouse or partner contracts with the authority or has a pecuniary interest.

Members may also contact the Office of the Auditor General for guidance as to whether that elected member has a pecuniary interest, and if so, may seek an exemption to allow that elected member to participate or vote on a particularly 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 Office of the Auditor General for contractual payments to elected 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.

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meeting 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 elected member is speaking
- be disrespectful when they refer to each other or other people
- use offensive language about the Council, other elected members, any employee of the Council or any member of the public.

The Local Government Official Information and Meetings Act 1987, sets out the rules around provision of information. These are summarised as follows:

Official Information

The term "Official Information" refers to all information (with a few exceptions) held by a local authority. The Local Government Official Information and Meetings Act 1987 requires all official information to be available to the public unless there are good reasons for withholding it.

Requesting Information

In brief, the Act states:

- requests should be made with “due particularity” (rather than asking for all files about a general topic, which creates a large amount of work) (section 10)
- it is the duty of Council to assist people making requests (section 11)
- the Council must convey its decision on whether to grant the request within 20 working days and must also indicate any charges (section 13)
- information in documents may be made available by providing an opportunity for reading it or by providing a copy of it or by providing a summary or excerpt; however, it should be made available in the way preferred by the requestor unless there are reasons for not doing so (section 15).

Refusing Requests for Information

A request may be refused (section 17) if:

- there is good reason to withhold it under section 6 or 7 of the Act
- the information will soon be publicly available
- the local authority does not actually hold the information
- the information cannot be made available without substantial collation or research
- the request is frivolous or vexatious.

Where a request is refused the Council must give its reasons and advise the requestor that there is a right to have the decision review by the Ombudsmen.

Sections 6 and 7 give the following reasons for withholding information:

- making it available would be likely to prejudice the maintenance of the law, or endanger safety
- withholding the information is necessary to:
 - protect privacy
 - protect information where its release would disclose a trade secret or would prejudice the commercial position of the person who supplied, or who is the subject of the information
 - avoid offence to tikanga Maori or avoid disclosure of wahi tapu locations
 - protect any obligations of confidentiality where making it available would affect the future supply of information or would otherwise damage the public interest
 - maintain free and frank discussion or protect officers and elected members from harassment
 - maintain legal professional privilege
 - enable the Council to carry out without prejudice or disadvantage commercial activities or negotiations
 - prevent the use of information for improper gain.

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 person's, monetary gain or advantage.

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

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.

Please note that Council is not required to produce a prospectus following the enactment of the Securities (Local Authority Exemption) Amendment Act 2008. In its place a shorter investment statement is required.

Local Government Acts 1974 and 2002

The various provisions of the Local Government Act 1974 and 2002 form the basis of local government. Local government is a creature created by statute and in place to meet the requirements of the Local Government Act.

Elected members should be aware of the purpose of local government (section 10 Local Government Act 2002)

1. The purpose of local government is:
 - (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
 - (b) to meet the current and future needs of communities for good quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.
2. In this Act, good quality, in relation to local infrastructure, local public services and performance of regulatory functions, means infrastructure, services and performance that are:
 - (a) efficient; and
 - (b) effective; and
 - (c) appropriate to present and anticipated future circumstances.

In performing its role a local authority must have particular regard to the contribution that the following core services make to its communities

- (a) network infrastructure;
- (b) public transport services;
- (c) solid waste collection and disposal;
- (d) the avoidance or mitigation of natural hazards;
- (e) libraries, museums, reserves, recreational facilities and other community infrastructure

“(1) In performing its role, as outlined in section 14 of the Local Government Act 2002, a local authority must act in accordance with the following principles:

- (a) a local authority should -

- (i) conduct its business in an open, transparent and democratically accountable manner; and
- (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner.
- (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
- (c) when making a decision, a local authority should take account of:
 - (i) the diversity of the community, and the community's interests, within its district or region; and
 - (ii) the interests of future as well as current communities; and
 - (iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii)
- (d) a local authority should provide opportunities for Maaori to contribute to its decision-making processes:
- (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and
- (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
- (fa) a local authority should periodically -
 - (i) assess the expected returns to the authority from investing in, or undertaking a commercial activity; and
 - (ii) satisfy itself that the expected returns are likely to outweigh the risks inherent in the investment or activity; and
- (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
- (h) in taking a sustainable development approach, a local authority should take into account:
 - (i) the social, economic, and cultural interests of people and communities; and
 - (ii) the need to maintain and enhance the quality of the environment; and
 - (iii) the reasonably foreseeable needs of future generations.”

Sections 44-46 of the Local Government Act 2002 outline action that can be taken by the Auditor General to recover a loss incurred by a local authority:

- “(1) For the purposes of this section and sections 45 and 46, a local authority is to be regarded as having incurred a loss to the extent that any of the following actions and omissions has occurred and the local authority has not been fully compensated for the action or omission concerned:
- (a) money belonging to, or administrable by, a local authority has been unlawfully expended; or
 - (b) an asset has been unlawfully sold or otherwise disposed of by the local authority; or
 - (c) a liability has been unlawfully incurred by the local authority; or
 - (d) a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.”

The Auditor General has the right to recover any such loss from each member of the local authority jointly and severally.

The Local Government Act deals with issues of governance, structure of local government, planning, decision-making and accountability, regulatory and enforcement, offences, penalties and other proceedings.

Resource Management Act 1991

This Act governs how Council should deal with land use and other planning processes. The Resource Management Act sets out to provide a range of rules that support a sustainable environment but also permits local autonomy based around the development of a District Plan that applies to each individual local authority.

Privacy Act 1993

The Privacy Act 1993 explains how Council should manage issues to do with information it holds to conduct its business. This could involve individual records relating to ratepayers or staff records for employees of Council.

Council must comply with the requirements of this Act and as part of this process a staff member has been appointed as the designated Privacy Officer. Any queries in relation to the Privacy Act should be directed to the Chief Executive in the first instance.

Public Audit Act 2001

Council is publicly accountable under the provisions of the Public Audit Act 2001. As a result of this, an annual audit is undertaken under the direction of the Auditor General. This audit reviews the financial and non-financial performance of Council through the development and reporting of the Annual Report.

[WDC0710/24, WDC1011/25/1/3 refer]

Health and Safety at Work Act 2015 (replaces the Health & Safety in Employment Act 1992)

The Health & Safety at Work Act took effect on 4 April 2016. Elected members are deemed officers under the legislation. Whilst elected members can't be prosecuted under this legislation, they are not exempt from prosecution under other legislation. As officers, elected members are required to take a responsible attitude to health and safety and undertake due diligence to ensure compliance with the legislation.