



**Nelson City Council**

*te kaunihera o whakatū*

# **Elected Members' Code of Conduct**

**Adopted 2 December 2010**

# Contents

<b>1. Purpose .....</b>	<b>1</b>
<b>2. Power to Make the Policy .....</b>	<b>1</b>
<b>3. General Principles.....</b>	<b>1</b>
<b>4. Meeting Attendance and Civic Duties.....</b>	<b>3</b>
<b>5. Undischarged Bankrupt .....</b>	<b>5</b>
<b>6. Relationship between the Code of Conduct and Other Legislation ....</b>	<b>5</b>
<b>7. Council Endorsement.....</b>	<b>6</b>
<b>8. Availability of the Policy .....</b>	<b>6</b>

## **1. Purpose**

This Code of Conduct sets out principles of good conduct and standards of behaviour for the elected members of the Nelson City Council.

Elected members of the Nelson City Council have agreed to abide by these principles and standards when carrying out their roles and functions as elected community representatives.

## **2. Power to Make the Policy**

Council has developed this code as required by Section 15 in Schedule 7 of the Local Government Act 2002 (the Act). The policy may be amended or replaced at a meeting of the full Council, provided that this motion is supported by 75% of the members present. The Code of Conduct cannot be revoked without replacement.

## **3. General Principles**

Elected members represent the public. As such, they are obliged to act in good faith and conscientiously perform their duties in a professional manner with honesty and integrity as well as with reasonable care and diligence. General principles that apply include:

### **3.1 Acting in a fair, honest and proper manner**

A member of Council must act in a fair, honest and proper manner by:

- (a) acting in accordance with legislation;
- (b) undertaking their work in accordance with natural justice principles;
- (c) behaving in a reasonable, just and non-discriminatory manner in all aspects of carrying out their roles and responsibilities;
- (d) undertaking all actions in good faith and not for improper or ulterior motive;
- (e) being impartial in reaching Council decisions and accepting and respecting the responsibility associated with those decisions; and
- (f) not making improper use of information acquired or making improper use of their position as a member of Council.

### **3.2 Care and diligence in performing their duties**

A Council member must act with reasonable care and diligence in performing his or her duties and responsibilities by: appropriately and properly using information available to them in

- (a) the course of exercising their responsibilities and balancing the interests of the community against the rights of the individual;
- (b) giving proper consideration to the business of the Council and ensuring that they are informed on the matters requiring decision;
- (c) being fair and equitable in the treatment of all matters under consideration;
- (d) giving careful and responsible consideration to the allocation of resources; and
- (e) monitoring the effectiveness of Council policies.

### **3.3 Relationship with the public**

Council members must be honest and fair in their dealings with individuals and organisations and behave in a manner that facilitates constructive communication between the Council and the community by:

- (a) behaving in a courteous and sensitive manner and not discriminating against any person;
- (b) not misusing their positions to gain an advantage for themselves or others;
- (c) conducting themselves in a manner that does not offend members of the public or employees of the Council; and
- (d) not soliciting, demanding or requesting any gift or benefit for themselves or anyone else.

### **3.4 Relationship with staff**

Council members will seek to achieve a team approach in an environment of mutual respect, trust, and acceptance of their different roles in achieving the Council's objectives by:

- (a) showing employees courtesy and respect;
- (b) demonstrating respect for employees' professional opinion and expertise;
- (c) complying with the principles of the Council's Equal Opportunity Policy; and
- (d) recognising that an individual Council Member has no authority to make decisions, direct staff or commit Council resources without specific delegated authority.

### **3.5 Representing the Council**

When representing the Council in the community, Council members will:

- (a) provide an accurate and fair representation of Council decisions;
- (b) respect Council decisions and policy directions; and
- (c) behave in a manner that maintains and enhances the image of the Council.

### **3.6 Relationship between Council members**

Council members will establish a working relationship with fellow members that achieves the best possible outcomes for the community by:

- (a) demonstrating courtesy and respect to their fellow members of Council; and
- (b) respecting the diversity of opinion that may exist and the right of different points of view to be heard.

### **3.7 Use of information**

Information obtained by a Council member in the course of his or her duties must be respected and used in a careful and prudent manner, therefore:

- (a) information obtained by Council members in the course of their duties will not be used for any purpose other than Council business; and

- (b) elected members will not withhold any information that relates to the ability of the Council to meet its obligations under any legislation; however they will respect and maintain confidentiality of an individual member of the public as and when required.

### **3.8 Contact with the Media**

The Nelson City Council's elected members have a responsibility to conduct Council business in an open and democratic manner mindful of the role that the media plays in the democratic process. There may be, from time to time, differences between the Council view on issues and individual views. Therefore the following rules apply for contacts with the media as they relate to Council business:

- (a) the Mayor or relevant Portfolio Holders first point of contact for the official view on issues; and
- (b) no other member may comment on behalf of council without first obtaining the approval of the Mayor.

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

- (a) media comments must not state or imply that they represent the views of Council;
- (b) where an elected member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that their view represents a majority view.; and
- (c) media comments must observe the other requirements of the code of conduct including that members must not disclose confidential information or compromise the impartiality or integrity of staff.

### **3.9 Confidentiality of information**

During the course of their business, a Council member will from time to time be privy to confidential information which may affect Council activities. The confidentiality of this information will be protected and not disclosed until a resolution of Council to release the information is made.

## **4. Meeting Attendance and Civic Duties**

### **4.1 Portfolio of responsibilities**

One of the duties accepted by elected members when standing for office includes their attendance at meetings to fulfil their civic role. The mix of standing committees, subcommittees, working parties, outside organisations and civic functions that each member is allocated will comprise their portfolio of responsibilities. Refer to Appendix A for the layout of the portfolio document.

Elected members will attend and participate in all meetings for their portfolio unless they have submitted an apology or obtained a leave of absence in advance for non-attendance. Council members will abide by the Council's standing orders for meetings.

### **4.2 Council Meetings, Workshops and Hearings**

All Councillors are expected to attend all full council meetings, workshops and hearings. Hearings include those which are held as part of the consultation process on Council documents such as the Annual Plan, Long Term Council Community Plan, and Resource Management Plan, but not resource consent application hearings.

### **4.3 Standing Committees**

The Mayor will consult with Councillors on which standing committees they are appointed to and Councillors are expected to attend all meetings of those standing committees.

### **4.4 Subcommittees (Including Working Parties)**

From time to time, subcommittees and working parties will be established by the Council or a standing committee to achieve specific outcomes. Councillors are expected to make themselves available to be appointed to an equitable share of these subcommittees, and to attend all meetings of those to which they are appointed.

### **4.5 Outside Organisations**

The Council has close relationships with a number of outside organisations and may appoint Councillors to liaison positions with these organisations. In some cases this will require attendance at meetings of the outside organisation. In other cases the role will be informal. The requirements for each outside organisation will be specified in the Councillor's individual portfolio of responsibilities.

### **4.6 Civic Events and Functions**

All Councillors should attend Citizenship Ceremonies, Memorial Services, and other official civic functions as required from time to time.

Individual invitations from outside organisations should be responded to personally, within the timeframes given.

### **4.7 Chairmanships**

Councillors who are chairpersons of standing committees are required to perform the additional tasks of chairing the standing committee meetings, being spokesperson for the committee, and other tasks as may be required. The powers of the chairperson at meetings are outlined in the standing orders.

### **4.8 Compliance**

Action in enforcing compliance of this code of conduct would normally be undertaken as a last resort. Notwithstanding this, any Council member who considers that the undertakings set out in this code have been breached by an elected member of Council other than the Mayor, shall submit a written report to the Mayor detailing the manner in which they believe that the breach has occurred.

The Mayor will then either investigate the alleged breach or, if the Mayor wishes, an investigating committee of three Councillors may be established to investigate and report back on the alleged breach. The principles and process to be followed are:

- (a) The principles of natural justice must be observed during the investigation of an alleged breach. The Member who is the subject of an investigation must be given all the information in regard to the allegations and an opportunity to respond and be supported if they desire. Likewise any individual who alleges a breach of the code of conduct must not be disadvantaged because of such an action.
- (b) The code of conduct will not be acted upon where other legislation determines the consideration of a matter.

- (c) All investigations or discussions in respect of the alleged breaches of the code of conduct will be conducted in confidence.
- (d) The Council will have the discretion to determine the appropriate remedies for proven breaches of the code, including public censure.
- (e) The member who is being investigated, the complainant and the Council will be advised in writing of the outcome of the investigation of the alleged breach.
- (f) In the event that the Mayor has allegedly breached the code, the complaint shall be referred to the Chief Executive Officer (CEO). Upon receipt, the CEO shall refer the matter to the Council for the appointment of an investigating committee which shall investigate the matter in a similar manner to that described above.

## **5. Undischarged Bankrupt**

In terms of section 15(5) of the Act, the Council has decided that a member or newly elected member must declare whether or not they are an undischarged bankrupt.

## **6. Relationship between the Code of Conduct and Other Legislation**

This Code of Conduct does not apply where specific legislation governs a matter, this includes:

### **6.1 Local Government Act 2002**

Schedule 7, Section 27 sets out the requirement for a local authority to adopt a set of standing orders for the conduct of its meetings and those of its committees. Section 16 of this schedule also provides that a member may be required to leave a meeting if a ruling is made under the standing orders.

### **6.2 Local Authorities (Members Interests) Act 1968**

Section 6 of this legislation sets out the restriction that a member of a local authority or committee is not to discuss or vote on question in which they have a pecuniary interest.

Section 3 provides for restrictions on contracts between the Council and its members.

If there is any doubt over the nature of their interest in a matter, the member is encouraged to discuss the situation with the Chief Executive, prior to the issue being discussed or voted upon.

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

This Act requires Councils to make official information more freely available. It provides for:

- (a) Access to information by the public on information held by the Council on themselves.
- (b) Transparency and accountability in decision making through providing for public admission to meetings of local authorities (unless there is good reason to restrict public access).

- (c) Protects official information held by local authorities and the deliberations of local authorities where it is in the public interest and/or personal privacy needs to be preserved.
- (d) Establishes procedures for the achievement of these purposes.

#### **6.4 Secret Commissions Act 1910**

Under this Act it is unlawful for an elected member 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 2 years, or fines up to \$1000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

#### **6.5 Crimes Act 1961**

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

- (a) Accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council.
- (b) Use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

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

#### **6.6 Securities Act 1978**

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.

### **7. Council Endorsement**

This Policy was endorsed by Council on 2 December 2010.

### **8. Availability of the Policy**

This Policy will be available for inspection at the Council's office at 110 Trafalgar Street during ordinary business hours (Monday – Friday 8.30am to 5.00pm) or at Council's website [www.nelsoncitycouncil.co.nz](http://www.nelsoncitycouncil.co.nz).

Alternatively, you can write to the Council and request a copy at:

PO Box 645  
Nelson 7040  
New Zealand

Or by fax:  
+64 3 546 0239

Copies will also be provided to interested members of the community upon request from an Administration Adviser by phoning the Council on 03 546 0200.