

**Council Briefing Thursday 15 March 2018**

# **Elected Members Code of Conduct**

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# RECAP

- Council must have an Elected Member Code of Conduct at all times
- Covers the behaviours of elected members
- Council reviews the code at the beginning of every triennium
- 2017 Council reviewed the current Code
  - 2 workshops – 14 March, 10 May – LGNZ template
  - Council resolution 27 July – to not adopt a new Code.

# PURPOSE OF TODAY

- To review Part 4 of the current Elected Member Code of Conduct
  - Part 4 – Compliance and Review (pg. 11 of your briefing agenda)**
- What we're covering today
  - 1. Current Council code complaint characteristics**
  - 2. LGNZ template complaint characteristics**
  - 3. Your previous feedback**
  - 4. Your guidance**
  - 5. Next steps**

# CURRENT CODE

- Compliance with the Code:
  - All complaints to go to Chief Executive
  - CE undertakes initial investigation
  - If CE determines the complaint is not proven, or is of a minor or frivolous nature CE may take any action deemed necessary to deal with the matter.
  - If complaint is more than minor, CE prepares a report for consideration of Council
  - Possible outcomes:
    - Statutory breaches dealt with under relevant statutes
    - If no statutory breach: Censure, removal from committees/other bodies, dismissal from position of deputy mayor or committee chair.

# LGNZ Draft Code Complaints

- Only CE or elected member can make a complaint for alleged breach of Code
- All complaints are sent to the CE who then forwards to an independent investigator
- Guiding principles for investigation
  - **Proportionality**
  - **Separation of roles during investigation**
  - **Natural justice and fairness**

# LGNZ Draft Code Complaints

- Materiality - definition: if breach proven would bring elected member or Council into disrepute or if not addressed would reflect adversely on another elected member
- Penalties for material breach:
  - Censure
  - Apology
  - Vote of no confidence
  - Removal of privileges
  - Restricted entry to council offices
  - Limitation on dealing with staff
  - Suspension from committees etc.
  - Invitation to consider resigning

# LGNZ Draft Code Complaints

- Mitigation options:
  - Attend training
  - Work with mentor
  - Mediation
  - Apology
- If a statutory breach – the matter is referred to the relevant agency
- Outcome of complaint process is public unless LGOIMA applies.
- Option for having a Code of Conduct committee or keep at full Council

# **LGNZ Draft Code Complaint process**

1. CE refers complaint to independent investigator and informs parties involved
2. The independent investigator is selected from a pool (pool selected by CE in consultation with the Mayor)
3. Investigator makes preliminary determination:
  - Frivolous or without substance
  - Out of scope of Code - redirected to another agency
  - Complaint is non-material
  - Complaint is material



# LGNZ Draft Code

## Complaint process

4. Frivolous/without substance – CE informs parties and Council of decision.
5. Legislative breach/outside Code – CE forwards complaint to relevant agency and informs parties.
6. If found to be non-material
  - Investigator to advise the CE and recommend action – e.g. seek guidance from Mayor or attend training
  - Decisions and recommendations are not open to be challenged - they are non-binding on Council and the respondent
7. If found to be material
  - Investigator investigates more fully
  - Upon receiving the investigators report the CE writes report for council to consider findings and decide action

# Your previous feedback

- Allow the public to be able to make a complaint under the Code
- Investigation process of LGNZ template was more robust
- Decision making on complaints to remain with Council and not a committee of Council
- Investigate how other Northland councils were addressing the pool.

# Your Guidance

1. Do you want the LGNZ templates' section 12, 13 and Appendix B (investigation process) to replace part 4 of your current code?
2. Do you want the Public to be able to make a complaint?
3. Do you want code of conduct decisions to remain with Council, or go to a committee?

# Next steps

- Report to 29 March Council meeting
- Requires 75% majority of those present