

Carterton District Council

Code of Conduct And Procedures Manual

February 2005

CODE OF CONDUCT and PROCEDURES MANUAL

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CARTERTON DISTRICT COUNCIL

CODE OF CONDUCT AND PROCEDURES MANUAL

1.0 INTRODUCTION

- 1.1 This Code of Conduct and Procedures Manual (the Code) has been prepared to provide guidance on the standards of behaviour expected of elected members of the Carterton District Council. It applies when members have dealings with any individuals, groups, agencies, entities or authorities in their role as members.
- 1.2 The Code forms part of the Local Governance Statement required by Section 40 (Local Governance Statements) and Section 15 of Schedule 7 of the Local Government Act 2002. As such it is a document that provides guidance to the public on the functioning of Council and therefore it contains more expansive information than if it were purely for the use of members.
- 1.3 Relevant extracts from the Local Government Act 2002 and a brief list of relevant legislation are included as Appendices 1 and 2 herein.
- 1.4 Aspects of the Code also provide guidance on the standards of behaviour required of Council management. The Code is agreed to by the members and management to enhance:
 - (i) the effectiveness of Council as the autonomous local authority with statutory responsibilities for the good government of the Carterton District
 - (ii) the credibility and accountability of Council
 - (iii) mutual trust, respect and tolerance between the members as a group and between the members and management.
- 1.5 The Code seeks to achieve its objectives by recording:
 - (i) an agreed statement in respect of roles and responsibilities
 - (ii) agreed general principles of conduct or etiquette (Appendix 3)
 - (iii) specific behaviours or conduct applying to particular circumstances or matters.
- 1.6 With teamwork, any democratically elected organisation will be more successful. Teams will be more effective when mutual respect exists between leaders and members. This Code seeks to facilitate effective teamwork. Members will contribute and listen openly and honestly, be open to change and others perspectives and respect and consider other points of view.

2.0 CO-OPTED MEMBERS

- 2.1 Appointed members to Council Committees and Sub-Committees are included as members to whom the Code applies.

3.0 ROLES AND RESPONSIBILITIES OF MEMBERS

- 3.1 Elected members are primarily accountable to the electors of the district through the democratic process. However members must note that the Auditor-General may hold

them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

- 3.2 Members should conduct themselves in a way that reflects community trust and confidence in them as individuals and enhances the role and image of Local Government.

- 3.3 Elected members have declared that:

They will faithfully and impartially, and according to the best of their skill and judgement, execute and perform, in the best interests of the Carterton District Council, the powers, authorities and duties vested in or imposed upon them as Councillors of the Carterton District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

- 3.4 The elected members, acting as Council, are responsible for:
- (i) the development and approval of Council policy
 - (ii) determining the expenditure and funding requirements of Council through the processes for developing the Annual Plan, the Long Term Council Community Plan and the Funding Policy
 - (iii) monitoring the performance of Council against its stated objectives and policies
 - (iv) representing the interests of the residents and ratepayers of the Carterton District.
 - (v) for employing, overseeing and monitoring the Chief Executive Officer.
- 3.5 Members, in fulfilling their role, will focus on:
- (i) acting in a proper manner in accordance within the legislative framework and statutory requirements for Local Government
 - (ii) providing community leadership
 - (iii) consulting with, facilitating discussions with and representing the community
 - (iv) contributing to the collective decision making of Council
 - (v) ensuring accountability and sound financial management
 - (vi) representing Council to the community.

4.0 RESPECTIVE RESPONSIBILITIES

- 4.1 The Mayor is one of the elected members, and shares the same collective responsibilities. The Mayor is elected by the District at large, is the ceremonial head of Council and is the presiding member at meetings of Council, and as such is responsible under Standing Orders for the orderly conduct of Council business at meetings.
- 4.2 The Mayor has no power to commit Council to any particular course of action except where specifically authorised to act under duly delegated authority.
- 4.3 The Office of Mayor carries with it an element of community leadership in addition to the statutory role as presiding member of Council. The leadership role frequently requires the Mayor to act as community advocate, promoting the attributes of the community and representing its interests. Community leadership and advocacy will be more effective where it is carried out with the knowledge and support of Council.

- 4.4 The Mayor has the role to provide leadership and feedback to other members.
- 4.5 The Mayor is required to be a Justice of the Peace while holding office as Mayor.
- 4.6 The Deputy Mayor is elected by members of Council. In addition to the responsibilities of Councillor, the Deputy Mayor authorised to chair meetings of Council, and generally to perform the functions and duties of the Mayor in the Mayor's absence:
- (i) with the Mayor's consent at any time during the Mayor's temporary absence; or
 - (ii) without the Mayor's consent at any time while the Mayor is prevented by illness or other cause from performing the functions and duties or exercising the powers of office or while there is any vacancy in the office of Mayor.
- 4.7 Standing Committee Chairs are charged by Council with overseeing the business of that Standing Committee consistent with the powers delegated to it.
- 4.8 Standing Committee Chairs are responsible for ensuring the orderly conduct of their Committees in carrying out their business.
- 4.9 The Chief Executive Officer's responsibilities are set out in the Section 42 of the Local Government Act 2002 and are included in Appendix 1 herein.

5.0 EXPECTATIONS OF MEMBERS

- 5.1 All members should expect and may insist on the respect and dignity of their office in their dealings with each other, management and the public.
- 5.2 Members should act in good faith (*i.e.* honestly, for the proper purpose, and without exceeding their powers) in the interests of Council and the community.
- 5.3 Members will:
- (i) Act in accordance with the Code of Conduct General Principles in Appendix 3.
 - (ii) Ensure they are informed about the roles, functions and processes of Carterton District Council.
 - (iii) Ensure that they become aware of the statutory obligations imposed on members and on Councils.
 - (iv) Be adequately prepared for meetings, including reading agendas and other relevant material prior to attendance, and, if appropriate and where possible, putting forward questions to the relevant officer in advance.
 - (v) Approach decision-making with an open mind, taking into account only relevant considerations and arriving at decisions based upon the individual merits of a matter, free from actual or perceived bias.
 - (vi) Undertake appropriate professional development.
 - (vii) On entering into a term of office, declare whether the member is an undischarged bankrupt.
 - (viii) Recognise that they have no personal power to commit Council to any particular policy or course of action unless they have delegated authority from Council or the appropriate Committee to do so.
 - (ix) Ensure that the anonymity of individual Officers is preserved and not comment publicly on the management or staff of the Carterton District Council by identification or by general reference.

- (x) Ensure that any public statement giving a point of view contrary to a Council decision is identified as a personal, minority view.
- 5.4 When dealing with other members, each member will:
- (i) Be open and honest.
 - (ii) Focus on the issue not the person.
 - (iii) Be civil with each other and not engage in personal attacks on other members.
 - (iv) Encourage and support each other in a manner that recognises and respects individual strengths and weaknesses.

6.0 DEALING WITH THE CARTERTON DISTRICT COMMUNITY

- 6.1 Local Government is the sphere of government closest to the people. The actions and behaviour of members are likely to be closely monitored by the local community.
- 6.2 Members have a responsibility to the whole community of Carterton District and should act in a manner that encourages and values community involvement in local democracy.
- 6.3 Members who are elected on a ward basis have a special duty to that ward and will be expected to undertake local functions, and represent local issues and the constituents but not to the detriment of their district wide responsibilities.
- 6.4 Members should ensure that individual citizens are accorded respect in their dealings with Council, have their concerns listened to and deliberated on in accordance with the requirements of the Act.
- 6.5 Members will:
- (i) Deal with members of the community in a fair, equitable and honest manner.
 - (ii) Be available to listen and respond to community concerns, but will avoid promising things the member cannot deliver.
 - (iii) Strive to understand different points of view within the community.
 - (iv) Make decisions that affect the community after considering all relevant interests, arriving at balanced and sustainable decisions.
 - (v) Encourage partnerships with the community so that mutual strengths can be utilised to achieve common goals.

6.6 CONDUCT AND CONTACT WITH CARTERTON DISTRICT COUNCIL EMPLOYEES

- 6.7 Members and Council employees work together as part of the Council team. The teamwork of members and staff is based on mutual respect and cooperation to achieve Council's strategic goals and implement its policies.
- 6.8 To operate effectively as a team, members will:
- (i) Be aware of the legislative requirements in respect of employees.
 - (ii) Develop mature and constructive working relationships with employees based on mutual trust and respect for each other's positions
 - (iii) Deal with employees courteously and respectfully and in a manner that does nothing to undermine or threaten their integrity or position.

- (iv) Be clear about the distinction in the roles of members and staff and how they work together for the benefit of the community.
- (v) Recognise that the Chief Executive Officer is the employer (on behalf of Council) of all Council employees and as such only the Chief Executive Officer (not the member) may instruct, make requests of, or censure an employee.
- (vi) Observe any guidelines that the Chief Executive Officer may put in place regarding contact with staff.
- (vii) Avoid public criticism of any employee that could cast doubt on their character, competence and integrity.
- (viii) Avoid compromising the impartiality of an employee.
- (ix) Not use their position to improperly influence employees in a way that may result in an advantage to the member or others.
- (x) Raise any relevant concerns, which the member has in relation to any employee's behaviour, conduct or work performance with the Chief Executive Officer.
- (xi) Raise any concerns that the member has in relation to the Chief Executive Officer's behaviour, conduct or work performance with the Mayor.

6.9 Members should be aware that failure to observe this portion of the Code may compromise Council's obligations to act as a good employer and may expose Council to civil litigation and audit sanctions.

6.10 Information Requests

- (i) In the absence of any guidelines from the Chief Executive Officer, members will direct any requests for information for use by themselves in their role as members to the Chief Executive Officer, preferably in writing and specifying the detail of the request.
- (ii) Members will redirect any requests for information that they receive from a member of the public to the Chief Executive Officer or the appropriate Divisional Manager, for referral to the appropriate Officer, preferably in writing, identifying the name and contact details of the original enquirer and specifying the detail of the request.
- (iii) Member access to Council records will be treated as a request for information from the public.

7.0 EXTERNAL COMMUNICATIONS

7.1 Within the limits imposed by Standing Orders, at any meeting of Council (or of any Committee), every elected member (who has the right to speak at the meeting) has the right to express their opinion on any matter lawfully before the meeting. Once a matter has been lawfully determined at a meeting of Council, it determines Council's position on that matter until it is lawfully changed by a subsequent decision of Council. All members and management will respect this position.

7.2 Public statements representing Council policy or reporting decisions of Council will be made only with specific or general authority of Council, and will clearly state the person's authority for making the statement on behalf of Council.

- (i) The Mayor is authorised to make statements that accurately report decisions of Council meetings.

- (ii) Committee Chairpersons are authorised to make statements that accurately report decisions of their committees, and factual statements relating to decisions of Council or its Committees.
 - (iii) The Chief Executive Officer is authorised to make statements relating to any of the areas for which the Chief Executive Officer has statutory responsibility.
 - (iv) Divisional Managers may make factual statements relating to the functions of their divisions.
- 7.3 Any member or officer may make specific statements on behalf of Council with the specific authority from the Mayor, Chief Executive Officer or relevant Council, Committee or Sub-Committee.
- 7.4 The Chief Executive Officer, management and staff should not comment publicly on the decisions or performance of Council or members.
- 7.5 When dealing with the media, members must ensure that information concerning adopted policies, procedures and decisions of Council are conveyed accurately, and that confidential information is not released or commented on.
- 7.6 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, minority opinion.

8.0 CONFIDENTIAL INFORMATION

- 8.1 Members have the responsibility to see that whenever possible business is conducted in 'open' meeting. Powers to exclude the public should be used only where prudent and necessary and for the reasons permitted by law.
- 8.2 Business conducted where the public is excluded remains confidential and should not be disclosed to the public until either Council decides by resolution to make it public or the Chief Executive Officer determines in response to a request under the Local Government Official Information and Meetings Act 1987, or the Privacy Act 1993 that there is no longer good reason to withhold it under the Act.
- 8.3 Subject to these Acts, any information of a confidential nature will not be communicated. It is a grave betrayal of trust to disclose information while it is confidential or use such confidential information for private gain, or improper purpose.

9.0 REPRESENTING COUNCIL

- 9.1 Members who are invited or wish to represent Council at an event such as a seminar or conference, must meet the following conditions:
 - (i) A meeting of Council shall approve members' attendances at conferences and professional development courses.
 - (ii) The cost of representation must be within the annual budgeted figure for such activities unless Council makes specific authorisation for additional expenditure.
 - (iii) Following his or her attendance, the member must present a report to Council, or appropriate Standing Committee, which summarises the event including its potential significance to the business of the Carterton District Council. Where

Council is represented by a delegation, one member of the party will report back on their behalf.

10.0 DISCLOSURE OF PECUNIARY AND OTHER INTERESTS

- 10.1 Members will ensure that they are aware of the legislative requirements of the Local Authority (Members Interest) Act 1968.
- 10.2 Members shall annually make a written declaration of interest, for inclusion in the "Members' Interests Register". The declaration shall notify of any interest, which the member or their spouse may have in any business or company or other relevant undertaking whereby there could be potential pecuniary interest, direct or indirect.
- 10.3 These requirements apply to situations where members will be participating as representatives of the Carterton District Council. They do not apply to situations where members attend in a private capacity. In such cases the member may wish to report to Council on items of interest or general value.

11.0 BENEFITS, EXPENSES AND RESOURCES

- 11.1 Acceptance of substantial gifts, favours or hospitality may be construed as a bribe or perceived as undue influence. The offer and receipt of substantial gifts, including special occasion goodwill gifts must be reported to the Chief Executive Officer. Working meals and social occasions should be undertaken in an appropriate manner.
- 11.2 Transport, stationery, or secretarial services, if provided by Council for use of a member, must be used for no other purpose and by no other individual or enterprise.
- 11.3 Members shall:
 - (i) Only claim for legitimate expenses incurred while acting on Council business as prescribed by the Fees and Travelling Allowances Act 1951
 - (ii) In claiming expenses, have regard to the level or amounts specified in any Council policy
 - (iii) Only use Council resources (including facilities, staff, equipment and supplies) effectively and economically in the course of their duties, and within other guidelines, and not in connection with any election campaign or other personal business

12.0 COMPLIANCE WITH THE CODE

- 12.1 Compliance with the Code is mandatory for all elected members (Schedule 7, section 15(4) and is made mandatory for other members as set out in 2.0 above by Council Resolution.
- 12.2 The members themselves shall monitor compliance with this code.
- 12.3 Natural justice shall prevail in any instance of alleged breach.
- 12.4 Alleged breaches or failure to comply with the Code that are not subject to any statutory provisions will be dealt with internally by Council, confidentially or otherwise as Council determines at the time.

- 12.5 Alleged breaches of the Code shall be reported to the Chief Executive Officer or Mayor as appropriate and where it is considered that the matter is of substance, a report shall be submitted for the consideration of Council after appropriate investigative enquiries, including interviews with the alleged transgressor and other appropriate members, employees or members of the public.
- 12.6 If there are no statutory provisions for non-compliance, only Council can censure the member if Council determines that a breach has occurred. Such censure shall not include monetary penalty or suspension (temporary) from Council or Committee, but may include (and is not limited to) a vote of no confidence in the member, or the removal of the member from appointed positions. For co-opted members, censure may include removal from the relevant committee/subcommittee.

13.0 LEGISLATION BEARING ON THE ROLE AND CONDUCT OF MEMBERS

- 13.1 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 2 to this code.

14.0 ADOPTION AND IMPLEMENTATION OF THE CODE

- 14.1 This Code is intended to provide guidance to members and management in their relationships and the exercising of their functions and duties. It should be read in conjunction with, and does not replace, the obligations set out in the Local Government Act, the Local Government Official Information and Meetings Act 1987, any other relevant Acts and Council Standing Orders.
- 14.2 Council at its meeting on 16 February 2005 formally adopted this Code.
- 14.3 All members will, on adoption of the Code, sign the following statement:

CDC Code	<p><i>To be completed by members and witnessed by the Chief Executive Officer.</i></p> <p>I, a member of the Carterton District Council hereby agree to uphold and abide by Council's Code of Conduct for Members as adopted by Council on 16 February 2005.</p> <p>Signed _____</p> <p>Witness _____</p>
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15.0 REVIEW

15.1 Council will review this Code within six months after each general election.

LOCAL GOVERNMENT ACT 2002

Below are relevant extracts from the Local Government Act 2002.

10 PURPOSE OF LOCAL GOVERNMENT

The purpose of local government is –

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

11 ROLE OF LOCAL AUTHORITY

The role of a local authority is to –

- (a) give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
- (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.

12 STATUS AND POWERS

- (1) A local authority is a body corporate with perpetual succession.
- (2) For the purposes of performing its role, a local authority has -
 - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not -
 - (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a co-operative activity; or
 - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
 - (c) restrict the activities of a council-controlled organisation.

14 PRINCIPLES RELATING TO LOCAL AUTHORITIES

- (1) In performing its role, a local authority must act in accordance with the following principles:
 - (a) a local authority should -
 - (i) conduct its business in an open, transparent, and democratically accountable manner; and
 - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner;
 - (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
 - (c) when making a decision, a local authority should take account of—

- (i) the diversity of the community, and the community's interests, within its district or region; and
 - (ii) the interests of future as well as current communities; and
 - (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:
- (d) a local authority should provide opportunities for Maori to contribute to its decision-making processes:
- (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and
- (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
- (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
- (h) in taking a sustainable development approach, a local authority should take into account -
 - (i) the social, economic, and cultural well-being of people and communities; and
 - (ii) the need to maintain and enhance the quality of the environment; and
 - (iii) the reasonably foreseeable needs of future generations.
- (2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

39 GOVERNANCE PRINCIPLES

A local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of members, is clear and understood by members and the community; and
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities; and
- (d) a local authority should be a good employer; and
- (e) a local authority should ensure that the relationship between members and management of the local authority is effective and understood.

40 LOCAL GOVERNANCE STATEMENTS

- (1) A local authority must prepare and make publicly available, following the triennial general election of members, a local governance statement that includes information on -
 - (a) the functions, responsibilities, and activities of the local authority; and
 - (b) any local legislation that confers powers on the local authority; and
 - (c) the electoral system and the opportunity to change it; and
 - (d) representation arrangements, including the option of establishing Maori wards or constituencies, and the opportunity to change them; and
 - (e) members' roles and conduct (with specific reference to the applicable statutory requirements and code of conduct); and

- (f) governance structures and processes, membership, and delegations; and
 - (g) meeting processes (with specific reference to the applicable provisions of the Local Government Official Information and Meetings Act 1987 and standing orders); and
 - (h) consultation policies; and
 - (i) policies for liaising with, and memoranda or agreements with, Maori; and
 - (j) the management structure and the relationship between management and elected members; and
 - (k) equal employment opportunities policy; and
 - (l) key approved planning and policy documents and the process for their development and review; and
 - (m) systems for public access to it and its elected members; and
 - (n) processes for requests for official information.
- (2) A local authority must comply with subsection (1) within 6 months after each triennial election of members of the local authority.
 - (3) A local authority must update its governance statement as it considers appropriate.

41 GOVERNING BODIES

- (1) A regional council must have a governing body consisting of -
 - (a) members elected in accordance with the Local Electoral Act 2001; and
 - (b) a chairperson elected by members of the regional council in accordance with clause 25 of Schedule 7.
- (2) A territorial authority must have a governing body consisting of members and a mayor elected in accordance with the Local Electoral Act 2001.
- (2A) A governing body of a local authority is responsible and democratically accountable for the decision-making of the local authority.
- (3) A chairperson of a regional council, or a mayor of a territorial authority, is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.
- (4) An employee of a local authority who is elected to be a member of the local authority's governing body must resign from his or her position as an employee of the local authority before taking up his or her position as a member of the local authority.

42 CHIEF EXECUTIVE

- (1) A local authority must, in accordance with clauses 33 and 34 of Schedule 7, appoint a chief executive.
- (2) A chief executive appointed under subsection (1) is responsible to his or her local authority for -
 - (a) implementing the decisions of the local authority; and
 - (b) providing advice to members of the local authority and to its community boards, if any; and
 - (c) ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed or exercised; and
 - (d) ensuring the effective and efficient management of the activities of the local authority; and
 - (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and

- (f) providing leadership for the staff of the local authority; and
 - (g) employing, on behalf of the local authority, the staff of the local authority; and
 - (h) negotiating the terms of employment of the staff of the local authority.
- (3) A chief executive is responsible to his or her local authority for ensuring, so far as is practicable, that the management structure of the local authority –
- (a) reflects and reinforces the separation of regulatory responsibilities and decision-making processes from other responsibilities and decision-making processes; and
 - (b) is capable of delivering adequate advice to the local authority to facilitate the explicit resolution of conflicting objectives.
- (4) For the purposes of any other Act, a chief executive appointed under this section is the principal administrative officer of the local authority.

SCHEDULE 7

15 CODE OF CONDUCT

- (1) A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.
- (2) The code of conduct must set out -
 - (a) understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including -
 - (i) behaviour toward one another, staff, and the public; and
 - (ii) disclosure of information, including (but not limited to) the provision of any document, to elected members that -
 - (A) is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and
 - (B) relates to the ability of the local authority to give effect to any provision of this Act; and
 - (b) a general explanation of -
 - (i) the Local Government Official Information and Meetings Act 1987; and
 - (ii) any other enactment or rule of law applicable to members.
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.
- (4) A member of a local authority must comply with the code of conduct of that local authority.
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

APPENDIX 2

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 Authority (Members' Interests) Act 1968

This Act regulates situations where a members' 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 Council, other councillors, any employee of 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.

CODE OF CONDUCT GENERAL PRINCIPLES

1. *Public Interest*
Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
2. *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.
3. *Objectivity*
Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
4. *Accountability*
Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
5. *Openness*
Members should be as open as possible about their actions and those of their Council, and should be prepared to give reasons for those actions.
6. *Personal Judgement*
Members may 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.
7. *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 Council staff.
8. *Duty to Uphold the Law*
Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.
9. *Stewardship*
Members should do whatever they are able to do, to ensure that their Council's use of resources is prudent and in accordance with the law.
10. *Leadership*
Members should promote and support these principles by leadership, and by example, and should always endeavour to act in the best interests of the community.