

TAWA COMMUNITY BOARD: CODE OF CONDUCT FOR MEMBERS

PART ONE: INTRODUCTION

This Code of Conduct provides guidance on the standards of behaviour that are expected from the members of the Tawa Community Board. The Code applies to members in their dealings with:

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

Please note that in this Code of Conduct any reference to staff employed by the Chief Executive Officer on behalf of the Council, Council staff or staff includes anyone engaged to undertake work on Council's behalf and therefore, as an example, would include contractors engaged by Council or contractors' employees.

The objective of the Code is to enhance:

- the effectiveness of the Tawa Community Board as a body with particular statutory responsibilities within its community
- the credibility and accountability of the Board within its community
- mutual trust, respect and tolerance between the members as a group, the members and other elected members, and between the 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 community 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 awarding grants.

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 Board, 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 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 Board uses resources prudently and for lawful purposes.

Leadership

- Members should promote and support these proposals by example, and should always endeavour to act in the best interests of the community.

The Code of Conduct does not apply in meetings of the Board. Meetings of the Board are governed by the Board's Standing Orders.

PART TWO: ROLES AND RESPONSIBILITIES

This part of the Code describes the roles and responsibilities of Board members.

Board Members

Members, acting as the Board, are responsible for:

- representing and acting as an advocate for the interests of the Tawa community
- considering and reporting on any matter referred to it by Wellington City Council and any issues of interest to the Tawa Community Board
- making an annual submission to Wellington City Council on expenditure in the local authority
- maintaining an overview of services provided by Wellington City Council within the Tawa community
- communicating with community organisations and special interest groups in the Tawa community
- undertaking any other responsibilities delegated by Wellington City Council.

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

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

PART THREE: RELATIONSHIPS AND BEHAVIOURS

Relationships with Other Members (including elected members of Wellington City Council)

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 the Board also requires a high level of cooperation and mutual respect between members and Council staff. To ensure that level of cooperation and trust is maintained, 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 a staff member
- make themselves aware of the obligations that the Chief Executive has as employer and observe those requirements at all times
- treat all staff members with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards staff)
- observe any guidelines that the Chief Executive puts in place regarding contact with staff members
- not do anything which compromises, or could be seen as compromising, the impartiality of a staff member
- avoid publicly criticising any staff member in any way, but especially in ways that reflect on the competence and integrity of the staff member
- raise concerns about staff members only with the Chief Executive, and concerns about the Chief Executive only with the Mayor
- not seek to improperly influence staff in the normal undertaking of their duties

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 Board decision-making depends on productive relationships between members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with the Board.

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 the Board*:

- the Chair (or in the Chair's absence, the Deputy Chair) is the first point of contact for the official view on any issue.
- comment on operational or management matters should be left to the Chief Executive and management
- no other member may comment *on behalf of the Board* without having first obtained the approval of the Chair, or in the Chair's absence, the Deputy Chair.

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 the Board
- where a member is making a statement that is contrary to a Board decision or Board 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 or impune their competence.

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.

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

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

The Tawa Community Board seeks to promote the highest standards of ethical conduct amongst its members. Accordingly, 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
- always be prepared to consider their position in respect of benefits to organisations they are associated with
- 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

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

PART FOUR: COMPLIANCE AND REVIEW

Compliance

Members should comply with the provisions of this Code of Conduct. Members are also bound by any relevant legislation, including in particular, 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 members. Short explanations of the obligations that each of these Acts has with respect to conduct of members is attached in Appendix 1 to this Code.

Attempts should be made in the first instance, to resolve issues informally and in private, if possible.

A complaint under the Code may be lodged by: elected members in respect of any matter, or Council staff in respect of conduct towards staff.

A complaint must be in writing, must be received by the City Secretary within the longer of 20 working days of the event that is the subject of the complaint, or 20 days of the basis for the complaint being able to be reasonably ascertained, and must specify which part of the Code has been breached; and include written evidence to support the complaint.

If the requirements of the above paragraph are met, the City Secretary will either:

- a) forward the complaint to the Chair for determination in conjunction with the Chief Executive where a complaint relates to the conduct of a Board member;
- b) forward the complaint to the Chief Executive for determination in conjunction with the Deputy Chair where the complaint relates to the conduct of the Chair.

Where the complaint is lodged by a staff member in relation to the conduct of any Board member, the City Secretary will also forward the complaint to the Group Manager – Human Resources, who will adopt the complaint on behalf of the staff member.

Complaints covered by statutory provisions

Where a complaint relates to statutory provisions as follows:

- o breaches relating to members' interests rendering elected members liable for prosecution by the Auditor-General under the Local Authorities (Members' Interests) Act 1968;
- o breaches resulting in the Council suffering financial loss or damage which may be reported on by the Auditor-General under the Local Government Act 2002, and may result in the elected member having to make good the loss or damage;
- o breaches relating to the commission of a criminal offence which may leave the elected member liable for criminal prosecution;

The Board may refer such complaints to the relevant body and may also address the complaint under the Code.

Members of the public and elected members are also able to make a complaint direct to the relevant body, or the body itself may take action on its own initiative.

Other complaints

Preliminary assessment

A preliminary assessment will be undertaken by the Chief Executive Officer or the Chair (as applicable) to determine whether the Code of Conduct applies.

The elected member who is the subject of the complaint (the respondent) must be informed of the complaint. The respondent must have a reasonable opportunity to respond to the complaint before any decision is made.

The Chair (or the Chief Executive) has the discretion to decide whether or not the complaint warrants further investigation. The complaint may be dismissed at this stage if the Chair or the Chief Executive Officer considers that the complaint does not reasonably fall within the Code of Conduct, or is trivial, technical or vexatious.

A decision to dismiss a complaint by the Chair or Chief Executive Officer is final.

If it is decided that the complaint is dismissed, the complainant and the respondent must be informed of this in writing as soon as practicable.

Investigation

If following the preliminary assessment, the complaint is not dismissed by the Chair (or the Chief Executive) an investigation will be undertaken.

The investigation into the complaint will be undertaken in a timely manner that is fair to all parties and conducted in accordance with the rules of natural justice.

All enquiries and deliberations shall be conducted in private.

The respondent must be given the opportunity to provide a written response to the complaint before a decision is made.

After an investigation, the Chair or the Chief Executive Officer will decide on further action. This may involve: a private apology to the complainant; a reprimand; a public apology being given; or a report to the Board, or to Council (complaints will only be considered at a Council meeting as a last resort).

If either the Chief Executive Officer or the Chair considers that the Code has been breached, and is of a sufficiently serious nature to require Board consideration, the City Secretary shall prepare a report for the full Board based on the findings of the investigation. The report shall follow the principles of natural justice and is therefore likely to include:

- a. a summary of the facts of the complaint;
- b. a synopsis of the investigation undertaken;
- c. the findings arising from the investigation;
- e. a summary of the respondent's reply if any;
- d. recommendations of appropriate sanction if any.

Decision of the full Board

The full Board shall consider the report.

The Board meeting shall be held in public unless there are any grounds under LGOIMA that may apply.

The respondent may be present at the full Board meeting and may make a submission to the Board.

The respondent may not vote on any decision in relation to the report.

The Board may choose to refer the matter to the full Council for a decision.

Penalties

The Board may take one or more of the following actions by means of a resolution, with three quarters of those present and voting:

- a. Request an appropriate apology;
- b. Censure;
- c. Suspension/removal from specified Board committees and/or other representative type bodies for a defined period of time. (Suspension is defined as loss of voting rights for attendance at that committee;
- d. Dismissal of the elected member from a position as Deputy Chair or Chairperson or Deputy Chairperson of a committee or subcommittee or Portfolio Leader.

Review

Once adopted, this Code of Conduct continues in force until amended by the Board. The Code can be amended at any time. Once adopted, amendments to the Code of the conduct, or the adoption of a new Code, require a resolution supported by a majority of the members of the Board present.

The Board will consider the Code as soon as practicable after the beginning of each triennium.

Annex 1

LEGISLATION BEARING ON THE ROLE AND CONDUCT OF 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.