



BAY OF PLENTY REGIONAL COUNCIL

ELECTED MEMBERS CODE OF CONDUCT

November 2010

1 PURPOSE

The Bay of Plenty Regional Council is a local authority under the Local Government Act (LGA) 2002. Section 15 of Part 1, Schedule 7 of the LGA requires a Local Authority to adopt a Code of Conduct. This Code of Conduct sets out principles of good conduct and standards of behaviour expected of the Elected Members of the Bay of Plenty Regional Council.

Elected Members of the Bay of Plenty Regional Council must comply with these principles and standards when carrying out their roles and functions as elected community representatives.

2 DECISION-MAKING IN RELATION TO CODE OF CONDUCT

Council has developed this code as required by Section 15 of Part 1 of Schedule 7 of the Local Government Act 2002. This code may be amended or replaced at a meeting of the full Council, provided that the motion to amend or replace, duly moved and seconded, receives a vote in support of not less than 75% of the members present. The Code of Conduct cannot be revoked without replacement.

3 GENERAL PRINCIPLES OF BEHAVIOUR

Elected Members represent the public and are accountable to the electors of the region. 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 must act in a fair, honest and proper manner by:

- 3.1.1 acting in accordance with legislation;
- 3.1.2 undertaking all actions in good faith and not for improper or ulterior motive; and
- 3.1.3 not making improper use of information acquired or of their position as an Elected Member.

3.2 Care and diligence in performing their duties

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

- 3.2.1 equitably 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 decision;
- 3.2.3 undertaking judicial or quasi judicial aspects of their work in accordance with natural justice principles;
- 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**

As community leaders, 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 open in dealing with all members of the community;
- 3.3.2 behaving in a courteous and even-handed manner;
- 3.3.3 not misusing their positions to gain an advantage for themselves or anyone else;
- 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; and
- 3.3.5 not soliciting, demanding or requesting any gift or benefit for themselves or anyone else.

3.4 **Relationship with staff**

Elected Members in their relationships with staff 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, they will do this by:

- 3.4.1 showing staff courtesy and respect;
- 3.4.2 giving appropriate weight to staff professional opinion and expertise; and
- 3.4.3 complying with the principles of the Council's Equal Opportunity Policy.

Note: The Chief Executive has the responsibility of ensuring that this team approach is reciprocated by staff.

3.5 **Representing the Council**

When representing the Council in the community or at meetings of joint committees, 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 the Council.

3.6 **Relationship between Elected Members**

Members will establish a working relationship with fellow Members that maintain public confidence and achieves the best possible outcomes for the community, by:

- 3.6.1 demonstrating courtesy towards and respect for their fellow Elected Members; 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 or 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; and
- 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 authorised by the Council as spokesperson to convey a particular position to the media (refer clause 4.6 as to the role of Committee Chairpersons).

3.8 Confidentiality of information

During the course of the business of Council, an Elected 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

4.1 Portfolio of responsibilities

The duties accepted by Elected Members when standing for office include membership of and required attendance at some, but not all, meetings. The mix of Standing Committees, Subcommittees, Working Parties and other responsibilities that each member is allocated by the Chairperson after consultation with the Elected Member, will comprise their initial “portfolio”.

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. Elected Members will abide by the Council’s standing orders for meetings.

4.2 Council Meetings, Workshops and Hearings

All Elected Members are expected to attend full council meetings, full council workshops and certain hearings. Council hearings include those which are held as part of the consultation process on council documents such as the Annual Plan and Long Term Council Community Plan, for which the full council meets as a hearing committee, but not plan hearings or resource consent application hearings.

4.3 Standing Committees

The Chairperson will consult with Elected Members as to which standing committees they are to be appointed to and Elected Members are expected to attend meetings and workshops of those standing committees that they have been appointed to.

4.4 Subcommittees and Working Parties

From time to time subcommittees and working parties will be established by the Council or by a Standing Committee to achieve specific outcomes. Elected Members should make themselves available to be appointed to 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 Elected Members to positions on joint committees with these organisations. In some cases, in addition to attendance at joint committee meetings, this may require attendance at meetings of the outside organisation. The requirements for each joint committee or outside organisation will be specified in the Elected Member's individual portfolio of responsibilities.

4.6 Committee Chairpersons' Role

Elected Members 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 Standing Orders.

4.7 Appointment to Hearings and Conflicts of Interest

Any Elected Members may be appointed to be Chairperson or a member of a Plan Hearing Committee or, subject to section 39B of the Resource Management Act, be appointed to be Chairperson or a member of a Resource Consent Application or Plan Change Request Hearing Committee. Elected Members nominated for any such appointments must consider and resolve any actual or perceived conflicts of interest before accepting appointment.

5 COMPLIANCE

While a breach of the Code of Conduct does not constitute an offence under the Local Government Act 2002, Clause 15 (4) of Schedule 7 of the Act states that, "a member of a local authority must comply with the Code of Conduct of that local authority".

Where an Elected Member is found to have breached this code of conduct Council will consider what sanctions are available and whether they should be applied.

6 RELATIONSHIP BETWEEN THE CODE OF CONDUCT AND OTHER LEGISLATION

This Code of Conduct does not apply to the extent that specific legislation governs a matter. Specific legislation includes:

6.1 Local Government Act 2002

Much of the work of Elected Members is done at meetings of the Council and its committees and subcommittees. Schedule 7, Clause 27 of this Act sets out the requirement for a local authority to adopt a set of Standing Orders which provide for the standard of conduct expected of a member at its meetings and those of its committees. Schedule 7, Clause 16 provides that a member must abide by the Standing Orders, and may be required to leave a meeting if a ruling is made under the Standing Orders.

Schedule 7 Clauses 6 to 13 of this Act provide for the determination of the remuneration of Elected Members by the Remuneration Authority (RA). The RA, from time to time, sets the overall pool from which remuneration is paid and approves specific annual and, where appropriate, daily or hourly rates, and approves expense reimbursement and vehicle mileage rules. When seeking reimbursement of such expenses, Elected Members are required to provide a signed declaration as to compliance with the relevant rules and policies.

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 any question in which they have a (direct or indirect) pecuniary interest, other than an interest in common with the public. Indirect interest may be through a spouse, partner, or company. "Pecuniary interest" is not defined, but the Audit Office test is:

"whether, if the matter were dealt with in a particular way, discussing or voting on the matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned".¹

If an elected member or a member of a committee has a pecuniary or non-pecuniary interest, they are required to complete and submit a declaration listing specific personal interests. Council passed a resolution on 15 October 2009 that:

1. *Each member of the Council completes an Interests Register form and returns the completed form to Group Manger, Corporate Services at a specified time.*
2. *A 'nil' return form must be submitted by those Councillors who have not interests to declare.*
3. *Each return is compiled to complete an Interests Register and that this becomes an appendix to the Councils Code of Conduct document.*
4. *The Interests Register is reviewed every six months.*

Section 3 of this Act provides for restrictions on contracts between the Council and its Elected Members. An Elected Member may be disqualified from office who (directly or indirectly) is concerned or interested in contracts with the council under which the total payments made, or to be made, by or on behalf of the council exceed \$25,000 in any financial year. However, a number of exceptions and exemptions exist. As well, approval to exceed the \$25,000 limit can be sought on behalf of the Elected Member, before the event, by the Council from the Audit Office. The Audit Office has limited ability to grant retrospective approval.

In these matters the onus is on the Elected Member. The Audit Office may be contacted for guidance. If there is any doubt over the nature of their interest in a matter, the Elected Member is encouraged to discuss the situation with the Chief Executive, prior to the issue being discussed or voted upon. For further information refer to the 'Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968'.

¹ Controller and Auditor-General (2010) Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968 – Good practice guide, Part 3 – p.19

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

This Act obliges Councils to make official information available unless there is good reason to withhold it. It provides for:

- access by members of the public to information held by the Council, including information on themselves;
- transparency and accountability in decision-making through providing for public awareness of, and admission to, meetings of local authorities (unless there is good reason to restrict public admission);
- the protection of official information held by local authorities and the deliberations of local authorities where it is in the public interest, and/or commercial or personal privacy needs to be preserved; and
- procedures for the achievement of these purposes.

The grounds for withholding information are generally set out in section 7 of this Act. The Act is binding on Elected Members and applies to disclosures made to the public by them of any information held in their capacity as an Elected Member. It does not limit disclosures to the Council in accordance with the requirements of this Code of Conduct.

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 be fined up to \$1000, or both. A conviction would trigger the ouster provisions (Clause 1 of Schedule 7 of the Local Government Act 2002) and result in the removal of the Elected Member from office.

6.5 **Crimes Act 1961**

Under this Act it is unlawful for an Elected Member 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.
- 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 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 **AVAILABILITY OF THE CODE OF CONDUCT**

This Code is available for inspection at the Council's offices during ordinary business hours and at Council's website www.envbop.govt.nz

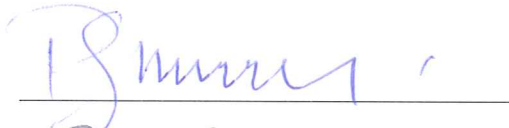
Copies will also be provided to interested members of the community upon request and the Code is described in the Council's Governance Statement.

8 **SIGNATURES OF ELECTED MEMBERS**

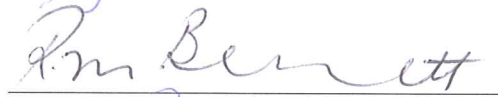
Chairman John Cronin



Deputy Chairman Philip Sherry



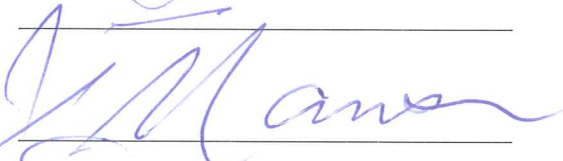
Councillor Raewyn Bennett



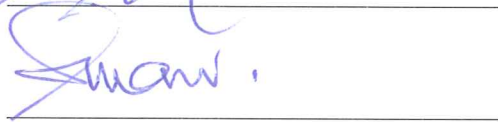
Councillor Tai Eru



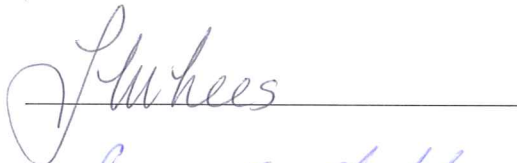
Councillor Jim Mansell



Councillor Tiipene Marr



Councillor Jane Nees



Councillor Ian Noble



Councillor Neil Oppatt



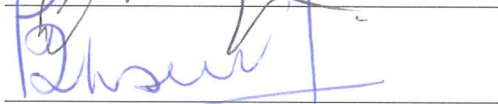
Councillor Douglas Owens



Councillor Paula Thompson



Councillor Lyall Thurston



Councillor Malcolm Whitaker

