



COUNCIL 28. 6. 2012

4. CODE OF CONDUCT 2012

General Manager responsible:	General Manager Regulation and Democracy Services, DDI 941-8462
Officer responsible:	Democracy Services Manager
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PURPOSE OF REPORT

1. The purpose of this report is to present an amended Code of Conduct for approval.

EXECUTIVE SUMMARY

2. The Council recently agreed to a charter which documents governance principles for the Christchurch City Council. As a result, some changes were made to the Code of Conduct. The Council is now required to resolve to adopt the new Code of Conduct as noted in the Charter. The new Code, with amendments highlighted in italics, is attached as **Attachment One**.

FINANCIAL IMPLICATIONS

Do the Recommendations of this Report Align with 2009-19 LTCCP budgets?

3. There are no financial implications arising from the report.

LEGAL CONSIDERATIONS

Have you considered the legal implications of the issue under consideration?

4. Schedule 7 of the Local Government Act 2002 (the Act) requires the Council to adopt a Code of Conduct for members.
5. It is the advice of the Legal Services Unit that the draft document attached to this report complies with the Council's statutory obligations.
6. The amendment of the Code of Conduct requires a vote of not less than 75 per cent of the members present.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

Do the recommendations of this report support a level of service or project in the 2009-19 LTCCP?

7. Yes. See Democracy and Governance Pages 154 to 159 of the 2009-19 LTCCP.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

8. Not applicable.

CONSULTATION FULFILMENT

9. Not applicable.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Adopts an amended Code of Conduct in the form presented to the Council at its meeting on 28 June 2012.
- (b) Note that the approval requires a vote in support of not less than 75 per cent of the members present.

Christchurch City Council LOCAL GOVERNMENT ACT 2002 CODE OF CONDUCT FOR MAYOR AND COUNCILLORS Adopted + + 2012

PART 1 — INTRODUCTION

1. This Code of Conduct is a requirement made under Clause 15 of Schedule 7 of the Local Government Act 2002. Councillors must note that they are legally bound to comply with the provisions of this Code of Conduct.
2. The Code of Conduct applies to Councillors in their dealings with:
 - each other.
 - Council officers.
 - the public.
 - the media.
3. Without good working relationships any democratically elected organisation will have difficulty succeeding. No council will be effective unless mutual respect exists between the public, elected leaders and management staff. This Code seeks to facilitate more effective working relationships. Resolution of alleged breaches of the Code is to be made in the interests of the good governance of the Council, not for the personal interests of Councillors.
4. The objectives of this Code are to enhance:
 - the effectiveness of the Council as the territorial authority with statutory responsibilities for the good government of the City of Christchurch.
 - the credibility and accountability of the Council within its community.
 - mutual trust, respect and tolerance between Councillors as a group and between Councillors and Council officers.
5. This Code of Conduct seeks to achieve its objectives by agreeing upon:
 - general principles of conduct for Councillors.
 - general standards of behaviour.
 - specific codes of conduct applying to particular circumstances or matters.
6. This Code shall apply to Councillors acting in their capacity as a Councillor, and not as private citizens.
7. In this Code the word "Councillors" includes the Mayor.
8. This Code does not apply to the members of the Community Boards of Christchurch City unless Community Boards choose to adopt it. Christchurch City Council Community Boards have decided to adopt their own Codes of Conduct.
9. This Code is based on the following principles of public life.

Public interest

- Councillors should serve only the interests of the district as a whole and should never improperly confer an advantage or disadvantage on any one person.

Honesty and integrity

- Councillors should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

- Councillors should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Councillors should also note that, once elected, their primary duty is to the interests of the entire district, not the ward that elected them.

Accountability

- Councillors should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.

Openness

- Councillors should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.

Personal judgement

- Councillors can and will take account of the views of others, but should reach their own conclusions on the issues before them, and act in accordance with those conclusions.

Respect for others

- Councillors shall not discriminate unlawfully against any person on the grounds of their race, age, religion, gender, sexual orientation, disability or opinions and beliefs. They should treat people with respect and should respect the impartiality and integrity of the Council's staff.

Duty to uphold the law

- Councillors must uphold the law, and on all occasions, act in accordance with the trust the public places in them.

Stewardship

- Councillors collectively must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.

Leadership

- Councillors should promote and support these principles by example, and should always endeavour to act collectively in the best interests of the community.

Confidentiality

- Councillors shall respect the confidentiality of any confidential information they may receive.

Attached as **Appendix 1** is a summary of the legislative requirements that have some bearing on the duties and conduct of Councillors that have not already been referred to in this Code.

PART 2 — BEHAVIOUR AND RELATIONSHIPS

Relationships with Other Councillors and Community Board Members

10. Councillors will conduct their dealings with each other and with Community Board members in ways that:
 - maintain public confidence in the office to which they have been elected.
 - are open and honest.
 - focus on issues rather than personalities.
 - avoid aggressive, offensive or abusive conduct.
11. Councillors shall maintain the respect and dignity of their office in their dealings with each other, Community Board members, Council officers, and the public.
12. Councillors will act in good faith (ie, honestly, for the proper purpose, and without exceeding their powers) in the interests of the Council and the community.
13. Councillors should remember that they have no personal power to commit the Council to any particular policy, course of action, or expenditure and must not represent they have such authority if that is not the case.
14. Councillors will make no allegations regarding other Councillors or Council officers which are improper or derogatory.
15. In the performance of their official duties, Councillors should refrain from any form of conduct which may cause any reasonable person unwarranted offence or embarrassment.

Relationships with Staff

16. The effective performance of the Council also requires a high level of cooperation and mutual respect between Councillors and staff. To ensure that level of cooperation and trust is maintained Councillors will:
 - recognise that the Chief Executive is the *only employee employed directly by the Council and is the employer (on behalf of the Council) of all other Council employees*. As such only the Chief Executive may hire, dismiss, instruct or censure *another* employee.
 - avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee.
 - make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times.
 - treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees).
 - observe any guidelines that the Chief Executive puts in place regarding contact with *other* employees.
 - respect the role of Council officers in providing professional advice, including not *to do anything which compromises, or could be seen as compromising, the impartiality of the professional advice of an officer*.
 - raise concerns about *other* employees with the Chief Executive. Concerns about the Chief Executive should be raised in the first instance with the Mayor.
 - raise concerns regarding the quality of a report with the Chief Executive before the meeting at which the report is to be considered takes place.
17. Councillors should be aware that failure to observe this portion of the Code of Conduct may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and audit sanction. *For this reason, this portion of the Code takes precedence over anything contrary effect Clauses 42 to 45 of the Code.*

Relationships with the Community

18. Effective Council decision-making depends on productive relationships between Councillors and the community at large.

19. Councillors should ensure that individual citizens are accorded respect in their dealings with the Council, have their concerns listened to, and decisions are deliberated on in accordance with the requirements of the Local Government Act 2002 and other relevant statutes. Councillors should act in a manner that encourages and values community involvement in local democracy.

Gifts and Hospitality/Expenses

20. A person in a position of trust, such as a Councillor, should not make a profit through his or her office.
21. There is legislation in the Crimes Act 1961 and the Secret Commissions Act 1910 which deals with corruption and the obtaining of gifts as an inducement or reward for acts in relation to the Council's affairs. Gifts can include discounts, commissions, bonus or deductions.
22. Acceptance of gifts, services or hospitality may be considered as a bribe or perceived as undue influence. The offer and/or receipt of gifts, including special occasion goodwill gifts, may be reported to the Council Secretary.
23. Working lunches and social occasions should be undertaken with a recognition of the public perception regarding undue influence on Councillors.

Use of Council Facilities

24. Transport provided by the Council for the use of a Councillor must only be used for Council purposes.
25. Council resources such as stationery or secretarial services must only be used for Council purposes and cannot be used for personal purposes (including election campaigning).

Financial and Non Pecuniary Interests

Conflicts of interest and the law about bias

26. A conflict of interest exists where two different interests intersect; in other words, where your responsibilities as a member of the local authority could be affected by some other separate interest or duty that you may have in relation to a particular matter. That other interest or duty might exist because of:
 - your own financial affairs;
 - a relationship or role that you have; or
 - something you have said or done.
27. The common law requires that public decision-making be procedurally fair. In particular, conflicts of interest are usually dealt with under the rule about bias. The law about bias exists to ensure that people with the power to make decisions affecting the rights and obligations of others carry out their duties fairly and free from bias. It is summed up in the saying "no one may be judge in their own cause".
28. Another way of expressing the issue is:
 - *Would a reasonable, informed observer think that your impartiality might have been affected?*
29. The law about bias originally applied to judicial proceedings, but over the years has been extended to a wide range of decision-makers who exercise public functions that can affect the rights or interests of others. The law applies to members of local authorities.
30. The law applies differently to pecuniary (that is, financial) and non-pecuniary conflicts of interest. When you are considering whether to participate in the authority's decision-making processes about a particular matter, you need to consider the potential for both types of conflict of interest. Different rules apply to each type.

Pecuniary interests: The Local Authorities (Members' Interests) Act 1968

31. The Act deals with that part of the rule against bias as it applies to the pecuniary interests of members of local authorities. The Act:
 - controls the making of contracts worth more than \$25,000 in a financial year between members and their authority (see Part 2); and
 - prevents members from participating in matters before the authority in which they have a pecuniary interest, other than an interest in common with the public (see Part 3).
32. The Act applies to members of city councils, district councils, regional councils, community boards, tertiary institutions, and a range of other public bodies.
33. The Act regulates the actions of individual members of authorities, not the actions of the authorities.
34. Members, not authorities, may be prosecuted for breaches of the Act. The Act also applies to members of committees of those authorities (regardless of whether a committee member is also a member of the authority). It does not apply to council-controlled organisations, port companies, airport companies, or energy companies.

Non-Pecuniary Conflicts of Interest: The rule against bias

35. If a person challenges a local authority's decision by way of judicial review proceedings, the courts could invalidate the decision because of bias on the part of a member of the decision-making body. The question a Councillor needs to consider, drawn from case law, is:
36. Is there a real danger of bias on the part of a 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? It is the appearance of bias, not proof of actual bias, that is important.
37. The law about bias does not put a Councillor at risk of personal liability. Instead, the validity of the authority's decision could be at risk.

Contact with the Media regarding Council and Committee Decisions

38. The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of the Council. From time to time, individual Councillors will be approached to comment on a particular issue either on behalf of Council, or as a Councillor in his or her own right. This part of the Code deals with the rights and duties of Councillors when speaking to the media on behalf of the Council, or in their own right.
39. Generally:
 - Media comments must observe the requirements of the Code of Conduct.
 - The Mayor is the principal spokesperson for the Christchurch City Council. The Mayor is authorised to make statements that accurately report decisions of Council meetings.
 - Committee Chairs are authorised to make statements accurately reporting matters and decisions coming within the terms of reference of their committees.
 - The Chief Executive is authorised to make statements relating to any of the areas for which the Chief Executive has statutory or management responsibility.
40. Public statements representing Council policy or reporting decisions of the Council will be made with the specific or general authority of the Council, and will clearly state the person's authority for making the statement on behalf of the Council.
41. Otherwise, a Councillor, Chief Executive or officer may make specific statements on behalf of the Council only with the specific authority of the relevant Council, committee or subcommittee.
42. The Mayor may deal with the news media and make public statements relevant to the non-statutory role as a community leader, where it is clearly stated that the views expressed are the Mayor's own and are not made on behalf of the Council. No statements made in this capacity shall undermine any existing policy or decision of the Council.
43. Councillors are entitled to make public statements expressing their opinion on matters before the Council. All such statements should clearly state that they represent the personal opinion of the Councillor and are not made on behalf of the Council.

44. Public statements by Committee Chairpersons on an item before the committee should reflect the majority view of the committee. The Chairperson may make clearly identified personal statements if the Chairperson disagrees with the majority view of the committee.
45. Within the limits imposed by Standing Orders, at any meeting of the Council (or at any committee), every Councillor (who has the right to speak at the meeting) has the right to express his or her opinion on any matter lawfully before the meeting. Once a matter has been decided at a meeting of the Council, that decision establishes the Council's position on that matter until it is lawfully changed by a subsequent decision of the Council.

Disclosure of Information

46. In the course of their duties Councillors will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.
47. Councillors must not use or disclose confidential information for any purpose other than the purpose of debate at meetings for which the information was supplied to the Councillors. Such confidential information includes all information in the Public Excluded section of an agenda for any meeting.
48. Councillors should be aware that failure to observe these provisions will impede the performance of the Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose the Council to sanction under the Privacy Act 1993 and/or civil litigation.

Bankruptcy

49. Under the Local Government Act 2002 the Council must consider whether Councillors should be required to declare whether a Councillor or a newly elected Councillor is an undischarged bankrupt.
50. The Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgement in general.
51. The Council requires Councillors who are declared bankrupt, and a newly elected Councillor who is an undischarged bankrupt, to notify the Chief Executive as soon as practicable after being declared bankrupt or being elected to the Council, as the case may be. The Chief Executive shall advise the Council at its next ordinary meeting.

Role of Elected Members

52. Attached as **Appendix 2** are the roles and responsibilities for the Mayor and Councillors (originally adopted by the Council at its meeting on 23 March 2007) and the responsibilities for the Deputy Mayor (originally adopted by the Council at its meeting on 4 October 2007).

Alleged breaches of this Code during meetings

53. It is expected that compliance with the provisions of this Code during a meeting shall be dealt with by the Chairperson of that meeting within Standing Orders at the time the breach arises. Councillors should raise alleged breaches of the Code with the Chairperson at the time. If a Councillor believes that an alleged breach of the Code has not been dealt with adequately by the Chairperson at a meeting, that Councillor may initiate the procedures set out in Part 3 of this Code.

PART 3 —BREACHES OF THE CODE AND ETHICS SUBCOMMITTEE

Introduction

54. A Councillor may, on behalf of themselves, a community board member, a member of staff or a member of the public, initiate the procedures set out in Part 3 of this Code.

Process for an alleged breach

- (a) If a Councillor believes that this Code has been breached, that Councillor must first endeavour to resolve the matter informally by discussion with the Councillor alleged to have breached the Code.
- (b) If that informal resolution is unsuccessful, the Councillor alleging the breach may raise an alleged breach of the Code with the Convenor of the Council's Ethics Subcommittee in writing at the earliest opportunity (and not later than one month after the date of the incident giving rise to the allegation). An allegation of breach of the Code must set out the particular provisions of the Code alleged to have been breached and the facts supporting the alleged breach so as to give the person against whom it is made a full opportunity to respond to it.
- (c) Any Councillor raising a matter of breach of the Code which involves another Councillor must also, as soon as reasonably practicable after raising the alleged breach with the Convenor, forward to that other Councillor a copy of the matter that has been raised with the Convenor.
- (d) A Councillor who made an allegation of an alleged breach of the Code can withdraw that allegation at any time and no further steps shall be taken by the Convenor or the Ethics Subcommittee in respect of that complaint.
- (e) The Convenor of the Subcommittee shall consider a matter of breach of the Code referred to that person and shall determine if a question of breach of the Code is involved. In considering if a question of breach is involved, the Convenor shall take account of the degree of importance of the matter which has been raised. The Convenor may consult with such persons as that person considers appropriate. No question of breach is involved if, in the opinion of the Convenor, the matter is technical or trivial and does not warrant the fuller attention of the Subcommittee. A decision not to refer a matter to the Subcommittee shall not be reported to the Council.
- (f) Councillors should not publicly release a copy of the information provided to the Chairperson of the Subcommittee before a decision has been made by the Chairperson as to whether the allegation is to proceed to the Subcommittee.
- (g) If the Convenor considers that a matter involves a question of breach of the Code which warrants referral to the Subcommittee, and if the Convenor is satisfied that informal efforts to resolve the matter have not succeeded, then the matter shall be reported to the Subcommittee. Before reference to the Subcommittee the Convenor will first inform the Councillor alleging the breach and the Councillor against whom the allegation is made, that it is intended to refer the matter to the Subcommittee.

Ethics Subcommittee

- (a) Compliance by Councillors with this Code will be monitored by the Ethics Subcommittee of the Council. This Subcommittee will be constituted immediately following adoption of this Code, and thereafter at the first meeting of the Council following a triennial election. It will consist of not more than five nor less than three Councillors and the Subcommittee shall take into account the political and gender balance of the Council. The Mayor will be a member ex-officio.
- (b) One member (who shall be the Convenor of the Subcommittee) shall be a person with dispute resolution skills and who is not a Councillor. All members of the Committee (including the Convenor) shall have one vote. The Convenor of the Subcommittee will not have a casting vote. A quorum for meetings of the Subcommittee shall be three.

- (c) The Ethics Subcommittee is to consider, report on and make recommendations to the Council on any alleged breaches of the Code referred to it.

Procedure for the Ethics Subcommittee

- (a) The Council expects that any hearing by the Subcommittee is to be conducted without the public being present.
- (b) Any Councillor who makes an allegation of breach of the Code, or who is the subject of such an allegation, may not serve on the Subcommittee considering that allegation.
- (c) The Subcommittee shall consider and report to the Council on any matters referred to it by the Convenor. The Subcommittee shall regulate its own procedure regarding the conduct of its inquiry into such a matter. The Subcommittee shall generally follow the Guidelines attached to this Code as **Appendix 3**.

Responses and Breaches

We also agree to act in accordance with it.

- (a) The exact nature of the action the Council may take for a breach of the Code depends on the nature of the breach and whether there are statutory provisions for dealing with the breach.
- (b) If there are statutory provisions the breach will be addressed in accordance with those statutory provisions. The Council may refer the matter to the relevant body.
- (c) Where there are no statutory provisions, the Council may take the following action:
- require a public or private apology to be made
 - censure
 - removal from a Council committee or outside appointment
- (d) A decision to apply one or more of these actions requires a Council resolution.

This is a summary of the legislative requirements that have some bearing on the duties and conduct of Councillors that have not already been referred to in this code.

LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 (“LGOIMA”)

Official Information

LGOIMA contains rules relating to the disclosure of information held by a local authority to the public on request. The underlying principle of the Act is that information should be made available unless there is good reason to withhold disclosure. There are a number of grounds for withholding disclosure, principally contained in s.7 of the Act. The Act provides for a Council decision to withhold information to be reviewed by an Ombudsman who makes a recommendation back to the Council.

Meetings

LGOIMA also regulates and sets out the procedural requirements for meetings of local authorities (including territorial authorities), the publication of agenda, procedures for discussion with the public excluded and access by the public to the minutes of meetings. The Act provides that generally meetings of the Council, Committees and Community Boards are open to the public unless the meeting has resolved to exclude the public from a part of the meeting. There are limited grounds on which the public can be excluded from a meeting.

These grounds to exclude the public are similar to the grounds to withhold information. These include privacy, carrying out commercial activities or commercial negotiations, and taking legal advice.

SECRET COMMISSIONS ACT 1910

It is unlawful for Councillors (or an 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 the Council.

If convicted of any offence under this Act a person can be imprisoned for up to 2 years, or fined up to \$1000, or both. A conviction triggers the disqualification provisions in the Local Government Act 2002 and result in automatic disqualification of the Councillors from office.

CRIMES ACT 1961

It is unlawful for Councillors (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 the Council
- Use information gained in the course of the Councillors' duties for monetary gain or advantage by the

These offences are punishable by a term of imprisonment of 7 years or more. Councillors convicted of these offences will also be automatically disqualified from office.

SECURITIES ACT 1978

The Securities Act places Councillors in the same position as company directors whenever the Council offers shares in a company to the public. Councillors 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 Role of the Mayor

Background

The discussions with Mayors revealed the following common themes:

- 1.1 The Mayor is elected from the electorate / community at large and as a result may or may not have sufficient support from the other elected Councillors to carry out their duties.
- 1.2 This is a significant difference to the role of a Regional Council Chair, which is elected from within the Regional Councillors and therefore has a mandate, or majority support of Council.
- 1.3 Another difference between these two roles is that a Regional Council has the legislative power to remove the Chair from office in the same way as it can the Deputy Chair and a local authority remove the Deputy Mayor, whereas there is no similar provision in relation to a Mayor.
- 1.4 A key element of the Mayor's is leadership of Council, being the public voice of Council and providing direction to Council enabling it to meet the objectives it has publicly committed to achieving.
- 1.5 A significant part of the Mayor's role is that of "figurehead" for the community and performance of civic duties.
- 1.6 The Mayor does not have the statutory authority to commit the Council to any particular course of action except where specifically authorized to act under duly delegated authority.
- 1.7 As an elected member, the Mayor shares the same collective responsibility as other elected members to the community / constituency.

Generic Role Responsibility Template – Mayor

PURPOSE OF ROLE

To define and represent the total communities' interests, ensuring ongoing community and economic development, the effective stewardship of existing assets, sustainable management of the environment, and the prudent management of the communities' financial resources.

To lead Council in the establishment of the strategic direction and development of strategies and plans, monitoring their delivery, to achieve the outcomes and results agreed in consultation with the respective electors / constituents represented by Council.

SPECIFIC ACCOUNTABILITIES INCLUDE:

1. To contribute to and lead Council in the development and monitoring of strategies and plans to ensure the effective development and delivery of essential services, infrastructure assets and community facilities.
2. To lead Council, in the appointment and in managing the performance of the Chief Executive Officer, ensuring the strategies and plans of Council are effectively implemented.
3. To represent and speak on behalf of Council and act as an advocate for it, by identifying and bringing together the multiple and diverse interests and needs of the Community represented, taking primary responsibility for interaction with the media, and representing Council at meetings with external parties.
4. To provide effective leadership and direction to Council by overseeing and supporting positive working relationships between Councillors to ensure the Council operates effectively and carries out its business in an orderly manner.
5. To preside over Council, ensuring that Council carries out its business in a democratically responsible and orderly manner through the adoption of transparent decision making processes, effective consultation, by facilitating consensus and enforcing standing orders as required.
6. To develop effective relationships with peers and colleagues in neighbouring Authorities, central government, Iwi and significant other interest groups relevant to Council in order to represent community / regional interests and as far as possible achieve a shared approach to solving common problems.
7. To represent the interests and special features of the Community to central government and nationally, attracting public and private funding and investment and major events to the City.
8. To identify issues of concern to Council and to serve as a catalyst / co-ordinator in devising and ensuring the implementation of solutions.
9. To be a Justice of the Peace during his/her term in office (current legislative requirement).

Deputy Mayor

Purpose of the Role

The Local Government Act 2002 requires the Council to appoint a Deputy Mayor to exercise all the powers of the Mayor in certain circumstances to enable the business of the Council to continue.

Specific accountabilities include:

1. To perform all the responsibilities and duties, and to exercise all the powers, of the mayor,—
 - (a) with the consent of the Mayor, at any time during the temporary absence of the Mayor:
 - (b) without the Mayor's consent, at any time while the Mayor is prevented by illness or otherwise from performing the role of Mayor.
 - (c) while there is a vacancy in the office of the Mayor.
2. To deputise for the Mayor at civic engagements when requested by the Mayor.
3. To manage according to any adopted criteria applications for funding from the Deputy Mayor's Discretionary budget.
4. To meet on a regular basis with Community Board Chairpersons.
5. To manage any bookings for the use of Deputy Mayor's Office, Councillor's Office and Councillors' lounge.
6. To Chair the Councillor Travel sub committee and report to Council.
7. To assist the Mayor's office to find suitable Councillors to represent the Council at invited engagements.

The Role of the Councillor

Discussions with Councillors revealed the following common themes:

- 3.1 It is generally accepted that the role of Councillor is defined through community expectations and the choices made by the voters. Accordingly, to represent the community / electors the Councillor must be cognisant of, and be guided by what is in the best interest for the city/district, and conscious that the decisions made by him/her are made on behalf of the community.
- 3.2 It is argued that the Councillor may represent the electors at two levels. Firstly at the wider community level, as a trustee of public money (entrusted to use money wisely, to the best advantage to the city / district, and to achieve community outcomes) and as a bridge between individual members of the community and the decision makers / Council as a whole.

Secondly, they may represent the Ward from which they are elected. This at times can create conflict – when Ward issues, and their resolution may conflict with the wider Council / Community interests.
- 3.3 As the governance role of the Council has shifted to areas of strategy and policy it has become increasingly important for the Councillor to listen to the community, and to remain aware of the issues and the long term impact of decisions on the community.
- 3.4 Increased public participation, through consultation processes, requires demonstrable understanding of community issues and visible focus on the benefits that can be delivered by Council. Elected to represent community interests, the consultation process provides the means to understanding community aspirations.
- 3.5 The separation of the strategic / policy issues from the operational aspects of Council also requires Councillors to step back from becoming involved in the day to day operations. Once a policy decision is made, passing responsibility for implementation back to Council Management / Officials.
- 3.6 As more and more of the debate takes place at the committee level, Councillors need to be well prepared and more knowledgeable. This requires them to take advice from Council officials/staff, and at times external consultants; and feel comfortable that the advice provided is of the appropriate quality, enabling them to make informed decisions.

Generic Role Responsibility Template – Councillor

PURPOSE OF ROLE

To represent the total communities' interests, ensuring ongoing community and economic development, the effective stewardship of existing assets, sustainable management of the environment, and the prudent management of the communities' financial resources.

SPECIFIC ACCOUNTABILITIES INCLUDE:

1. To participate in the development of a vision and strategic direction for the wider Community, in consultation with stakeholders and while being cognisant of the diverse issues facing the Community.
2. To provide input into and approve the strategies and plans of Council.
3. To consult with community members / agencies and obtain their perspectives on the development of Council strategies and plans.
4. To participate in meetings by being fully prepared and up to date on issues under consideration.
5. To represent Council as an appointed member of external committees / agencies / boards as required.
6. To participate in the appointment and performance management of the Chief Executive.
7. To support the Mayor and fellow Councillors in the promotion of the City.
8. To develop positive working relationships with fellow Councillors and Council Officials / Managers to ensure an effective governance process.
9. To develop positive working relationships with counterparts in neighbouring local and regional authorities, identifying opportunities for community / economic development and joint benefit.
10. To be accessible to the community / electors, assisting them to resolve problems by directing them to appropriate Council official and following up as appropriate.

GUIDELINES TO OPERATION OF THE ETHICS SUBCOMMITTEE

1. Council's expectation is that the Subcommittee would normally meet without the public being present (such as on the grounds of protection of privacy of the natural person), but the decision to do so is one for the Subcommittee to make.
2. The role of the Convenor of the Subcommittee in ruling that a question of breach of the Code is involved, does not mean that the Convenor must find that a prima facie case of breach of the Code has been made out. It is intended that the Convenor considers on the evidence presented, whether the facts alleged could, if true, amount to a breach of the code. The Convenor considers the evidence to determine whether it points to a reasonable, not a remote, possibility that a breach of the Code has occurred.
3. The convenor does not enquire into the validity of evidence presented and does not hold a full inquiry into the matter that is raised. Those are the functions of the Subcommittee.
4. Other councillors may make representations to the Convenor.
5. In deciding on ruling on a question of breach, the Convenor must consider the degree of seriousness of the matter which has been raised. The Code requires the Convenor to take account of the importance of the matter and not find that a question of breach is involved if it is technical or trivial and does not warrant further attention.
6. This does not mean that all matters of breach which are trivial in themselves will be automatically rejected by the Convenor. An incident, although unimportant in itself, may be important as a matter of principle.
7. If the Convenor find that no question of breach of the Code is involved, the Convenor informs the Councillor who raised the matter in writing.
8. The Convenor's determination that a question of breach is involved is the authorisation for it to proceed to a full hearing before the Subcommittee. Any Councillor who is involved in a question of breach will be informed by the Convenor and advised of the time and date of the meeting.
9. Once a matter has been referred to it the Subcommittee conducts an inquiry into the complaint. It will invariably invite the Councillor who lodged the initial complaint to elaborate on it if it is not entirely clear, or if the Councillor has personal knowledge of the events in which the alleged breach occurred.
10. Where during the hearing of evidence, an allegation is made against a person that may seriously damage the reputation of that person, the Subcommittee will inform that person of the allegation.
11. Any person against whom an allegation has been made that may seriously damage the reputation of that person:
 - a) will be given a reasonable opportunity to respond to the allegation by written submission and appearance before the Subcommittee; and
 - b) may ask that further witnesses give evidence to the Subcommittee in his or her interest.
12. The subcommittee may make a written submission to it available to the public at any time after receiving it.

13. At any stage the Subcommittee may consider exercising its powers under section 48 of the Local Government Official Information and Meetings Act 1987 to exclude the public.
14. The examination of witnesses is conducted as the Convenor directs. The Convenor and every member through the Convenor may put questions to a witness.
15. The Subcommittee can inquire into a different allegation of breach of the Code if evidence comes before it suggesting that a different breach had been committed. Before doing this the Subcommittee must give the Councillor concerned fair warning of its intention to do so, and adequate time to respond to the new allegation.
16. As the Subcommittee is concerned with allegations against Councillors that they have breached the Code of Conduct, the Subcommittee will need to conduct an inquest and to make findings, often adverse findings, against Councillors. The Subcommittee will need to act and conduct its proceedings in accordance with normal judicial principles, including ruling on the standard of proof required to establish whether a breach has occurred and whether cross examination will be permitted.
17. Person appearing before the Subcommittee are entitled to have the assistance of their own counsel. This will include witnesses appearing before the Subcommittee.
18. It will be a matter for the Subcommittee to decide how deeply it wishes to investigate a matter. The Subcommittee may inquire into all the circumstances surrounding the alleged breach.
19. If the Subcommittee makes part of its draft report to the Council available to a Councillor to make a submission on a finding, it does so on a confidential basis. The contents of the report do not become publicly available until they are included in the Council's agenda.
20. The Subcommittee may sometimes make findings that could be described as "adverse". These could range from a criticism of a particular act to a finding of a criminal nature on the part of a named individual.
21. Before a report is presented to the Council, the Subcommittee must distinguish between an adverse finding that is a simple criticism and one that may seriously damage a person's reputation. In the latter case, the person the subject of the finding, must be informed of the finding by the Subcommittee and given a reasonable opportunity to make submissions on the findings. The Subcommittee must take these findings into account before reporting to the Council. If there is no risk of serious damage to reputation, then Councillors are not likely to see the draft report or have the opportunity to make submissions on it.
22. The Subcommittee will prepare a report on the question of the breach for the Council, in which the Subcommittee deals with the facts as it finds them and any procedural process which may have arisen during the inquiry. It will also make recommendations to the Council as to whether to take any further action in respect of any findings of breach of the Code that it has made and what that action should be.
23. Normally the Convenor of the Subcommittee, on presenting the report, moves that it be adopted. If the Council agrees to the motion, the Council adopts the findings of the Subcommittee as its own and accordingly, finds a person to be in breach or not in breach of the Code, and may impose any punishment recommended in the report.
24. The Code outlines a number of options open to the Council regarding the types of punishment for a breach of the Code.

25. The punishment must be seen against the background of the human rights and fundamental freedom protected by the New Zealand Bill of Rights Act 1990. The rights protected by the provisions of that legislation must be observed by the Council in imposing the punishments open to it.

a) Apology

An apology or expression of regret tendered to the Subcommittee during the investigation is a factor to be taken into consideration by the Subcommittee in determining what action to recommend to the Council. The Subcommittee will advise the council of any apology or expression of regret and , if it thinks fit, recommend that the Council accept the apology. If there is no apology delivered to the Subcommittee during its investigation the Subcommittee may recommend that course of action in its report. If accepted by the Council the apology is then tendered to the Convenor, and all Councillors as advised as soon as practicable.

b) Censure

The Subcommittee may consider that the conduct of a Councillor is deserving of the council's formal censure or rebuke. The Council could pass a formal resolution to that effect and leave the matter at that.

c) Removal

The Subcommittee may recommend that the conduct of a Councillor warrants the Councillor being removed from the Chairship and / or memberships of a Council committee or outside body.

If the Subcommittee is minded to recommend this step, it must allow the Councillor affected an opportunity to consider that proposed recommendation and be heard as to its consequences.