



Elected Members Code of Conduct

(Adopted by Council – 29 February 2008)

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1.0 Introduction

- 1.1 This Code of Conduct has been prepared in accordance with Clause 15 Schedule 7 of the Local Government Act 2002 (LGA). This Code of Conduct provides guidance on the standards of behaviour expected of Elected Members and appointed members to Council Committees and Sub-Committees of the Ruapehu District Council. The Code of Conduct applies to Elected Members in their dealings with each other, Council management and staff, the public and the media.
- 1.2 The objectives of the Code of Conduct are to preserve and enhance:
- The credibility and accountability of Council within its community,
 - The effectiveness of Council as an autonomous local authority with statutory responsibility for good local governance in Ruapehu District,
 - Mutual trust, respect and tolerance between the Elected Members as a group and between the Elected Members and staff,
 - Provide guidance on the standards of behaviour of Elected Members towards Council staff as they work together in the course of their various functions and duties.
- 1.3 This Code of Conduct (the Code) seeks to achieve its objectives by recording:
- An agreed statement of roles and responsibilities (recorded in Section 3.0 of the Code),
 - Agreed general principles of conduct (recorded in Section 2.0 of the Code)
 - Specific codes of conduct applying to particular circumstances or matters.
- 1.4 This Code forms part of the Council's Local Governance Statement required by Section 40 of the LGA. As such, it is a document that provides guidance to the public on the functioning of Council and therefore it contains more expansive information than if it were purely for the use of Elected Members. Relevant extracts from the LGA are included in Appendix 1.
- 1.5 Council will review this Code within six months of each triennial election.

2.0 Principles of Good Governance

- 2.1 Elected Members, while fulfilling their duties, should keep in mind the purpose of local government as defined in the LGA:
- (a) To enable local decision-making and action by and on behalf of communities, and,
 - (b) To promote the social, economic, environmental and cultural wellbeing of communities in the present and for the future.
- 2.2 The Code of Conduct that follows is based on the following general principles of good governance:
- **Public Interest:** Elected Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any 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 when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

- **Accountability:** Elected Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- **Openness:** Elected Members should be as open as possible about their actions and should be prepared to give reasons for those actions.
- **Personal Judgement:** Elected Members may take account of the views of others, but should reach their own conclusions on issues before them to give reasons for those actions.
- **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.
- **Duty to Uphold the Law:** Elected Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
- **Stewardship:** Elected Members should do whatever they are able to do to ensure that their Council's use of resources is prudent and in accordance with the law.
- **Leadership:** Elected Members should promote and support these principles by leadership and by example, and should always endeavour to act in the best interests of the community.

3.0 Roles and Responsibilities

3.1 *Elected Members*

Elected Members, acting as Council are responsible for:

- The development and adoption of Council policy,
- Prudent stewardship of Council resources,
- Monitoring the performance of Council against its stated objectives, policies and identified community outcomes,
- Representing the interests of the residents and ratepayers of the Ruapehu District,
- Employing and overseeing the Chief Executive.

Elected Members as individuals must comply with:

- The requirements of this Code,
- All applicable Standing Orders,
- Those enactments and other rules of law applicable to the conduct of Elected Members.

3.2 *Mayor*

The Mayor is elected by the District as a whole and shares the same responsibilities as other Elected Members of Council. The Mayor is the ceremonial head of Council and must be a Justice of the Peace. The Mayor does not represent the view or voice of Council unless first mandated to speak on their behalf. The Mayor is responsible for:

- Presiding at Council meetings and ensuring the conduct of meetings in accordance with Standing Orders,
- Advocacy on behalf of the community with the mandate of Council,
- Providing leadership to Elected Members.

3.3 Deputy Mayor

The Elected Members of Council at the first meeting of Council elect the Deputy Mayor. In addition to the responsibilities of an Elected Member, the Deputy Mayor is authorised to chair meetings of Council and generally to perform the functions and the duties of the Mayor in the absence of the Mayor. The Deputy Mayor may only be removed from office by resolution of Council.

3.4 Committee Chairpersons

A Committee Chairperson presides over all meetings of the relevant Committee and shall ensure that the Committee acts within the powers delegated to it by Council. Committee Chairpersons may only be removed from office by resolution of Council.

3.5 Chief Executive

Council appoints the Chief Executive in accordance with Section 42 of the LGA. The Chief Executive is responsible for implementing and managing Council's policies and objectives within the budgetary constraints established by Council. In terms of Section 42 of the LGA, the responsibilities of the Chief Executive are:

- Providing advice to Council and Community Boards,
- Implementing the decisions of Council,
- 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 and exercised,
- Ensuring the effective and efficient management of the activities of the local authority,
- Maintaining systems to enable effective planning and accurate reporting of 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
- Negotiating the terms of employment of the staff of the local authority.

4.0 Relationships and Behaviours

4.1 General Expectations of Elected Members

4.1.1 Elected Members will:

- (a) Act in accordance with the Code of Conduct General Principles in Section 2.0 of this Code,
- (b) Ensure they are informed about the roles, functions and processes of Ruapehu District Council,
- (c) Ensure that they become aware of the statutory obligations imposed on Elected Members and on Councils,
- (d) Be adequately prepared for meetings, including reading agendas and other relevant material prior to attendance, and if appropriate and where possible putting forward questions to the relevant officer in advance,
- (e) Undertake appropriate professional development,

- (f) On entering into a term of office, declare whether the Member is an undischarged bankrupt,
- (g) Recognise that they have no personal power to commit Council to any particular policy or course of action unless that have delegated authority from Council or the appropriate committee to do so,
- (h) Ensure that the privacy of individual staff members is preserved and not comment publicly on the management or staff of the Ruapehu District Council by identification or by general reference,
- (i) Ensure that any public statement giving a point of view contrary to a Council decision is identified as a personal, minority view.

4.2 Relationships with Other Elected Members

4.2.1 Elected Members will conduct their dealings with each other in a way that:

- Maintains public confidence in the office to which they have been elected,
- Is open and honest,
- Focuses on issues rather than personalities,
- Avoids conduct which is aggressive, offensive or abusive or which may constitute unlawful or inappropriate harassment.

4.3 Relationships with Staff

4.3.1 The effective performance of Council requires a high level of co-operation and mutual respect between Elected Members and staff. To ensure that level of co-operation and trust is maintained Elected Members must:

- 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, instruct or censure an employee,
- Make themselves aware of the obligations that Council and the Chief Executive have as employers and observe those requirements at all times,
- Treat all employees with courtesy and respect, avoiding conduct which is aggressive, offensive or abusive or may constitute unlawful or inappropriate harassment,
- Observe any guidelines the Chief Executive puts in place regarding contact with employees,
- Not do anything which compromises or could be seen to be compromising the impartiality of an employee,
- Avoid publicly criticising any employee in any way, including criticism that reflects on the competence and integrity of an employee,
- Raise concerns about employees only with the Chief Executive,
- Raise concerns regarding management or operational matters with the Chief Executive for discussion and resolution,
- Should a Council Member have a concern and not be satisfied with the response of the Chief Executive, the matter should be raised with Council to address the concern.

4.3.2 Elected Members should be aware that failure to observe this portion of the Code of Conduct may compromise Council's obligations to act as a good employer, resulting in the Council being exposed to civil litigation, and individual Elected Members being exposed to responsibility for loss under section 46 of the LGA.

4.4 Relationships with the Community

- 4.4.1 Effective Council decision-making depends on productive relationships between Elected Members and the community at large. Elected 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 LGA.
- 4.4.2 Elected Members should act in a manner that encourages and values community involvement in local democracy.
- 4.4.3 Elected Members shall avoid aggressive or abusive behaviour towards members of the public.

4.5 Contact with the Media

- 4.5.1 From time to time individual Elected Members will be approached to comment to the media on a particular issue, either on behalf of Council or as an Elected Member in their own right. The following rules apply for media contact on behalf of Council:
- No Member may speak to the media on behalf of Council unless first approved to do so by resolution of Council, or of a Committee of Council,
 - The Mayor is the first point of contact for the official view on any issue. An official view is one mandated by Council. If not an official view, the Mayor will make it clear that the view expressed is theirs alone. Where the Mayor is absent, any matters will be referred to the Deputy Mayor or relevant Committee Chairperson for response,
 - In any situation where the Mayor provides comment to the media (in either his/her capacity as Mayor speaking on behalf of Council, or as a personal opinion) a summary of this comment shall be distributed to all Council Members as soon as practicable,
 - The Mayor may refer any matter to the relevant Committee Chairperson or to the Chief Executive for their comment.
- 4.5.2 Elected Members are free to express a personal view in the media at any time, provided the following rules are observed:
- Elected Member 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 other requirements of the Code of Conduct, eg, not disclose confidential information, or compromise the impartiality or integrity of staff.

5.0 Confidential Information

- 5.1 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.
- 5.2 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.
- 5.3 For the purpose of this part of the Code to “disclose confidential information” relates to all of the below identified situations:
- Disclosure of information provided from outside Council (eg, by a member of the public) to the Member in his or her capacity as an Elected Member on a confidential basis,
 - Disclosure of information provided to the Member in a meeting of Council or Committee to which the public was excluded,

- Disclosure of information of a confidential nature provided to the Member in his or her capacity as an Elected Member (eg, by Council staff).
- 5.4 Elected Members should be aware that failure to observe these provisions would impede the performance of Council by inhibiting information flows and undermining public confidence in Council. Failure to observe provisions may also expose Council to prosecution under the Privacy Act 1993 and/or civil litigation.

6.0 Information Sharing

- 6.1 The purpose of this part of the Code is not only to ensure a co-operative sharing of information among Elected Members, but also to enable Council to fulfil its obligations under the Local Government Official Information and Meetings Act 1987 (LGOIMA) generally and under Section 44A (Land Information Memorandum) and Section 31 of the Building Act 1991 (Project Information Memorandum).
- 6.2 A Member may occasionally be offered information, including documents, in his or her capacity as an Elected Member which relate to the ability of Council to give effect to the provisions of the LGA or any other legislation for which Council is responsible (eg, the Resource Management Act, Building Act or Dog Control Act). Such information, when received, must be shared with other Elected Members and in an appropriate case, the Chief Executive.
- 6.3 If information of that nature is offered on a confidential basis the Member must:
- Inform the supplier of the information that the Member may have a disclosure obligation under this Code,
 - Inform the supplier that public disclosure of information received by the Council is governed by LGOIMA and that, under LGOIMA, public disclosure may occur without the supplier's consent,
 - Decline to receive the information if the supplier insists upon absolute confidentiality.
- 6.4 The only exceptions to this requirement of the Code would arise where:
- The information in question would, once received, be exempt from disclosure upon a request for disclosure made under LGOIMA. Determination of the availability of an exemption under LGOIMA is delegated to the Chief Executive and all such matters must be referred to the Chief Executive before the information or document is received,
 - Information is disclosed to the Member under Council's Protected Disclosures Policy, in which case, the procedures outlined in the Protected Disclosures Policy shall be followed.

7.0 Decision-Making

- 7.1 Elected Members are expected to approach decision-making with an open mind, faithfully and impartially. This process requires Elected Members to listen carefully to competing advice and the weigh up the pros and cons before making their decisions.
- 7.2 Where Council or a Standing Committee is hearing formal submissions at a Hearing, Elected Members should carefully avoid prior public comments that show a predetermined bias or non-flexible attitude, to protect Council from litigation.
- 7.3 Where Council or a Standing Committee is hearing formal submissions at a Hearing, Elected Members should avoid any comment or action that may give the appearance of bias, to protect Council from litigation.

- 7.4 Council should only make decisions at Council meetings on those matters that are accompanied by staff prepared Business Papers. While Council may hear submissions and delegations and, within the limits of the legislation, discuss matters raised from the floor of the meeting, no decision shall be made unless the matter is accompanied by a written Business Paper, to protect Council from litigation.

8.0 Conflict of Interest

- 8.1 The phrase “conflict of interest” is used to describe three distinct and separate circumstances where there is or may be a conflict between personal interests or the conduct of a Member and that Member’s duties as an Elected Member. The statutory and common law rules relating to conflicts of interest are part of the rules of natural justice. They reflect the expectation of the community that, when making decisions on behalf of the community, Elected Members will act impartially and in a manner appropriate to the nature of the decision.
- 8.2 Elected Members performing their duties will, on occasion, be making political decisions (eg, when making policy or adopting planning documents) and on other occasions be acting in a judicial or semi-judicial capacity (eg, when considering resource consent applications or matters relating to exemptions from statutory requirements or bylaws). There is some limited scope for flexibility in respect of political decisions, but absolutely no scope for flexibility in relation to judicial or semi-judicial decisions.
- 8.3 The three classes of conflict of interest are:
- A pecuniary interest in the matter before Council, which gives rise to a presumption that there is a conflict with the Elected Members’ duties. The pecuniary interest may be direct or indirect and involve either financial gain or financial loss. These matters are regulated, in part, by the Local Authorities (Members Interests) Act 1968,
 - Non-pecuniary interest that may give rise to a perception of conflict between interest and duty. These may be interests or relationships arising out of kinship, marriage, domestic relationships, wider family relationships, employment or Membership of community organisations,
 - Demonstrated bias, ie, circumstances where a Member by words or action, has indicated a commitment to a particular view in respect of an issue such that it is unlikely that the Member may approach the consideration of a decision on that issue with an open mind.
- 8.4 Elected Members must take a precautionary approach to all conflicts of interest. Elected Members must ensure that where an audit office ruling is sought, under LGOIMA, the application for exemption is made on a timely basis. Where a conflict of interest is established, Elected Members must take no part in the discussion of the matter or the decision.
- 8.5 Elected Members who have declared a pecuniary interest in matters to be discussed should consider leaving the meeting room for the full duration of discussion on such matters.
- 8.6 The issue of conflict of interest is a difficult one for Elected Members. Commonly issues may arise on short notice. Matters that seem straightforward at the outset can also become less clear as a matter progresses. Vigilance by Elected Members is required. While the decision to disqualify is ultimately a matter for the Member alone, Elected Members are encouraged to seek guidance and assistance from colleagues or the Chief Executive.

9.0 Standing Orders

- 9.1 Elected Members must adhere to the Standing Orders adopted by Council. These Standing Orders are subject to the same legal requirements as a Code of Conduct with regard to their adoption and amendment.

10.0 Ethics

- 10.1 Ruapehu District Council seeks to maintain and promote the highest standards of ethical conduct amongst its Elected Members. Accordingly, Elected Members will:
- Claim only for legitimate expenses as laid down by determination of the Remuneration Authority 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 Members' 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.
 - Notify the Chief Executive if gifts are accepted.

11.0 Disqualification of Elected Members from Office

- 11.1 Elected Members are automatically disqualified 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 for certain breaches of the Local Authorities (Members Interests) Act 1968.

12.0 Compliance and Review

12.1 Compliance

- 12.1.1 Compliance with the Code is mandatory for all Elected Members (Schedule 7, Section 15[4]). The Elected Members themselves shall monitor compliance with the Code.
- 12.1.2 The following outlines the process for reporting a breach of the Code of Conduct.
- All alleged breaches of the Code of Conduct shall be reported in writing to the Mayor and/or Deputy Mayor. A copy of this report should also be forwarded to the Chief Executive.
 - The Chief Executive will ensure that a copy of the complaint is forwarded to the person who allegedly caused the breach. The Member who the complaint has been made against may reply to the complaint in writing. This reply should be submitted to the Chief Executive within ten working days of receiving notice of the complaint.
 - All reported breaches (unless formally withdrawn in writing) will be placed on the Council Agenda as soon as practicable. These items of Council shall be discussed as confidential items.
 - The complainant may withdraw the complaint at any time prior to the Council meeting, by notifying both the Mayor and Chief Executive in writing of their intention to withdraw the complaint. The Chief Executive will ensure that the person who allegedly caused the breach is advised of the withdrawal of the complaint.
- 12.1.3 Where Council resolves that a Member has breached the Code of Conduct and the breach involves no offence against any statute, the Council may take the following action:
- Censure,
 - Removal of the Elected Member from Council committees and/or other representative bodies,
 - Dismissal of the Elected Member from a position such as Deputy Mayor or Committee chairperson.

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

12.2 Review

12.2.1 Once adopted, the 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% or more of the Elected Members of Council present.

12.2.2 Council will formally review the Code of Conduct within six months of every triennial election.

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.

1. ***Local Authority Members Interests Act 1968***

This Act regulates situations where 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 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 Members spouse contracts with the authority or has a pecuniary interest.

Elected Members may 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 payment to Elected Members, their spouses or their companies that exceed the \$25,000 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 removed from office.

2. ***Local Government Official Information and Meetings Act 1987 (LGOIMA)***

LGOIMA 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:

- (a) Create a disturbance,
- (b) Be disrespectful when they refer to each other or other people,
- (c) Use offensive language about Council, other Councillors, any employee of Council or any member of the public.

3. ***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 two years, or fined up to \$1000, or both. A conviction would trigger the ouster provisions of the LGA and result in the removal of the Member from office.

4. ***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 seven years or more. Elected Members convicted of these offences will also be automatically ousted from office.

5. *Securities Act 1978*

The Securities Act 1978 essentially places Elected Members in the same position as a company director 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.

6. *Privacy Act 1993*

The Privacy Act is an Act to ensure the privacy of persons is preserved by agencies (including councils) that may hold information about that person. The Act outlines procedures that must be followed if there are requests for information as well as limits on the use of that personal information. If an Elected Member breaches the privacy act that Member may face a hearing by the Privacy Commissioner and ultimately may face prosecution.

Appendix 2 - Local Government Act 2002

Below are the relevant extracts from the Local Government Act 2002.

10 Purpose of Local Government

The purpose of local government is—

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future.

11 Role of Local Authority

The role of a local authority is to—

- (a) give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
- (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.

12 Status and Powers

- (1) A local authority is a body corporate with perpetual succession.
- (2) For the purposes of performing its role, a local authority has—
 - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not—
 - (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a co-operative activity; or
 - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
 - (c) restrict the activities of a council-controlled organisation.

14 Principles Relating to Local Authorities

- (1) In performing its role, 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 each aspect of wellbeing referred to in section 10:
 - (d) a local authority should provide opportunities for Maori 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
 - (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 wellbeing 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.
- (2) If any of these principles, or any aspects of wellbeing referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

39 Governance Principles

A local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of Elected Members, is clear and understood by Elected Members and the community; and
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated

from responsibility and processes for decision-making for non-regulatory responsibilities; and

- (d) a local authority should be a good employer; and
- (e) a local authority should ensure that the relationship between Elected Members and management of the local authority is effective and understood.

40. Local Governance Statements

- (1) A local authority must prepare and make publicly available, following the triennial general election of Members, a local governance statement that includes information on—
 - (a) the functions, responsibilities, and activities of the local authority; and
 - (b) any local legislation that confers powers on the local authority; and
 - (c) the electoral system and the opportunity to change it; and
 - (d) representation arrangements, including the option of establishing Maori wards or constituencies, and the opportunity to change them; and
 - (e) Members' roles and conduct (with specific reference to the applicable statutory requirements and code of conduct); and
 - (f) governance structures and processes, Membership, and delegations; and
 - (g) meeting processes (with specific reference to the applicable provisions of the Local Government Official Information and Meetings Act 1987 and standing orders); and
 - (h) consultation policies; and
 - (i) policies for liaising with, and memoranda or agreements with, Maori; and
 - (j) the management structure and the relationship between management and Elected Members; and
 - (k) equal employment opportunities policy; and
 - (l) key approved planning and policy documents and the process for their development and review; and
 - (m) systems for public access to it and its Elected Members; and
 - (n) processes for requests for official information.
- (2) A local authority must comply with subsection (1) within 6 months after each triennial general election of Members of the local authority.
- (3) A local authority must update its governance statement as it considers appropriate.

41. Governing bodies

- (1) A regional council must have a governing body consisting of—
 - (a) Members elected in accordance with the Local Electoral Act 2001; and
 - (b) a chairperson elected by Members of the regional council in accordance with clause 25 of Schedule 7.
- (2) A territorial authority must have a governing body consisting of Members and a mayor elected in accordance with the Local Electoral Act 2001.

- (3) A governing body of a local authority is responsible and democratically accountable for the decision-making of the local authority.
- (4) A chairperson of a regional council, or a mayor of a territorial authority, is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.
- (5) An employee of a local authority who is elected to be a Member of the local authority's governing body must resign from his or her position as an employee of the local authority before taking up his or her position as a Member of the local authority.

42. Chief Executive—

- (1) A local authority must, in accordance with clauses 33 and 34 of Schedule 7, appoint a chief executive.
- (2) A chief executive appointed under subsection (1) is responsible to his or her local authority for—
 - (a) implementing the decisions of the local authority; and
 - (b) providing advice to Members of the local authority and to its community boards, if any; and
 - (c) ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed or exercised; and
 - (d) ensuring the effective and efficient management of the activities of the local authority; and
 - (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and
 - (f) providing leadership for the staff of the local authority; and
 - (g) employing, on behalf of the local authority, the staff of the local authority; and
 - (h) negotiating the terms of employment of the staff of the local authority.
- (3) A chief executive appointed under subsection (1) is responsible to his or her local authority for ensuring, so far as is practicable, that the management structure of the local authority—
 - (a) reflects and reinforces the separation of regulatory responsibilities and decision-making processes from other responsibilities and decision-making processes; and
 - (b) is capable of delivering adequate advice to the local authority to facilitate the explicit resolution of conflicting objectives.
- (4) For the purposes of any other Act, a chief executive appointed under this section is the principal administrative officer of the local authority.

Schedule 7

1. Disqualification of Members—

- (1) A person's office as Member of a local authority is vacated if the person, while holding office as a Member of the local authority,—
 - (a) ceases to be an elector or becomes disqualified for registration as an elector under the Electoral Act 1993; or
 - (b) is convicted of an offence punishable by a term of imprisonment of 2 years or more.

- (2) If subclause (1)(b) applies,—
 - (a) the disqualification does not take effect—
 - (i) until the expiration of the time for appealing against the conviction or decision; or
 - (ii) if there is an appeal against the conviction or decision, until the appeal is determined; and
 - (b) the person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a Member during that time.
- (3) A person may not do an act as a Member while disqualified under subclause (1) or while on leave of absence under subclause (2).

2. Ouster of office of Member—

- (1) On proof by affidavit that a Member of a local authority is, or has become, or was at the date of appointment or election, incapable of holding office under this Act, a District Court may call on that person to show cause why he or she should not be adjudged to be ousted from office.
- (2) If a District Court concludes that the Member is or was incapable of holding office, the Court may adjudge that person to be ousted from office and that Member is ousted from office accordingly.
- (3) In proceedings under this clause, the District Court may exercise all the powers and authorities that it may exercise in its ordinary jurisdiction in civil cases, and the procedure of the Court applies generally, so far as practicable.
- (4) No matter in relation to a disputed appointment or election is to be heard by a District Court under this clause.
- (5) If a District Court adjudges that a Member be ousted from his or her office,—
 - (a) the decision is not to take effect—
 - (i) until the expiration of the time for appealing against the decision; or
 - (ii) if there is an appeal against the decision, until the appeal is determined; and
 - (b) the person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a Member during that time.
- (6) The person may not do an act as a Member while on leave of absence under subclause (5).

3. Secretary to institute proceedings—

- (1) The Secretary must institute proceedings against a person who fails to comply with the requirements of clause 1(3), clause 2(6), or clause 14(1).
- (2) Nothing in this clause prevents other persons from taking proceedings against a person who fails to comply with the requirements of clause 1(3), clause 2(6), or clause 14(1).

4. Member's right to resign—

- (1) A Member of a local authority may resign office by notice in writing addressed and delivered to the chief executive of the local authority.
- (2) The notice takes effect on the day on which it is delivered to the chief executive of the local authority.

5. Extraordinary vacancies—

- (1) The office of a Member of a local authority becomes vacant, and the vacancy that is created is an extraordinary vacancy, if the Member—
 - (a) dies; or
 - (b) becomes a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - (c) is disqualified from, or is ousted from, office; or
 - (d) is absent without leave of the local authority from 4 consecutive ordinary meetings of the local authority; or
 - (e) resigns under clause 4.
- (2) Sections 117 to 120 of the Local Electoral Act 2001 apply to extraordinary vacancies.

14. Declaration by Member—

- (1) A person may not act as a Member of a local authority until—
 - (a) that person has, at a meeting of the local authority following the election of that person, made an oral declaration in the form set out in subclause (3); and
 - (b) a written version of the declaration has been attested as provided under subclause (2).
- (2) The written declaration must be signed by the Member and witnessed by—
 - (a) the chairperson; or
 - (b) the mayor; or
 - (c) a Member of the local authority; or
 - (d) the chief executive of the local authority; or
 - (e) in the absence of the chief executive, some other officer appointed by the chief executive.
- (3) The form of the declaration must consist of the following elements:

15. Code of conduct—

- (1) A local authority must adopt a code of conduct for Members of the local authority as soon as practicable after the commencement of this Act.
- (2) The code of conduct must set out—
 - (a) understandings and expectations adopted by the local authority about the manner in which Members may conduct themselves while acting in their capacity as Members, including—
 - (i) behaviour toward one another, staff, and the public; and
 - (ii) disclosure of information, including (but not limited to) the provision of any document, to Elected Members that—
 - (A) is received by, or is in the possession of, an Elected Member in his or her capacity as an Elected Member; and
 - (B) relates to the ability of the local authority to give effect to any provision of this Act; and

- (b) a general explanation of—
 - (i) the Local Government Official Information and Meetings Act 1987; and
 - (ii) any other enactment or rule of law applicable to Members.
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.
- (4) A Member of a local authority must comply with the code of conduct of that local authority.
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a Member or newly Elected Member to declare whether or not the Member or newly Elected Member is an undischarged bankrupt.
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the Members present.
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

16. *Members to abide by standing orders—*

- (1) A Member of a local authority must abide by the standing orders adopted under clause 27.
- (2) A Member of the police, or an officer or employee of a local authority, may, at the request of the chairperson, remove or exclude a Member from a meeting if that Member is required to leave the meeting by a ruling made under the standing orders and that Member—
 - (a) refuses or fails to leave the meeting; or
 - (b) having left the meeting, attempts to re-enter the meeting without the permission of the chairperson.

17. *Election of deputy mayor or deputy chairperson—*

- (1) A territorial authority must elect 1 of its Members to be its deputy mayor in accordance with clause 25.
- (2) A regional council must elect 1 of its Members to be its deputy chairperson in accordance with clause 25.
- (3) The deputy mayor or deputy chairperson must perform all the responsibilities and duties, and may exercise all the powers, of the mayor or chairperson,—
 - (a) with the consent of the mayor or chairperson, at any time during the temporary absence of the mayor or chairperson:
 - (b) without that consent, at any time while the mayor or chairperson is prevented by illness or other cause from performing the responsibilities and duties, or exercising the powers, of his or her office:
 - (c) while there is a vacancy in the office of the mayor or chairperson.
- (4) In the absence of proof to the contrary, a deputy mayor or deputy chairperson acting as mayor or chairperson is presumed to have the authority to do so.
- (5) A deputy mayor or deputy chairperson continues to hold his or her office as deputy mayor or deputy chairperson, so long as he or she continues to be a Member of the territorial authority or regional council, until the election of his or her successor.

18. Power to remove chairperson, deputy chairperson, or deputy mayor—

- (1) At a meeting that is in accordance with this clause, a territorial authority or regional council may remove its chairperson, deputy chairperson, or deputy mayor from office.
- (2) If a chairperson, deputy chairperson, or deputy mayor is removed from office at that meeting, the territorial authority or regional council may elect a new chairperson, deputy chairperson, or deputy mayor at that meeting.
- (3) A meeting to remove a chairperson, deputy chairperson, or deputy mayor may be called by—
 - (a) a resolution of the territorial authority or regional council; or
 - (b) a requisition in writing signed by the majority of the total Membership of the territorial authority or regional council (excluding vacancies).
- (4) A resolution or requisition must—
 - (a) specify the day, time, and place at which the meeting is to be held and the business to be considered at the meeting; and
 - (b) indicate whether or not, if the chairperson, deputy chairperson, or deputy mayor is removed from office, a new chairperson, deputy chairperson, or deputy mayor is to be elected at the meeting if a majority of the total Membership of the territorial authority or regional council (excluding vacancies) so resolves.
- (5) A resolution may not be made and a requisition may not be delivered less than 21 days before the day specified in the resolution or requisition for the meeting.
- (6) The chief executive must give each Member notice in writing of the day, time, place, and business of any meeting called under this clause not less than 14 days before the day specified in the resolution or requisition for the meeting.
- (7) A resolution removing a chairperson, deputy chairperson, or deputy mayor carries if a majority of the total Membership of the territorial authority or regional council (excluding vacancies) votes in favour of the resolution.

19. General provisions for meetings—

- (1) A local authority must hold the meetings that are necessary for the good government of its region or district.
- (2) A Member of a local authority, or of a committee of a local authority, has, unless lawfully excluded, the right to attend any meeting of the local authority or committee.
- (3) A meeting of a local authority must be called and conducted in accordance with—
 - (a) this schedule; and
 - (b) Part 7 of the Local Government Official Information and Meetings Act 1987; and
 - (c) the standing orders of the local authority.
- (4) A local authority must hold ordinary meetings at the times and places that it appoints.
- (5) Unless clause 22 applies, the chief executive must give notice in writing to each Member of the time and place of an ordinary meeting—
 - (a) not less than 14 days before the meeting; or
 - (b) if the local authority has adopted a schedule of meetings, not less than 14 days before the first meeting on the schedule.
- (6) If a local authority adopts a schedule of ordinary meetings,—

- (a) the schedule—
 - (i) may cover any future period that the local authority considers appropriate; and
 - (ii) may be amended; and
- (b) notification of the schedule or of any amendment to that schedule constitutes a notification of every meeting on the schedule or amendment.

21. First meeting of local authority following triennial general election of Members—

- (1) The first meeting of a local authority following a triennial general election of Members must be called by the chief executive as soon as practicable after the results of the election are known.
- (2) The chief executive must give the persons elected to the local authority not less than 7 days' notice of the meeting.
- (3) Despite subclause (2), if an emergency exists, the chief executive may give notice of the meeting as soon as practicable.
- (4) The chief executive (or, in the absence of the chief executive, a nominee of that officer) must chair the meeting until the mayor or chairperson has made and attested the declaration required under clause 14.
- (5) The business that must be conducted at the meeting must include—
 - (a) the making and attesting of the declarations required of the mayor (if any) and Members under clause 14; and
 - (b) the election of the chairperson (if any) and the making and attesting of the declaration required of the chairperson under clause 14; and
 - (c) a general explanation, given or arranged by the chief executive, of—
 - (i) the Local Government Official Information and Meetings Act 1987; and
 - (ii) other laws affecting Members, including—
 - (A) the appropriate provisions of the Local Authorities (Members' Interests) Act 1968; and
 - (B) sections 99, 105, and 105A of the Crimes Act 1961; and
 - (C) the Secret Commissions Act 1910; and
 - (D) the Securities Act 1978; and
 - (d) the fixing of the date and time of the first ordinary meeting of the local authority, or the adoption of a schedule of ordinary meetings; and
 - (e) the election of the deputy mayor or deputy chairperson in accordance with clause 17.

23. Quorum of councils and committees—

- (1) A meeting is duly constituted if a quorum is present, whether or not all of the Members are voting or entitled to vote.
- (2) Business may not be transacted at any meeting unless at least a quorum of Members is present during the whole of the time at which the business is transacted.

- (3) The quorum at a meeting of—
 - (a) a local authority consists of—
 - (i) half of the Members if the number of Members (including vacancies) is even; or
 - (ii) a majority of Members if the number of Members (including vacancies) is odd; and
 - (b) a committee—
 - (i) is not fewer than two Members of the committee (as determined by the local authority or committee that appoints the committee); and
 - (ii) in the case of a committee other than a subcommittee, must include at least one Member of the local authority.

24. Voting—

- (1) Unless otherwise provided in this Act or in any standing orders,—
 - (a) the acts of a local authority must be done, and the questions before the local authority must be decided, at a meeting by—
 - (i) vote; and
 - (ii) the majority of Members that are present; and
 - (b) the mayor or chairperson or other person presiding at the meeting—
 - (i) has a deliberative vote; and
 - (ii) in the case of equality of votes, does not have a casting vote.
- (2) To avoid doubt, in the case of equality of vote, the question is defeated and the status quo is preserved.
- (3) An act or question coming before a local authority must be done or decided by open voting.

25. Voting systems for certain appointments—

- (1) This clause applies to—
 - (a) the election or appointment of the chairperson and deputy chairperson of a regional council; and
 - (b) the election or appointment of the deputy mayor; and
 - (c) the election or appointment of the chairperson and deputy chairperson of a committee; and
 - (d) the election or appointment of a representative of a local authority.
- (2) If this clause applies, a local authority or a committee (if the local authority has so directed) must determine by resolution that a person be elected or appointed by a system of voting that requires that—
 - (a) the person to be elected or appointed receives the votes of a majority of the Members of the local authority or committee present and voting; and
 - (b) if more than 1 round of voting is required, the least successful candidate in a round of voting may not be a candidate in the next round of voting.

- (3) If the system of voting described in subclause (2) is adopted,—
 - (a) clause 24(1)(b) does not apply; and
 - (b) every equality of votes that is not to be determined by a further round of voting must be determined by lot in the manner that the local authority or committee determines.

26. *Chairperson of meetings—*

- (1) The mayor or chairperson of the local authority must preside at each meeting of the local authority at which he or she is present unless the mayor or chairperson vacates the chair for a particular meeting.
- (2) The chairperson of a committee must preside at each meeting of the committee at which he or she is present unless the chairperson vacates the chair for a particular meeting.
- (3) The local authority may appoint a Member of a committee to be the chairperson of that committee and, if the local authority, on the appointment of the committee, does not appoint a chairperson, the committee may exercise that power.
- (4) The local authority or the committee may appoint a deputy chairperson to act in the absence of the chairperson.
- (5) If the mayor or chairperson of a local authority or the chairperson of a committee is absent from a meeting, the deputy mayor or deputy chairperson (if any) of the local authority or committee must preside.
- (6) However, if a deputy mayor or deputy chairperson has not been appointed, or if the deputy mayor or deputy chairperson are also absent, the Members of the local authority or of the committee that are present must elect 1 of their number to preside at that meeting, and that person may exercise at that meeting the responsibilities, duties, and powers of the deputy chairperson.

30. *Power to appoint committees, subcommittees, other subordinate decision-making bodies, and joint committees—*

- (1) A local authority may appoint—
 - (a) the committees, subcommittees, and other subordinate decision-making bodies that it considers appropriate; and
 - (b) a joint committee with another local authority or other public body.
- (2) A committee may appoint the subcommittees that it considers appropriate unless it is prohibited from doing so by the local authority.
- (3) A committee or other subordinate decision-making body is subject in all things to the control of the local authority, and must carry out all general and special directions of the local authority given in relation to the committee or other body or the affairs of the committee or other body.
- (4) A subcommittee is subject in all things to the control of the committee that appointed it, and must carry out all general and special directions of the committee given in relation to the subcommittee or its affairs.
- (5) Unless expressly provided otherwise in an Act,—
 - (a) a local authority may discharge or reconstitute a committee or subcommittee or other subordinate decision-making body; and
 - (b) a committee may discharge or reconstitute a subcommittee.

- (6) Nothing in this clause entitles a local authority or committee to rescind or amend a decision made under a delegation authorising the making of decision by a committee, a subcommittee, or another subordinate decision-making body.
- (7) A committee, subcommittee, or other subordinate decision-making body is, unless the local authority resolves otherwise, deemed to be discharged on the coming into office of the Members of the local authority elected or appointed at, or following, the triennial general election of Members next after the appointment of the committee, subcommittee, or other subordinate decision-making body.
- (8) A joint committee appointed under this clause is deemed to be both a committee of the local authority and a committee of the other local authority or public body (subject to the law applicable to the committees of that other local authority or public body).
- (9) So far as the joint committee is a committee of the local authority, this Part applies to that joint committee except that the powers to discharge any individual Member and appoint another in his or her stead must be exercisable by the local authority or public body that made the appointment.
- (10) The power conferred on the local authority under this Part to appoint a chairperson or deputy chairperson of a committee does not apply to a joint committee appointed under this clause, but the joint committee may appoint and remove its own chairperson or deputy chairperson.

33. *Appointment of chief executive—*

The local authority must, in making an appointment under section 42, have regard to the need to appoint a person who will—

- (a) Discharge the specific responsibilities placed on the appointee; and
- (b) Imbue the employees of the local authority with a spirit of service to the community; and
- (c) Promote efficiency in the local authority; and
- (d) Be a responsible manager; and
- (e) Maintain appropriate standards of integrity and conduct among the employees of the local authority; and
- (f) Ensure that the local authority is a good employer; and
- (g) Promote equal employment opportunities.

34. *Terms of employment of chief executive—*

- (1) A chief executive appointed under section 42 may not be appointed for a term of more than 5 years.
- (2) The local authority and the chief executive must enter into a performance agreement.
- (3) When the term of appointment expires, a vacancy exists in the office of the chief executive, and that vacancy must be advertised.
- (4) Despite subclause (3), if the local authority has completed a review under clause 35, that local authority may, without advertising the vacancy, appoint the incumbent chief executive for a second term not exceeding 2 years on the expiry of the first term of appointment.
- (5) After completing a review under clause 35, but before the date on which the chief executive's contract of employment for the first term expires, the local authority must resolve whether or not to—
 - (a) Appoint the chief executive for a second term under subclause (4); or
 - (b) Advertise the vacancy.

- (6) If a vacancy is advertised,—
 - (a) The incumbent chief executive may apply for the position; and
 - (b) The local authority must give due consideration to any application for the position by the incumbent chief executive.
- (7) Despite the provisions of any other enactment or rule of law, a chief executive has no right or expectation of renewed employment at the end of any term.

35. *Performance review at end of first term of appointment—*

- (1) A local authority must, not less than six months before the date on which the chief executive's contract of employment for the first term expires, conduct and complete a review of the employment of the chief executive.
- (2) The review must assess—
 - (a) The performance of the chief executive; and
 - (b) The mix of skills and attributes possessed by the chief executive, and the degree to which they are consistent with the skills and attributes that the local authority considers necessary for the future; and
 - (c) Any other factors that the local authority considers relevant.
- (3) To avoid doubt, responsibility for determining the degree to which any factors in subclause (2)(a) and (b) apply to a review, and the relevance of any additional factors under subclause (2)(c), rests solely with the local authority.
- (4) Subclause (1) does not apply if the incumbent chief executive declares in writing to the local authority that he or she does not wish to be considered for appointment to a second term.