

Wellington City Council Code of Conduct for Elected Members

Part One: Introduction

All councils are required to have a code of conduct under the Local Government Act 2002, Schedule 7, Clause 15.

This code of conduct provides guidance on the standards of behaviour that are expected from the Mayor and elected members of the Wellington City Council. The code applies to elected members in their dealings with:

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

This code does not apply to members of Community Boards.

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 Wellington City
- 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 that follows is based on the following general principles of good governance:

Public interest

- Members should serve only the interests of the city as a whole and should never improperly confer an advantage or disadvantage on any one person, or group of persons.

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.
- Members should also note that, once elected, their duty is to the interests of the entire city.

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

- Elected members should remember the respect and dignity of their office in their dealings with each other, management and the public.
- Members should treat people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability, and should not unlawfully discriminate against any person or group of persons.

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 proposals by example, and should always endeavour to act in the best interests of the community.

Part Two: Roles and Responsibilities

This part of the code describes the roles and responsibilities of elected members, the Mayor and Deputy Mayor, and Committee Chairpersons.

Elected Members

Elected members, acting as the council, are responsible for governance, including:

- 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

Elected members are also responsible for representing the interests of the residents and ratepayers of the city.

Unless otherwise provided in the Local Government Act 2002 or in Wellington City Council's Standing Orders, the council can only act by majority decisions at meetings. Any individual member (including the Mayor) has no authority to act on behalf of the council unless provided for by statute or the council has expressly delegated such authority.

Elected members are expected to attend the meetings (ordinary and extraordinary) of Council, as well as the committees and subcommittees, working parties, and external organisations to which they are appointed. An elected member, unable to attend a meeting, should advise the Chair or Chief Executive as soon as possible.

Mayor

The Mayor is elected by the district as a whole and as one of the elected members shares the same responsibilities as other members of council. The Mayor also has the following roles:

- presiding at council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined by Standing Orders)
- advocating on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the council
- spokesperson for the council
- ceremonial head of council
- providing leadership and feedback to other elected members on teamwork and chairing of committees
- fulfilling the responsibilities of a Justice of the Peace (while the Mayor holds office).

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, and if the Mayor is absent or incapacitated, the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the powers, of the Mayor (as summarised above). The Deputy Mayor may be removed from office by resolution of council.

Committee Chairpersons

The council may create one or more committees (this includes subcommittees) of council. A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by council. Committee chairpersons may be called on to act as official spokespersons on issues within the terms of reference for their committees. Chairpersons may be removed from office by resolution of council. Council may also appoint deputy chairpersons of committees, who shall fulfil the functions of the chair when the chairperson is absent.

Part Three: Relationships and Behaviours

Relationships with Other Members

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 Chief Executive and 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 or his or her delegated appointee may hire, 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 employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees)
- observe any guidelines that the Chief Executive puts in place regarding contact with employees
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor or the Performance Review Subcommittee
- not seek to improperly influence staff in the normal undertaking of their duties.

Elected members should be aware that failure to observe this portion of the code of conduct may compromise the council's obligations to act as a good employer and may expose the council to civil litigation and audit sanctions.

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 Local Government Act 2002.

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

Contact with the Media

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

- the Mayor (or in the Mayor's absence, the Deputy Mayor) is the first point of contact for the official view on any issue. Usually, a matter will be referred to the relevant committee chairperson for their comment
- comment on operational or management matters should be left to the Chief Executive and management
- no other member may comment *on behalf of council* without having first obtained the approval of the Mayor, or in the Mayor's absence, the Deputy Mayor.

Elected members are free to express a *personal view* in the media, at any time. When doing so, they should observe the following:

- media comments must not state or imply that they represent the views of council
- where an elected member is making a statement that is contrary to a council decision or council policy, the member must not state or imply that his or her statements represent a majority view
- media comments must observe the other requirements of the code of conduct, e.g. not disclose confidential information.

Confidential Information

In the course of their duties members will receive information that they need to treat as confidential. Confidential information includes information that officers have judged there is good reason to withhold under sections 6 and 7 of the Local Government Official Information and Meetings Act 1987. This will often be information that is either commercially sensitive or is personal to a particular individual or organisation. The Chief Executive is responsible for release of this information under the Local Government Official Information and Meetings Act 1987.

Elected members should be aware that failure to observe confidentiality 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.

Conflicts of Interest

Elected members shall ensure they comply with the provisions of the Local Authorities (Members' Interests) Act 1968, which covers financial interests, and with other requirements relating to non-pecuniary conflicts of interest. Members should ensure they are familiar with the guidance contained in the Council publication *Conflict of Interest Guidelines*.

Members shall, within 30 days of a request by the Chief Executive, or following the triennial election, complete a declaration of interests. That declaration shall be updated whenever members' interests change.

Ethics

Wellington City 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 abuse the advantages of their official position for personal gain, or solicit or accept gifts, entertainment, rewards or benefits that might compromise their integrity.

Bankruptcy

Elected members who are declared bankrupt shall notify the Chief Executive as soon as practicable after being declared bankrupt.

Part Four: Compliance and Review

Compliance

Elected members must comply with the provisions of this code of conduct. 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 Acts has with respect to conduct of elected members is attached in Appendix 1 to this code.

Breaches of statutory provisions

Where there are statutory provisions:

- breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authorities (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.

Breaches of non-statutory provisions

Any alleged breach by a member of the provisions of the code for which there is not a process and penalty provided elsewhere shall be reported in a timely manner to the Mayor in the first instance. The Mayor, in concert with the Chief Executive (where appropriate), shall consider each allegation in a manner that is fair to all parties involved in the allegation, including ensuring that due process is respected. This will include ensuring that members named in an allegation are given an opportunity to consider and respond to that allegation. If, following the opportunity to respond to the allegation, it is considered that an allegation of a breach of the code is well-founded, the Mayor shall inform the member concerned and take any appropriate lawful action, such as censure.

Any alleged breach by the Mayor shall be reported in a timely manner to the Chief Executive, who shall consider and deal with the allegation, seeking advice as appropriate. The Chief Executive shall consider each allegation in a manner that is fair to all parties involved in the allegation, including ensuring that due process is respected. This will include ensuring that the Mayor is given an opportunity to consider and respond to that allegation.

If an alleged breach is considered to be of a serious enough nature, or if there is an allegation of repeated breaches of the code, the Mayor (or in the case of an alleged breach by the Mayor, the Chief Executive) may instead refer the matter to council. Council will be asked to consider and determine whether a breach of the code has occurred and, if so, what consequences for the elected member should arise from that breach. In completing a report to Council, fairness to all parties involved, and due process, will be respected, including ensuring the member named in the allegation is advised of the allegation and given an opportunity to consider and respond to it before the matter is considered by council. Council's consideration of the matter will comply with statutory requirements relating to matters such personal privacy, or confidentiality of information.

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 the

adoption of a new code, 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 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. Copies of these statutes can be found in the council library or in the office of the Chief Executive.

Local Authorities (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 Authorities (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.

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.