

Greater Wellington Regional Council: Code of Conduct for Elected Members

PART ONE: INTRODUCTION

This code of conduct provides guidance on the standards of behaviour that are expected from the elected members of the Greater Wellington Regional 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 Greater Wellington
- the media
- the general public.

Except where it is contrary to any agreement or requirement of law, this code also applies to non executive directors and other people appointed as independent representatives to Greater Wellington committees or council controlled organisations.

The Code sits alongside Greater Wellington's Standing Orders. The Standing Orders set out the procedures to be followed for the conduct of meetings of the Council and those of its committees.

The objective of the code is to enhance:

- the effectiveness of Greater Wellington as an autonomous local authority with statutory responsibilities
- good governance
- the credibility and accountability of Greater Wellington within its community
- mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.

This code of conduct seeks to achieve its objectives by recording:

- an agreed statement of roles and responsibilities (recorded in Part Two of the code)
- agreed general principles of conduct (recorded in Part Three of the code)
- specific codes of conduct applying to particular circumstances or matters (also recorded in Part Three of the code).

Elected members are primarily accountable to the electors of the region through the democratic process. However councillors 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.

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 region 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 region.
- **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 the scrutiny appropriate to their particular office.
- **Openness.** Members should be as open as possible about their actions and those of Greater Wellington, 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 and encourage the impartiality and integrity of Greater Wellington 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 Greater Wellington uses resources prudently and for lawful purposes, and that it 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 additional roles of the Chairperson and Deputy Chairperson, and the role of the Chief Executive.

Elected members

Members, acting together 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 entire Wellington region.

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. No individual member (including the Chairperson) has authority to act on behalf of Greater Wellington unless the council has expressly delegated such authority.

As individuals, members are responsible for:

- making themselves familiar with this code of conduct and the standing orders
- making themselves as knowledgeable as possible about the activities and processes of Greater Wellington, and the physical and social environment in which it operates
- ensuring that on a regular and timely basis the community and other stakeholders are fully and honestly informed of all material matters relating to Greater Wellington's business
- preparing for and attending meetings, whether of council itself or of standing committees
- making themselves available to attend external meetings and forums on behalf of Greater Wellington

Any member who will be unavailable to attend more than two consecutive ordinary meetings of the council by virtue of being on leave of absence for personal reasons shall discuss their leave with the Chairperson. The Chairperson shall decide if it is appropriate for the council to consider if that member should take "leave without pay". If so, the matter will be reported to the council for a decision.

Chairperson

The Chairperson is elected by members of council at the first meeting following the triennial election. As one of the elected members the Chairperson shares the same responsibilities as other members of council. In addition to this the Chairperson has the following roles as a:

- presiding councillor at council meetings. The Chairperson is responsible for ensuring the orderly conduct of business during meetings (as determined in standing orders)
- providing leadership on behalf of the community when appropriate. This role may involve promoting the community and representing its interests. Such leadership will be most effective where it is carried out with the knowledge and support of the council
- ceremonial head of council
- providing leadership and feedback to other members on teamwork and chairmanship of committees
- Justice of the Peace (while the Chairperson holds office).

The Chairperson is obliged to follow the same rules as other members with respect to making public statements and committing Greater Wellington to particular course of action.

If the Chairperson will be unavailable to attend more than two consecutive ordinary meetings of the council by virtue of being on leave of absence for personal reasons the Chief Executive will report that leave to the Council who shall decide if the Chairperson should take “leave without pay”.

Deputy Chairperson

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

Committee Chairpersons

The council may create one or more committees of council. A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by council, and as set out in Greater Wellington’s *Delegations Manual*. Committee chairpersons may be called on to act as an official spokesperson on a particular issue. They may be removed from office by resolution of council.

Chief Executive

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

- implementing the decisions of council
- providing advice to the 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 and are properly performed or exercised
- managing the activities of Greater Wellington effectively and efficiently
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of Greater Wellington
- providing leadership for the staff of Greater Wellington
- employing staff on behalf of the council.

PART THREE: RELATIONSHIPS AND BEHAVIOURS

This part of the code sets out Greater Wellington's agreed standards of behaviour. Some of the matters described in this part of the code reflect other legislation such as the Local Authorities (Councillors' Interests) Act 1968. The majority of the code is material that Greater Wellington 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 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 Greater Wellington also requires a high level of co-operation and mutual respect between councillors and staff. To ensure that level of co-operation and trust is maintained, members will:

- recognise that the Chief Executive is the employer (on behalf of council) of all Greater Wellington employees, and as such only the Chief Executive 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 Chairperson or Deputy Chairperson
- recognise that individual staff will have particular expertise or experience, and that it is appropriate to refer to them for advice.

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

Relationships with the Community

Effective council 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 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.

From time to time, individuals or organisations will approach members for advice or comment on issues that are topical or are relevant to particular interest individuals or groups within the community. Members should seek appropriate advice from the Chief Executive or staff before commenting on operational matters or issues that call for particular technical or legal expertise, including when responding to emails.

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 a member in their own right. This part of the code deals with the rights and duties of members when speaking to the media on behalf of Greater Wellington, or in their own right.

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

- the Chairperson or the chairperson of the relevant committee is the first point of contact for the official view on any issue. Where the Chairperson or committee chairperson is absent, any matters will be referred to relevant deputy chairperson
- the Chairperson may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment
- members are free to express a *personal view* in the media, at any time, provided the following rules are observed:
 - media comments must not state or imply that they represent the views of Greater Wellington
 - where a 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, or compromise the impartiality or integrity of staff.

Particular care should be taken when commenting on matters currently under negotiation (so as not to compromise the Council's position) or on any matter that may come before the council for a decision (e.g. a resource consent or a particular roading proposal).

Members dealing with the media are asked to inform the Chief Executive or appropriate divisional or departmental manager if they are responding to an issue that could be controversial or sensitive.

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 or is personal to a particular individual or organisation.

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

Conflicts of Interest

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

The Act provides that a 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, 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 or partner 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 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 or partner for profit or gain
- any company, trust, partnership etc for which the member or their spouse or partner 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 Wellington region
- the address of any land where the landlord is Greater Wellington and:
 - the member or their spouse or partner is a tenant, or
 - the land is tenanted by a firm in which the member or spouse or partner is a partner, or a company of which the member or spouse or partner is a director, or a trust of which the member or spouse or partner 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 councillor.

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 from the Audit Office 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 spouse or partners or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Councillors' 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 member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction members can be ousted from office.

Conduct in Meetings

Members must adhere to any 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.

Members will conduct themselves in meetings in a manner that is appropriate and takes cognisance of the interests of other members and members of the public who are in attendance at the meeting. They will not, for example, accept calls on a cellular telephone, or send or receive electronic messages, during a meeting.

Ethics

Greater Wellington 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
- not use council resources for personal business (including campaigning)
- not solicit, demand, or request any gift, reward or benefit by virtue of their position
- where a gift to the value of \$150 or more is offered to a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Disqualification of Members from Office

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.

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 does raise questions about the soundness of a person's financial management skills and their judgment in general. The council therefore requires members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

PART FOUR: COMPLIANCE AND REVIEW

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

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 Chairperson in the first instance. The Chairperson, 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 Chairperson shall inform the member concerned and report to council so that it can determine whether to take any appropriate lawful action, such as censure.

Any alleged breach by the Chairperson 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 Chairperson 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 Chairperson (or in the case of an alleged breach by the Chairperson, 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 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 library 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 a councillor. 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, 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 or partner 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 spouse or partners or their companies that exceed the \$25,000 annual limit. Failure to observe these requirements could also leave the member open to prosecution under the Local Authority (Councillors' Interests) Act 1968. In the event of a conviction councillors 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 members is the fact that the chair has the responsibility to maintain order at meetings, but all members should accept a personal responsibility to maintain acceptable standards of address and debate. No member should:

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

Secret Commissions Act 1910

Under this Act it is unlawful for a 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. Members convicted of these offences will also be automatically ousted from office.

Securities Act 1978

The Securities Act 1978 essentially places members in the same position as company directors whenever council offers stock to the public. 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.