

Whangarei District Council Meeting

Agenda

Date: Thursday, 27 July, 2017
Time: 10:30 am
Location: Council Chamber
Forum North, Rust Avenue
Whangarei
Attendees: Her Worship the Mayor Sheryl Mai
(Chairperson)
Cr Stu Bell
Cr Crichton Christie
Cr Vince Cocurullo
Cr Tricia Cutforth
Cr Shelley Deeming
Cr Sue Glen
Cr Jayne Golightly
Cr Phil Halse
Cr Cherry Hermon
Cr Greg Innes
Cr Greg Martin
Cr Sharon Morgan
Cr Anna Murphy

For any queries regarding this meeting please contact
the Whangarei District Council on (09) 430-4200.

1. Karakia/Prayer	
2. Declarations of Interest	
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Public Forum

Meeting: Council
Date of meeting: 27 July 2017
Reporting officer: Carolyn Brindle

1 Purpose

To afford members of the Community an opportunity to speak to Council and to report on matters raised at previous public forums when appropriate.

2 Summary

Public Forum

Standing Orders allow for a period of up to 30 minutes to be set aside for a public forum at the commencement of each monthly council meeting.

The time allowed for each speaker is 5 minutes.

Members of the public who wish to participate should send a written application setting out the subject matter and the names of the speakers to the Chief Executive at least 2 working days before the day of the meeting.

Speakers:

Speaker	Subject
Tony Gill	Whangarei Public Dog Park improvements at William Fraser Park at Pohe Island and many other public dog parks in Whangarei.

1. Minutes: Whangarei District Council

Thursday 29 June 2017

Minutes of a meeting of the Whangarei District Council held in the Council Chamber Forum North on Thursday 29 June 2017 at 10.30am

Present:

Her Worship the Mayor S L Mai (Chairperson)

Crs Stu Bell, Vince Cocurullo, Crichton Christie, Tricia Cutforth, Shelley Deeming, Sue Glen, Jayne Golightly, Phil Halse, Cherry Hermon, Greg Innes, Greg Martin, Sharon Morgan and Anna Murphy

Also present:

David Moon (Waipu Museum Trust)

In Attendance:

Chief Executive (Rob Forlong), General Manager Community (Sandra Boardman), General Manager Finance and Corporate (Alan Adcock), General Manager Infrastructure (Simon Weston), General Manager Planning and Development (Alison Geddes), General Manager Strategy and Democracy (Jill McPherson), Financial Controller (Rick Kerr), Council Solicitor (Graeme Mathias), Legal Counsel (Kathryn Candy), Legal Counsel (Contractor) (Julian Dawson), Building Compliance Manager (Paul Cook), Community Services Manager (Owen Thomas), Finance Manager (Debbie Muckle), Parks Manager (Paul McDonald), Property Manager (Mike Hibbert), Waste and Drainage Manager (Andrew Carvell), Team Leader Compliance (Kevin Crocombe), Policy and Bylaws Analyst (Shireen Munday), Financial Accountants (Delyse Henwood, Bronwyn Jeeves, Nicole Butturini and Nathan Wright), Media Relations Adviser (Ann Midson), Executive Assistant (Judi Crocombe) and Senior Meeting Co-ordinator (C Brindle)

Cr Cocurullo opened the meeting with a prayer/karakia.

Council acknowledged the passing of Frank Wilson, former Borough Councillor and General Manager Whangarei City Council.

1. Public Forum

David Moon (Waipu Museum) – Long Term Plan Waipu Museum.

2. Confirmation of minutes of a Meeting of the Whangarei District Council held on 25 May 2017

Moved: Cr Innes

Seconded: Cr Cutforth

“That the minutes of the Whangarei District Council Meeting held on Thursday 25 May 2017, having been circulated, be taken as read and now confirmed and adopted as a true and correct record of proceedings of that meeting.”

CARRIED

3. 2017-18 Fees and Charges

Moved: Cr Deeming
Seconded: Cr Halse

“That Council;

- a) Adopts the fees and charges included within the 2017 – 18 Statement of Proposal.”

On the motion being put Cr Halse called for a division:

For the motion:

Crs Christie, Deeming, Hermon, Martin, Cutforth, Innes, Murphy, Morgan and Her Worship the Mayor (9)

Against the motion:

Crs Bell, Cocurullo, Golightly, Halse and Glen (5)

CARRIED

4. 2017-2018 Annual Plan Adoption

Moved: Cr Bell
Seconded: Cr Halse

“That Whangarei District Council;

- a) adopts the 2017-2018 Annual Plan in accordance with Section 95 of the Local Government Act (2002).
- b) authorise the Chief Executive to amend the UAGC and rates in the dollar to reflect what is stated for Year 3 in the 2015-2025 Long Term Plan.
- c) authorise the Chief Executive to make any necessary minor drafting, typographical or presentation corrections to the 2017- 2018 Annual Plan prior to circulation.”

Amendment

Moved: Cr Martin
Seconded: Cr Innes

“That Whangarei District Council;

- a) adopts the 2017-2018 Annual Plan in accordance with Section 95 of the Local Government Act (2002).
- b) authorise the Chief Executive to make any necessary minor drafting, typographical or presentation corrections to the 2017- 2018 Annual Plan prior to circulation.”

On the amendment being put Cr Bell called for a division:

For the amendment:

Crs Christie, Deeming, Hermon, Martin, Innes, Murphy, Morgan and Her Worship the Mayor (8)

Against the amendment:

Crs Bell, Cocurullo, Golightly, Halse, Glen and Cutforth (6)

**The amendment was CARRIED
and subsequently CARRIED
as the substantive MOTION**

Crs Bell and Cocurullo requested their votes against be recorded.

5. Rates Resolution 2017-2018

Moved: Cr Deeming

Seconded: Cr Morgan

"That Council:

Having adopted the 2017-2018 Annual Plan, including the 2017-2018 Funding Impact Statement, sets the following rates and charges in accordance with the Local Government (Rating) Act 2002 for the financial year 1 July 2017 to 30 June 2018:

General Rates

Rate	Basis of assessment	Including GST
General Rates	Basis of Assessment – Sec 13, 14, 15 & Schedule 2	
Uniform Annual General Charge	Per separately used or inhabited part of a rating unit	\$440.50
Residential category	Per \$ of land value	\$0.0033396
Residential Step 1	Per \$ of land value	\$0.0016698
Residential Step 2	Per \$ of land value	\$0.0008349
Multi – Unit category	Per \$ of land value	\$0.0066793
Rural category	Per \$ of land value	\$0.0029774
Commercial/Industrial category	Per \$ of land value	\$0.0212801
Miscellaneous category	Per \$ of land value	\$0.0033396

Targeted Rates

Rate	Basis of assessment	Including GST
District Wide Refuse Management Rate	Basis of Assessment – Sec 16, 17, 18, 19 & Schedule 2 & 3	
District Wide Refuse Management Rate (All rateable properties)	Per separately used or inhabited part of a rating unit	\$174.50
Sewerage Rates (Connected to wastewater system)		
Residential	Per separately used or inhabited part of a rating unit	\$683.00
Other – non-residential up to two	Per separately used or inhabited	

<p>pans</p> <p>Other – non-residential three or more pans</p>	<p>part of a rating unit</p> <p>Per pan or urinal</p>	<p>\$683.00</p> <p>\$445.00</p>
Water Rates		
<p>Consumption charge</p> <p><i>Note: where an invoice for water by meter relates to a period that spans two financial years, the consumption over the period will be pro-rated (i.e. the amount of water consumed or supplied in the first year will be charged at the first year's amount per cubic metre, and the amount consumed or supplied in the second financial year will be charged at the second year's amount per cubic metre).</i></p>	Volume of metered water consumed per cubic metre	\$2.26
Annual supply charge (metered)	Provision of service per separately used or inhabited part of a rating unit	\$34.50
Annual availability charge	Availability of service per separately used or inhabited part of a rating unit	\$34.50
Annual Uniform charge (unmetered)	Provision of service per separately used or inhabited part of a rating unit	\$474.00
Backflow preventer charge	Provision of service per connection based on the nature of connection	
	15/20mm connection	\$78.62
	25mm connection	\$79.69
	32mm connection	\$94.27
	40mm connection	\$96.47
	50mm connection	\$100.09
	80/100mm connection	\$252.09
	150mm connection	\$295.11
	200mm connection	\$488.77
Roading Scheme		
	Basis of Assessment – Sec 16, 17, 18 & Schedule 2 & 3	
Whangaruru North Road Seal Extension (Year 3 of 5)	Per rating unit in a specified and defined area of benefit (see funding impact statement)	\$575.00
McKinley Road Seal Extension (Year 3 of 5)	Per rating unit in a specified and defined area of benefit (see funding impact statement).	\$575.00

Hikurangi Swamp		
Hikurangi Swamp Major Scheme Rating District	Per hectare of land in the Hikurangi Swamp Special Rating area	
	Class A approx 2,937ha	\$174.15
	Class B approx 1,446ha	\$156.41
	Class C approx 1,476ha	\$121.92
	Class D approx 1,900ha	\$17.45
	Class E approx 950ha	\$8.78
	Class F approx 32,365ha	\$3.51
Hikurangi Swamp Drainage Rating District	Per hectare of land in the Hikurangi Swamp Drainage Rating District	
	Class A approx 5,051ha	\$20.15
	Class F approx 12,098ha	\$2.02

2. Approves the due dates, discount allowed and penalties as set out as follows:

Discount for full payment of annual rates

Council agrees to apply a policy for early payment of rates under Section 55 of the Local Government (Rating) Act 2002. Where the total year's land rates and any arrears are paid in full by the due date of the first instalment 21 August 2017 a discount of three percent (3%) will apply.

Penalty dates for rates paid in instalments

Penalties added to unpaid rates are exempt from GST.

Due dates and penalty dates for land rates

Council agrees the following due dates and to add penalties to rates not paid by the due date under Section 57 of the Local Government (Rating) Act 2002. A penalty of ten percent (10%) will be added to the amount of each instalment which remains unpaid after the due date for payment, in accordance with the table below:

Instalment	Due Date	Date penalty applied
One	21 August 2017	24 August 2017
Two	20 November 2017	23 November 2017
Three	20 February 2018	23 February 2018
Four	21 May 2018	24 May 2018

Due dates and penalty dates for water rates

Water accounts are processed monthly, two-monthly or six-monthly. Council agrees that the due dates of these accounts will be relative to the consumer's cyclic billing period and will show on the water rates invoice in accordance with the following table:

Month water rates invoice issued	Due date for payment
July	21 August 2017
August	20 September 2017
September	20 October 2017
October	20 November 2017
November	20 December 2017
December	22 January 2018
January	20 February 2018
February	20 March 2018
March	20 April 2018
April	21 May 2018
May	20 June 2018
June	20 July 2018

A penalty of ten percent (10%) will be applied to amounts of water rates unpaid after the due date, in accordance with the following table:

Month water rates invoice issued	Date penalty will be added
July	24 August 2017
August	25 September 2017
September	23 October 2017
October	23 November 2017
November	8 January 2018
December	25 January 2018
January	23 February 2018
February	23 March 2018
March	23 April 2018
April	24 May 2018
May	25 June 2018
June	23 July 2018

Additional penalty charges

Additional penalty on arrears for land and water rates

In accordance with section 58 of the Local Government (Rating) Act 2002 Council agrees that a penalty of ten percent (10%) will be added to any unpaid rates (including penalties previously added and water rates) from the previous rating years that remain unpaid as at 6 July 2017. This penalty will be added on 4 September 2017."

CARRIED

Crs Bell and Cocurullo requested their votes against be recorded.

6. 2017 LGNZ Annual General Meeting Remits

1. Litter Act 1979

Moved: Cr Deeming
Seconded: Cr Murphy

“That Council support the remit that recommends LGNZ advocates to central Government to amend the Litter Act 1979 to enable local authorities to legally issue infringement notices where there is evidence of an offence.”

CARRIED

2. 15% Goods and Services Tax

Moved: Cr Innes
Seconded: Cr Cutforth

“That Council support the remit that recommends Local Government New Zealand request that the Government use the appropriate mechanisms to enable a proportion of the 15% Goods and Services Tax (GST) be returned to the regions it was generated in so that Councils can use this money to pay for the servicing of visitor infrastructure.”

On the motion being put Cr Glen called for a division:

For the motion:

Crs Bell, Deeming, Hermon, Golightly, Glen, Cutforth, Innes, Murphy, Morgan and Her Worship the Mayor (10)

Against the motion:

Crs Christie, Cocurullo, Halse and Martin (4)

CARRIED

3. National Legislation to Manage Cats

Moved: Cr Murphy
Seconded: Cr Bell

“That Council support the remit that recommends that Local Government New Zealand lobby the Government to take legislative action as a matter of urgency to develop national legislation to manage cats with the proviso that legislation includes provision for cost recovery for cat management.”

LOST

4. Development of a Sugar Sweetened Beverages Policy

Moved: Cr Christie
Seconded: Cr Deeming

“That Council do not support the remit that recommends that all councils should consider the development of a Sugar Sweetened Beverages Policy for their respective workplaces and facilities.”

Procedural motion

Moved: Cr Halse
Seconded: Cr Deeming

"That the motion now be put."

The procedural motion was CARRIED
The motion was CARRIED

7. Appointment to the Positive Ageing and Disability Advisory Groups

Moved: Cr Glen

Seconded: Cr Cutforth

"That Whangarei District Council;

- a) notes Councillor Golightly's resignation to conflicting commitments from both the Positive Ageing Advisory Group and the Disability Advisory Group.
- b) appoints Councillor Hermon to the Positive Ageing Advisory and the Disability Advisory Group."

CARRIED

8. Adoption of Statement of Proposal for proposed Camping in Public Places Bylaw and associated bylaw amendments

Moved: Cr Halse

Seconded: Cr Deeming

"That Council:

1. approves that, in accordance with section 11(2) of the Freedom Camping Act 2011, the proposed Camping in Public Places Bylaw is necessary for the purposes outlined in this report, is the most appropriate and proportionate way of addressing the perceived problem and does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
2. adopts the Statement of Proposal (Attachment 1) and Summary of Information (Attachment 2) for public consultation using the special consultative procedure in accordance with section 11 of the Freedom Camping Act 2011.
3. approves the proposed amendments to the Public Places Bylaw 2014 and the Parking and Traffic Bylaw 2009 to be included in the Statement of Proposal (Attachment 2) for public consultation in accordance with the requirements of section 82 of the Local Government Act 2002.
4. authorises the Chief Executive to make any necessary minor drafting or presentation amendments to the Statement of Proposal and Summary of Information and to approve the final design and layout of the documents prior to final printing and publication.
5. notes the addition of a 'Have Your Say' event to the consultation programme.

CARRIED

Secretarial Note: corrections as follows:

Refer Attachment 1:

Agenda page 72 & 83:

~~*Whaungaumu*~~ *amend to Whangaumu Reserve*

Agenda page 83:

Amendment to Table – Schedule 3B – Camping in self-contained and non-self contained vehicles and tents permitted – delete reference to Marsden Point Wharf (line 3)

Item 9 was taken after Item 14.

9. Reassessment of Annual Operating grant for Creative Northland

Moved: Cr Innes
Seconded: Cr Hermon

“That Whangarei District Council;

- a) grants \$193,570 to Creative Northland, from the Annual Operating Fund for 2017-2018 subject to the implementation of the attached Service Level Agreement with Key Performance Indicators.
- b) approves the figure of \$193,570 as an indicative amount to Creative Northland, for considering a possible application to the Annual Operating Fund for the 2018-2019 year, subject to all deliverables being achieved in the 2017-2018 year.

Amendment

Moved: Cr Cutforth
Seconded: Cr Bell

“That Whangarei District Council;

- a) grants \$100,000 to Creative Northland, from the Annual Operating Fund for 2017-2018 subject to the implementation of the attached Service Level Agreement with Key Performance Indicators.
- b) encourages Creative Northland to make a case for the funding they require to the 2018-2025 Long Term Plan.”

The amendment was LOST
The motion was CARRIED

Crs Cutforth and Bell requested their votes against the motion be recorded.

10. Parks Maintenance Contract CON17001

Moved: Cr Martin
Seconded: Cr Golightly

“That Whangarei District Council;

- a) awards the contract for Parks Maintenance CON17001 to Recreational Services Limited, from 1 August 2017 to 30 July 2020, for the expected three-years cost of \$6,153,372.00 (excluding GST).
- b) approves the contract be for the term of three years with the option of renewal of two years (3+1+1).
- c) authorises the Chief Executive to negotiate and conclude the contract with Recreational Services.

CARRIED

Item 12 was taken after Item 10.

11. Waste Management and Minimisation Plan

Moved: Cr Murphy
Seconded: Cr Golightly

“That Whangarei District Council;

- a) approves the Statement of Proposal and the draft Waste Management and Minimisation Plan for public consultation.
- b) approves the Plan be made available for public review between 1 July and 5 August 2017.
- c) hear submissions on the Waste Management and Minimisation Plan.
- d) Approves the addition of a Have Your Say Event.”

Amendment

Moved: Cr Martin
Seconded: Cr Glen

“That Whangarei District Council;

- a) approves the Statement of Proposal and the draft Waste Management and Minimisation Plan for public consultation.
- b) approves the Plan be made available for public review between 1 July and 5 August 2017.
- c) hear submissions on the Waste Management and Minimisation Plan.”

The amendment was LOST
The motion was CARRIED

Item 13 was taken after Item 11.
Item 12 was taken after Item 10.

12. Property Acquisition – Tikipunga Children’s Park

Moved: Cr Cutforth
Seconded: Cr Christie

“That Whangarei District Council;

- a) authorises the purchase of the land at the corner of Corks and Vinegar Hill Road for the Tikipunga Children’s Park.
- b) authorise the Chief Executive to finalise the sale and purchase agreement.

CARRIED

Council acknowledged the contribution and service to the organisation and community made by retiring Parks Manager Paul McDonald.

Item 13 was taken after Item 11.

13. Whangarei Art Museum – funding applications data

Moved: Cr Bell
Seconded: Cr Hermon

“That Whangarei District council’

- a) notes the report of funding applications made by Whangarei Art Museum since 1 July 2015.”

CARRIED

Declaration of interest: Cr Morgan Council appointee to the WAMT.

Item 14 was taken immediately following the lunch break.

14. Whangarei Art Museum – Amendments to Trust Deed

Moved: Cr Christie
Seconded: Cr Innes

“That Council approves the amendments to the Whangarei Art Museum Trust Deed as shown in the draft Trust Deed attached to the agenda report.”

Amendment

Moved: Cr Martin
Seconded: Cr Deeming

“That Council authorise the Chief Executive to make minor changes to the Trust Deed and report back to Council.”

**The amendment was CARRIED
 and subsequently CARRIED
 as the substantive MOTION**

Declaration of interest: Cr Morgan Council appointee to the WAMT.

Item 9 was taken after Item 14.

Item 15 was taken after Item 8.

15. Hundertwasser Wairau Maori Arts Centre Next Steps

Moved: Her Worship the Mayor
Seconded: Cr Innes

“That Whangarei District Council;

- a) receive the report and note its contents.”

CARRIED

Declaration of interest: Cr Morgan Council appointee to the WAMT.

The meeting adjourned for a lunch break from 12.34pm to 1.00pm.

Item 10 was taken immediately following the lunch break.

The open meeting concluded after Item 13.

Exclusion of the public

Moved: Cr Innes

Seconded: Cr Glen

“That the public be excluded from the following parts of proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered		Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for passing this resolution
C.1	Confidential Minutes Extra ordinary Whangarei District Council meeting 14 June 2017	Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C.2	Confidential Minutes Extra ordinary Whangarei District Council meeting 18 May 2017		
C.3	Civic Honours – Confidential Minutes & Approval of Award Recipients		
C.4	Prosecution		
C.5	Confidential Minutes Whangarei District Council meeting 25 May 2017		

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public, are as follows:

Item	Grounds	Section
C.1	To enable the Council to carry on without prejudice or disadvantage negotiations	Section 7(2)(i)
C.2	To enable the Council to carry on without prejudice or disadvantage negotiations	Section 7(2)(i)
C.3	To protect the privacy of natural persons	Section 7(2)(a)
C.4	To protect the privacy of natural persons	Section 7(2)(a)
C.5	For the reasons as stated in the open minutes.”	

CARRIED

The meeting closed at 3.07pm

Confirmed this 27th day of July 2017

Her Worship the Mayor Sheryl Mai (Chairperson)

1 Minutes: Extra ordinary Whangarei District Council

Tuesday 11 July 2107

Minutes of the Extra ordinary Whangarei District Council meeting held in the Council Chamber, Forum North on Tuesday 11 July 2017 at 1.00pm

Present:

Her Worship the Mayor Sheryl Mai (Chairperson)

Crs Stu Bell, Crichton Christie, Vince Cocurullo, Tricia Cutforth (1.16pm), Sue Glen, Jayne Golightly, Phil Halse, Cherry Hermon, Greg Innes, Greg Martin, Sharon Morgan and Anna Murphy

Apology:

Cr Shelley Deeming

Moved: Cr Cocurullo

Seconded: Cr Martin

"That the apology be sustained."

CARRIED

In Attendance:

Chief Executive (Rob Forlong), General Manager Infrastructure (S Weston), General Manager Corporate (Alan Adcock), Manager Democracy and Assurance (Jason Marris), Commercial Portfolio Manager (Mike Hibbert), Roading Manager (Jeff Devine), Senior Communications Adviser and Senior Democracy Adviser (C Brindle)

1 Town Basin Carpark – Parking Charges

Moved: Cr Morgan

Seconded: Cr Martin

"That Council approves;

- a) the installation of Parking Charges in the Town Basin and Environs Carpark.
- b) the carpark shall be a metered zone as set out in Plan No. 4020 attached to the report.
- c) the fee payable shall be at the rate of \$2.00 per hour or part thereof.
- d) the maximum parking time shall be 180 minutes.
- e) parking of vehicles for a greater period than 60 minutes shall be prohibited at all times on the northern side of Reyburn House Lane, from the western boundary of Lot 1 DP 109637, for a distance of 62m and that there be no charge for these carparks."

Amendment

Moved: Cr Hermon

Seconded: Cr Golightly

“f) That six fifteen minute free parks, be provided within the Town Basin Carpark.”

Procedural motion

Moved: Cr Bell

Seconded: Cr Christie

“That this item does lie on the table and not be discussed further at this meeting.”

The procedural motion was CARRIED

Cr Cutforth joined the meeting at 1.16pm during discussions on Item 1.

Secretarial Note: Item C.1 – Parking Charges was withdrawn from the agenda.

The meeting closed at 1.18pm

Confirmed this 27th day of July 2017

Sheryl Mai (Chairperson)

Elected Member Code of Conduct

Meeting: Council
Date of meeting: 27 July 2017
Reporting officer: Jason Marris (Democracy and Assurance Manager)

1 Purpose

To adopt an updated Elected Member Code of Conduct.

2 Recommendations

That Council:

- a) Agrees that the gift value in the Elected Member Code of Conduct be set at \$100.
- b) Adopts the Elected Member Code of Conduct located at Attachment 1, incorporating decision a) above.
- c) Delegates to the Chief Executive and the Mayor the ability to make any editorial changes to the Elected Member Code of Conduct.
- d) Notes the next steps for establishing a pool of investigators.

3 Background

The Local Government Act 2002 (LGA) requires that Council has an Elected Member Code of Conduct. The current Code was last reviewed in 2013 and is reviewed each triennium. Under the LGA, Council can amend or replace its code of conduct, but cannot revoke it without replacement.

In October 2016, Local Government New Zealand (LGNZ) published an Elected Member Code of Conduct template for Councils to use. This template was designed to incorporate legislative change, new approaches to good governance and to provide better advice for councils having to deal with alleged breaches of the code. The focus of the code changed from controlling poor behavior to promoting an inclusive and positive governance culture.

Council has had two briefings to discuss the LGNZ template. The first briefing in March 2017 introduced the LGNZ template and Council provided feedback to staff on that template. At the second briefing in May 2017, staff provided a revised draft code to reflect the feedback. Further guidance was provided by Council at that briefing and this feedback is now incorporated into the draft Elected Member Code of Conduct attached.

4 Discussion

Amendments to the LGNZ draft

Based on the feedback received at both Council Briefings, the following amendments have been made to the LGNZ template. Where possible, these have been highlighted in the draft

Clause 6 – Contact with the Media

This clause has been amended to be less prescriptive. It now reflects that part of an elected member's role is to communicate official Council views. It also clarifies protocols when an elected member gives a personal view on a Council issue to the media. Specific reference has also been made to communication on social media platforms.

Clause 7 – Information

Paragraph 2 of clause 7.2 has been removed to reflect the overriding obligations of elected members under the Local Government Official Information and Meetings Act 1987 that information is to be made available unless there is a good reason to withhold it.

Clause 8 – Conflicts of Interest

The word "partner" has been inserted into this clause to reflect that obligations under the Local Authority (Members' Interest) Act 1968 regarding pecuniary interests and contracting with Council apply to partners and spouses of elected members. This has been replicated throughout the document.

Clause 10 – Ethical Behaviour

The LGNZ template recommended that elected members must declare any gifts received over the value of \$50. After discussion with Council this has been amended to \$100.

Clause 11 – Creating a supportive and inclusive environment

This clause has been simplified and is less prescriptive. The word "constructive" has also been inserted so that participation in activities is to "promote a **constructive** culture of mutual trust, respect and tolerance".

Clause 12 – Breaches of the Code

This clause has been amended so that members of the public can make complaints under the Code directly to the Chief Executive.

Appendix B – Process for the determination and investigation of complaints

Step 5 - there has been no change to the LGNZ template but it is noted that currently Council's preference is for full Council to consider an investigator's report instead of having a Code of Conduct Committee. If in the future such a Committee is preferred, the Code will allow for that without the need for any amendment.

Complaints Process – Pool of Investigators

Staff are working with the Northland Regional Council, Far North District Council and the Kaipara District Council to develop a pool of investigators that can be shared between all the councils. Each of these councils have already adopted an Elected Member Code of Conduct based on the LGNZ template.

Criteria has been developed and the next steps will be to establish a process for appointment. The establishment of the pool of investigators will be determined by the Chief Executive.

Voting requirements for new Elected Member Code of Conduct

Any amendment to, or adoption of, an Elected Member Code of Conduct requires a vote of 75% of the members present at the meeting.

5 Significance and Engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via agenda publication on the website.

6 Attachments

Draft Elected Member Code of Conduct

Elected Member Code of Conduct

Adopted on the

1. Introduction

This 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 local authority 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 local authority to its communities; and
- develop a culture of mutual trust, respect and tolerance between the members of the local authority and between the members and management.

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

2. Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all members. 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 local authority to give effect to its statutory responsibilities

This 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 district and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.

3. **Ethical behaviour:** members will not place themselves in situations where their honesty and integrity may be questioned, will not behave improperly and will avoid the appearance of any such behaviour.
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability. Members will respect the impartiality and integrity of officials.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by this 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 ensure they 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 s.14 of the LGA 2002 and the governance principles of s.39 of the LGA 2002.

4. Role and responsibilities

Good governance requires clarity of roles and respect between those charged with responsibility for the leadership of the council and those responsible for advice and the implementation of council decisions. The key roles are:

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.

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 local authority;
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority;
- providing leadership for the staff of the council; and
- employing staff on behalf of the council (including negotiation of the terms of employment for those staff).

Under s.42 of the LGA 2002 the chief executive is the only person *directly* employed by the council itself. 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.

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 and honest;
- is 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, offensive or abusive conduct, including the use of disrespectful or malicious language.

Any failure by members to act in the manner described in clause 5.1 represents a breach of this Code.

Please note that nothing in this section of the Code is intended to limit robust debate within the council as long as it is conducted in a respectful and insightful manner.

5.2 Relationships with staff

An important element of good governance involves the relationship between the council and its chief executive. Members will respect arrangements put in place to facilitate this relationship, and:

- 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 review committee;
- make themselves aware of the obligations that the council and the chief executive have as employers and observe those requirements at all times, such as the duty to be a good employer;
- treat all employees with courtesy and respect and avoid publicly criticising any employee;
- observe any protocols put in place by the chief executive concerning contact between members and employees;
- avoid doing anything which might compromise, or could be seen as compromising, the impartiality of an employee.

Any failure by members to act in the manner described above represents a breach of this Code.

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 audit.

5.3 Relationship with the public

Given that the performance of the council requires the trust and respect of individual citizens, members will:

- interact with members of the public in a fair, respectful, equitable and honest manner;
- be available to listen and respond openly and honestly to community concerns;
- consider all points of view or interests when participating in debate and making decisions;
- treat members of the public in a courteous manner; and
- act in a way that upholds the reputation of the local authority.

Any failure by members to act in the manner described above represents a breach of this Code.

6. Contact with the media

The media play an important part in the operation and efficacy of local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of council.

From time to time individual members will be approached to comment on a particular issue either on behalf of the council, or as an elected member in their own right.

When speaking to the media members will abide by the following provisions:

6.1 Media contact on behalf of the council

The mayor or the chair of a committee are usually the first point of contact for an official view on any issue, however, all elected members may present the official view on an issue.

6.2 Media comment on a member's own behalf

Elected members are free to express a personal view in the media, at any time, provided the following are observed:

- Comments to the media must state that they represent the personal views of the elected member;
- media comments which are contrary to a council decision or policy must clearly state that they do not represent the views of the majority of members;
- media comments must observe the other requirements of the Code; for example, comments should not disclose confidential information, criticise, or compromise the impartiality or integrity of staff; and
- media comments must not be misleading and should be accurate within the bounds of reasonableness.

The above protocols also apply to any elected member interactions on social media platforms.

Any failure by members to meet the standards set out above represents a breach of this Code.

7. Information

Access to information is critical to the effective performance of a local authority and the level of public trust felt by the public.

7.1 Confidential information

In the course of their duties members will occasionally receive information 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

Members will disclose to other members and, where appropriate the chief executive, any information received in their capacity as an elected member that concerns the council's ability to give effect to its responsibilities.

Any failure by members to act in the manner described above represents a breach of this Code.

Please note: failure to observe these provisions may impede the performance of the council by inhibiting information flows and undermining public confidence. It may also expose the council to prosecution under the Privacy Act and/or civil litigation.

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 or partner contracts with the authority or has a pecuniary interest. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the chief executive immediately. Members may also contact the 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 the LAMIA could potentially invalidate the 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 A). In the event of a conviction, elected members can be ousted from office.

9. Register of Interests

Members shall annually make a declaration of interest. These declarations are recorded in a Register of Interests maintained by the council. The declaration must include information on the nature and extent of any interest, including:

- a) any employment, trade or profession carried on by the member or the members' spouse or partner for profit or gain;
- b) any company, trust, partnership etc. for which the member or their spouse or partner is a director, partner or trustee;

- c) the address of any land in which the member has a beneficial interest within the jurisdiction of the local authority; and
- d) the address of any land owned by the local authority in which the member or their spouse or partner is:
 - a tenant; or
 - the land is tenanted by a firm in which the member or spouse or partner is a partner, a company of which the member or spouse or partner is a director, or a trust of which the member or spouse or partner is a trustee:
- e) any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the chief executive)

Please note: Where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable.

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 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 **\$100 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 this Code.

10.1 Undischarged bankrupt

In accordance with clause 15(5) of Schedule 7 (LGA 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 constructive culture of mutual trust, respect and tolerance.

12. Breaches of the Code

Members must comply with the provisions of this Code (LGA 2002, schedule 7, s. 15(4)). Anyone 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 any processes for investigating and determining whether or not a breach under this Code has occurred:

- that the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the breach complained about;
- that the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- that the concepts of natural justice and fairness will apply in the determination of any complaints made under this Code. This requires, conditional on the nature of an alleged breach, that affected parties:
 - have a right to know that an investigation process is underway;
 - are given due notice and are provided with an opportunity to be heard;
 - have a right to seek appropriate advice and be represented; and
 - have their privacy respected.

12.2 Complaints

All complaints made under this Code must be made in writing and forwarded to the chief executive. On receipt of a complaint the chief executive must forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to warrant a full investigation.¹

12.3 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in Appendix B.

12.4 Materiality

¹ On behalf of the Council the Chief Executive will, shortly after the start of the triennium, prepare, in consultation with the Mayor, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as EquiP.

An alleged breach under this Code is material if, in the opinion of the independent investigator, it would, if proven, bring a member or the council into disrepute or, if not addressed; reflect adversely on another member of the council.

13. Penalties and actions

Where a complaint is determined to be material and referred to the council 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 this Code the council, or a committee 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. a vote of no confidence in the member;
4. removal of certain council-funded privileges (such as attendance at conferences);
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 so that they are confined to the chief executive only;
7. suspension from committees or other bodies; or
8. an invitation for the member to consider resigning from the council.

A council or committee may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- 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.

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 the 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); 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, a Code of Conduct continues in force until amended by the council. The Code can be amended at any time but cannot be revoked unless the council replaces it with another Code. Once adopted, amendments to the Code require a resolution supported by 75 per cent of the members of the council present at a council meeting where the amendment is considered.

Council may formally review the Code as soon as practicable after the beginning of each triennium. The results of that review will be considered by the council in regard to potential changes for improving the Code.

Appendix A: 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.

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 or partner or a company in which they have an interest). In relation to pecuniary 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 or partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- a person, or their spouse or 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/chair 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 declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are 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 should focus 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 considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of elected members is the fact that the chairperson has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

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

See Standing Orders for more detail.

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 LGA 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected member (or officer) to:

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of council; and
- use information gained in the course of their duties for their, or another persons, monetary gain or advantage.

These offences are punishable by a term of imprisonment of up to seven years. 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.

The Local Government Act 2002

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles. Provisions directly relevant to this Code include:

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 s.44 LGA 2002, it is found that one of the following applies:

- a) money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) an asset has been unlawfully sold or other wise disposed of by the local authority; or
- c) a liability has been unlawfully incurred by the local authority; or
- d) 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:

- a) without the member's knowledge;
- b) with the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) contrary to the manner in which the member voted on the issue; and
- d) 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 (s.47 LGA 2002).

Appendix B: Process for the determination and investigation of complaints

Step 1: Chief executive receives complaint

On receipt of a complaint under this Code the chief executive will refer the complaint to an investigator selected from a panel agreed at the start of the triennium. The chief executive will also:

- inform the complainant that the complaint has been referred to the independent investigator and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- inform the respondent that a complaint has been made against them, the name of the investigator and refer them to the process for dealing with complaints as set out in the Code.

Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

1. the complaint is frivolous or without substance and should be dismissed;
2. the complaint is outside the scope of the Code and should be redirected to another agency or process;
3. the complaint is non-material; and
4. the complaint is material and a full investigation is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine the appropriate course of action. The investigator has full discretion to dismiss any complaint which, in their view, fails to meet the test of materiality.

On receiving the investigator's preliminary assessment the chief executive will:

1. where an investigator determines that a complaint is frivolous or without substance, inform the complainant and respondent directly and inform other members (if there are no grounds for confidentiality) of the investigator's decision;
2. in cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

Step 3: Actions where a breach is found to be non-material

If the subject of a complaint is found to be non-material the investigator will inform the chief executive and, if they choose, recommend a course of action appropriate to the breach, such as;

- that the respondent seek guidance from the Mayor;
- that the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters leading to the complaint.

The chief executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the council.

Step 4: Actions where a breach is found to be material

If the subject of a complaint is found to be material the investigator will inform the chief executive, who will inform the complainant and respondent. The investigator will then prepare a report for the council on the seriousness of the breach.

In preparing that report the 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.

On receipt of the investigator's report the chief executive will prepare a report for the council or committee with delegated authority, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The chief executive's report will include the full report prepared by the investigator.

Step 5: Process for considering the investigator's report

Depending upon the nature of the complaint and alleged breach the investigator's report may be considered by the full council, excluding the complainant, respondent and any other 'interested' members, or a committee (the Code of Conduct Committee) established for that purpose.

In order to avoid any suggestion of bias, a Code of Conduct Committee may often be the best mechanism for considering and ruling on complaints. Committees should be established at the start of a triennium with a majority of members selected from the community through either an application process or by invitation.

The council or committee will consider the chief executive's report in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as

the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s.48 of the LGOIMA, in which case it will be a closed meeting.

Before making any decision in respect of the investigator's report the council or committee will give the member against whom the complaint has been made an opportunity to appear and speak in their own defence. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in section 13.1 of this Code.

In accordance with this Code councils will agree to implement the recommendations of a Code of Conduct Committee without debate.

RESOLUTION TO EXCLUDE THE PUBLIC**Move/Second**

That the public be excluded from the following parts of proceedings of this meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered		Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for passing this resolution
C.1	Confidential Minutes Whangarei District Council meeting 29 June 2017	Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
C.2	Confidential Minutes Extra ordinary Whangarei District Council meeting 11 July 2017		
C.3	Procurement of Commissioner		

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public, are as follows:

Item	Grounds	Section
C.1	For the reasons as stated in the open minutes.	
C.2	For the reasons as stated in the open minutes.	
C.3	To protect the privacy of natural persons.	Section 7(2)(a)

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

"That _____ be permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of Item _____.

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because _____.

Note: Every resolution to exclude the public shall be put at a time when the meeting is open to the public.