

SOUTH WAIRARAPA DISTRICT COUNCIL

19 OCTOBER 2016

AGENDA ITEM E3

CODE OF CONDUCT FOR ELECTED MEMBERS

Purpose of Report

To adopt the Code of Conduct for Elected Members for the 2016-2019 triennium.

Recommendations

Officers recommend that the Council:

1. *Receive the information.*
2. *Adopt the Code of Conduct for Elected Members for the 2016-2019 Triennium.*

1. Discussion

The Council first adopted a Code of Conduct on 27 February 2002 and a revised version was adopted on 24 September 2003.

The Code of Conduct remains in force unless it is amended or replaced, however for the purposes of a personal awareness of the Code and accountability to the public, elected members are asked to adopt the Code of Conduct specifically for the new triennium.

A copy of the current Code is being distributed to newly elected members and is attached as Appendix 1.

2. Appendix

Appendix 1 – Code of Conduct for Elected Members

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Appendix 1 – Code of Conduct for Elected Members

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SOUTH WAIRARAPA DISTRICT COUNCIL CODE OF CONDUCT

First adopted by Council on 27 February 2002

Revised pursuant to Clause 15 of Schedule 7 of the Local Government Act 2002 and adopted by Council on 24 September 2003

Amended on 30 October 2013

1. INTRODUCTION

1.1 This Code of Conduct is prepared to provide guidance on the conduct and standards of behaviour expected of elected members (the Mayor and Councillors) of the South Wairarapa District Council as well as elected members of Community Boards and all Committees and to provide certain information specified under the Act. It applies to elected members in their dealings with :-

- ◆ each other;
- ◆ Council management and staff;
- ◆ the public;
- ◆ the news media.

1.2 Aspects of the Code of Conduct also provide guidance on the standards of behaviour required of Council management. It is a code agreed to by the elected members and management to enhance:

- ◆ the effectiveness of the Council as the autonomous local authority with statutory responsibilities for the good government of the South Wairarapa District;
- ◆ the credibility and accountability of the Council and Community Boards in the District and its communities;
- ◆ mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.

1.3 The Code of Conduct seeks to achieve its objectives by recording:

- ◆ an agreed statement in respect of responsibilities;
- ◆ agreed general principles of conduct or etiquette;
- ◆ specific codes of conduct applying to particular circumstances or matters.

2. RESPECTIVE RESPONSIBILITIES

2.1 The Local Government Act 2002 envisages a clear separation of roles and responsibilities between elected members and management. The office of the Mayor has additional characteristics created as much by custom as by legislation.

2.2 Elected Members

Council

The elected members of the Council, are responsible for:-

- ◆ the development and approval of Council policy (including the Long Term Plan);
- ◆ determining the expenditure and funding requirements of the Council through the Annual Plan process;
- ◆ monitoring the performance of the Council against its stated objectives and policies;
- ◆ employing and monitoring the performance of the Chief Executive Officer.

Community Boards

Elected members of Community Boards are responsible for –

- ◆ considering and reporting on all matters referred to them by the Council, or matters of concern to the community;
- ◆ providing input to the Annual Plan process and commenting to the Council on public submissions on the Plan;
- ◆ communicating and liaising with community organisations and like groups;
- ◆ the performance of any such functions that are delegated by the Council, in accordance with Section 53 of the Local Government Act 2002.

2.3 The Council and Community Boards can only act by a majority decision at meetings. Each member has one vote, with the presiding member at any meeting having one vote and a casting vote, as per Appendix H of the Model Standing Orders for Meetings of Local Authorities and Community Boards. With certain exceptions, the exercise of the Council's powers can be delegated to committees, or Community Boards or to individual persons.

2.4 The elected members are accountable to electors through the electoral system.

2.5 **The Mayor**

The Mayor is an elected member, and shares the same collective responsibilities as for Councillors. The Mayor is elected by the District at large and is the presiding member at meetings of the Council, and as such is responsible under Standing Orders for the orderly conduct of Council business at meetings.

2.6 The Mayor has no power to commit the Council to any particular course of action except where specifically authorised by the Local Government Act 2002 under duly delegated authority.

2.7 The Office of Mayor carries with it an element of community leadership in addition to the statutory role as presiding member of the Council. The leadership role frequently requires the Mayor to act as community advocate, promoting the attributes of the community and representing its interests. Community leadership and advocacy will be more effective where it is carried out with the knowledge and support of the Council.

2.8 The Mayor is a Justice of the Peace while holding office as Mayor.

2.9 **The Deputy Mayor**

In addition to the responsibilities of councillor, the Deputy Mayor is authorised to chair meetings of the Council in the Mayor's absence, and generally to perform the functions and duties of the Mayor:

- ◆ With the Mayor's consent at any time during the Mayor's temporary absence; or
- ◆ Without the Mayor's consent at any time while the Mayor is prevented by illness or other cause from performing the functions and duties or exercising the powers of office or while there is any vacancy in the office of Mayor.

In the absence of both the Mayor and Deputy Mayor, the Council elects one of its members to Chair a particular meeting.

2.10 **Community Board and Standing Committee Chairs**

The Chairs of Community Boards and Standing Committees are responsible for the efficient and proper control and conduct of their respective meetings and for the provision of leadership in the areas for which a Community Board or Standing Committee has responsibility.

The business of Community Boards and Standing Committees shall be consistent with the powers delegated by the Council and the respective Chairs are responsible for ensuring compliance.

2.11 **Chief Executive**

The Chief Executive Officer is responsible for the implementation and management of the Council's policies and objectives. In terms of section 42 of the Local Government Act 2002, the Chief Executive Officer's responsibilities include:

- (a) implementing the decisions of the Council and Community Boards;
- (b) providing advice to elected members;
- (c) ensuring that all responsibilities, duties and powers delegated to the Chief Executive Officer or to any person employed by the Council, or imposed or conferred by an Act, regulation or bylaw are properly performed or exercised;
- (d) ensuring the effective, efficient and economic management of the activities and planning of the local authority.
- (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. DECISION MAKING

3.1 Predetermination or Bias:

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 to weigh up the pros and cons before making their decision. Where the Council or a Standing Committee is hearing formal submissions at a hearing, elected members should carefully avoid prior public comments which show a predetermined bias or non flexible attitude.

- 3.2 Decisions are made at various levels within the Council. Effective governance occurs when an organisation’s structure and operating principles recognise, through effective delegation, the need to empower elected members and staff to make decisions at strategic and operational levels, as appropriate to their role.
- 3.3 The Council and Community Boards are required to make decisions that take into account and balance the various needs and preferences of its residents. Good decision making requires considered advice that addresses relevant matters and consequences.
- 3.4 The Council and Community Boards should only make decisions at meetings on those matters that are identified on the agenda or have been resolved by Council for inclusion in the meeting as special or urgent items. While the Council or Community Boards may choose to hear submissions and delegations, and, within the limits of the legislation, discuss matters raised from the floor of the meeting, no decisions may be made unless the matter is also accompanied by sufficient information and/or a written report.
- 3.5 Similarly, Community Boards and Standing Committees of the Council should only make decisions at official meetings where the item to be considered is accompanied by a report that addresses the considerations outlined in paragraph 3.7.

- 3.6 Where a late or urgent item of business is to be included for discussion and the timing precludes the preparation of a management report, the presiding member can call for a verbal report from the relevant manager.
- 3.7 In providing advice on such matters, management will ensure that accompanying reports address the significant implications arising from any proposed recommendations, such as fiscal, environmental and/or social implications.
- 3.8 Matters not on the agenda may only be dealt with in accordance with section 46A(7) or (7A) of the Local Government Official Information and Meetings Act 1987. This means that minor matters relating to the general business of the Council may be discussed but not acted upon (other than by reference to a subsequent meeting) where the presiding member explains at the beginning of the meeting that the item will be discussed. Otherwise late items may only be dealt with at a meeting if the Council or Community Board resolves accordingly and the presiding member explains at the meeting the reason why the item is not on the agenda and the reason why discussion cannot be delayed until a subsequent meeting. In either case the presiding member's explanation must be made at a time when the meeting is open to the public.
- 3.9 The above requirements will also be taken into account when agendas are set for meetings of the Council, its Committees and Community Boards. As a rule items should be raised with the Chief Executive Officer and identified sufficiently far in advance to allow management to provide an accompanying analysis and advice.
- 3.10 While the Council (the corporate body made up of all the elected members) is ultimately accountable, its function is not to make detailed decisions on operational matters. The Council, Community Board, committee structures and members day to day dealings with the Chief Executive Officer should recognise the statutory responsibilities of the Chief Executive Officer for the effective management of the Council.

4. LEGISLATION APPLICABLE TO ELECTED MEMBERS

4.1 The Local Government Act 2002

This is the principal piece of legislation under which local authorities function. The Act (the LGA) includes provisions that directly affect elected members including the Conduct of Members and of Meetings.

Most aspects of Council functions and activities, unless covered under other statutes, are included. Certain sections of the old 1974 Local Government Act still remain in force, however. These are set out in Schedule 18 of the 2002 Act.

4.2 Local Government Official Information and Meetings Act 1987

Elected members are bound by the provision of this Act (LGOIM). It primarily concerns the availability of, and access to, local authority information and explains the basis and procedures for withholding information.

Procedures to be followed for calling meetings and aspects of preparing and distributing agendas, reports and related information are included. While Standing Orders cover in detail meeting procedures, the LGOIM Act contains some key aspects as well.

The question of defamatory material and matters of privilege and oral statements at meetings are covered.

4.3 The Local Authorities (Members' Interests) Act 1968

This Act (for which a booklet has been prepared and is distributed to all elected members) exists to clarify situations where members may have a pecuniary interest, direct or indirect, in a matter being considered at a meeting of the Council, Community Board or a Committee.

Elected members must disclose an interest voluntarily and must not be asked to by either the Mayor or Chair of a meeting or a Council officer.

Members declaring an interest must not discuss or vote on a matter to which their interest relates. Occasionally it may be prudent to leave the meeting room while the matter is discussed.

A member may seek an exemption from this provision in the Act by making an application to the Audit Office.

The ultimate penalty for a breach of the Act is disqualification from office.

4.4 Other Legislation applicable to Elected Members

- The Crimes Act 1961
Part VI – Bribery and Corruption
- The Secret Commissions Act 1910. The receipt of secret commissions or rewards for services or contracts is an offence.
- Securities Act 1978
This only concerns elected members where a local authority issues a prospectus or appoints them as directors of Council owned companies or LATEs.

5. BEHAVIOUR OF MEMBERS

- 5.1 All elected members should respect the dignity of their office in their dealings with each other, management and the public. Elected members should remember that they have no personal power to commit the Council to any particular policy or course of action or expenditure. That can only be done by resolution at a meeting of the Council or a committee with delegated authority. Community Boards' powers are limited to those delegated by the Council. (LGA Section 53)
- 5.2 Councillors and Community Board members who have concerns regarding management matters should not raise them with an employee or contractor other than the Chief Executive, and at all times their dealings should be through the Chief Executive. Should an elected member have a concern and not be satisfied with the response of the Chief Executive, the Committee or Council process should be used to address the concern. That way elected members will be properly informed, particularly if any public explanation or comment is required. Statements that are contentious should be raised only after consultation with the Chief Executive Officer.
- 5.3 Elected members, not officers, bear the ultimate responsibility for decisions made by themselves and by officers. Elected members should ensure that the anonymity of individual

officers is preserved and should not comment publicly on the management or staff of the Council.

- 5.4 Elected members holding views on an issue that are at variance with Council policy or, any decision of either the Council, a Committee or Community Board, is entitled to state those views when such issues are being considered at a meeting. They may not speak in terms, either at a meeting or elsewhere, that seeks to undermine those policies or decisions or causes offence to any elected member or Council Officer.
- 5.5 When a decision has been made by the Council or Community Board, and the decision is contrary to a particular elected member's point of view, that elected member's public statements should make it clear that they represent a minority view.
- 5.6 Elected members should 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.
- 5.7 Elected members should make no allegations which are improper or derogatory. In the performance of their official duties they should refrain from any form of conduct which may cause any reasonable person unwarranted offence or embarrassment.

6. EXTERNAL COMMUNICATIONS

- 6.1 Within the limits imposed by Standing Orders, at any meeting of the Council or Community Board (or at any committee), every elected member (who has the right to speak at the meeting) has the right to express their opinion on any matter lawfully before the meeting. Once a matter has been lawfully determined at a meeting of the Council, it determines the Council's or Community Board's position on that matter until it is lawfully changed by a subsequent decision of that authority. All elected members and management will respect this position.
- 6.2 Public statements representing Council policy or reporting decisions of the Council or Community Boards will be made only with specific or general authority of the Council, and will clearly state the person's authority for making the statement on behalf of the Council or Community Board.

Generally:

- ◆ The Mayor or Chief Executive Officer is authorised to make statements accurately reporting decisions of Council meetings.
 - ◆ Committee Chairpersons are authorised to make statements accurately reporting decisions of their Committees, and factual statements relating to their committees. This applies equally to Community Boards. The Chief Executive Officer is authorised to make statements relating to any of the areas for which the Chief Executive Officer has statutory responsibility.
 - ◆ Department managers may make factual statements relating to the functions of their departments
- 6.3 Alternatively the Chief Executive, Mayor, or any elected member or officer may make specific statements on behalf of the Council but only with the specific authority of the relevant Council, committee, subcommittee or Community Board meeting.

- 6.4 The Mayor or Chief Executive Officer may deal with the news media and make public statements relevant only where it is clearly stated that the views expressed are, in the case of the Mayor, his own and are not made on behalf of the Council. Statements made in this capacity may not undermine any existing policy or decision of the Council.
- 6.5 Elected members are entitled to make public statements expressing their opinion on matters before the Council. All such statements should clearly state that they represent the personal opinion of the elected member and are not made on behalf of the Council. Such statements may not criticise the conduct of the Council, other elected members or officers of the Council nor should they undermine any existing policy or decision of the Council.
- 6.6 The Chief Executive Officer, management and staff should not comment publicly on the performance of the Council or elected members.

6.7 **Disclosure of Information**

Elected members have a responsibility to see that whenever possible business is conducted in “open” meeting. Powers to exclude the public should be used only where absolutely necessary and for the reasons permitted by law. Business conducted where the public is excluded remains confidential and should not be disclosed to the public until either the Council decides by resolution to make it public or the Chief Executive Officer determines in response to a request under the Local Government Official Information and Meetings Act 1987, or the Privacy Act 1993 that there is no longer good reason to withhold it under the Act. Subject to these Acts, any information of a confidential nature may not be communicated. Elected members in possession of information, whether documentary or otherwise that is received by them in their capacity as an elected member and relates to the local authority should be judicious in publicly releasing the information. Except when the information relates to a matter under discussion at a meeting, the Mayor or Chief Executive Officer should be consulted to ensure no policy or decision is being compromised by publicly disseminating the information. It is a grave betrayal of trust to disclose information while it is confidential or use such confidential information for private gain or to bring the Council into disrepute or public odium

7. **INTERNAL COMMUNICATIONS**

- 7.1 The Mayor, Standing Committee Chairs, Community Board Chairmen and the Chief Executive Officer will meet informally from time to time to maintain and promote effective communication. The function of these meetings is to ensure that all parties are familiar with the work being carried out by each; to improve co-ordination; and to ensure the business of the Council, its Committees and Community Boards is conducted in a timely and effective manner.
- 7.2 At every ordinary meeting of the Council, the Mayor will either table or give an oral report to be included in the agenda, outlining activities undertaken in the capacity of Mayor (including activities in the community and in his leadership/advocacy role) since the date of the last ordinary meeting or any matters the Mayor wishes to draw to the attention of Council.
- 7.3 At every Standing Committee meeting, the Chair of that committee may table a report in the agenda outlining any activities undertaken in their capacity as Chairperson, or any matters the Chairperson wishes to draw to the attention of the committee. This applies equally to Community Boards.

- 7.4 Other elected members will provide reports (preferably written) on their attendances on behalf of the Council. (Refer to Section 11)
- 7.5 All meeting agendas will be finalised by the Chief Executive Officer or delegated officer in consultation with the presiding member (the Mayor in the case of Council meetings, the relevant Committee Chair in the case of committee meeting or Community Boards). Agendas will include reference to any deputations to be received at the meeting.

8.0 GIFTS/HOSPITALITY/EXPENSES

- 8.1 Acceptance of gifts, favours or hospitality may be construed as a bribe or perceived as undue influence. The offer and receipt of gifts, including special occasion goodwill gifts must be reported to the Chief Executive Officer. Working lunches and social occasions should be undertaken in an appropriate manner.

8.2 Expenses, Fees and Allowances

Rules for the payment of expenses, meeting fees and allowances are determined by the Remuneration Authority.

An elected member is entitled to claim expenses, fees and allowances in connection with their duties in conformity with the approved Rules. Claim forms are distributed at the commencement of each month for completion and return to the Council administration within 2 days of the end of the month.

8.3 Use of Facilities

Services may be available from the Council for the use by or for an elected member, but only for official Council purposes and should be cleared in the first instance by the Chief Executive Officer, and are subject to the necessary resources being available.

9. PUBLIC DUTY

- 9.1 Elected Council members have a responsibility to the whole community of the South Wairarapa District.
- 9.2 Council Members are elected on a ward basis and have a special interest in that ward but their prime responsibility is to the District as a whole.
- 9.3 Community Board members are responsible to the electors of the community from which they are elected. They are, however, bound by the decisions of the Council who ultimately carry the responsibility for each Community Board's actions and decisions.
- 9.4 Actions of all elected members may need to be justified to the public. The reputation of the Council is dependent on elected members' conduct, and the public perception of this conduct.

10. DISCLOSURE OF PECUNIARY AND OTHER INTERESTS

- 10.1 The law makes specific provision requiring an elected member to disclose pecuniary (financial) interest. But interests which are not pecuniary can be just as important. Family connections, kinship, friendship, membership of an association, society, company or trade union, trusteeship and many other kinds of relationships can influence members' judgement and may give the impression that an elected member might be acting for personal motives. A good test is to consider whether others would think that the interest is of a kind to make this possible. If members are in doubt, they should disclose the interest, seek advice from the Chair or Chief Executive Officer and if necessary withdraw from the meeting.
- 10.2 A member or some firm or organisation with which the elected member is personally connected may have professional, business or personal interests within an area for which Council is responsible. Such interests may be substantial and closely related to the work of one or more of the Council's committees, subcommittees or Community Boards concerned with (say) planning or developing land, personnel matters, or the letting of contracts for supplies, services or works. Before seeking or accepting membership and particularly the chairing of any such committee or subcommittee, that member should seriously consider whether membership would involve them:
- a) in disclosing an interest so often that the member would be of little value to the committee or subcommittee; or
 - b) in weakening public confidence in the impartiality of the committee or subcommittee.
- 10.3 The principles about disclosures of interest should be borne in mind with regard to unofficial contact with other elected members at informal occasions, no less scrupulously than at formal Council, Committee or Community Board meetings.

11. REPRESENTING THE COUNCIL

- 11.1 Elected members who are invited or appointed to represent the Council at an event such as a seminar or conference, should meet the following conditions:
- ◆ The Council must approve any requests involving members travelling outside the Wairarapa area at Council expense.
 - ◆ The cost of representation must be within the annual budgeted figure for such activities unless the Council makes specific authorisation for additional expenditure.
 - ◆ Following his or her attendance, the member must present a report to the Council, or appropriate Standing Committee or Community Board which summarises the event including its potential significance to the business of the South Wairarapa District Council. Where the Council is represented by a delegation, one member of the party will report back on their behalf.
- 11.2 These requirements apply to situations where members will be participating as representatives of the South Wairarapa District Council. They do not apply to situations where members attend in a private capacity. In such cases the member may wish to report to the Council on items of interest or general value.

12. IMPLEMENTATION

- 12.1 This Code is intended to provide guidance to elected members and management in their relationships and the exercising of their functions and duties. It should be read in conjunction with the obligations set out in the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, any other Act and the Council's Standing Orders.
- 12.2 The parties to this Code agree to abide by its provisions at all times having regard to the declaration of office and Council policy.

13. NON-ELECTED MEMBERS OF COMMITTEES AND APPOINTEES TO OUTSIDE ORGANISATIONS

- 13.1 The terms, obligations and provisions of this Code of Conduct as they apply to elected members of Council, Community Boards and Committees, are, by the adoption of the Code by the Council, deemed to apply to all non-elected members of committees and non-elected members appointed to outside organisations.
- 13.2 All such appointments are only made by resolution of the Council or a Community Board.