



## Elected Members Code of Conduct

## Table of Contents

1	Introduction.....	4
2	Scope .....	4
3	Values .....	4
4	Role and Responsibilities.....	5
4.1	Members .....	5
4.2	Chief Executive .....	6
5	Relationships .....	6
5.1	Relationships between members.....	6
5.2	Relationships with staff.....	6
5.3	Relationship with the public .....	7
6	Media and social media.....	7
7	Information.....	8
7.1	Confidential information.....	8
7.2	Information received in capacity as an elected member .....	8
8	Conflicts of Interest .....	8
9	Register of Interests.....	9
10	Ethical behaviour .....	10
10.1	Undischarged bankrupt .....	10
11	Creating a supportive and inclusive environment.....	10
12	Breaches of the Code.....	11
12.1	Principles.....	11
12.2	Who can make a complaint? .....	11
12.3	Role of the initial assessor .....	11
12.4	Role of the independent investigator.....	12
12.5	Costs and support.....	13
12.6	Process for determining and investigating complaints.....	13
12.7	Selecting the initial assessor and independent investigator.....	15
12.8	Actions that may be applied when a breach has been confirmed.....	16
12.9	Responses to statutory breaches .....	17
13	Penalties and actions .....	18
13.1	Material breaches.....	18

13.2	Statutory breaches .....	19
14	Review.....	19
	Appendix A: Guidelines on the personal use of social media <sup>5</sup> .....	20
	Appendix B: Legislation bearing on the role and conduct of elected members .....	21

Change register:

Date	Status	Update made
31 January 2024	Adopted by Council	

## 1 Introduction

The Code of Conduct (the Code) sets out the standards of behaviour expected from elected members in the exercise of their duties. Its purpose is to:

- Enhance the effectiveness of the Council and the provision of good local government of the community, city, district or region;
- Promote effective decision-making and community engagement;
- Enhance the credibility and accountability of the Council to its communities; and
- Develop a culture of mutual trust, respect and tolerance between the members of the Council and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviours agreed in the code.

## 2 Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (Local Government Act 2002) and applies to all members, including any non-elected members appointed to committees or subcommittees, and the members of any community boards that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- Each other;
- The Chief Executive and staff;
- The media; and
- The general public.

It is also concerned with the disclosure of information that members receive in their capacity as elected members and information which impacts on the ability of the Council to give effect to its statutory responsibilities.

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Council’s Standing Orders.

## 3 Values

The code is designed to give effect to the following values:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 4 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively in an accountable and transparent manner;
3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** members will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
6. **Duty to uphold the law:** members will comply with all the legislative requirements applying to their role, abide by the Code of Conduct and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council’s collective performance.

These values complement, and work in conjunction with, the principles of section 14 of the Local Government Act 2002 and the governance principles of s39 of the Local Government Act 2002.

## 4 Role and Responsibilities

The Code of Conduct is designed to strengthen the good governance of the Tararua District. Good governance requires that the complementary roles of the governing body and the administration are understood and respected. These roles involve:

### 4.1 Members

The role of the governing body includes:

- Representing the interests of the people of the district;
- Developing and adopting plans, policies and budgets;
- Monitoring the performance of the Council against stated goals and objectives set out in its Long-term plan;
- Providing prudent stewardship of the Council’s resources;
- Employing and monitoring the performance of the Chief Executive; and
- Ensuring the Council fulfils its responsibilities to be a ‘good employer’ and meets the requirements of the Health and Safety at Work Act 2015.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 5 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

## 4.2 Chief Executive

The role of the Chief Executive includes:

- Implementing the decisions of the Council;
- Ensuring that all responsibilities delegated to the Chief Executive are properly performed or exercised;
- Ensuring the effective and efficient management of the activities of the Council;
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council;
- Providing leadership for the staff of the Council; and
- Employing, on behalf of the Council, the staff of the Council, (including negotiation of the terms of employment for those staff).

The Chief Executive is the only person *directly* employed by the Council itself (s.42 Local Government Act 2002). All concerns about the performance of an individual member of staff must, in the first instance, be referred to the Chief Executive.

## 5 Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

### 5.1 Relationships between members

Given the importance of relationships to the effective performance of the Council, members will conduct their dealings with each other in a manner that:

- Maintains public confidence;
- Is open, honest and courteous;
- Is focused on issues rather than personalities;
- Avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- Avoids aggressive, bullying or offensive conduct, including the use of disrespectful or malicious language.

Please note, nothing in this section of the Code is intended to limit robust debate.

### 5.2 Relationships with staff

An important element of good governance involves the relationship between a Council, its Chief Executive, and its staff. Members will respect arrangements put in place to facilitate this relationship, and:

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 6 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

- Raise any concerns about employees, officers or contracted officials with the Chief Executive;
- Raise any concerns about the performance or behaviour of the Chief Executive with the Mayor or the Chairperson of the Chief Executive performance review committee (however described);
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe these requirements at all times, such as the duty to be a good employer;
- Treat all employees with courtesy and respect and not publicly criticise any employee, and;
- Observe any protocols put in place by the Chief Executive concerning contact between members and employees.

Please note, elected members should be aware that failure to observe this portion of the Code may compromise the Council’s obligations to be a good employer and consequently expose the Council to civil litigation or affect the risk assessment of Council’s management and governance control processes undertaken as part of the Council’s annual audit.

### 5.3 Relationship with the public

Given the vital role that the democratic local government plays in our communities it is important that Councils have the respect and trust of their citizens. To facilitate trust and respect in their Council, members will:

- Ensure their interactions with citizens are fair, honest and respectful;
- Be available to listen and respond openly and honestly to citizens’ concerns;
- Represent the views of citizens and organisations accurately, regardless of the member’s own opinions of the matters raised; and
- Ensure their interactions with citizens and communities uphold the reputation of the Council.

## 6 Media and social media

The media play an important role in the operation and efficacy of our local democracy. In order to fulfil this role, the media needs access to accurate and timely information about the affairs of Council. Any failure by member to comply with the provisions of this section can represent a breach of the Code.

1. In dealing with the media, elected members must clarify whether they are communicating a view endorsed by their Council, committee, or community board, or are expressing a personal view.
2. Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 7 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

- Comments shall be consistent with the Code;
- Comments must not purposefully misrepresent the views of the Council or the views of other members;
- Social media pages controlled by members and used for making observations relevant to their role as an elected members should be open and transparent, except where abusive or inflammatory content is being posted; and
- Social media posts about other members, council staff or the public must be consistent with section 5 of this Code. (See Appendix A for guidelines on the personal use of social media).

## 7 Information

Access to information is critical to the trust in which a Council is held and its overall performance. A failure to comply with the provisions below can represent a breach of the Code.

### 7.1 Confidential information

In the course of their duties members will receive information, whether in reports or through debate, that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

### 7.2 Information received in capacity as an elected member

Occasionally members will receive information from external parties which is pertinent to the ability of their Council to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the chief executive as soon as practicable.

## 8 Conflicts of Interest

Elected members will maintain a clear separation between their personal interests and their duties as elected members in order to ensure that they are free from bias (whether real or perceived). Members therefore must familiarise themselves with the provisions of the Local Authorities (Members’ Interests) Act 1968 (LAMIA).

Members will not participate 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. This rule also applies where the member’s spouse/partner has a pecuniary interest, such as through a contract with the Council. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 8 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	



If a member has declared a pecuniary interest in an item, they must leave the meeting room during deliberations and voting on that item.

If a member is in any doubt as to whether 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 Office of the Auditor-General for guidance as to whether they have 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.

**Please note:** Failure to observe the requirements of LAMIA could potentially invalidate a decision made, or the action taken, by the Council. Failure to observe these requirements could also leave the elected member open to prosecution (see **Appendix B**). In the event of a conviction elected members can be ousted from office.

## 9 Register of Interests

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a Council must now keep a register of pecuniary interests of their members, including community board members. The purpose of the register is to record members’ interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- The name of each company of which the member is a director, or holds or controls more than 10% of the voting rights and a description of the main business activities of each of those companies,
- The name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- If the member is employed, the name of each employer and a description of the main business activities if each of those employers,
- The name of each trust in which the member has a beneficial interest,
- The name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the Council, or community board to which the member has been elected,
- The title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- The location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 9 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

The location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each Council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

## 10 Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly, members will:

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or families, personal or business interests;
- Only use the Council’s resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$500 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of the code.

### 10.1 Undischarged bankrupt

- In accordance with clause 15(5) of Schedule 7 (Local Government Act 2002) any member who is an “undischarged bankrupt” will notify the chief executive prior to the inaugural meeting or as soon as practicable after being declared bankrupt. The member will also provide the chief executive with a brief explanatory statement of the circumstances surrounding the member’s adjudication and the likely outcome of the bankruptcy.

## 11 Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 10 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

- Attending post-election induction programmes organised by the Council for the purpose of facilitating agreement on the Council’s vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment or evaluation of the Council’s performance and operating style during the triennium.
- Taking all reasonable steps to acquire the required skills and knowledge to effectively fulfil their Declaration of Office (the Oath) and contribute to the good governance of the district.

## 12 Breaches of the Code

Members must comply with the provisions of the code (Local Government Act 2002, schedule 7, cl. 15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

### 12.1 Principles

The following principles will guide the investigation into, and assessment of, complaints made against a member for breaching the Code of Conduct:

- The complaints will be independent, impartial, and respect members’ privacy.
- Members will be given due notice that an investigation is underway and will be provided with an opportunity to be heard.
- Members have a right to seek independent advice, be represented and, if they choose, be accompanied by a support person throughout the process.
- Complaints will be resolved at the lowest level of resolution as possible, with priority given to finding a mediated settlement.
- Complainants and members subject to a complaint, will have access to advice and support for the time it takes to find a resolution.

### 12.2 Who can make a complaint?

The Code of Conduct is designed to be a self-regulatory instrument and complaints regarding a breach of the Code can only be made by members themselves, or the Chief Executive, who can make a complaint on behalf of their staff. On receipt of a complaint, the Chief Executive must forward the complaint to an independent person, whether an independent investigator or an initial assessor, for an assessment.

### 12.3 Role of the initial assessor

On receipt of a complaint an initial assessor will undertake an assessment to determine the relative merit and seriousness of the complaint, and the nature of the subsequent process

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 11 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

that will be followed. The complaint may be dismissed if the initial assessor finds them to be trivial, vexatious, frivolous, or politically motivated.

If a complaint is not dismissed, the initial assessor (or independent investigator in a one-step process) may recommend one of the following:

**Refer to the Mayor**

In the case of a breach that is not serious or amenable to mediation, the initial assessor may refer the person responsible for the alleged breach to the Mayor for their advice and guidance. These will not be reported to the Council. A meeting or meetings with the Mayor will be regarded as sufficient to resolve the complaint. Where a member is referred to the chair, the initial assessor may also recommend, for the Mayor’s consideration:

- That the member attends a relevant training course
- That the member work with a mentor for a period
- That the member tenders an apology

**Mediation**

If the complaint concerns a dispute between two members, or between a member and another party, the initial assessor may recommend mediation. If mediation is agreed by both parties, then its completion will represent the end of the complaints process. 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 the Council unless the complaint is referred to an independent investigator, usually due to a failure of the mediation.

**Refer to Independent Investigator**

Where the initial assessor finds that the complaint is serious or no resolution can be reached and/or mediation is refused, the initial assessor will refer the complaint to an independent investigator. The independent investigator will be selected from the Council’s independent investigators’ panel assembled by the Chief Executive, or an independent investigator service that is contracted to the Council. Complaints that involve a chairperson or Chief Executive will be referred directly to the independent investigator.

Complaints that are dismissed, referred to a chairperson, or resolved by mediation, will not be reported to the Council.

**12.4 Role of the independent investigator**

The independent investigator will:

- Determine whether a breach has occurred;
- If so, determine the seriousness of the breach; and

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 12 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

- Recommend actions that a Council should take in response to the breach.

Any recommended actions made in response to a complaint that has been upheld will be considered by the Council.

### Determining the significance of an alleged breach

The independent investigator may take whatever actions they need to determine the significance of a complaint, within the budgetary constraints set down, including re-assessing the complaint.

The independent investigator will undertake an investigation appropriate to the scale of the breach, which may include interviews with other affected parties, and prepare a report for the Chief Executive which will set out the rationale for their findings and may include recommendations for resolving the breach and appropriate penalties.

When considering the issue of significance, the independent investigator will need to consider a range of factors before deciding, such as:

- Was the breach intentional or unintentional?
- Did it occur once or is there a pattern of recurring behaviour?
- Does the breach have legal or financial ramifications for the Council?
- What is the impact of the breach on the other elected members, on officers and on the community in general?

On completing their investigation, an independent investigator may dismiss a complaint or make a recommendation to the governing body. The independent investigator’s recommendation will be contained in a report to the Council Chief Executive which will form the basis of a consequent report to the governing body to recommend to them the decision and the actions that they may be required to take.

**Please note:** All actions taken in the implementation of a policy must be consistent with the Bill of Rights Act 1990. No appeal right is included in the Code of Conduct. Members who are unhappy with an independent investigator’s decision have access to judicial review and/or the Ombudsman’s office.

## 12.5 Costs and support

The Council must ensure that members who make a complaint are not left to meet any costs created by doing so. Members, those who make complaints, and those who are subject to a complaint, should be given appropriate and reasonable support.

## 12.6 Process for determining and investigating complaints

### Step 1: Chief Executive receives complaint

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 13 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

All complaints made under this Code of Conduct must be made in writing and forwarded to the Chief Executive who will refer the complaint to the initial assessor. A complaint does not need to explicitly refer to the Code of Conduct to be a valid complaint, provided it is clear that it relates to the Code of Conduct. The Chief Executive will also:

- Inform the complainant that the complaint has been referred to the independent person (named) and refer them to the process for dealing with complaints as set out in the Code of Conduct; and
- Inform the respondent that a complaint has been made against them and the name of the independent investigator overseeing the process, and refer them to the policy for dealing with complaints as set out in the Code of Conduct.

A complaint by the Chief Executive, or implicating the Chief Executive, must be forwarded to the Mayor who will refer the complaint to the initial assessor and delegate other steps to Council Officers.

### **Step 2: Initial assessor makes an assessment and arranges mediation**

1. The initial assessor will undertake an assessment of the merits of the complaint. If they consider it is not valid, the complaint will be dismissed. The complainant will have no recourse or appeal. Grounds for concluding that a complaint has no merit include that it is trivial, vexatious, frivolous, or politically motivated.
2. The initial assessor may refer the person responsible for the alleged breach to the chair or Mayor or Deputy Mayor for their advice and guidance. These will not be reported to the Council. A meeting or meetings with the chair may be regarded as sufficient to resolve the complaint. Where a member is referred to the chair, the initial assessor may also recommend, for the chair's consideration.
3. If deemed to have merit, the initial assessor will contact the parties to seek their agreement to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required.
4. If the parties do not agree to mediation, or mediation is unsuccessful in resolving the matter, the initial assessor will refer the complaint to an independent investigator selected from a panel established by the Chief Executive at the start of the triennium, or service contracted to the Council. The initial assessor will also inform the complainant and the respondent that the complaint has been referred to the independent investigator and the name of the independent investigator.

### **Step 3: Independent investigator to inquire and conclude on the matter**

If the complaint is found to be a breach of the Code of Conduct the independent investigator will inform the initial assessor, who will inform the complainant and respondent. The independent investigator will then assess the nature and effect of the breach and prepare a

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 14 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

report for the Council on the seriousness of the breach and recommend actions commensurate with that breach. In preparing that report the independent investigator may:

- Consult with the complainant, respondent, and any affected parties;
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

At any stage in their inquiry the independent investigator may find that a breach has not occurred, or the matter should be referred to a relevant agency. If this is the case the independent investigator will inform the initial assessor who will inform the complainant and respondent that the complaint is dismissed or has been referred to a relevant named agency.

On receipt of the independent investigator’s report, the Chief Executive, or initial assessor, will prepare a report for the Council, which will meet to consider the findings and implement any recommended actions. The report will include the full report prepared by the investigator.

**Step 4: Process for considering the investigators report – recommendations are not binding**

Council’s process for determining and investigating complaints give an independent investigator the power to make recommendations to the Council, then:

- The Chief Executive’s report, containing the independent investigators recommendations and report, will be presented to the governing body, or committee/sub-committee with delegated authority to consider code of conduct complaints;
- The Governing body, or community board, will ensure that members with an interest in the complaint are not present during the discussion on the independent investigator’s recommendations;
- The report will be received in public meeting unless grounds, such as those set out in s.48 LGOIMA, exist for the exclusion of the public;
- The Chief Executives report may also outline the plan for the report’s public release, for the governing body’s information and comment;
- The governing body, community board, or committee/sub-committee with delegated authority, may accept the investigators recommendations or, if they believe it is justified, amend the independent investigators recommendations. As part of these considerations the complainant may be asked to appear before the governing body, board or committee and answer questions from members;
- The penalty or sanction that might be applied will depend on the seriousness of the breach and may include actions set out in Attachment Three.

**12.7 Selecting the initial assessor and independent investigator**

**Selecting an initial assessor**

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 15 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

The Chief Executive is responsible for this. In selecting the initial assessor, the Chief Executive will consult with the Council.

The initial assessor should be a person, or a position, that is independent of a Council’s political governance, which 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 Council’s Audit and Risk Committee;
- A member of staff, such as an internal ombudsman or ethics adviser, as long as they have operational independence from the Chief Executive (similar to the independence afforded an Electoral Officer);
- A retired Council chief executive;
- A retired Council politician;
- A member of the public with relevant experience and competency.

**Selecting an independent investigator**

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 Council, will compile 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.

**Please note:** 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 Council. The Chief Executive also needs to ensure that investigations are undertaken within budgetary limits negotiated in advance.

**12.8 Actions that may be applied when a breach has been confirmed**

Where a complaint that the Code of Conduct was breached has been upheld, any actions taken against the member found to be in breach should be consistent with the following principles:

- Actions should be commensurate with the seriousness of the breach.
- Actions should be applied in a manner that is culturally appropriate and safe for the members involved.
- Actions should, to the degree practical, contribute to an inclusive culture in the Council by focusing on constructive mediation, learning, and member improvement.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 16 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	



In determining a response to a breach of the Code of Conduct, one or more of the following could be selected:

1. That no action is required.
2. That the member meets with the mayor/chair for advice.
3. That the member attends a relevant training course.
4. That the member agrees to cease the behaviour.
5. That the member work with a mentor for a period.
6. That the member tenders an apology.
7. That the member participates in voluntary mediation (if the complaint involves a conflict between two members).
8. That the Council sends a letter of censure to the member.
9. That the Council passes a vote of no confidence in the member.
10. That the member loses certain Council-funded privileges (such as attendance at conferences).
11. That the member loses specific responsibilities, such as a committee chair, deputy committee chair or portfolio holder.
12. That the member be subject to restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed).
13. That the member be subject to limitations on their dealings with Council staff, other than the Chief Executive or identified senior manager.
14. That the member be suspended from committees or other bodies to which the member has been appointed.
15. That the member be invited to consider resigning from the council.

**Please note:** Actions 1-6 will typically not be reported to the Council. Actions 7-15, which have a high degree of public interest, namely democratic representation, should be considered in an open meeting, unless there are grounds, such as those set out in LGOIMA, for not doing so.

## 12.9 Responses to statutory breaches

In cases where a breach of the Code of Conduct is found to involve regulatory or legislative requirements, the Chief Executive will refer the complaint to the relevant agency. For example:

- Breaches relating to members’ interests (where members may be liable for prosecution by the Auditor General under LAMIA).
- Breaches which result in the council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under section 44 LGA 2002 which may result in the member having to make good the loss or damage).
- Breaches relating to the commission of a criminal offense which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 17 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

Failure to observe the provisions of the Code of Conduct may also result in the following:

- Expose the Council to litigation;
- Invalidate insurance of indemnity for members;
- Expose individual members to responsibility for loss under section 46 of the Local Government Act.

## 13 Penalties and actions

Where a complaint is determined to be material and referred to the Council or an adjudicative body established to consider complaints, the nature of any penalty or action will depend on the seriousness of the breach.

### 13.1 Material breaches

In the case of material breaches of the Code, the Council, or the adjudicative body with delegated authority, may require one of the following:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. Removal of certain Council-funded privileges (such as attendance at conferences);
4. Removal of responsibilities, such as committee chair, deputy committee chair or portfolio holder;
5. Restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
6. Limitation on any dealings with Council staff other than the Chief Executive or identified senior manager;
7. A vote of no confidence in the member;
8. Suspension from committees or other bodies to which the member has been appointed; or
9. Invitation to the member to consider resigning from the Council.

A Council or adjudicative body with delegated authority may decide that instead of a penalty, one or more of the following may be required:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 18 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

## 13.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members’ interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor General may make a report on the loss or damage under s.44 Local Government Act 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the elected member liable for criminal prosecution).

## 14 Review

Once adopted, the Code 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. Amendments to the Code require a resolution supported by 75 per cent of the members of the Council present at the Council meeting at which the amendment is considered. Councils are encouraged to formally review their existing Code and either amend or re-adopt it as soon as practicable after the beginning of each triennium in order to ensure that all members have the opportunity to provide their views on the Code’s provisions.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 19 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

## Appendix A: Guidelines on the personal use of social media<sup>5</sup>

There’s a big difference in speaking “on behalf of Council” and speaking “about” the Council. While your rights to free speech are respected, please remember that citizens and colleagues have access to what you post. The following principles are designed to help you when engaging in personal or unofficial online communications that may also refer to your Council.

1. **Adhere to the Code of Conduct and other applicable policies.** Council policies and legislation, such as LGOIMA and the Privacy Act 2020, apply in any public setting where you may be referring to the Council or its activities, including the disclosure of any information online.
2. **You are responsible for your actions.** Anything you post that can potentially damage the Council’s image will ultimately be your responsibility. You are encouraged to participate in social media but in so doing you must exercise sound judgment and common sense.
3. **Be an “advocate” for compliments and criticism.** Even if you are not an official online spokesperson for the Council, you are one of its most important advocates for monitoring the social media landscape. If you come across positive or negative remarks about the Council or its activities online that you believe are important you are encouraged to share them with the governing body.
4. **Let the subject matter experts respond to negative posts.** Should you come across negative or critical posts about the Council or its activities you should consider referring the posts to the Council’s authorised spokesperson, unless that is a role you hold, in which case consider liaising with your communications staff before responding.
5. **Take care mixing your political (Council) and personal lives.** Elected members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum, particularly if your opinion is at odds with what Council is doing, can bring you into conflict with the Code should it not be clear that they are your personal views.
6. **Never post sensitive and confidential information** provided by the Council, such as confidential items, public excluded reports and/or commercially sensitive information. Such disclosure will contravene the requirements of the Code.
7. **Elected Members’ social media pages should be open and transparent.** When commenting on matters related to the Council no members should represent themselves falsely via aliases or differing account names. Neither should they block any post on any form of social media that they have control over unless there is clear evidence that the posts are actively abusive. Blocking constructive debate or feedback can be seen as bringing the whole Council into disrepute.

<sup>5</sup>Based on the Ruapehu District Council Code of Conduct.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 20 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

## Appendix B: Legislation bearing on the role and conduct of elected members

This 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 at [www.legislation.govt.nz](http://www.legislation.govt.nz).

### The Local Government Act 2002

The Local Government Act 2002 is local government’s empowering statute. It establishes our system of local government and sets out the rules by which it operates. Those rules include the principles underpinning Council decision-making, governance principles, Te Tiriti obligations as set by the Crown, and the role of the Chief Executive.

The Local Government Act also details the personal liability of members.

Although having qualified privilege, elected members can be held personally accountable for losses incurred by a Council where, following a report from the Auditor General under s44 Local Government Act 2002, it is found that one of the following applies:

- Money belonging to, or administered by, a Council has been unlawfully expended; or
- An asset has been unlawfully sold or otherwise disposed of by the Council; or
- A liability has been unlawfully incurred by the Council; or
- A Council 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 situation members will also be responsible for paying the costs of proceedings (s47 Local Government Act 2002).

### Pecuniary Interests

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, the Local Government Act 2002 was amended to now require Councils to keep a

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 21 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

register of the pecuniary interests of their members, including community board members. The purpose of the register is to record members’ interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
- the name of each trust in which the member has a beneficial interest,
- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the Council, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

**The Local Authorities (Members’ Interests) Act 1968**

The Local Authorities (Members’ Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the Council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse/partner or a company in which they have an interest). In relation to pecuniary

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 22 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests, a person is deemed to be “concerned or interested” in a contract or interested “directly or indirectly” in a decision when:

- A person, or spouse/partner, is “concerned or interested” in the contract or where they have a pecuniary interest in the decision; or
- A person, or their spouse/partner, is involved in a company that is “concerned or interested” in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially “concerned or interested” in a contract or have a pecuniary interest in a decision, such as where a contract is between an elected members’ family trust and the Council.

**Determining whether a pecuniary interest exists**

Elected members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

“...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned.” (OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors:

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor or other person, to determine if they should discuss or vote on an issue, but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The member will then leave the room during the consideration of the item. The declaration, abstention and departure of the member

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 23 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

needs to be recorded in the meeting minutes. (Refer to requirements set out in the Council’s Standing Orders).

**The contracting rule**

A member is disqualified from office if he or she is “concerned or interested” in contracts with their Council if the total payments made, or to be made, by or on behalf of the Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the Council (or committee of the Council) while disqualified.

**Non-pecuniary conflicts of interest**

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

“Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?”

The question is not limited to actual bias but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members focus should be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Members’ statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a “closed mind”); and
- Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform, then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 24 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	



considering new information (this may not apply to decisions made in Quasi judicial settings, such as Resource Management Act hearing).

**Local Government Official Information and Meetings Act 1987**

The Local Government Official Information and Meetings Act 1987 (LGOIMA) sets rules for ensuring the public are able to access official information unless there is valid reason for withholding it. All information should be considered public and released accordingly, unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

There are both conclusive and other reasons for withholding information set out in section 6 and 7 of LGOIMA, which include:

Conclusive reasons for withholding – if making the information available would likely:

- Prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- Endanger the safety of any person.

Other reasons for withholding – where withholding the information is necessary to:

- Protect the privacy of natural persons, including that of deceased natural persons;
- Protection information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- In the case of an application for resource consents or certain orders under the Resource Management Act 1992, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- Protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- Avoid prejudice to measures protection the health or safety of members of the public;
- Avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- Maintain the effective conduct of public affairs through the free and frank expression of opinions between or to members and local authority employees in the course of their duty or the protection of such people from improper pressure or harassment;
- Maintain legal professional privilege;
- Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 25 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

- Prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these “other” reasons, a public interest balancing test applies. In these cases the Council must consider whether the withholding of that information is outweighed by other considerations that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA need to be made by the appropriately authorised people within each Council, and elected members must work within the rules adopted by each Council.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

### **The role of the Ombudsman**

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman’s primary role under the Ombudsmen At 1975 is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

Anyone who has a complaint of that nature about a Council may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the Chief Executive of the Council involved, or any other party. The Ombudsman’s decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the Council takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to the Council under this Act will, in general, become binding unless the Council resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

### **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 two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 26 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

## 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; and
- Use information gained in the course of their duties for their, or another person’s, monetary gain, or advantage.

Elected members convicted of these offences will automatically cease to be members.

## Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously 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.

## Protected Disclosures (Protection of Whistleblowers) Act 2022

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:

- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 27 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

Council needs to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an “appropriate authority” under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

**The Serious Fraud Office Act 1990**

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
- Risk mitigation to manage risks that can’t be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

**The Health and Safety at Work Act 2015**

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are “officers” under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties. However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation’s culture, and

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 28 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

- getting your workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members’ role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

### The Harmful Digital Communications Act 2015

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital communications (like text, emails, or social media content) which can include racist, sexist, and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual.
- be threatening, intimidating, or menacing.
- be grossly offensive to a reasonable person in the position of the affected individual.
- be indecent or obscene.
- be used to harass an individual.
- make a false allegation.
- contain a matter that is published in breach of confidence.
- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual.
- incite or encourage an individual to commit suicide.
- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability.

More information about the Act can be found at [Netsafe](https://www.netsafe.org.nz/).

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 29 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 30 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

<b>Internal Use Only</b>		Policy # PM3.2
Version No: 1.0	File Ref: D23/45753	Page 31 of 32
Date: 15 January 2024	File name: Elected Members Code Of Conduct	
Review date: November 2025	Owner: Manager – Democracy Services	

