

Greater Wellington Regional Council

Code of Conduct for Elected Members

Adopted by Council on [insert date]

Contents

1.	Introduction	3
2.	Roles and responsibilities	6
	2.1 Elected members	6
	2.2 Chairperson	7
	2.3 Deputy Chairperson	8
	2.4 Committee chairpersons	8
	2.5 Committee deputy chairpersons	8
	2.6 Chief Executive	8
3.	Relationships and behaviours	10
	3.1 Relationships with other members	10
	3.2 Relationships with staff	10
	3.3 Relationships with the community	11
	3.4 Contact with the media	11
	3.5 Confidential information	12
	3.6 Conflicts of interest	13
	3.7 Conduct in meetings	15
	3.8 Ethics	15
	3.9 Gifts	15
	3.10 Opportunities to build relationships	16
	3.11 Disqualification of members from office	17
4.	Compliance and Review	18
	4.1 Compliance	18
	4.2 Breaches of statutory provisions	19
	4.3 Review	19
	4.4 Availability of code	19
	Appendix: legislation bearing on the role and conduct of elected members	20
	Local Authority (Members' Interests) Act 1968	20
	Local Government Official Information and Meetings Act 1987	20
	Secret Commissions Act 1910	21
	Crimes Act 1961	21

1. Introduction

Schedule 7 of the Local Government Act 2002 requires the Greater Wellington Regional Council (Council) to adopt a code of conduct. This code of conduct (code) provides guidance on the standards of behaviour that are expected from the elected members of the Council. It applies to elected members in their dealings with:

- each other
- the Chief Executive
- all staff employed by the Chief Executive on behalf of the Council
- the media
- the general public.

Except where it is contrary to any agreement or requirement of law, this code also applies to all persons who are appointed to any Council committee, sub-committee or council controlled organisation.

The code sits alongside Greater Wellington's Standing Orders. The Standing Orders set out the procedures to be followed for the conduct of meetings of the Council and those of its committees.

The objective of the code is to enhance:

- the effectiveness of the Council as an autonomous local authority with statutory responsibilities
- good governance
- the credibility and accountability of the Council within its community
- mutual trust, respect and tolerance among elected members, and between elected members, the Chief Executive and staff.

This code seeks to achieve its objectives by recording:

- an agreed statement of roles and responsibilities (recorded in part two of the code)
- agreed general principles of conduct (recorded in part three of the code)
- specific codes of conduct applying to particular circumstances or matters (also recorded in part three of the code).

Elected members are primarily accountable to the electors of the region through the democratic process. However councillors must note that the Auditor-General may hold them to account for unlawful actions or expenditure, or for breaches of the Local Authorities (Members' Interests) Act 1968.

The code that follows is based on the following general principles of good governance:

- **Regional focus** - Members must exercise their powers and duties in the best interests of the region as a whole, not the constituency that elected them.
- **Representation** - Members have a responsibility to represent the aspirations of their community.
- **Public interest** - Members should never improperly confer an advantage or disadvantage on any one person, organisation or class of persons.
- **Honesty and integrity** - Members 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** - Members should make decisions on merit, including making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability** - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with the scrutiny appropriate to their particular office.
- **Openness** - Members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions.
- **Personal judgement** - Members 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** - Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect and encourage the impartiality and integrity of Council staff.
- **Duty to uphold the law** - Members must uphold the law, and on all occasions act in accordance with the trust the public places in them.

- **Stewardship** - Members must ensure that the Council uses resources prudently and for lawful purposes, and that it maintains sufficient resources to meet its statutory obligations.
- **Leadership** - Members are leaders in their community and must at all times provide leadership by example.

These general principles of good governance should be read in conjunction with the principles relating to local authorities set out in section 14 and the governance principles in section 39 of the Local Government Act 2002.

DRAFT

2. Roles and responsibilities

This part of the code describes the roles and responsibilities of elected members, the additional roles of the Chairperson and Deputy Chairperson, and the role of the Chief Executive.

2.1 Elected members

Members, acting together as the Council, are responsible for:

- the development and adoption of Council policy
- monitoring the performance of the Council against its stated objectives and policies
- prudent stewardship of Council resources
- employment of the Chief Executive
- representing the interests of the residents and ratepayers of the entire Wellington region.

Unless otherwise provided in the Local Government Act 2002 or in Standing Orders, the Council can only act by majority decisions at meetings. Each member, other than the Chairperson, has one vote. The Chairperson has a deliberative vote, and in the case of an equality of votes, a casting vote.

No individual member (including the Chairperson) has authority to act on behalf of the Council unless the Council has expressly delegated such authority.

As individuals, members are responsible for:

- making themselves familiar with this code and the Standing Orders
- making themselves as knowledgeable as possible about the activities and processes of the Council, and the physical and social environment in which it operates
- ensuring that on a regular and timely basis the community and other stakeholders are fully and honestly informed of all material matters relating to the Council's business
- preparing for and attending meetings, whether of Council itself or of Council's committees; and
- making themselves available to attend external meetings and forums on behalf of the Council.

Any member who will be unavailable to attend more than two consecutive ordinary meetings of the Council by virtue of being on leave of absence for personal reasons shall discuss their leave with the Chairperson. The Chairperson shall decide if it is appropriate for the Council to consider if that member should take “leave without pay”. If so, the matter will be reported to the Council for a decision.

Under the Local Government Act 2002, an elected member who is absent without leave of the local authority from four consecutive meetings (other than extraordinary meetings) of the local authority is deemed to have vacated office.

2.2 Chairperson

The Chairperson is elected by members of Council at the first meeting following the triennial election. As one of the elected members the Chairperson shares the same responsibilities as other members of Council. The Chairperson has the following additional roles as a:

- presiding councillor at Council meetings. The Chairperson is responsible for ensuring the orderly conduct of business during Council meetings (as determined in Standing Orders) and may exercise a casting vote, if required.
- providing leadership on behalf of the community when appropriate. This role may involve promoting the community and representing its interests. Such leadership will be most effective where it is carried out with the knowledge and support of the Council
- ceremonial head of Council
- providing leadership and feedback to other members on teamwork and chairing of committees
- Justice of the Peace (while the Chairperson holds office).

The Chairperson is obliged to follow the same rules as other members with respect to making public statements and committing the Council to a particular course of action. The Chairperson may be removed from office by resolution of Council.

If the Chairperson is unavailable to attend more than two consecutive ordinary meetings of the Council by virtue of being on leave of absence for personal reasons the Chief Executive will report that leave to the Council who shall decide if the Chairperson should take “leave without pay”.

2.3 Deputy Chairperson

The Deputy Chairperson must be elected by the members of Council at the first meeting following the triennial election. The Deputy Chairperson exercises the same roles as other members, and if the Chairperson is absent or incapacitated, the Deputy Chairperson must perform all of the responsibilities and duties, and may exercise the powers, of the Chairperson (as summarised above). The Deputy Chairperson may be removed from office by resolution of Council.

2.4 Committee chairpersons

The Council may create one or more committees of Council. A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by Council, and as set out in the committee's terms of reference and recorded in Greater Wellington's *Delegations Manual*. Except in the case of the Wellington Regional Strategy Committee and the Regional Transport Committee, a committee chairperson has a casting vote in the case of an equality of deliberative votes. Committee chairpersons may be called on to act as official spokespersons on particular issues. They may be removed from office by resolution of Council.

2.5 Committee deputy chairpersons

A committee deputy chairperson exercises the same role as other committee members, and if the committee chairperson is absent or incapacitated, the deputy committee chairperson must perform all of the responsibilities and duties, and may exercise the powers of the committee chairperson (as summarised above).

2.6 Chief Executive

The Chief Executive is the only employee of the Council and the employer of all staff on behalf of the Council.

The Chief Executive is appointed by the Council in accordance with section 42 of the Local Government Act 2002. The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council. In terms of section 42 of the Act, the responsibilities of the Chief Executive are:

- implementing the decisions of Council
- providing advice to Council
- ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw and are properly performed or exercised

- managing the activities of the Council effectively and efficiently
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council
- providing leadership for the staff of the Council; and
- employing staff on behalf of Council.

DRAFT

3. Relationships and behaviours

This part of the code sets out the Council's agreed standards of behaviour. Some of the matters described in this part of the code reflect other legislation such as the Local Authorities (Members' Interests) Act 1968.

3.1 Relationships with other members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind members will conduct their dealings with each other 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; and
- avoid aggressive, offensive or abusive conduct.

3.2 Relationships with staff

The effective performance of the Council also requires a high level of co-operation and mutual respect between councillors and staff. To ensure that level of co-operation and trust is maintained, members will:

- recognise that the Chief Executive is the employer (on behalf of Council) of all Council employees, and only the Chief Executive may hire, dismiss or instruct or censure an employee
- inform themselves of the obligations that the Chief Executive and the Council 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 employees
- avoid anything which compromises, or could be seen as compromising, the impartiality of an employee
- avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Chairperson or Deputy Chairperson
- recognise that individual staff will have particular expertise or experience, and that it is appropriate to refer to them for advice.

Members should be aware that failure to observe this portion of the code may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and audit sanctions.

3.3 Relationships with the community

Effective Council decision-making depends on productive relationships between members and the community at large. Members should ensure that individual citizens are accorded respect in their dealings with the Council, have their concerns listened to, and deliberated on in accordance with the requirements of the Local Government Act 2002. Members should act in a manner that encourages and values community involvement in local democracy.

From time to time, individuals or organisations will approach members for advice or comment on issues that are topical or are relevant to particular interest individuals or groups within the community. Members should seek appropriate advice from the Chief Executive or staff before commenting on operational matters or issues that call for particular technical or legal expertise.

3.4 Contact with the media

The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely and relevant information about the affairs of Council. From time to time, individual members will be approached to comment on a particular issue either on behalf of Council, or as a member in their own right, or as a community leader. This part of the code deals with the rights and duties of members when speaking to the media on behalf of the Council, or in their own right.

The following rules apply for media contact on behalf of the Council:

- The Chairperson or the chairperson of the relevant committee is the first point of contact for the Council's official view on any issue. Where the Chairperson or committee chairperson is absent, any matters will be referred to relevant deputy chairperson.
- The Chairperson may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment.
- Members are free to express a personal view in the media, at any time, provided the following rules are observed:
 - Media comments must not state or imply that they represent the views of the Council. In expressing a personal view, the member should make it clear that they are not speaking on behalf of the Council.

- Where a member is making a statement that is contrary to a Council decision or Council policy, the member should make this explicit and must not state or imply that their statements represent a majority view.
- Media comments must observe the other requirements of the code, e.g. not disclosing confidential information, or compromising the impartiality or integrity of Council officers.

Particular care should be taken when commenting on matters currently under negotiation (so as not to compromise the Council's position) or on any matter that may come before the Council for a decision (e.g. a resource consent or a particular transport proposal).

Greater Wellington's Communications Strategy is based on an objective of "no surprises". Members dealing with the media should notify the Chairperson, Chief Executive or appropriate manager as soon as possible after media contact is made. This ensures that an issue can be monitored and appropriate support provided to members acting in a spokesperson role. This is particularly important if members are responding to an issue that may be controversial or sensitive.

Members are encouraged to make themselves familiar with the provisions of Greater Wellington's Community Engagement Strategy and particularly the Communications Strategy, with its associated policies and procedures.

3.5 Confidential information

In the course of their duties members will occasionally receive information that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member. Members should be aware that failure to observe these provisions will impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose Council to investigation under the Ombudsmen Act 1975, the Privacy Act 1993 and/or civil litigation.

3.6 Conflicts of interest

Members must be careful that they maintain a clear separation between their personal interests and their duties as a member. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived). The following is a summary of the rules surrounding financial and non-financial conflicts of interest. Members should also refer to the Auditor-General's *Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968: October 2010*.

3.6.1 Financial conflicts of interest

In local government, financial conflicts of interest are governed primarily by the Local Authorities (Members' Interests) Act 1968. That Act provides that a member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 (including GST) in any financial year. Additionally, members are prohibited from participating in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public.

The same rules also apply where the member's spouse or partner contracts with the authority or has a pecuniary interest. It is a statutory requirement that members declare their interests at Council meetings where matters in which they have a pecuniary interest arise.

If a member has a financial conflict of interest in a matter before the Council the member must:

- declare to the meeting the existence of a pecuniary interest when the matter comes up at the meeting
- ensure that the declaration is recorded in the meeting minutes
- refrain from discussing and voting on the matter (it is good practice, and recommended, that the member leave the meeting for the discussion and voting on the matter).

In addition, members shall annually make a general declaration of interest. These declarations are recorded in a register of interests maintained by Council and disclosed in the Annual Report. The declaration must notify the Council of:

- any organisations of which a member or close family member is a director, officer, trustee, administrator, partner, member, sole proprietor, or significant shareholder or participant in a profit-sharing arrangement; and which engaged in any financial or business transactions with the Council and/or its associated/subsidiary entities
- the nature of the transaction declared above, for example, purchases and sales of goods, leases or transfers under financial arrangements; as well as

the details about the transaction, including, the amount of the transactions and the amount of outstanding balances.

If the member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek advice immediately. The Chief Executive is available to facilitate the provision of confidential and independent legal advice to members, if requested.

A member may also contact the Office of the Auditor-General for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member may seek an exemption from the Office of the Auditor-General to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive (on behalf of the Council) must also seek approval from the Office of the Auditor-General for contractual payments to members, their spouse or partners or their companies that exceed the \$25,000 annual limit prior to any contractual commitment being entered into.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by Council. Failure to observe these requirements could also leave the member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction members can be ousted from office.

3.6.2 Non-financial conflicts of interest

While the Local Authority (Members' Interests) Act 1968 deals with pecuniary interests, there are also legal rules about conflicts of interest, more generally, which apply to non-pecuniary conflicts of interest. Of key significance is the matter of bias – this is not limited to actual bias, but also relates to the appearance or possibility of bias. Situations of non-pecuniary bias commonly involve predetermination of a matter before hearing all relevant information or a close relationship or involvement with an individual or an organisation affected by the matter. Guidance on the laws on conflict of interest is contained in the Controller and Auditor-General's publication *Guidance for members of local authorities about the Local Authorities (Members' Interests) Act 1968: October 2010*.

If a member has a non-financial conflict of interest in a matter before the Council the member should:

- declare that he/she has a conflict of interest when the matter comes up at the meeting
- ensure that the declaration is recorded in the minutes

- refrain from discussing or voting on the matter (it is good practice, and recommended, that the member leave the meeting for the discussion and voting on the matter).

3.7 Conduct in meetings

Members must adhere to any Standing Orders adopted by Council under the Local Government Act 2002. These Standing Orders are subject to the same legal requirements as a code of conduct with regard to their adoption and amendment.

Of particular importance for the roles and conduct of members is the fact that the chairperson has the responsibility to maintain order at meetings, but all members should accept a personal responsibility to maintain acceptable standards of address and debate. No member should:

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

Members will conduct themselves in meetings in a manner that is appropriate and takes cognisance of the interests of other members and members of the public who are in attendance at the meeting. They will not, for example, accept calls on a cellular telephone, or send or access electronic messages, during a meeting.

3.8 Ethics

The Council seeks to promote the highest standards of ethical conduct amongst its members. Accordingly, members will:

- claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of Council developed in accordance with that determination
- not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests; and
- not use Council resources for personal business (including campaigning).

3.9 Gifts

To accept or give gifts, certain entertainment or any material benefits could be seen by the community as a means of seeking to influence the decision of the recipient (whether or not the recipient is a member or an organisation with which the Council has a relationship).

Under the Council's Sensitive Expenditure Policy for Elected Members (adopted by Council in November 2010), the following principles apply to the receiving of gifts:

- Gifts may be accepted by the Council as an organisation, except when acceptance could be perceived as a means of influencing a Council decision-making process.
- All gifts are the property of the Council, as an organisation, and the Chief Executive must be advised of the gift, except where individual elected members are given infrequent, inexpensive gifts such as pens, badges, or calendars.
- Gifts with an estimated value of over \$150 (GST incl.) must be recorded in the Council's Gifts and Invitations Register and forwarded to the Chief Executive who will determine how they should be used or distributed.
- Where it is necessary, in the circumstances, to decline a gift, the following steps should be taken in order to preserve the relevant working relationships of the Council and the person or organisation involved:
 - thank the person or organisation for the gesture of the gift and acknowledge the Council's appreciation
 - explain that due to the Council's policy, the gift cannot be accepted; and
 - advise that you are not the only person who has had to respectfully decline a gift as a result of this policy. Other colleagues are in the same situation.

In no circumstances should an elected member accept cash, or solicit a gift by virtue of their position.

3.10 Opportunities to build relationships

Members will, on many occasions, be invited to attend events of a social nature in order that they might be able to "network" and build appropriate business relationships.

Members make their own decisions on whether to accept invitations. In making their decision members must be aware of the line between appropriate relationship building and compromise and should consult the Chief Executive in cases of doubt as to whether to accept an invitation to an event.

The decision to accept an invitation requires consideration of whether attendance would:

- Benefit a business relationship of the Council; and
- Maintain impartiality and integrity (i.e. not be perceived as a means of influencing a Council decision-making process).

Members should keep a record of invitations received and their acceptance or otherwise.

3.11 Disqualification of members from office

Members are automatically disqualified from office if they are convicted of an offence punishable by two or more years' imprisonment, if they cease to be or lose their status as an elector, or for certain breaches of the Local Authorities (Members' Interests) Act 1968.

Under the Local Government Act 2002, local authorities, when adopting a code, must consider whether to require members to declare whether they are an undischarged bankrupt. This Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgment in general. The Council therefore requires members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

4. Compliance and Review

This part deals with ensuring that members adhere to the code and mechanisms for the review of the code.

4.1 Compliance

Members must comply with this code. Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members. Short explanations of the obligations that each of these Acts has with respect to conduct of elected members is attached in the Appendix to this code.

In the interest of facilitating early and constructive resolution of alleged breaches by a member of the code, issues should be raised and resolved at the lowest possible level. If such informal steps do not resolve the alleged breach (and there is not a process and penalty provided elsewhere) the matter shall be reported in a timely manner to the Chairperson. The allegation of the breach of the code must be in writing, specific, and provide corroborating evidence. If the Chairperson considers there is a significant unresolved issue, the Chairperson shall determine the approach to the investigation of the complaint. The Chairperson may opt to investigate the complaint themselves or to convene a panel which may comprise elected members and/or one or more independent expert persons.

Where a complaint is lodged against the Chairperson the Deputy Chairperson shall be responsible for the investigation of the complaint and will follow the process outlined in this section.

Where a councillor has lodged a complaint for consideration, that person shall not be involved in the investigation, except as a witness.

The Chairperson will ensure that the alleged breach is investigated in a manner that is fair to all parties involved in the allegation, including notifying in writing the elected member(s) who is the subject of the complaint of the allegation and explaining when and how they will get an opportunity to put forward their version of events. If, following the opportunity to respond to the allegation, it is considered that the allegation of a breach of the code is well-founded, the Chairperson or any panel convened by the Chairperson will

prepare a report for consideration of the Council so that it can determine whether to take any appropriate lawful action, such as censure.

The Council will consider the report in an open meeting of the Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

4.2 Breaches of statutory provisions

Where there are statutory provisions:

- breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authorities (Members' Interests) Act 1968.
- breaches which result in the Council incurring a loss may be reported on by the Auditor-General under the Local Government Act 2002, with copies of the report sent to the Minister and every member of the Council. The Council must respond to the report, and both the report and the response must be tabled in a meeting that is open to the public. Such breaches may result in the member (and/or each member of the Council) having to pay the Crown the amount of the loss.
- breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

In these cases the Council may refer an issue to the relevant body, any member of the public may make a complaint, or the body itself may take action of its own initiative.

4.3 Review

Once adopted, a code continues in force until amended by Council. The code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the code of the conduct require a resolution supported by 75 per cent or more of the members of the Council present. The code will be reviewed as soon as practicable after the beginning of each triennium. The results of that review will be presented to Council for its consideration and vote.

4.4 Availability of code

The code will be available for inspection at the Council's office at 142 Wakefield Street during ordinary business hours and at the Council's website www.gw.govt.nz. Copies are available on request.

Appendix: legislation bearing on the role and conduct of elected members

This is a brief outline of the legislation requirements that have some bearing on the duties and conduct of elected members. Copies of these statutes can be found in the Council library or may be requested through Democratic Services.

Local Authority (Members' Interests) Act 1968

This Act regulates situations where a member's personal interests impinge, or could be seen as impinging on their duties as a councillor. The Act provides that a member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 (GST incl.) in any financial year.

Additionally, members are prohibited from participating in any Council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse or partner contracts with the authority or has a pecuniary interest.

Members may contact the Audit Office for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouse or partners or their companies that exceed the \$25,000 annual limit. Failure to observe these requirements could also leave the member open to prosecution under the Local Authority (Members' Interests) Act 1968. In the event of a conviction councillors can be ousted from office.

Local Government Official Information and Meetings Act 1987

Official Information

The Local Government Official Information and Meetings Act 1987 (LGOIMA) contains rules relating to the disclosure of information held by a local authority to a member of 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 section 7 of the Act.

The obligations of LGOIMA are binding on members. Any information held by that member (in his or her capacity as member) is deemed to be official information and is subject to LGOIMA. It covers information held by councillors in their official capacity regardless of the means by which that information is stored, for instance, on a home computer.

Meetings

- LGOIMA also regulates the procedures and requirements of Council meetings, including the publication of agenda, procedures for discussion with the public excluded and access by the public to the minutes of meetings (specified further in the Standing Orders).

Secret Commissions Act 1910

Under this Act it is unlawful for a member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to 2 years, or fined up to \$1000, or both.

Crimes Act 1961

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

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council
- 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.

Securities Act 1978

The Securities Act 1978 essentially places members in the same position as company directors whenever Council offers stock to the public. 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.

For more information, contact Greater Wellington:

Democratic Services
PO Box 11646
Manners Street
Wellington 6142
T 04 384 5708
F 04 385 6960

[insert updated publication number]
September 2011

www.gw.govt.nz

DRAFT