

FRANKLIN DISTRICT COUNCIL ELECTED MEMBERS CODE OF CONDUCT

DECEMBER 2007-2010 Triennium

1. PURPOSE

This Code of Conduct sets out principles of good conduct and standards of behaviour for the Elected Members of the Franklin District Council.

Elected Members of the Franklin District Council agree to abide by these principles and standards when carrying out their roles and functions as elected community representatives.

2. POWER TO MAKE POLICY

Council has developed this code as required by Section 15 of Schedule 7 of the Local Government Act 2002 (the Act).

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

An Elected Member of Council must act in a fair, honest and proper manner by:

- 3.1.1 acting within legislation;
- 3.1.2 undertaking their work in accordance with natural justice principles;
- 3.1.3 behaving in a reasonable, just and non-discriminatory manner in all aspects of carrying out their roles and responsibilities;
- 3.1.4 undertaking all actions in good faith and not for improper or ulterior motive;
- 3.1.5 being impartial in reaching Council decisions and accepting and respecting the responsibility associated with those decisions;
- 3.1.6 not making improper use of information acquired or making improper use of their position as an Elected Member of Council.

3.2 Care and diligence in performing their duties

An Elected Member of Council must act with reasonable care and diligence in the performance of his or her duties and responsibilities by:

- 3.2.1 appropriately and properly using information available to them in the course of exercising their responsibilities and balancing the interests of the community against the rights of the individual;
- 3.2.2 giving proper consideration to the business of the Council and ensuring that they are informed on the matters requiring a decision;

- 3.2.3 being fair and equitable in the treatment of all matters under consideration;
- 3.2.4 giving careful and responsible consideration to the allocation of resources;
and,
- 3.2.5 monitoring the effectiveness of Council policies.

3.3 Relationship with the public

Elected 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:

- 3.3.1 being honest and fair in dealing with all members of the community;
- 3.3.2 behaving in a courteous and sensitive manner and not discriminating against any person;
- 3.3.3 not misusing their positions to gain an advantage for themselves or others;
- 3.3.4 recognising that an individual Elected Member has no authority to make decisions, direct staff or commit Council resources without specific delegated authority;
- 3.3.5 conducting themselves in a manner that does not offend members of the public or employees of the Council; and,
- 3.3.6 not soliciting, demanding or requesting any gift or benefit for themselves or anyone else.

3.4 Relationship with staff

Elected 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:

- 3.4.1 showing employees courtesy and respect;
- 3.4.2 demonstrating respect for employees' professional opinion and expertise;
and,
- 3.4.3 complying with the principles of the Council's Equal Employment Opportunity Policy.

3.5 Representing the Council

When representing Council in the community Elected Members will:

- 3.5.1 provide an accurate and fair representation of Council decisions;
- 3.5.2 respect Council decisions and policy directions; and,
- 3.5.3 behave in a manner that maintains and enhances the image of Council.

3.6 Relationship between Elected Members

Elected Members will establish a working relationship with fellow Elected Members of Council that achieves the best possible outcomes for the community, by:

- 3.6.1 demonstrating courtesy and respect to their fellow Elected Members of Council; and,
- 3.6.2 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 an Elected Member in the course of his/her duties must be respected and used in a careful and prudent manner, therefore:

- 3.7.1 information obtained by Elected Members in the course of their duties will not be used for any purpose other than Council business;
- 3.7.2 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 the public as and when required;
- 3.7.3 When discussing Council business with the media Elected Members will emphasise that they are putting forward personal views and not those of the Council, unless they have been specifically authorised by the Council to convey a particular position to the media.

3.8 Confidentiality of information

During the course of their business, an Elected Member will from time-to-time be privy to confidential information that 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

One of the duties accepted by Elected Members when standing for office includes their attendance at meetings of Council and Committees. Each Elected Member is expected to attend and participate in all meetings of Council and those Committees or Sub-Committees to which they are appointed for the full duration of the meeting unless they have submitted an apology or obtained a leave of absence in advance for non-attendance. Elected Members will abide by the Council's Standing Orders for meetings:

4.1 Subcommittees (including Working Parties)

From time-to-time, subcommittees and/or working parties will be established by the Council to achieve specific outcomes. Elected Members 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, unless they have submitted an apology or obtained a leave of absence for non-attendance.

4.2 Outside organisations

The Council has close relationships with a number of outside organisations and may appoint Elected Members 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.

4.3 Civic events and functions

Elected Members 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.

4.4 Chairmanships

Elected Members who are Chairpersons of Standing Committees are required to chair at Standing Committee meetings, be the spokesperson for the Standing Committee, and perform other tasks as may be required. The powers of the Chairperson at meetings are outlined in Standing Orders.

5. ELIGIBILITY OF ELECTED MEMBERS

In the following circumstances Elected Members shall not be eligible to perform all their duties and responsibilities and are either automatically disqualified from office or restricted in their duties and responsibilities, as follows:

5.1 Conviction

Elected Members are automatically disqualified from office if they:

- are convicted of a criminal offence punishable by two or more years imprisonment; or,
- if they cease to be or lose their status as an elector under the Electoral Act 1993; or,
- breach the Local Authorities (Members' Interests) Act 1968.

5.2 Undischarged bankrupt

In terms of Schedule 7, clause 15(5) of the Act the Council has decided that an Elected Member or newly Elected Member must declare whether or not they are an undischarged bankrupt¹. Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgement in general. The Council therefore requires Elected Members who are declared bankrupt to notify the Mayor as soon as practicable after being declared bankrupt.

Note: This does not mean that an undischarged bankrupt is ineligible to serve as an Elected Member. They are eligible. However, Council may wish to limit his/her duties.

5.3 Disqualified director

The Council has also decided that an Elected Member or newly Elected Member must declare whether or not they are a disqualified director². Council believes that being a disqualified director raises questions about the soundness of a person's financial

¹ A bankrupt is someone who has not obtained a final order of discharge or whose order of discharge has been suspended for a term not yet expired, or is subject to a condition not yet fulfilled, or to any order under section 111 of the Insolvency Act 1967.

² A disqualified director is any person who is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under sections 199K, 199L or 199N of the Companies Act 1955 or under sections 382, 383 or 385 of the Companies Act 1993.

management skills and their judgement in general. The Council therefore requires Elected Members who are disqualified directors to notify the Mayor as soon as practicable after being declared a disqualified director.

Note: This does not mean that a disqualified director is ineligible to serve as an Elected Member. They are eligible. However, Council may wish to limit his/her duties.

6. COMPLIANCE AND REVIEW

6.1 Compliance

This Code of Conduct is intended to provide guidance to Elected Members and management in their relationships and the exercising of their functions and duties. It should be read in conjunction with, and does not replace, the obligations set out in the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, and any other act and Council Standing Orders. (See Appendix A for a list of other relevant legislation.)

Note: The Local Government Act 2002 requires Elected Members to comply with their adopted Code of Conduct.

6.2 Review

Once adopted, the Code of Conduct continues in force until amended by Council. The Code can be amended at any time but cannot be revoked unless Council replaces it with another Code. Once adopted, amendments to the Code of Conduct require a resolution supported by 75 per cent or more of the Elected Members of the Council present.

Council will formally review the Code as soon as practicable after the beginning of each triennium. The results of the review will be presented to Council for its consideration and vote.

7. COUNCIL APPROVAL

Proposed that Strategy and Policy adopts this document on 13 December 2007.

8. COMMUNITY BOARDS

Copies of this adopted Code of Conduct will be forwarded to Elected Members of the Waiuku/Awhitu Community Board and Onewhero/Tuakau Community Board with advice that Community Board Members be aware of this Code and how it applies when Community Board representatives attend Council/Committee meetings.

9. AVAILABILITY OF THIS DOCUMENT

This code of conduct will be available for inspection at the Council office at 82 Manukau Road, Pukekohe; the Tuakau Service Centre, 72 George Street, Tuakau; Bookinopolis, Franklin: The Centre, Massey Ave, the Waiuku Service Centre, Cnr King and Constable Roads, Waiuku, during ordinary business hours; and on the Council's website www.franklin.govt.nz

Copies will also be provided to interested members of the community upon request.

Local Government Act 2002

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

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 local authorities and its members. Note: If there is any doubt over the nature of their interest in a matter, the member is encouraged to discuss the situation with the Mayor, prior to the issues being discussed or voted upon.

Local Government Official Information and Meetings Act 1987

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

- access to information by the public on information held by local authorities;
- transparency and accountability in decision-making through providing for public admission to meeting of local authorities (unless there is good reason to restrict public access);
- 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;
- establishes procedures for the achievement of these purposes.

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 Elected Member from office.

Crimes Act 1961

Under this Act it is unlawful for an Elected Member (or officer) to:

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- Accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council.
 - 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 7 years or more. Elected Members convicted of these offences will also be automatically ousted from office.

Securities Act 1978

This Act 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.