



### PART ONE: INTRODUCTION

This code of conduct provides guidance on the standards of behaviour that are expected from the Mayor and Councillors (elected members) and other members of Committees and Subcommittees of Papakura District Council. The code applies to elected members and non- elected members in their dealings with:

- each other
- the Chief Executive
- all staff employed by the Chief Executive on behalf of the Council
- the media
- the general public.

The objective of the code is to enhance:

- the effectiveness of the Council as the autonomous local authority with statutory responsibilities for the good local government of the Papakura District
- the credibility and accountability of the Council within its community
- mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.

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

- **Public interest.** Members should serve only the interests of the district as a whole and should never improperly confer an advantage or disadvantage on any one person.
- **Honesty and integrity.** Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity.** Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Elected members should also note that, once elected, their primary duty is to the interests of the entire district, not the ward that elected them.
- **Accountability.** Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.
- **Openness.** Members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.
- **Personal judgment.** Members can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.
- **Respect for others.** Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect the impartiality and integrity of the Council staff.



- **Duty to uphold the law.** Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.
- **Stewardship.** Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.
- **Leadership.** Members should promote and support these principles by example, and should always endeavour to act in the best interests of the community.

### **Scope of this Code**

This code of conduct applies to all members of the Council, whether elected or appointed by Council to Council committees. Non-elected members remain subject to any legislation relevant to their role which is different in some instances than the obligations placed on elected members.



### **PART TWO: ROLES AND RESPONSIBILITIES**

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

#### **Elected Members**

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

- the development and adoption of Council policy
- monitoring the performance of the Council against its stated objectives and policies
- prudent stewardship of Council resources
- employment of the Chief Executive
- representing the interests of the residents and ratepayers of the Papakura District Council. (On election, the members' first responsibility is to the district as a whole)
- ensuring overall compliance by the Council with its obligations and responsibilities under any enactment.

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

- Members who are elected on a ward basis have a duty to that ward and will be expected to undertake local functions and represent local issues and constituents but not to the detriment of their district wide responsibilities.

Elected members, as individuals, must comply with:

- the requirements of this code
- those enactments and other rules of law applicable to the conduct of members.

#### **Mayor**

The Mayor is elected by the district as a whole and, as one of the elected members, shares the same responsibilities as other members of Council. The Mayor is the ceremonial head of the Council. The Mayor also is responsible for:

- presiding at Council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined in standing orders);
- advocacy on behalf of the community, with the knowledge and support of the Council;
- providing leadership and feedback to other elected members on teamwork and chairmanship of committees; and
- Justice of the Peace (while the Mayor holds office).

The Mayor must follow the same rules as other elected members about making public statements and committing the Council to a particular course of action.



### **Deputy Mayor**

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

### **Committee Chairpersons**

A committee chairperson exercises the same roles as other elected members but also presides over all meetings of the committee, ensuring that the committee acts within the powers delegated to it by Council. Committee chairpersons act as the official spokesperson on issues which fall within the ambit of their Committee (see also Contact with the Media – Page5). They may be removed from office by resolution of Council.

### **Chief Executive**

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

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

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



### **PART THREE: RELATIONSHIPS AND BEHAVIOURS**

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

#### **Relationships with Other Members**

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

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

#### **Relationships with Staff**

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

- recognise that the Chief Executive is the employer (on behalf of Council) of all Council employees and, as such, only the Chief Executive may hire or dismiss, or instruct or censure, an employee
- make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times
- treat all staff with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees)
- observe any guidelines that the Chief Executive puts in place regarding contact with employees
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the staff member
- raise concerns about employees only with the Chief Executive
- raise concerns about the Chief Executive only with the Mayor or the Chief Executive Performance Committee.

Elected members must be aware that failure to observe this portion of the code of conduct may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and individual members being exposed to responsibility for loss under s.46 of the Act.



### **Relationships with the Community**

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

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

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

### **Contact with the Media**

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

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

- where there is a Council position, the relevant Committee Chairperson, or any other member delegated that responsibility by the relevant Committee, is the first point of contact for the official view on any issue. Where that person is absent, any matters will be referred to the Deputy Chairperson. Where there is no official Council position but the matter is within the ambit of a particular committee, the Chairperson must consult with the Mayor, or, in their absence, the Chief Executive Officer regarding the position to be taken. If the matter is controversial, the Spokesperson must make it clear that there is no official Council position.
- where there is no Council position and the matter is not within the ambit of any Committee, the Mayor is the first point of contact and may refer any matter to any other member to whom it may be relevant or to the Chief Executive for their comment
- no other member may comment on behalf of Council without having first obtained the approval of the Committee Chairperson or the Mayor as applicable.
- Members have every right to voice their own opinion to the news media but they must clearly define when they are representing a majority, collective Council view and when they are expressing a personal or minority opinion.

### **Confidential Information**

In the course of their duties members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive, personal to a particular individual or organisation, or to which Council resolves to maintain its right to legal professional privilege.

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

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



A member may occasionally be offered information, including documents, in his or her capacity as an elected member which relates to the ability of the Council to give effect to the provisions of the Act, or any other legislation for which the Council is responsible (for example, without limitation, Resource Management Act, Building Act or Dog Control Act). Such information, when received, must be shared with other members and, in an appropriate case, the Chief Executive.

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 the Local Government Official Information and Meetings Act 1987 (“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.

### **Conflicts of Interest**

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

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

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

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

- any employment, trade or profession carried on by the member or the member’s spouse for profit or gain
- any company, trust, partnership etc for which the member or their spouse is a director, partner, trustee or beneficiary
- the address of any land in which the member has a beneficial interest and which is in the Papakura District Council
- the address of any land where the landlord is the Papakura District Council and:
  - the member or their spouse is a tenant, or
  - the land is tenanted by a firm in which the member or spouse is a partner, or a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary



- any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member.

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

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

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

### **Standing Orders**

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

### **Ethics**

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

- claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of Council developed in accordance with that determination
- not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests
- not use Council resources for personal business (including campaigning)
- not solicit, demand, or request any gift, reward or benefit by virtue of their position
- notify the Chief Executive if gifts are accepted
- where any single gift to the value of \$100 or more is accepted by a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests. This requirement does not apply to gifts/donations that are "electoral donations". Donations made to a candidate (or on a candidates behalf) for election purposes are covered separately by requirements set out in the Local Electoral Act 2001.

### **Disqualification of Members from Office**

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

The office of a member of a local authority also becomes vacant if the member dies, resigns, becomes mentally disordered or is absent without leave of the local authority from four consecutive ordinary meetings of the local authority.



Under the Local Government Act 2002, local authorities, when adopting a code of conduct, must consider whether or not they will require members to declare whether they are an undischarged bankrupt. This Council believes that bankruptcy is likely to be a matter of interest to the public and may raise questions about the suitability of the member concerned to occupy certain positions.

Newly elected members who have been declared bankrupt up to five years prior to being elected are therefore required to make a declaration to the Chief Executive Officer as soon as they are elected.

In line with a general philosophy of “no surprises” the Council also requires elected members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

The Chief Executive will notify all other elected members and place the matter on a public agenda of Council to enable consideration of either:

- the newly elected members new responsibilities; or
- whether any changes to a current members responsibilities are required.

### **Dress Standard**

As part of showing respect for the official position that members of the Council hold, it is expected that members will maintain a reasonable standard of dress at official public meetings. A “reasonable standard of dress” is clean and tidy clothing that would be seen as acceptable in an office work setting in Papakura.

### **Cellphones**

Cellphones will not be on audibly at any meetings or workshops except with the express permission of the Chairperson.



### **PART FOUR: MEETING ATTENDANCE AND CIVIC DUTIES**

One of the duties accepted by Elected Members when standing for office includes the attendance at and participation in meetings to fulfill their role in the democratic process. Elected members will offer themselves for attendance at a mixture of standing committees, subcommittees, working parties, outside organisations and civic functions so that each member has a workload that is suited to a members own circumstances but is also considered to be equitable by all members. This workload mix will be considered as soon as possible after each triennial election and, from time to time, when requested by either the Mayor or by a request in writing to the Chief Executive from not less than one third of the elected members.

A record of the membership/representation responsibilities for each member will be maintained as a section of the Council's Governance Statement and explained further in Council's Delegations Manual.

Elected members will attend and participate in all meetings to which they have been appointed as Council members or representatives unless they have submitted an apology or obtained a leave of absence in advance for non-attendance.

#### **Council Meetings, Council Workshops and Hearings**

All elected members are expected to attend all full council meetings and workshops of Council. Apologies for workshops should be made as early as possible to allow for rescheduling. Meetings include any parts of those meetings that are to "hear" from submitters as part of the consultation process on Council documents such as the Annual Plan or Long Term Council Community Plan.

#### **Standing Committees**

All elected members are expected to attend all meetings of those Standing Committees to which they have been appointed and any workshops set up by resolution of those standing committees, except that these requirements may be varied through the membership or representation responsibilities as set out in the Council's Governance Statement and/or Delegations Manual.

#### **Subcommittees (Including Working Parties)**

From time to time Subcommittees and Working Parties will be established by the Council or a Standing Committee to achieve specific outcomes. Elected members are expected to attend all meetings and workshops of those subcommittees and working parties to which they have been appointed.

#### **Outside Organisations**

The Council has close relationships with a number of outside organisations and may appoint elected members to liaison positions with these organisations. In some cases this will require attendance at meetings of the outside organisation, in other cases the role will be informal. Where the role requires attendance at meetings, the same expectations exist as for attendance at Council committees.

When representing the Council at outside organisations, elected members should take care about whether they are presenting a Council position or their own view. Where Council has established a formal view on the matters under consideration, the Council representative must act according to that view. Where Council has not established any formal view on the matters under consideration, it will require the member's judgement about whether it is necessary to seek a formal mandate from Council before expressing a position, especially in relation to formal decision making.



### **Attendance at Seminars or Conferences**

Elected members selected to attend seminars or conferences are expected to fully attend those seminars and conferences and to report back through the appropriate medium (e.g. circulating the conference material, giving a verbal report to the next committee meeting).

### **Civic Events and Functions**

All elected members are expected to attend a selection of Citizenship Ceremonies, Memorial Services, and other official civic functions as required from time-to-time, so that each Councillor takes an equitable share of these tasks. Individual invitations from outside organisations should be responded to personally, within the timeframes given.

### **Leave of Absence**

Leave of absence may be sought by members and will be considered by full Council in open session except where the confidentiality provisions of the Local Government Official Information and Meetings Act apply. Leave of absence must be sought where a member knows they will be absent, or are likely to be absent, for a period of more than one month. While it is not possible to specify when leave of absence will or will not be permitted in this Code of Conduct the following principles will be taken into consideration by Council when considering such a request from a member:

- The situation causing the request for a leave of absence is through circumstances outside of the members' control;
- Any leave of absence will be granted for a fixed period and will be automatically reviewed at the end of that period should the member still be absent.



## **PART FIVE: COMPLIANCE AND REVIEW**

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

### **Compliance**

Elected members must note that they are bound to comply with the provisions of this code of conduct (Local Government Act 2002, Schedule 7, section 15(4)).

Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members. Short explanations of the obligations that each of these has with respect to conduct of elected members is attached in the Appendix to this code.

Compliance with the code of conduct will be monitored by the Conduct Review Committee.

This Committee will consist of the Mayor, the Deputy Mayor and one other elected member nominated by the person against whom the allegation has been made.

All alleged breaches of the code will be reported to the above committee. Any allegation of a breach of a code of conduct must be in writing, make a specific allegation of a breach of the code of conduct, and provide corroborating evidence. Allegations of the breach may be made by any elected member or the Chief Executive Officer. The Conduct Review Committee may also investigate an alleged breach on its own motion.

If the alleged breach of the code is about any member or members of the Conduct Review Committee, that member or those members must stand down from the Committee during its investigation of that matter. In the event that this happens a further member or members may need to be appointed to the Committee to ensure the minimum requirements for Committee membership are met.

The committee will investigate the alleged breach and, where it finds that the member has breached the Code, will prepare a report for the consideration of Council. Where the Committee finds that the member has not breached the code, it may prepare a report for the consideration of Council. Before beginning any investigation, the committee will notify the elected member(s) in writing of the complaint and afford the member an opportunity to respond in full to the complaint.

The Council will consider any report from the Conduct Review Committee in open meeting of Council, except where the alleged breach relates to the misuse of confidential information or where it would otherwise be exempt from public disclosure under LGOIMA.

### **Consequences of a Breach of the Code of Conduct**

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

Where there are statutory provisions:

- breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authority (Member's Interests) Act 1968



- breaches which result in the Council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in the member having to make good the loss or damage
- breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

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

In addition to any statutory provisions, the Council may take the following action:

- censure of the member, by letter and/or in open meeting
- removal of the elected member from Council committees and/or other representative type bodies
- dismissal of the elected member from a position as Deputy Mayor or Chair of a committee. A decision to apply one or more of these actions requires a Council resolution to that effect.

### **Review**

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

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



## **APPENDIX TO THE CODE: LEGISLATION BEARING ON THE ROLE AND CONDUCT OF ELECTED MEMBERS**

This is a summary of the legislation requirements that has some bearing on the duties and conduct of elected members. Copies of these statutes can be found in the Council libraries or in the office of the Chief Executive.

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

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

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

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

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

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

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

### **Secret Commissions Act 1910**

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

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



**Crimes Act 1961**

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

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

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

**Securities Act 1978**

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