

Invercargill City Council

Standard Code of
Conduct / Tikanga
Whanonga
Ahuwhānui

2026

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STANDARD CODE OF CONDUCT / TIKANGA WHANONGA AHUWHĀNUI

PART 1 / WĀHANGA 1 INTRODUCTION / KUPU WHAKATAKI

Introduction / Kupu whakataki

1. [Clause 15, Schedule 7, Local Government Act 2002](#) provides that Council must at all times have a Code of Conduct.
2. The code of conduct must set out:
 - a. understandings and expectations 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 -
 1. is received by, or is in the possession of, an elected member in their capacity as an elected member; and
 2. 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. This document sets out the code of conduct provided for in [Clause 15, Schedule 7](#) of the Act.

Purpose / Te aronga

4. The purpose of this code is to guide and support members in fulfilling their responsibilities to their communities, ensuring democratic, effective, and inclusive local governance. It sets out clear expectations for conduct and behaviour, promoting respectful, constructive engagement, even in times of disagreement. While councils may use the code as a tool to guide behaviours, its principles apply to all members, encouraging a commitment to collaboration, integrity, and community-focused decision-making. Ultimately, the code reinforces the shared goal of serving the public good with professionalism and respect.
5. Nothing in this code is intended to limit, restrict or detract from robust political debate or the right to freedom of expression. ²

² See Appendix 2 for an explanation of the right to freedom of expression in New Zealand and limits placed on that right by other statutes

Application / Te pānga

6. This code applies to:
- Members of a local authority
 - Members of a local board
 - Members of a community board
 - Appointed members of a committee or sub-committee being persons appointed under clause 31(3), [Schedule 7](#) of the Local Government Act 2002 or pursuant to another Act, who are not members of the local authority, local board or community board to which the committee or subcommittee relates.

Interpretation / Whakamāramatanga

7. In this code:

Assessor means a person appointed to carry out a preliminary assessment of a complaint, appointed under the process set out in Appendix 3.

Complainant means a person who has made a complaint.

Investigator means a person appointed to investigate and determine a complaint appointed from outside the membership and employees of a local authority under the process set out in Appendix 4.

Material complaint means a complaint that is not dismissed under clause 34, and which would, if proven, bring a member or the local authority into disrepute or, if not addressed, risk unreasonable harm to another member of the local authority and materiality has a corresponding meaning.

Member means a member of a local authority, local board, committee or sub-committee, and includes the Mayor.

Respondent means a member who is the subject of a complaint. This code uses lists as illustrative descriptions to support comprehension and clarity, and these lists are not necessarily exhaustive.

PART 2 / WĀHANGA 2

EXPECTATIONS OF MEMBERS / WĀHANGA 2

General expectations of members / Ngā kawatau ahuwānui o ngā mema

8. The Mayor of a local authority is expected to take a lead in developing and strengthening a constructive culture amongst the members of that local authority.
9. Members are expected to:
 - a. contribute to developing and strengthening a constructive culture amongst the members of the local authority, board, committee or sub-committee of which they are a member
 - b. take responsibility for ensuring they understand their roles and responsibilities and this code, and attending any appropriate training opportunities provided by the local authority
 - c. use their best endeavours to resolve issues outside of the code of conduct complaints process
 - d. make their best endeavours to attend meetings (including meetings of external organisations to which they are appointed), workshops and working groups
 - e. come to meetings prepared, including having read relevant material
 - f. engage in robust political debate and constructive disagreement in a way that upholds freedom of expression for all members
 - g. seek personal and skill development opportunities to effectively fulfil their statutory declaration of office and contribute to the good governance of the local authority
 - h. attend any induction programmes organised by the local authority for the purpose of facilitating agreement on Council's vision, goals and objectives and the manner and operating style by which members will work
 - i. take part in any assessment or evaluation of the local authority's performance and operating style
 - j. ensure that pecuniary interest returns are provided in an accurate and timely manner.

Rights of members / Ngā mōtika o ngā mema

10. The rights of members include:
 - a. subject to any conflicts of interest identified:
 - i. the right to attend and participate in any meeting of the local authority, local board, community board, committee or sub-committee they are a member of
 - ii. the right to vote on decisions to be made by the local authority, local board, community board, committee or sub-committee
 - b. the right, under section 26A of the Local Government Act 2002 to access information held by the local authority.³
 - c. the same rights as members of the public to request information under the [Local Government Official Information and Meetings Act 1987](#).

³ The ability for members to access information under section 26A is proposed to be included in the Local Government Act 2002 by the Local Government (System Improvements) Amendment Bill.

11. Section 26A provides that:
- (1) A member of a local authority is entitled to have access to documents held by the local authority that are reasonably necessary to enable the member to effectively perform their functions and duties, and to effectively exercise their powers, as a member of the local authority.
 - (2) A member of a local authority may request access to the documents specified in subclause (1) from the chief executive of the local authority.
 - (3) If the chief executive declines the request, the member may request access to the documents from the local authority's governing body.
 - (4) If the member requests access to the documents under subclause (3), the governing body must make a final decision on the request.

Treaty of Waitangi / Te Tiriti o Waitangi

12. To reflect the Crown's obligations to the Treaty of Waitangi / Te Tiriti o Waitangi, Parliament, when delegating or devolving responsibilities to local authorities, requires local authority's to fulfil certain requirements. Such requirements are set out in legislation, including:
- a. [Local Government Act 2002](#)
 - b. [Resource Management Act 1991](#)
 - c. [Land Transport Act 1998](#)
 - d. Treaty settlement legislation
13. It is common for such requirements to place an expectation on local authority's to take the principles of the Treaty of Waitangi/ Te Tiriti o Waitangi Te Tiriti o Waitangi into account or have regard to. Where the principles are referred to in legislation then they should be understood in accordance with the interpretation provided by the Waitangi Tribunal, which defines the principles as:
- a. Partnership: The principle of partnership requires local authorities to maintain strong and enduring relationships with mana whenua, whānau, hapū and iwi to govern, design, deliver and monitor services that are culturally appropriate for Māori and seek to improve outcomes for Māori. Partnership is underpinned by mutual good faith and reasonableness.
 - b. Active protection: The principle of active protection requires local authorities to conduct themselves honourably; use fair processes; and consult fully and, where appropriate, make decisions with mana whenua, whānau, hapū and iwi, whose interests are to be protected, that enhance Māori self-determination.
 - c. Participation: The principle of participation requires local authorities to identify opportunities, and develop and maintain ways, for mana whenua, whānau, hapū and iwi to contribute to council decisions, and consider ways council can help build Māori capacity to contribute to council decision-making.

PART 3 / WĀHANGA 3 BEHAVIOURS / NGĀ WHANONGA

Behaviours / Ngā whanonga

14. Clauses 15 to 19 of this code set out understandings and expectations about the manner in which members should conduct themselves.
15. The behaviour of members towards other members, staff and the public shall meet the following values and members should consider their actions against those values.

Trust / Ngākau pono

**I can be trusted to act in the best interests of the local authority's communities /
Ka whakapono ngā tāngata ki ahau kia mahi mō te painga o ngā hāpori a te kaunihera**

To earn and uphold that trust, I will conduct myself in a way that demonstrates:

- **Integrity:** Communicate truthfully, and act honestly, fairly, and in the public interest, and not participate in decisions where these would be unduly compromised or perceived to be compromised due to personal interest or external influence.
- **Transparency:** Be open about my interests, relationships, and duties, and declare conflicts where impartiality may be compromised or perceived to be compromised.
- **Fairness:** Approach each decision with an open mind, valuing diverse perspectives and being willing to reconsider my views when presented with new information.
- **Independence:** Maintain freedom from undue influence and uphold my responsibilities with courage and clarity.
- **Accountability:** Take ownership of my decisions and actions and support appropriate public scrutiny.
- **Commitment:** Contribute actively and equitably to the work of the local authority, including meetings, civic events, and professional development.
- **Good stewardship:** Use local authority resources and events responsibly and lawfully, ensuring they serve the public good.
- **Leadership:** Uphold the law and model high standards of conduct through my actions and decisions.
- **Responsibility:** Honour the policies and protocols adopted by the local authority that guide our collective work and support good governance.

Respect / Whakarangatira

**I will respect the people I work with and the communities the council serves /
Ka whakarangatira ahau i ngā tāngata e mahitahi nei ahau me ngā hāpori e whakaratoa ana e te kaunihera**

To demonstrate respect, I will conduct myself in a way that demonstrates:

- **Professionalism:** Treat colleagues, staff, and the public with courtesy, respect, and fairness.
- **Recognition:** Acknowledge and value the roles, responsibilities, contributions, and dignity of others.
- **Inclusivity:** Create space for diverse voices and perspectives to be heard, considered, and valued and foster a culture of mutual respect.
- **Collaboration:** Work together constructively, balancing individual accountability with shared responsibility for council outcomes.

- **Constructive Dialogue:** Engage in robust, respectful debate focused on issues, not personalities.
- **Thoughtfulness:** Promote informed, evidence-based discussion and decision-making.
- **Openness:** Be honest, transparent, and receptive in my interactions.
- **Confidentiality:** Respect and protect confidential information entrusted to us, recognising its importance to trust and good governance.

16. In applying the behaviours set out in clause 15, members should consider the application of the following concepts:

Manaakitanga - Hospitality, kindness, generosity, respect, and care for others

Whanaungatanga - Building and maintaining strong, reciprocal relationships and a sense of belonging (community cohesion).

Kotahitanga - Unity, solidarity, and collective action for a common purpose.

Conflicts of interest / Pānga Taharua

17. Members must declare a conflict of interest and step aside from a decision in which they have a financial interest or where they are unable to approach a decision on its merits or it might be perceived that they will not approach a decision on its merits.

Disclosure of information / Whākinga mōhiohio

18. Members will not disclose information acquired, or given, in confidence, which they believe is of a confidential nature, unless:
- a. they have the consent of a person authorised to give it
 - b. They are required by law to do so
 - c. They are empowered by law to do so
 - d. The disclosure is to a third party to obtain professional legal advice, and that the third party agrees not to disclose the information to any other person, or
 - e. The disclosure is reasonable and in the public interest, is made in good faith, and in compliance with the reasonable requirements of the local authority.

Expressing personal views / Te whakaputa i ō ake whakaaro

19. Members, except when authorised to speak on behalf of the local authority, will make it clear, when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

PART 4 / WĀHANGA 4

CONFLICTS OF INTEREST / NGĀ PĀNGA TAHARUA

Conflicts of interest/Ngā pānga taharua

20. Members are expected to:
- a. Maintain a clear separation between their personal interests and their duties as members in order to ensure they are free from bias or predetermination (either real or perceived) when making decisions
 - b. Familiarise themselves and comply with the provisions of the [Local Authorities \(Members' Interests\) Act 1968](#) in relation to pecuniary interests and the Office of the Auditor General's guidance about this; see - [Local Authorities \(Members' Interests\) Act 1968: A guide for members of local authorities on managing financial conflicts of interest— Office of the Auditor-General New Zealand](#).
 - c. Familiarise themselves with and comply with relevant guidance about conflicts of interest, for example [List of our conflicts of interest resources — Office of the Auditor-General New Zealand](#) and [Part 5: Managing conflicts of interest in regional councils — Office of the Auditor-General New Zealand](#).
 - d. Familiarise themselves with the policies and protocols of the local authority relating to conflicts of interest
 - e. Identify actual or perceived conflicts of interest existing in relation to a matter they may make decisions on, and take appropriate action to ensure they do not compromise the decisions of the local authority, board or committee they are a member of
 - f. Be aware that the consequences of a member participating in a decision when that member has a conflict of interest may include:
 - i. In the case of a pecuniary interest, prosecution of that member by the Auditor-General and if found guilty a fine and disqualification from office
 - ii. In the case of any conflict of interest, judicial review of the local authority's decision and damage to the reputation of the member and the local authority.
 - g. Be aware that participation in a decision in a way that breaches clause 17 may be grounds for a complaint.
21. Where a member is uncertain about whether they have a conflict of interest they must seek advice from the Chief Executive or another appropriate officer of the council or another appropriate person.

PART 5 / WĀHANGA 5

BREACHES AND COMPLAINTS /

NGĀ TAKAHANGA TURE ME NGĀ AMUAMU

Breaches of the code / Ngā takahanga o te Tikanga

22. A breach of this code occurs if one or more of the principles or requirements listed in paragraphs 14 to 19 are breached.

COMPLAINTS / NGĀ AMUAMU

Who may make a complaint? / Ko wai e āhei ana ki te tuku amuamu?

23. Complaints about an alleged breach of the code by a member may be made by:
- Members of a local authority, local board, community board, committee or sub-committee
 - The Chief Executive, either on behalf of themselves or on behalf of an employee of the local authority.

Making a complaint / Te tuku amuamu

24. Where a person listed in clause 23 believes that a member has breached the code that person may make a complaint.
25. A complaint must be made in writing and lodged with the Chief Executive, and:
- Describe the breach
 - Reference the part of the code which is alleged to have been breached
 - Provide evidence of the alleged breach; and
 - Provide evidence of attempts to resolve the breach prior to the complaint having been lodged, or an explanation as to why attempts have not been made, e.g. that an attempt to do so would cause stress or anguish or place the complainant at risk.

Member's capacity / Te tuku amuamu

26. A complaint must relate to the conduct of a member while acting in their capacity as a member.
27. Where an act or behaviour by a member (including in a personal capacity) has the effect of bringing the local authority into disrepute, that act or behaviour is covered by this code.

HOW COMPLAINTS ARE TO BE DEALT WITH / TE ĀHUA O TE WHIRIWHIRI I NGĀ AMUAMU

Requirements for dealing with complaints / Ngā whakaritenga o te whiriwhiri i ngā amuamu

28. Complaints will be considered and dealt with in accordance with the following requirements:
- a. The approach for assessing and investigating a complaint will be:
 - i. proportionate to the apparent seriousness, nature and complexity of the alleged breach
 - ii. informed by the history of the matter including any previous complaint against the member alleging the same or similar misconduct
 - b. Best efforts will be made to resolve complaints at the lowest level of resolution possible, with priority given to finding an agreed resolution
 - c. The concepts of natural justice, fairness and reasonableness will apply in the consideration, investigation and determination of any complaints made under this code.
 - d. The complaints process will be independent and impartial
 - e. Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
 - f. Members will have a right to seek independent advice, be represented, and, if they choose, be accompanied by a support person throughout the process
 - g. Complainants and members subject to a complaint will:
 - i. have access to advice and support for the time it takes to find a resolution
 - ii. be informed throughout the process of progress in dealing with the complaint
29. Where the Chief Executive makes a complaint on behalf of an employee of a local authority the employee shall have the same rights as a complainant in the process through which the complaint is dealt with.

Information privacy principles / Ngā mātāpono tūmataiti mōhiohio

30. Any person receiving, collecting, using, storing or disclosing personal information relating to a complaint shall apply the information privacy principles set out in [section 22](#) of the Privacy Act 2020, and where applicable, the protection of confidentiality provided to disclosers under the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#).
31. For the avoidance of doubt, clause 30 applies when providing information about a complaint to a person inside or outside of the local authority.

Subject matter of complaints dealt with under other processes / Ngā āhuatanga o ngā amuamu i anganuihia i raro i ētahi atu tukanga

32. Where the subject matter of a complaint is being dealt with by another authority (such as the New Zealand Police) an assessor or an investigator can:
- Cease dealing with the complaint under this code; or
 - Defer dealing with the complaint under this code until that authority has finished dealing with the matter; or
 - Continue dealing with the complaint under this code where it is still appropriate to do so.

PROCESS FOR DEALING WITH COMPLAINTS / TE TUKANGA O TE WHIRIWHIRI I NGĀ AMUAMU

Chief Executive receives complaint / Ka tae te amuamu ki te Tumu Whakarae

33. On receipt of a complaint under this code the Chief Executive will, as soon as reasonably practicable:
- Refer the complaint to an assessor appointed under the process set out in Appendix 3.
 - Inform the complainant that the complaint has been referred to an assessor for preliminary assessment and the name of the assessor, and refer them to the process for dealing with complaints as set out in the code
 - Separately, inform the respondent that a complaint has been made against them, the name of the assessor and remind them of the process for dealing with complaints as set out in the code.

Assessor makes preliminary assessment / Ka puta he aromatawai tuatahi ā te kaiaromatawai

34. On receipt of a complaint the assessor will undertake a preliminary assessment to determine whether the complaint should be further considered and the nature of the subsequent process that will be followed. The investigator will consider whether:
- The complaint is trivial, vexatious, frivolous, not made in good faith or politically motivated and should be dismissed
 - The complaint is without substance, or does not appear to be a breach of the code and should be dismissed
 - The complaint is relatively minor, and no further action is necessary
 - The complaint is outside the scope of the code and should be re-directed to another agency or process
 - The complaint does not vary in substance from complaints about the same member that been previously dismissed.
 - The complaint amounts to a protected disclosure made under the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#) and must be dealt with in accordance with that Act.

35. Factors that can be considered when determining if a complaint is trivial, frivolous, vexatious, not made in good faith, or without substance include whether complaints are intended to:
 - a. Intimidate or harass another member or an employee
 - b. Damage another member's reputation
 - c. Obtain a political advantage
 - d. Influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
 - e. Avoid disciplinary action under this code
 - f. Prevent or disrupt the effective administration of this code.
36. In making the assessment the assessor may make whatever initial inquiry is necessary to determine their decisions, including interviewing relevant parties.
37. Subject to clause 35 a full copy of the complaint will be provided to the respondent which will include the name of the complainant.
38. Where appropriate and having considered relevant matters such as natural justice obligations, legal issues, including the requirements of the [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#) and the [Privacy Act 2020](#) (as referred to in clause 30), and potential prejudice to the future supply of complaint information the assessor may:
 - a. Decline to provide a copy of the complaint to the respondent; or
 - b. Provide a redacted copy of the complaint to the respondent.

Outcomes of preliminary assessment / Ngā putanga o te aromatawai tuatahi

39. Where an assessor determines that a complaint falls within one of the categories listed in clause 34:
 - a. The complaint shall be dismissed
 - b. The Chief Executive will advise both the complainant and the respondent of the assessor's decision and the reason for it
 - c. The complaint will not be reported to the local authority.
40. Where an assessor finds that the complaint involves a potential legislative breach and/or is outside the scope of the code and is more appropriately dealt with by another process, the assessor may recommend that it should be re-directed by the Chief Executive to another agency or process. The Chief Executive will advise both the complainant and the respondent of the assessor's recommendation.
41. If the complaint is not dismissed or redirected, the assessor will initiate one of the following processes:
 - a. Arrange for an informal facilitated discussion between the complainant and the respondent under clause 44
 - b. Refer the complaint to the Mayor under clause 45
 - c. Refer the complaint to mediation under clause 49
 - d. If neither (a), (b) or (c) are appropriate to the complaint, refer the complaint to an investigator.

42. The assessor will use their best endeavours for a complaint to be resolved through facilitated discussion, referral or mediation before determining that the complaint is to be resolved through an investigation, unless that is considered inappropriate in the circumstances.
43. For the purposes of determining which process is to initiate under clause 41, the assessor will, where appropriate, have access to any previous complaints lodged against the respondent and their outcome.

INFORMAL RESOLUTION / WHAKATAUNGA ŌPAKI

Informal discussion / Ngā kōrero ōpaki

44. Where the assessor considers that the complaint can be resolved by an informal facilitated discussion between the complainant and the respondent, kanohi ki te kanohi (face to face), the assessor will seek the agreement of each to such a discussion and arrange for it to take place.

Referral to Mayor / Ka whakapiki ki te Kahika, te Upoko o te Kaunihera rānei

45. Where the assessor considers that a discussion between the respondent and the Mayor will be the best way to resolve the complaint the assessor will so recommend. A meeting or meetings with the Mayor will be regarded as sufficient to resolve the complaint. The assessor may also recommend a course of action appropriate to the breach for the Mayor's consideration, such as:
 - a. That the respondent attends appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint
 - b. That the respondent work with a mentor for a period
 - c. That the respondent tenders an apology to the complainant.
46. The Chief Executive will advise both the complainant and the respondent of the investigator's decision and any recommendations.
47. The outcomes of any referral to the Mayor will be confidential and, other than reporting that a complaint has been resolved through referral to the Mayor for guidance, there will be no additional report to council.
48. Where a complainant or respondent is a Mayor or a referral shall be made to the Deputy Mayor or, or if it is not appropriate that they be involved, to the Independent Chair of Risk and Assurance Committee.

Mediation / Hui takawaenga

49. If the complaint concerns a dispute between two members, or between a member and another party, the assessor may recommend mediation.
50. The investigator will contact the parties and seek their agreement to independently facilitated mediation.
51. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required. The outcomes of any mediation will be confidential and, other than reporting that a complaint has been resolved through mediation, there will be no additional report to council unless the complaint is referred for further investigation due to a failure of the mediation process.

Outcome of informal resolution / Te putanga o te whakataunga ōpaki

52. Where a complaint has been resolved through informal discussion, referral to the Mayor, or mediation, the complaint shall not be referred to the local authority.

INVESTIGATIONS / NGĀ MĀTAITANGA

Referral for full investigation by investigator / Ka tukua kia mātaitia nuitia e tētahi kaimātai

53. Where:
 - a. A complaint cannot be resolved through referral or mediation; or
 - b. An assessor has determined that a complaint should be referred to an investigator without referral or mediation being attempted,the complaint shall be referred to an investigator appointed under the process set out in Appendix 4.

Materiality / Te kiko

54. Where a complaint is referred to an investigator, the investigator shall first determine the materiality of the complaint.
55. The degree of materiality of the complaint will assist the investigator to determine:
 - a. The scale and nature of the investigation; and
 - b. The scale and nature of any sanctions recommended.
56. An alleged breach under this code is material if, in the opinion of an investigator, it would if proven, bring a member or the local authority into disrepute or, if not addressed, risk unreasonable harm to another member of the local authority.

57. The following may be taken into account when assessing materiality:
- The conduct was not stopped on request
 - The conduct appeared to be intentional, malicious or motivated by ill-will
 - The conduct caused serious harm, such as reputational harm for an individual or organisation, bringing the local authority into disrepute
 - There has been an ongoing pattern of breaches
 - Even though the conduct complained of occurs on only one or two occasions it represents a major departure from expected standards.
58. In considering whether or not an alleged breach is material the assessor shall consider whether any of the following should be taken into account as aggravating factors:
- Participating in a decision where the member has been formally advised through the 'conflict of interest' provisions Part 4 of this code that a conflict of interest exists
 - Bullying, aggressive or offensive behaviour
 - Discrimination
 - Deliberately undermining the role of other elected members
 - Misrepresentation of the statements or actions of others
 - Disclosure of confidential information
 - Misuse of council resources
 - Harassment, including but not limited to:
 - Violent threats or language directed against another person
 - Discriminatory jokes and language
 - Posting sexually explicit or violent material
 - Posting (or threatening to post) other people's personally identifying information
 - Personal insults
 - Unwelcome sexual attention
 - Advocating for, or encouraging, any of the above behaviour
 - Publicly criticizing staff by calling into question their professionalism or integrity.
59. For the avoidance of doubt, disagreeing with another member or a member of staff is not in itself a breach.

Investigator to undertake full investigation / Ka whakahaeretia e te kaimātai he mātaitanga nui

60. Where a complaint proceeds to full investigation the investigator will undertake an investigation appropriate to the scale of the seriousness of the alleged breach.
61. In carrying out an investigation, the investigator:
- Shall consult with the complainant, respondent, and any other directly affected parties
 - May undertake a hearing with relevant parties
 - May refer to any relevant documents or information.
62. Following an investigation the investigator may uphold the complaint in whole or in part or dismiss the complaint.
63. Where a complaint is dismissed by the investigator neither the complaint nor the

investigator's decision shall be reported to the local authority.

64. Where a complaint is upheld, the investigator will also decide whether to recommend any sanctions on the member. These may include, but are not restricted to:
 - a. A requirement to apologise and, if applicable, withdraw remarks
 - b. A requirement to make a public statement correcting or clarifying previous remarks
 - c. A requirement to undertake specified training or personal development
 - d. Suspending the elected member from committees, subcommittees or other representative bodies
 - e. Requiring the member to seek guidance from the Mayor or a mentor
 - f. For a nominated period, restrict the member's access to council staff (other than the Chief Executive or their specific nominees) and/or to council premises.
65. In deciding whether to recommend a sanction, and what type of sanction should be recommended the investigator must take into account:
 - a. The seriousness of the breach
 - b. Any other action already taken to resolve the cause of the complaint, e.g. a member already having been removed from a committee.
66. Following the investigation, the investigator will provide the Chief Executive with a report on the findings of the investigation including:
 - a. Any sanctions recommended to be imposed on the respondent, or other remedies to the complaint
 - b. Any other matter the investigator wishes to comment on.

Consideration by determining body / Ka whai whakaarotia e te k hui whakatau

67. In clauses 68 to 72, **determining body** means the governing body, local board, community board, or committee or sub-committee with delegated authority to consider code of conduct complaints.
68. Where the investigator has provided the Chief Executive with a report on the findings of an investigation the process shall be as follows:
 - a. The Chief Executive shall submit a report to the determining body, containing the investigator's report and recommendations.
 - b. The determining body will ensure that members with an interest in the complaint are not present during the discussion on the investigator's recommendation.
 - c. The report will be received in a public meeting unless the determining body has resolved under [section 48](#) of the Local Government Official Information and Meetings Act 1987 that the public be excluded from the meeting.
 - d. The Chief Executive's report may outline, for the determining body's information and comment, arrangements for the report's public release.
 - e. The determining body may accept the investigator's recommendations for sanctions or other remedies or, if it believes it is justified, amend the investigator's recommendations.
 - f. A complainant may be asked to appear before the determining body to answer questions from members.

69. Where the determining body determines a sanction relating to employees of the local authority, for example restricting access by a member to employees, the determination shall be in the form of a recommendation to the Chief Executive as the employer.
70. Where the determining body's decision differs from the investigator's recommendation the determining body must:
- In its decision provide a clear, transparent and detailed explanation about why its determination so differs.
 - Record that decision in the minutes of the meeting.

FURTHER ACTION / ĒTAHI ATU MAHI

Public disclosure of complaints and outcomes / Te whakaputanga tūmatanui o ngā amuamu me ngā whakatau

71. The outcomes of complaints resolved under clauses 44 to 51 will not be publicly reported by the council, except in an anonymised form for the purpose of sharing good practice.
72. In considering how and to what extent an investigator's report and recommendations should be publicly reported the determining body shall consider how the public interest in the accountability of elected members should to be balanced against the requirements of natural justice and privacy, having regard to the [Local Government Official Information and Meetings Act 1987](#).

After a complaint has been dealt with / I muri i te whiriwhiri i tētahi amuamu

73. After a complaint has been dealt with:
- Members should reflect on how to rebuild any relationships affected by the cause of a complaint
 - The Chief Executive shall consider whether there are any actions that can be taken to help ensure that the causes of a complaint are less likely to occur in the future or that the negative impacts of those causes can be better mitigated.

Retention of records / Te pupuri tonu i ngā mauhanga

74. In addition to any requirements of the [Public Records Act 2005](#):
- Records of complaints that have been dismissed or not upheld shall be retained by the local authority for the purposes of determining whether a future complaint should be dismissed under clause 34
 - Records of complaints that have been upheld shall be retained by the local authority for the purposes of determining the materiality of a complaint under clauses 54 to 59, and in each case, records shall be made available to an assessor or an investigator as required for a preliminary assessment or an investigation.

PART 7 / WĀHANGA 7

BANKRUPTCY / PĒKERAPU

Bankruptcy / Pēkerapu

75. Members who are declared an undischarged bankrupt must notify the Chief Executive when first elected as a member or as soon as practicable after being so declared.
76. The member will provide the Chief Executive with a brief description of the circumstances surrounding the bankruptcy.
77. Any information provided under clauses 75 and 76 shall be recorded with the Register of Interests required to be kept by section 54A of the Local Government Act 2002.

Appendix 1 / Āpitihanga 1

GENERAL EXPLANATION OF LEGISLATION APPLYING TO LOCAL AUTHORITY MEMBERS / WHAKAMĀRAMA WHĀNUI O TE TURE E WHAI PĀNGA ANA KI NGĀ MEMA KAUNIHERA

This Schedule is a summary of the legislative requirements that have some bearing on the duties and conduct of Elected Members. The full statutes can be found on www.legislation.govt.nz

LOCAL GOVERNMENT ACT 2002 ('LGA')

Governance Principles

In performing its role, the Council must act in accordance with nine broad principles as set out in section 14(1) of the LGA as follows:

- Conduct its business in an open, transparent, and democratically accountable manner; and
- Give effect to its identified priorities and desired outcomes in an efficient and effective manner;
- Make itself aware of and have regard to the views of all its communities;
- When making a decision, take account of the diversity of the community and the various community's interests; the interests of future as well as current communities and the likely impact of any decision on these interests;
- Provide opportunities for Māori to contribute to its decision-making process;
- Collaborate and cooperate with other local authorities;
- Undertake commercial transactions in accordance with sound business practices and assess periodically the expected returns from investing in or undertaking a commercial activity;
- Ensure prudent stewardship and efficient and effective use of its resources in the interests of the district;
- Take a sustainable development approach that takes into account the social, economic and cultural interests of people and communities and the need to maintain and enhance the quality of the environment and the reasonably foreseeable needs of future generations.

If any of the principles are in conflict, the Council must resolve that conflict in an open, transparent and democratically accountable manner. These principles are helpful in determining the governance structure as they are indicative of the spirit and intent of the LGA and govern the way in which the Council undertakes decision-making. A Council that is seen to act in conflict with these principles can be subject to judicial review.

In deciding on a governance structure, section 39 of the LGA is also helpful to consider as it defines the following governance principles:

- A local authority should ensure that the role of democratic governance of the community, and the expected conduct of Elected Members, is clear and understood by Elected Members and the community;
- A local authority should ensure that the governance structures and processes are effective, open and transparent;
- 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;
- A local authority should be a good employer; and
- A local authority should ensure that the relationship between Elected Members and management of the local authority is effective and understood.

Decision-Making Responsibility

Every decision made by a local authority, including a decision not to take any action, must be made in accordance with sections 77, 78, 80, 81 and 82 of the LGA. Specifically, the Council must during the decision-making process:

- Seek to identify all reasonably practicable options for the achievement of the objective of a decision;
- Assess the options in terms of their advantages and disadvantages;
- Identify those options which involve a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna and other taonga;
- Give consideration to the views and preferences of persons likely to be affected by, or to have an interest in the matter;
- Determine the matters significance in relation to Council's Significance and Engagement Policy;
- Identify whether the proposed decision would be significantly inconsistent with any existing policy or plan;
- Establish and maintain processes to provide opportunities for Māori to contribute to the decision-making process;
- Consider ways in which the Council may foster the development of Māori capacity to contribute to the decision-making process;
- Provide relevant information to Māori;
- Undertake consultation in accordance with the principles of consultation as set out in section 82.

Significance and Engagement

A higher standard of compliance with the decision-making process is required when the Council is making a significant decision. The definition of "significance" is defined in the LGA and in the Council's Significance and Engagement Policy.

If the Council determines that the decision or matter is significant in terms of the Council's Policy, then the Council must apply greater diligence in regard to the decision-making requirements of the LGA.

This includes the degree to which different options are identified and assessed and the extent to which community views are considered, including whether consultation is required. The more significant a matter, the greater the level and detail, of analysis is required.

Section 78 alone does not require the Council to undertake a consultation process, provided the Council has sought to make itself aware of the views of those interested or affected. The Council may, for example, have gathered information through a process, formal or informal, which has provided the Council with the information it needs to take community views into account. The Significance and Engagement Policy provides guidance on when consultation will and will not be undertaken.

Personal Liability of Members

Although having qualified privilege, Elected Members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under section 44 LGA, it is found that one of the following applies:

- Money belonging to, or administered by, a local authority has been unlawfully expended; or
- An asset has been unlawfully sold or otherwise disposed of by the local authority; or
- A liability has been unlawfully incurred by the local authority; or

- A local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- Without the member's knowledge;
- With the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- Contrary to the manner in which the member voted on the issue; and
- In circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situations, members will also be responsible for paying the costs of proceedings (section 47 LGA 2002).

Local Authorities (Members' Interests) Act 1968 ('LAMIA')

LAMIA regulates situations where an Elected Member's personal interests impinge or could be seen as impinging on their duties as an Elected Member.

In relation to pecuniary interest, the LAMIA applies to both contracting and participating in the decision-making process. Elected Members may contact the Office of the Auditor General ('OAG') for guidance as to whether that member has a pecuniary interest, and if so, may seek (through an application from Council) an exemption to allow that Elected Member to participate or vote on a particular issue in which they may have a pecuniary interest. The Auditor General can provide retrospective approval for contracts that would otherwise disqualify a member under the Act, in limited circumstances. This must be done before the discussion or vote. The Chief Executive must also seek approval from the OAG for contractual payments to Elected Members, their spouses or their companies that exceed the \$25,000 annual limit.

Elected Members who do have a pecuniary interest should declare it to the meeting. The declaration and abstention from discussion or voting should be recorded in the meeting minutes (Further information and guidance are set out in Council's Standing Orders).

- Failure to observe the requirements set out by LAMIA could also leave the Elected Member open to prosecution under the LAMIA. In the event of a conviction Elected Members can be removed from office.

Local Government Official Information and Meetings Act 1987 ('LGOIMA')

The purpose of LGOIMA is to provide for the availability to the public of official information held by local authorities, and to promote the open and public transaction of business in meetings of local authorities.

The general principle is that information held by local authorities is to be made available unless there is a good reason for withholding it. The principal grounds for withholding information are set out in sections 6 and 7 of LGOIMA.

LGOIMA sets out a number of statutory procedures and requirements for local authority meetings. Meetings are to be publicly notified, and open to the public unless there is good reason for withholding information and excluding the public.

The Chair has the responsibility to maintain order at meetings, but all Elected Members should accept personal responsibility to maintain acceptable standards of address and debate in line with the principles detailed in clause 6 of this Code.

No Elected Member should:

- Create a disturbance or distraction while another councillor is speaking;
- Be disrespectful when they refer to each other or other people; or
- Use offensive language about Council, other Elected Members, any employees of Council or any member of public.

Secret Commissions Act 1910 ('SCA')

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. It is also unlawful for an Elected Member (or officer) to present false receipts to Council. If convicted of any offence under the SCA, a person can be imprisoned for up to 7 years. Elected Members convicted of an offence will be removed from office.

Crimes Act 1961

It is a crime for any Elected Member to accept, or solicit for themselves (or anyone else), any gift or reward for acting or not acting in relation to the business of the local authority. It is also a crime for any Elected Member to use information acquired in their official capacity for 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 be removed from office.

Financial Markets Conduct Act 2013 ('FMCA')

The FMCA regulates the offer, issue and re-sale of financial products, which includes shares, debt securities and derivatives. Council is unable to issue shares, but can issue debt securities and derivatives, and may from time to time sell financial products. If Council does issue financial products or, in certain cases, sells financial products that it holds, members will be potentially subject to personal liability for breaches of the offer and other provisions of the FMCA.

Health and Safety at Work Act 2015 ('HSWA')

HSWA came into force on 4 April 2016. Its focus is the protection of workers and other people against harm to their health, safety and welfare by eliminating or minimising risks at workplaces. The HSWA places obligations on four duty holders - a person conducting a business or undertaking ('PCBU'); officers of a PCBU; workers; and other people at a workplace. Council as a PCBU holds the primary duty of care under HSWA i.e., to ensure so far as is reasonably practicable, the health and safety of its workers and of other workers whose activities Council influences or directs.

Each Elected Member is an 'officer' (being a person occupying a position in a body corporate that is comparable with that of a director of a company), responsible under HSWA for exercising due diligence to ensure that Council is meeting its health and safety responsibilities under HSWA. The Chief Executive and Senior Leadership Team are also officers under HSWA.

The due diligence duty of officers supports the primary duty of care owed by a PCBU – placing duties on individuals whose decisions significantly influence the activities of a PCBU, therefore influencing whether the PCBU meets its statutory duties.

Unlike the Chief Executive and Executive Leadership Team, Elected Members are not required to be directly involved in the day-to-day management of health and safety. They are, however, still required to take reasonable steps to understand Council's operations and health and safety risks, and to ensure that they are managed so that the organisation meets its legal obligations under the HSWA. This duty does not extend to ensuring that a council-controlled organisation ('CCO') complies with the HSWA, unless the Elected Member is also an 'officer' of that CCO.

Taking 'reasonable steps' requires each Elected Member to exercise the care, diligence and skill a reasonable officer would exercise in the same circumstances, taking into account matters including the nature of Council's business, and the Elected Member's position and nature of their responsibilities.

Most officers can be convicted of an offence for failing to meet their due diligence obligations, whether or not a PCBU is convicted of an offence. Elected members, however, when acting in the capacity of an Elected Member of Council are expressly exempted from prosecution.

Protected Disclosures Act 2000 ('PDA')

Under the PDA, the definition of an employee of a public sector organisation (PSO) includes Elected Members of a local authority. Elected Members (as 'employees') who disclose information about a serious wrongdoing by the Council are protected from civil or criminal liability that might arise from such a disclosure and from retaliatory action against the Elected Member.

Serious wrongdoing under the Act includes unlawful or irregular use of funds or resources; conduct that risks public health and safety; conduct that risks the maintenance of law; conduct that constitutes an offence; oppressive, improper discriminatory conduct; and gross negligence or gross mismanagement by a public official.

Protection under the PDA applies where the employee has information about a serious wrongdoing; a reasonable belief that the information is true or likely to be true; the employee wishes to have the matter investigated; and that employee desires protection under the Act.

Appendix 2 / Āpitihanga 2

FREEDOM OF EXPRESSION / MANA WHAKAPUAKI

This appendix provides an explanation of how freedom of expression as guaranteed by the [New Zealand Bill of Rights Act 1990](#) (BORA) applies, including the limits placed on this right by other statutes such as the incitement provisions of the [Human Rights Act 1993](#).

Local authorities and their members must comply with the BORA. [Section 14](#) of BORA protects the right to freedom of expression. Section 14 of BORA provides that:

Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.

The right to freedom of expression therefore means:

- The right to hold opinions without interference (freedom of opinion)
- The right to seek and receive information (access to information)
- The right to impart information (freedom of expression).

The New Zealand High Court has stated that freedom of expression guarantees “everyone [the right] to express their thoughts, opinions and beliefs however unpopular, distasteful or contrary to the general opinion or to the particular opinion of others in the community”.

However, the right to freedom of expression is not an absolute right and may be restricted. [Section 5](#) of BORA provides that:

Subject to section 4, the rights and freedoms contained in the Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Section 5, therefore, asks whether the objective of the limitation on freedom of expression is sufficiently important, whether the limitation is rationally connected and proportionate to that objective, and whether it limits freedom of expression no more than reasonably necessary.⁴

Some other Acts contain specific limitations on freedom of expression. Local authorities and members must comply with these limitations when applying the freedom of expression under section 14.

Some Acts contain specific limitations to the freedom of expression. These include, but are not restricted to, limitations relating to:

- Communication causing racial disharmony, [section 61, Human Rights Act 1993](#)
- Communication constituting sexual harassment, [section 62, Human Rights Act 1993](#)
- Communication constituting racial harassment, [section 63, Human Rights Act 1993](#)
- Communication with the intent to excite hostility or ill-will against, or bring into contempt or ridicule, [section 131, Human Rights Act 1993](#)
- The responsibility of broadcasters to maintain programme standards, [section 4\(1\), Broadcasting Act 1989](#)
- Offensive behaviour or language, [section 4, Summary Offences Act 1981](#)

⁴ R v Hansen [2007] NZSC 7 at 104.

- Posting a digital communication with the intention it causes harm to a victim, [section 22, Harmful Digital Communications Act 2015](#)
- Privacy breaches under the [Privacy Act 2020](#), including those causing interference with the privacy of an individual, as described in [section 69](#) or breaches that either have caused or are likely to cause anyone serious harm as described in [section 112](#)
- The ability of local authorities to exclude the public from meetings under the grounds set out in [section 48, Local Government Official Information and Meetings Act 1987](#)
- In relation to offers of stocks or bonds, disclosure of information that breaches the [Financial Markets Conduct Act 2013](#), in particular [Part 2](#) relating to fair dealing, [Subpart 2 of Part 5](#) relating to insider trading, and [Subpart 3 of Part 5](#) relating to market manipulation
- The [Defamation Act 1992](#), which gives individuals the right to seek remedy against false statements that could harm reputation.
The Defamation Act does provide a defence of qualified privilege that applies where a person has a legal, moral or social duty to make a statement to someone with a corresponding interest in receiving it. This defence can be lost if the person making the statement was motivated by malice or took "improper advantage" of a situation. It was determined by the Court of Appeal in its decision on *Vickery v McLean*⁵ that the defence of qualified privilege did not extend, in that case, to statements defaming employees of a local authority.

In addition, in *Goulden v Wellington City Council*⁶, the High Court found that the Wellington City Council's code at that time constituted a justified limitation of the freedom of expression.

More information about the right to freedom of expression can be found on the Human Rights Commission's website [Freedom of Opinion and Expression](#).

⁵ *Vickery v McLean* [2000] NZCA 338; [2006] NZAR 481

⁶ *Goulden v Wellington City Council*, CIV-2004-485-1

Appendix 3 / Āpitihianga 3

SELECTING AN ASSESSOR / TE KŌWHIRI I TĒTAHI KAIAROMATAWAI

The Chief Executive is responsible for appointing assessors. In selecting an assessor, the Chief Executive will consult with the local authority.

The assessor should be a person that is independent of a local authority's political governance, while also being easily accessible, as their role is crucial if complaints are to be expedited quickly and without controversy. For example:

- The external appointee on a local authority's Audit and Risk Committee.
- A member of staff, such as an internal staff member responsible for dealing with complaints or an ethics adviser, as long as they have operational independence from the Chief Executive (similar to the independence held by an electoral officer).
- A member of the local authority's legal team.
- A retired local authority Chief Executive.
- A retired local authority politician.
- A professional or member of the public with relevant experience and competency.

Appendix 4 / Āpitihanga 4

SELECTING AN INVESTIGATOR / TE KŌWHIRI I TĒTAHI KAIMĀTAI

The Chief Executive is responsible for compiling a panel or list of independent investigators.

At the beginning of each triennium the Chief Executive, in consultation with the governing body, will compile a list of independent investigators. In selecting them, a Chief Executive may consider:

- The council's legal advisers,
- A national service specialising in public sector integrity,
- A national service providing assessment and investigation services, or
- An individual with relevant skills and competencies.

Given the litigious nature of some code of conduct disputes, independent investigators should have relevant liability insurance, provided on their own behalf or by the local authority.

The Chief Executive also needs to ensure that investigations are undertaken within budgetary limits negotiated in advance.

Local authorities are encouraged to establish panels of investigators jointly with other local authorities, e.g. covering one or more regions.