

# **Code of Conduct for Members of the Wanganui District Council**

*(Pursuant to Part 1 Schedule 7 Section 15 of the Local Government Act (2002),  
“Code of Conduct for Members”)*

## **Understanding and Expectations**

All Members must abide by these principles at all times:

- Members must be fair, impartial and intellectually honest and must not allow prejudice or bias, conflict of interest or influence of others to override objectivity.
- A Member must not make, prepare or certify, or permit or direct another person to make, prepare or certify, any statement which the Member knows, believes or ought to know to be false, incorrect or misleading, or open to misconstruction, by reason of misstatement, omission or suppression of a material fact or otherwise.
- Members must make decisions with due care and diligence.
- Members must behave professionally in all aspects of their professional work. This includes a Member’s dealings with the Chief Executive, management and staff, and other Members.
- When a Member has a conflict of interest, the Member must disclose the conflict to those involved.
- Members must disclose the nature of the business connections, interests or affiliations, which could be viewed as affecting the Member’s judgement or impairing the objective quality of their decisions.
- Members must respect the confidentiality of information acquired in the course of Council business that is not “public information”.
- Members should conduct themselves with courtesy and consideration towards all they come into contact with during their time with Council.
- Members will accept responsibility for their words and actions.
- Members will be fair and equitable.
- Members will encourage and enable people to be involved in decision-making that affects them.
- Members will work together to achieve the Council’s common goals.
- Members will act with integrity and honesty.

In the absence of specific rules, standards or guidance, Members should test their behaviour against the following questions:

- How would I react if I was the other party and a Member behaved like this towards me?
- Have I discharged my council responsibilities to the best of my abilities?

Elected Members, acting as the Council, are responsible for:

- The development and adoption of Council policy.
- Monitoring the performance of the Council against its stated objectives and policies.
- Prudent stewardship of Council resources.

- Employment and performance reviews of the Chief Executive.
- Representing the interests of the residents and ratepayers of the Wanganui District Council.

## **Mayor**

The Mayor is elected by the District at large and, as one of the Elected Members, shares the same responsibilities as other Members of Council. The Mayor also has the following roles as:

- Presiding Member at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined by Standing Orders).
- Advocate on behalf of the community, and identify issues that require advocacy skills.
- Ceremonial head of Council.
- Providing leadership and feedback to other Elected Members on teamwork, chairmanship of committees and spokesperson roles
- Be the primary spokesperson of the Council
- Lead Council in the appointment of Committee Chairpersons and Council spokespersons

## **Deputy Mayor**

The Deputy Mayor is normally elected by Members of the Council, at the Triennial Meeting of Council. The Deputy Mayor exercises the same roles as 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 (per above). Removal from office can only occur by resignation or resolution of Council.

## **Committee Chairperson**

The 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 resolutions. Removal from office can only occur by resignation or resolution of the Council.

## **Council Spokesperson**

The Council spokesperson is responsible for researching, monitoring and leading Council on their defined area of responsibility, and representing the Council in the media and at relevant forums, on that particular area of responsibility. They liaise with the Mayor, Committee Chairpersons and senior Council officers in discharging their role.

Council spokespersons may make public and media statements in that role and are required to distinguish whether their statement represents that of the council, or is their personal viewpoint.

## **Elected Members**

This Code clarifies that Elected Members are entirely free to express their personal and political opinions, both publicly and privately, on any matter of Council interest so long as those views do not purport to represent the view of the Council or utilize knowledge or information gained from confidential Council meetings, minutes or information.

This Code of Conduct explicitly recognises the rights conferred to every member by the *Bill of Rights Act (1990)*.

For the purpose of this Code, Elected Members includes the Mayor and Elected Councillors.

## **Chief Executive**

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 Council.
- Providing advice to the Mayor and 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 the Act, regulation or bylaw are properly performed or exercised.
- Managing the activities of Wanganui District Council effectively and efficiently.
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Wanganui District Council.
- Providing leadership for the staff of Wanganui District Council.
- Employing staff on behalf of Wanganui District Council (including negotiation of the terms of employment of staff).

## **Conflicts of Interest**

Elected Members must ensure that they maintain a clear separation between their personal interests and their duties as an Elected Member, thus are free from bias (whether real or perceived).

## **Compliance**

Elected Members must note that they are bound to comply with the provisions of this Code of Conduct in accordance with Section 15(4) of the Act.

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*
- The *Securities Act 1978*
- The *Bill of Rights Act 1990*

## **Local Government Official Information and Meetings Act 1987**

This Act is to:

- Make official information held by local authorities more freely available.
- Provide for proper access by each person to official information relating to that person which is held by local authorities.
- Provide for the admission of the public to meetings of local authorities.
- Protect official information held by local authorities and the deliberations of local authorities to the extent consistent with the public interest and the preservation of personal privacy.
- Establish procedures for the achievement of those purposes.

## **Secret Commissions Act 1910**

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 \$1,000 or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in removal of the Member from office.

## **Crimes Act 1961**

It is unlawful for an Elected Member (or officer) to:

- Accept or solicit themselves 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 be automatically removed from office.

## **Securities Act 1978**

This Act 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 (e.g. prospectus) contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

## **Local Authorities' (Members' Interests) Act 1968**

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 Wanganui District Council exceed \$25,000 in any financial year.

Elected Members are prohibited from participating in any Council decision or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public (including Members' spouses' contracts).

The Chief Executive must also seek approval from the Audit Office for contractual payments to Members, their spouses or their companies that exceed the \$25,000 limit. Failure to comply may mean, in the event of a conviction, an Elected Member can be removed from office.

## **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 for certain breaches of the Local Authorities (Members' Interests) Act 1968.

## **Undischarged Bankrupt's Disclosure**

Bankruptcy does raise questions about soundness of a person's financial management skills and judgement in general. Council can require a new Member or newly Elected Member to declare their status as an undischarged bankrupt.

## **Amending the Code of Conduct**

Once adopted, a Code of Conduct continues in force until it is amended by Council. The Code can be amended at any time but cannot be revoked unless the Council replaces it with another Code. Once adopted, amendment of the Code requires a vote in support of the amendment of 75% of Members of Council present.

## **Triennial Review**

Council will formally review the Code as soon as practicable after the beginning of each triennium.

**Notes:** A breach of Code does not constitute a breach under the Local Government Act 2002.

## **Complaints Procedure**

### **Scope**

Any elected representative (be they Mayor or Councillor), or any staff member employed by the Wanganui District Council, may make a complaint about a breach by an Elected Member of the “Understanding and Expectations” section of this Code, or any other section of this Code of Conduct.

A complaint may not be made about any other matter dealt with under a Statute. Members of the public, other than as specified above, may not make a complaint against an Elected Member. This Code of Conduct is intended to regulate behaviour within Council and representative of Council.

### **Making a complaint**

Complaints should be addressed to the Chief Executive and must:

- Be in writing.
- Specify the Elected Member about whom the complaint is being made.
- Specify the alleged breach of the Code.
- Contain evidence to support the allegation of a breach.

### **Referral to Independent Person**

On receipt of a complaint the Chief Executive must, unless he or she has good reason not to do so, refer the complaint to an Independent Person recommended by the Wellington District Law Society as being suitable for investigating the complaint (‘the Independent Person’). The Independent Person may receive reasonable remuneration.

Good reasons for refusing to refer the complaint include:

- That the complaint is frivolous or vexatious.
- That the complaint concerns a matter outside the scope of the Code.
- That the matter has already being dealt with under the Code or any other process.
- That the matter raises issues already determined in the negative by precedent by an earlier Code of Conduct inquiry and resolution
- That there has been undue delay in making the complaint.

Immediately after the Chief Executive refers the complaint to the Independent Person, he or she must send letters to the Complainant and the Elected Member concerned, notifying them that the Independent Person has been appointed and explaining the process that is to be followed. A copy of the complaint must be given to the Elected Member.

### **Independent Person to Prepare Report**

The Independent Person must prepare a report which makes findings on matters of fact and provides the Independent Person's views on whether or not the Code of Conduct has been breached as alleged. No recommendation should be made on the issue of sanctions.

In preparing the report, the Independent Person must ask for comment, both from the Complainant and the Elected Member concerned, and collect whatever documentary evidence he or she considers necessary.

For the avoidance of doubt, no formal hearing will be held by the Independent Person in preparing his or her report.

### **Independent Person to Deliver Report to Chief Executive**

On completion of his or her report, the Independent Person must deliver the report to the Chief Executive.

The Chief Executive must then put the report on the agenda for the first Council meeting that is scheduled at least ten working days from the date on which he or she received the report.

The Chief Executive must also forward a copy of the report to both the Complainant and the Elected Member concerned and invite them to make written submissions to the Council, giving them a reasonable period in which to do so.

### **Council to Consider Report**

The Independent Person must present his or her report to the Council at the designated meeting and answer questions. Both the Complainant and the Elected Member concerned must then be given an opportunity to present their submissions to the Council.

A decision on whether or not the Code of Conduct has been breached shall be made by an ordinary resolution of the Council. The Elected Member about whom the complaint has been made may not vote on such a resolution.

### **Responses to Breaches of the Code**

The exact nature of the action Council 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 Members liable for prosecution by the Auditor General under the Local Authority (Members' Interest) Act 1968.
- Breaches which result in Council suffering financial loss or damage may be reported on by the Auditor General under the Local Government Act 2002, which may result in the Member having to make good the loss or damage.

- Breaches relating to the commission of a criminal offence may leave the Elected Member liable for criminal prosecution.

### **Council Decision to Apply Sanctions**

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

### **Potential Sanctions**

Upon receipt of the Independent Report, the Council may resolve;

- that the matter lie on the table
- that the Member be censured
- that the Member be suspended from a council committee or committees
- that the Member be removed from their defined council spokespersonship
- that the Member be required to apologise
- that the Member receive additional training as to the Member's role and responsibilities
- any other remedy that the Council deems appropriate by council resolution

It shall not be an option to remove the Member from their elected office as a Mayor/Councillor or to deny or restrict his or her remuneration as an Elected Member.

### **Matters to be heard in public**

All matters pertaining to the Council discussion of the Independent Report, and discussion upon sanctions if the allegations are proven, shall be conducted in public session.

Where there are matters of especial privacy and/or commercial considerations, then the Council shall have the option of going into confidence to discuss those matters.

Any resolution and debate as to sanctions against an Elected Member shall be conducted in public session.