



Otorohanga

District Council

*Otorohanga - where kiwi can fly
A dynamic, inclusive and unique district*

OPEN AGENDA

Notice is hereby given that an ordinary meeting of the Otorohanga Community Board will be held in the Council Chambers, Otorohanga District Council, 17 Maniapoto Street, Otorohanga on Monday, 5 December 2022 commencing at 4.00pm.

Tanya Winter
CHIEF EXECUTIVE

25 November 2022

Otorohanga Community Board

Community Board Member	Kat Brown-Merrin
Community Board Member	Peter Coventry
Community Board Member	Jo Butcher
Community Board Member	Tori Muller
Otorohanga Ward Councillor	Steve Hughes
Otorohanga Ward Councillor	Katrina Christison

Quorum: A majority of members (including any vacancies)

Meeting frequency: Monthly or as required

All attendees at this meeting are advised that the meeting will be electronically recorded (audio and video) for the purpose of webcasting to the Council's YouTube channel. Every care will be taken to maintain individuals' privacy; however, attendees are advised they may be recorded as part of the general meeting proceedings.

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PLEASE NOTE

The reports attached to this Open Agenda set out recommendations and suggested resolutions only. Those recommendations and suggested resolutions DO NOT represent Ōtorohanga Community Board policy until such time as they might be adopted by formal resolution. This Open Agenda may be subject to amendment either by the addition or withdrawal of items contained therein.

COMMENCEMENT OF MEETING

The Chairperson will declare the meeting open.

APOLOGIES

A member who does not have leave of absence may tender an apology should they be absent from all or part of a meeting. The meeting may accept or decline any apologies. For clarification, the acceptance of a member’s apology constitutes a grant of ‘leave of absence’ for that specific meeting(s).

An apology for non-attendance has been received from Board Member Coventry.

Staff recommendation

That Ōtorohanga Community Board receive and accept the apology from Board Member Peter Coventry for non-attendance.

LATE ITEMS

Items not on the agenda for the meeting require a resolution under section 46A of the Local Government Official Information and Meetings Act 1987 stating the reasons why the item was not on the agenda and why it cannot be dealt with at a subsequent meeting on the basis of a full agenda item. It is important to note that late items can only be dealt with when special circumstances exist and not as a means of avoiding or frustrating the requirements in the Act relating to notice, agendas, agenda format and content.

Should a late item be raised, the following recommendation is made:

That Ōtorohanga Community Board accept the late item ... due to ...

Should the Board resolve to discuss a late item, the following recommendation is made:

That Ōtorohanga Community Board confirm the order of the meeting as indicated in the agenda with the late item ... to be heard ...

DECLARATION OF CONFLICTS OF INTEREST

Members are reminded to stand aside from decision making when a conflict arises between their role as an elected member and any private or external interest they may have.

Should any conflicts be declared the following recommendation is made:

That Ōtorohanga Community Board receive the declaration of a conflict of interest from ... for item ... and direct the conflict to be recorded in Council’s Conflicts of Interest Register.

PUBLIC FORUM

*Public forums are designed to enable members of the public to bring matters, not necessarily on the meeting's agenda, to the attention of the local authority. Requests to attend the public forum must be to the Manager Governance (governance@otodc.govt.nz) at least **two working days before the meeting**. Requests should outline the matters that will be addressed by the speaker. A period of up to 30 minutes will be available for the public forum.*

Speakers can speak for up to five (5) minutes. No more than two speakers can speak on behalf of an organisation during a public forum. At the conclusion of the presentation elected members may ask questions of speakers. Questions are to be confined to obtaining information or clarification on matters raised by a speaker. Following the public forum, no debate or decisions will be made at the meeting on issues raised during the forum unless related to items already on the agenda.

At the finalisation of this agenda, no requests had been received.

CONFIRMATION OF MINUTES – ŌTOROHANGA COMMUNITY BOARD – 2 NOVEMBER 2022

The unconfirmed minutes of the previous Board meeting are attached on the following page.

Staff recommendation

That the open minutes of the Ōtorohanga Community Board meeting held on 2 November 2022, having been circulated, be taken as read and confirmed as a true and correct record of that meeting.



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OPEN MINUTES

Minutes of the Inaugural meeting of the Ōtorohanga Community Board held in the Council Chambers, Ōtorohanga District Council, 17 Maniapoto Street, Ōtorohanga on Wednesday, 2 November 2022 commencing at 2.49pm.

Tanya Winter
CHIEF EXECUTIVE

17 November 2022

Ōtorohanga Community Board

Community Board Member	Kat Brown-Merrin
Community Board Member	Peter Coventry
Community Board Member	Jo Butcher
Community Board Member	Tori Muller
Ōtorohanga Ward Councillor	To be appointed
Ōtorohanga Ward Councillor	To be appointed

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No reports	
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Present

His Worship the Mayor M Baxter, Councillors K Christison and S Hughes, Community Board Members K Brown-Merrin, P Coventry, J Butcher and T Muller.

In attendance

G Bunn (Acting Chief Executive and Group Manager Business Enablement) and K King (Manager Governance).

COMMENCEMENT OF MEETING

His Worship the Mayor declared the meeting open at 2.49pm following the pōwhiri process.

OPENING PRAYER - KARAKIA TIMATANGA

Council's Kaitakawaenga – Iwi Relations Advisor, C Temese provided the opening karakia.

APOLOGIES - TONO AROHA

There were no apologies as all members were present.

MAKING AND ATTESTING OF DECLARATION OF COMMUNITY BOARD MEMBERS ELECT

His Worship the Mayor invited the community board members elect to make their declarations individually.

PROCESS OF ELECTING A CHAIRPERSON

His Worship the Mayor, M Baxter advised the community board must select System A or System B to elect its chairperson and deputy chairperson and outlined the two systems.

RESOLVED O1: That Ōtorohanga Community Board selects System B from Schedule 7, clause 25 of the Local Government Act 2002 to elect its chairperson and deputy chairperson.

Board Member Butcher | Board Member Coventry

ELECTION OF A CHAIRPERSON

His Worship the Mayor, M Baxter called for nominations for the role of Chairperson. Board Member J Butcher nominated K Brown-Merrin. No further nominations were received. His Worship declared K Brown-Merrin the Chairperson of the Ōtorohanga Community Board.

The elected chairperson, K Brown-Merrin assumed the role of chairperson for the remainder of the meeting.

ELECTION OF A DEPUTY CHAIRPERSON

Chairperson Brown-Merrin called for nominations for the role of Deputy Chairperson. Board Member Muller nominated P Coventry. No further nominations were received. Chairperson Brown-Merrin declared P Coventry the Deputy Chairperson of the Ōtorohanga Community Board.

ITEM 1: FIXING OF A DATE AND TIME FOR THE FIRST MEETING

The Acting Chief Executive, G Bunn advised of the requirement to fix the date and time of the first meeting of Ōtorohanga District Council for the 2022-25 Triennium.

RESOLVED O2: That Ōtorohanga Community Board confirm the first meeting of the Board for the 2022-25 Triennium to be held on Monday, 5 December 2022 commencing at 4.00pm.

Board Member Muller | Councillor Christison

ITEM 2: GENERAL EXPLANATION OF LAWS AFFECTING ELECTED MEMBERS

The Acting Chief Executive, G Bunn advised of the requirement to fix the date and time of the first meeting of Ōtorohanga Community Board for the 2022-25 Triennium.

RESOLVED O3: That Ōtorohanga Community Board receive the report titled 'General explanation of laws affecting elected members' (document number 658307) from Tanya Winter, Chief Executive.

Deputy Chairperson Coventry | Board Member Butcher

OPENING PRAYER - KARAKIA TIMATANGA

Council's Kaitakawaenga – Iwi Relations Advisor, C Temese provided the closing karakia.

CLOSURE OF MEETING

Chairperson Brown-Merrin declared the meeting closed at 3.05pm.

UNCONFIRMED

ITEM 3: ŌTOROHANGA COMMUNITY BOARD MEETING DATES

TO: THE CHAIRPERSON AND BOARD MEMBERS OF THE ŌTOROHANGA COMMUNITY BOARD

FROM: MANAGER GOVERNANCE

DATE: 5 DECEMBER 2022

Relevant Community Outcomes

Responsible

Connected

United



1 PURPOSE

1.1 To set the Ōtorohanga Community Board meeting dates for the 2023 calendar year.

2 EXECUTIVE SUMMARY

2.1 Council must hold meetings for the good government of the Ōtorohanga District. Every meeting of Council and its committees must be open to the public. Meetings must be called and conducted in accordance with legislation. Items within a meeting may be public excluded in accordance with the relevant legislation.

2.2 The staff recommendation seeks to bring certainty to the Ōtorohanga community of the meeting dates and allow for the required public notices to be lodged in the local newspaper.

3 STAFF RECOMMENDATION

That Ōtorohanga Community Board adopt the meeting schedule to the end of 2023 as follows:

- | | |
|---|-----------------------|
| • Tuesday, 7 February (due to Waitangi Day) | • Monday, 7 August |
| • Monday, 6 March | • Monday, 4 September |
| • Monday, 3 April | • Monday, 2 October |
| • Monday, 1 May | • Monday, 6 November |
| • Tuesday, 6 June (due to King’s Birthday) | • Monday, 4 December |
| • Monday, 3 July | |

4 CONTEXT

- 4.1 The chief executive must give notice in writing to each member of the local authority of the date, time, and place of any meeting. Notice must be given at least 14 days before the meeting unless the Board has adopted a schedule of meetings, in which case notice must be given at least 14 days before the first meeting on the schedule.
- 4.2 Where the Board adopts a meeting schedule it may cover any period considered appropriate and may be amended.
- 4.3 Notification of the schedule, or an amendment, will constitute notification to members of every meeting on the schedule or the amendment.
- 4.4 The Chairperson of a scheduled meeting may cancel the meeting if, in consultation with the chief executive, they consider this is necessary for reasons that include lack of business, lack of quorum or clash with another event.

5 CONSIDERATIONS

Significance and engagement

- 5.1 Staff have considered the key considerations under the Significance and Engagement Policy and have assessed that the matters in this report have a low level of significance.

Impacts on Māori

- 5.2 Staff consider the matters set out in this report do not have a direct impact on cultural wellbeing, sites of significance or waterways.

Risk Analysis

- 5.3 There are no known significant risks associated with the decisions required for this matter.

Policy and plans

- 5.4 Staff confirm that the staff recommendation complies with Council's policy requirements.

Legal

- 5.5 Staff confirm that the staff recommendation complies with Council's legal requirements.

Financial

- 5.6 The cost of Council's governance structure is provided for in existing budgets.

6 OPTIONS ANALYSIS

Option 1: Adopt the meeting schedule

- 6.1 This option is consistent with the standard approach within New Zealand local government and provides both elected members and members of the public with confirmation of dates.

Option 2: Do not adopt a meeting schedule

- 6.2 To not adopt a meeting schedule for 2023 provides a monthly administrative burden to send the notification and may cause members of the public to be unaware of any specific meeting if they miss the public notice in the newspaper.

7 RECOMMENDED OPTION

- | |
|--|
| 7.1 To adopt the meeting schedule as outlined in the recommendation. |
|--|

Rationale

- 7.2 Adopting the Board meeting schedule for the 2023 calendar year allows the Ōtorohanga community certainty of the timing to engage and provide input into the matters contained in the agendas.

Kaia King

MANAGER GOVERNANCE

ITEM 4: ŌTOROHANGA TOWN CONCEPT PLAN – PROPOSED APPROACH TO IMPLEMENTATION

TO: THE CHAIRPERSON AND BOARD MEMBERS OF THE ŌTOROHANGA COMMUNITY BOARD

FROM: CHIEF ADVISOR

DATE: 5 DECEMBER 2022

Relevant Community Outcomes

Engaged

Vibrant

Thriving



1 PURPOSE

1.1 To provide an outline of the proposed approach to implementing the Ōtorohanga Town Concept Plan (ŌTCP).

2 STAFF RECOMMENDATION

That the Ōtorohanga Community Board receive the report titled ‘Ōtorohanga Town Concept Plan – Proposed Approach to Implementation’ (Document number 662067) from Ross McNeil, Chief Advisor.

3 CONTEXT/DISCUSSION

Background

3.1 The ŌTCP was adopted by Council in October 2022. It includes an extensive action plan spanning the next 30 years, with 48 separate actions to be progressed in the next three years (to 2025).

3.2 Through the 2021-31 Long Term Plan, Council has committed \$2.1 million over three years (to 2025) to support the implementation of the ŌTCP, and the Kāwhia/Aotea and Ōtorohanga Rural Concept Plans. These latter plans are to be developed during 2023, which means the implementation focus will be on the ŌTCP for 2022/23.

Proposed Approach to Implementing the ŌTCP

3.3 The success of the ŌTCP lies in its implementation, including enabling/fostering project partner, stakeholder, community group and wider community involvement as/when appropriate. Ensuring that the implementation programme has appropriate oversight and resourcing support is critical.

3.4 The approach to the implementation of the ŌTCP will be the subject of a report to Council in mid-December 2022. At this stage the thinking is that the following resourcing arrangements, to be covered/led by different Council staff, will be proposed:

- Programme management – Oversight of the ŌTCP implementation plan, ensuring that overall action plan is appropriately resourced and progressed accordingly to individual action/project priority, and that management and governance reporting at the programme level is undertaken.

- Project sponsorship – Ensuring that individual projects have the appropriate level of awareness and support at senior management level within the Council.
 - Project management – Each project has a dedicated manager assigned, who will ensure that matters relating to resourcing, scope, timing, process, engagement/consultation, progress reporting and decision-making requirements are met.
- 3.5 The Board will be advised of Council’s decision(s) on the approach to and resourcing of the implementation of the ŌTCP.
- 3.6 The Board will retain a governance role in overseeing the ŌTCP implementation – primarily through regular reports. The Board’s role will also include promoting/encouraging community engagement on/involvement in actions/projects.

Ross McNeil
CHIEF ADVISOR

ITEM 5: UPDATED CODE OF CONDUCT TEMPLATE

TO: THE CHAIRPERSON AND BOARD MEMBERS OF THE ŌTOROHANGA COMMUNITY BOARD

FROM: MANAGER GOVERNANCE

DATE: 5 DECEMBER 2022

Relevant Community Outcomes

Empowered

Engaged

United



1 PURPOSE

1.1 To advise Board Members of a recently updated code of conduct template from Local Government New Zealand (LGNZ).

2 EXECUTIVE SUMMARY

2.1 All councils and community boards have a statutory obligation under the Local Government Act 2002, to adopt a code of conduct which is designed to ensure that the governance function is undertaken with the highest degree of integrity.

2.2 To be effective a code needs to be “owned” by elected members; members must be comfortable with the content and the processes for investigating breaches. Nothing is more likely to promote non-compliance than elected members being expected to adhere to something they have had no input into.

2.3 This item is on the agenda for information at this stage to give Board Members an opportunity to familiarise themselves with it before it is formally adopted in February 2023.

2.4 LGNZ have recently released an updated code of conduct template for consideration by councils and boards. The template is attached as appendix 1.

3 STAFF RECOMMENDATION

That Ōtorohanga Community Board receive the report titled ‘Updated code of conduct template’ (document number 661850) from Kaia King, Manager Governance.

4 DISCUSSION

- 4.1 Codes of conduct should promote effective working relationships within a local authority and between the authority and its community. It should promote free and frank debate which should in turn result in good decision making.
- 4.2 Codes of conduct are not a means of preventing members from expressing their personal views provided they are clearly signalled as personal views. Rather the code is designed to promote robust debate and the expression of all views by providing a framework to ensure that debate is conducted in a civil and respectful way.
- 4.3 A code of conduct sets boundaries on standards of behaviour and provides a means of resolving situations when elected members breach those standards.
- 4.4 The LGNZ updated template includes the following updates:
 - An explicit description of unacceptable behaviours.
 - An acknowledgement of Te Tiriti o Waitangi as the foundational document for Aotearoa New Zealand and a description of Te Tiriti principles and how they apply to kaunihera (councils).
 - An acknowledgement of the principles of good governance (the Nolan principles), drawn from the UK Government’s Committee on Standards in Public Life and the findings of the 1994 Nolan Inquiry²
 - An amended approach to investigating and assessing alleged breaches designed to ensure the process is independent and focused on serious rather than minor or trivial complaints.
- 4.5 The updated template will be presented to the Board for adoption at its February meeting. Until a new code of conduct is adopted, the current code of conduct as adopted in the previous triennium remains in force.

Kaia King

MANAGER GOVERNANCE

Appendices

Appendix #	Name of document	Document #
1	Updated LGNZ Code of Conduct template	658341

The Community Board

Code of Conduct

Adopted on the

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1. Introduction

The Code of Conduct (the Code) sets out the standards of behavior expected from community board members in the exercise of their duties. Its purpose is to:

- Enhance the effectiveness of the community board and the provision of good local government of the community;
- Promote effective decision-making and community engagement;
- Enhance the credibility and accountability of the community board to its communities; and
- Develop a culture of mutual trust, respect and tolerance between the members of the community board and between the members and management.

This purpose is given effect through the values, roles, responsibilities and specific behaviors agreed in the code.

2. Scope

The Code has been adopted in accordance with clause 15(1) of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all community boards and their members that have agreed to adopt it. The Code is designed to deal with the behaviour of members towards:

- Each other;
- The Chief Executive and staff;
- The media; and
- The general public.

It is also concerned with the disclosure of information that members receive in their capacity as community board members and information which impacts on the ability of the community board to give effect to its statutory responsibilities.

The Code can only be amended (or substituted by a replacement Code) by a vote of at least 75 per cent of members present at a meeting when amendment to the Code is being considered. The Code should be read in conjunction with the Community Board's Standing Orders.

3. Values

The Code is designed to give effect to the following values:

1. **Public interest:** members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.
2. **Public trust:** members, in order to foster community confidence and trust in their Council, will work together constructively in an accountable and transparent manner;
3. **Ethical behaviour:** members will act with honesty and integrity at all times and respect the impartiality and integrity of officials;
4. **Objectivity:** members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.
5. **Respect for others:** will treat people, including other members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability.
6. **Duty to uphold the law:** members will comply with all legislative requirements applying to their role, abide by the Code of Conduct, and act in accordance with the trust placed in them by the public.
7. **Equitable contribution:** members will take all reasonable steps to fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.
8. **Leadership:** members will actively promote and support these principles and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.¹

These values complement, and work in conjunction with, the principles of s14 of the LGA 2002 and the governance principles of s39 of the LGA 2002.

4. Relationships

This section of the Code sets out agreed standards of behaviour between members; members and staff; and members and the public. Any failure by a member to comply with the provisions of this section can represent a breach of the Code.

4.1 Relationships between members

Given the importance of relationships to the effective performance of the Council, members will conduct their dealings with each other in a manner that:

- Maintains public confidence;
- Is open, honest and courteous;
- Is focused on issues rather than personalities;

¹ See the Guide to the Code of Conduct for examples

- Avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and/or repetitious points of order; and
- Avoids aggressive, bullying or offensive conduct, including the use of disrespectful or malicious language.

Please note; nothing in this section of the Code is intended to limit robust debate.

4.2 Relationships with staff

An important element of good governance involves the relationship between a Council, its chief executive and its staff. Members will respect arrangements put in place to facilitate this relationship, and:

- Raise any concerns about employees, officers or contracted officials with the Chief Executive;
- Raise any concerns about the performance or behaviour of the Chief Executive with the Mayor or the chairperson of the Chief Executive Performance Review Committee (however described);
- Make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe these requirements at all times, such as the duty to be a good employer;
- Treat all employees with courtesy and respect and not publicly criticise any employee; and
- Observe any protocols put in place by the Chief Executive concerning contact between members and employees.

Please note; community board members should be aware that failure to observe this portion of the Code may compromise the Council's obligations to be a good employer and consequently expose the Council to civil litigation.

4.3 Relationship with the public

Given the essential role that democratic local government plays in our communities it is important that community boards earn the respect and trust of their citizens. To facilitate this respect and trust members will:

- Ensure their interactions with citizens are fair, honest and respectful;
- Be available to listen and respond openly and honestly to citizens' concerns;
- Represent the views of citizens and organisations accurately, regardless of the member's own opinions of the matters raised; and
- Ensure their interactions with citizens and communities uphold the reputation of the community board.

5. Media and social media

The media play an important role in the operation and efficacy of our local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of the community board. Any failure by member to comply with the provisions of this section can represent a breach of the Code.

1. In dealing with the media elected members must clarify whether they are communicating a view endorsed by their Council, committee or community board, or are expressing a personal view.
2. Members are free to express a personal view to the media or social media at any time, provided the following rules are observed:
 - Comments shall be consistent with the Code;
 - Comments must not purposefully misrepresent the views of the Council or the views of other members;
 - Social media pages controlled by members and used for making observations relevant to their role as an elected members should be open and transparent, except where abusive or inflammatory content is being posted; and
 - Social media posts about other members, council staff or the public must be consistent with section five of this Code. (See **Appendix A** for guidelines on the personal use of social media).

6. Information

Access to information is critical to both the trust in which a community board is held and its overall performance. A failure to comply with the provisions below can represent a breach of the Code.

6.1 Confidential information

In the course of their duties members will receive information, whether in reports or through debate, that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

6.2 Information received in capacity as a community board member

Occasionally members will receive information from external parties which is pertinent to the ability of their Council or community board to properly perform its statutory duties. Where this occurs, and the information does not contravene the privacy of natural persons, the member will disclose such information to other members and/or the chief executive as soon as practicable.

7. Conflicts of Interest

Community board members will maintain a clear separation between their personal interests and their duties as community board members in order to ensure that they are free from a conflict of interest (whether real or perceived). Members must, therefore, familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

Members will not participate in any community board discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. This rule also applies where the member's spouse/partner has a pecuniary interest, such as through a contract with the Council. Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a 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 guidance from the Chief Executive *immediately*. Members may also contact the Office of the Auditor-General for guidance as to whether they have 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.

Please note: Failure to observe the requirements of LAMIA could potentially invalidate a decision made, or the action taken, by the community board. Failure to observe these requirements could also leave the community board member open to prosecution (see **Appendix B**). In the event of a conviction community board members can be ousted from office.

8. Register of Interests

Members shall, at least annually, make a declaration of interest. These declarations are recorded in a public Register of Interests maintained by the Council. The declaration must include information on the nature and extent of any interest, including:

- a) Any employment, trade or profession carried on by the member or the members' spouse/partner for profit or gain;
- b) Any company, trust, partnership etc for which the member or their spouse/partner is a director, business partner or trustee;
- c) A description of any land in which the member has a beneficial interest within the jurisdiction of the community board; and
- d) A description of any land owned by the local authority in which the member or their spouse/partner is:
 - A tenant; or
 - The land is tenanted by a firm in which the member or spouse/partner is a business partner; a company of which the member or spouse/partner is a director; or a trust of which the member or spouse/partner is a trustee.

- e) Any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the Chief Executive).

Please note, where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable.

9. Ethical behaviour

Members will seek to promote the highest standards of ethical conduct. Accordingly members will:

- Claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Council developed in accordance with that determination;
- Not influence, or attempt to influence, any Council employee, officer or member in order to benefit their own, or families, personal or business interests;
- Only use the Council's resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive if any such gifts are accepted. Where a gift to the value of \$50 or more is accepted by a member, that member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

Any failure by members to comply with the provisions set out in this section represents a breach of the Code.

10. Creating a supportive and inclusive environment

In accordance with the purpose of the Code, members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance. These include:

- Attending post-election induction programmes organised by the Council for the purpose of facilitating agreement on the Council's vision, goals and objectives and the manner and operating style by which members will work.
- Taking part in any assessment or evaluation of the Council's performance and operating style during the triennium.²
- Taking all reasonable steps to acquire the required skills and knowledge to effectively fulfill their Declaration of Office (the Oath) and contribute to the good governance of the city, district or region.

² A self-assessment template is provided in the Guidance to the code.

11. Breaches of the Code

Members must comply with the provisions of the code (LGA 2002, schedule 7, cl. 15(4)). Any member, or the Chief Executive, who believes that the Code has been breached by the behaviour of a member may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

11.1 Principles

The following principles will guide any processes for investigating and determining whether or not a breach under the code has occurred:

- That the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the alleged breach;
- That the processes of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- That the concepts of natural justice and fairness will apply in the determination of any complaints made under the Code. This includes, conditional on the nature of an alleged breach, directly affected parties:
 - Have a right to know that an investigation process is underway;
 - Are given due notice and are provided with an opportunity to be heard;
 - Have confidence that any hearing will be impartial;
 - Have a right to seek appropriate advice and be represented; and
 - Have their privacy respected.

11.2 Complaints

All complaints made under the code must be made in writing and forwarded to the Chief Executive. On receipt of a complaint the Chief Executive must forward the complaint to the mayor or, where the mayor is a party to the complaint, an independent investigator, drawn from a pool of names or agency agreed in advance.

Please note; complaints under this Code can only be made by community board members and the Chief Executive of the local authority.

Complaint referred to Mayor

On receipt of a complaint made under the provisions of the community board's Code of Conduct the Mayor will, as the situation allows:

- Interview the complainant to assess the full extent of the complaint.
- Interview the member(s) subject to the complaint.
- Assess the complaint to determine materiality.

- Where a complaint is assessed by the Mayor to be trivial, frivolous or minor, either dismiss the complaint, require an apology or other course of action, or assist the relevant parties to find a mutually agreeable solution.
- Where a complaint is found to be material, or no mutually agreed solution can be reached, the Mayor will refer the complaint back to the Chief Executive who will forward it, along with any recommendations made by the Mayor, to the Council or the adjudicative body established to assess and rule on complaints made under the Code.³

If the Mayor chooses they may instead of undertaking an initial assessment, refer the complaint to the independent investigator, via the Chief Executive.

Complaint referred to Independent Investigator

On receipt of a complaint from a member which concerns the Mayor/Chair, or from the Mayor/Chair after initial consideration, the Chief Executive will forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to be referred, with recommendations if necessary, to the Council or the adjudicative body established for assessing and ruling on complaints.⁴ The process, following receipt of a complaint, will follow the steps outlined in **Appendix C**.

11.3 Materiality

An alleged breach under the Code is material if, in the opinion of the Mayor or independent investigator, it would bring the community board into disrepute or, if not addressed, adversely affect the reputation of a member.

An alleged breach under this Code is non-material if, in the opinion of the Mayor or independent investigator, any adverse effects are minor and not investigation or referral is warranted.

12. Penalties and actions

Where a complaint is determined to be material and referred to the relevant adjudicative body, the nature of any penalty or action will depend on the seriousness of the breach.

³ Advice on setting up adjudication bodies can be found in the Code of Conduct Guide.

⁴ On behalf of the Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chairperson, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her Council, prepare a list jointly with neighbouring Councils or contract with an agency capable of providing appropriate investigators, such as EquiP.

12.1 Material breaches

In the case of material breaches of the Code, the Council or the adjudicative body established to consider complaints may determine one or more of the following:

1. A letter of censure to the member;
2. A request (made either privately or publicly) for an apology;
3. A vote of no confidence in the member;
4. Removal of certain Council-funded privileges (such as attendance at conferences);
5. Removal of responsibilities, such as community board chair, deputy chair or committee chair;
6. Restricted entry to Council offices, such as no access to staff areas (where restrictions may not previously have existed);
7. Limitation on any dealings with Council staff other than the Chief Executive or specified senior manager;
8. Suspension from committees or other bodies to which the member has been appointed; or
9. Invitation to the member to consider resigning from the community board.

The Council or adjudicative body may decide that instead of a penalty, one or more of the following may be required:

- Attend a relevant training course; and/or
- Work with a mentor for a period of time; and/or
- Participate in voluntary mediation (if the complaint involves a conflict between two members); and/or
- Tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

12.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA);
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.44 LGA 2002 which may result in the member having to make good the loss or damage); or
- Breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the community board member liable for criminal prosecution).

13. Review

Once adopted, the Code continues in force until amended by the community board. The Code can be amended at any time but cannot be revoked unless the board replaces it with another Code. Amendments to the Code require a resolution supported by 75 per cent of the members of the community board present at the meeting at which the amendment is considered.

Community boards are encouraged to formally review their existing Code and either amend or re-adopt it as soon as practicable after the beginning of each triennium in order to ensure that all members have the opportunity to provide their views on the Code's provisions.

Appendix A: Guidelines on the personal use of social media⁵

There's a big difference in speaking "on behalf of Council" and speaking "about" the Council. While your rights to free speech are respected, please remember that citizens and colleagues have access to what you post. The following principles are designed to help you when engaging in **personal or unofficial online** communications that may also refer to your Council.

1. **Adhere to the Code of Conduct and other applicable policies.** Council policies and legislation, such as LGOIMA and the Privacy Act 1993, apply in any public setting where you may be making reference to the Council or its activities, including the disclosure of any information online.
2. **You are responsible for your actions.** Anything you post that can potentially damage the Council's image will ultimately be your responsibility. You are encouraged to participate in the social media but in so doing you must exercise sound judgment and common sense.
3. **Be an "advocate" for compliments and criticism.** Even if you are not an official online spokesperson for the Council, you are one of its most important advocates for monitoring the social media landscape. If you come across positive or negative remarks about the Council or its activities online that you believe are important you are encouraged to share them with the governing body.
4. **Let the subject matter experts respond to negative posts.** Should you come across negative or critical posts about the Council or its activities you should consider referring the posts to the Council's authorised spokesperson, unless that is a role you hold, in which case consider liaising with your communications staff before responding.
5. **Take care mixing your political (Council) and personal lives.** Elected members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum, particularly if your opinion is at odds with what Council is doing, can bring you into conflict with the Code should it not be clear that they are your personal views.
6. **Never post sensitive and confidential information** provided by the Council, such as confidential items, public excluded reports and/or commercially sensitive information. Such disclosure will contravene the requirements of the Code.

Elected Members' social media pages should be open and transparent. When commenting on matters related to the local authority no members should represent themselves falsely via aliases or differing account names or block. Neither should they block any post on any form of social media that they have control over unless there is clear evidence that the posts are actively abusive. Blocking constructive debate or feedback can be seen as bringing the whole Council into disrepute.

⁵ Based on the Ruapehu District Council Code of Conduct.

Appendix B: Legislation bearing on the role and conduct of community board members

This is a summary of the legislative requirements that have bearing on the duties and conduct of community board members. The full statutes can be found at www.legislation.govt.nz.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about members discussing and voting on matters in which they have a pecuniary interest and about contracts between members and the Council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse/partner or a company in which they have an interest). In relation to pecuniary interests the LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests, a person is deemed to be "concerned or interested" in a contract or interested "directly or indirectly" in a decision when:

- A person, or spouse/partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- A person, or their spouse/partner, is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an community board members' family trust and the Council.

Determining whether a pecuniary interest exists

Community board members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

In deciding whether you have a pecuniary interest, members should consider the following factors:

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?

- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?

Members may seek assistance from the Mayor/Chair or other person, to determine if they should discuss or vote on an issue, but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are set out in the Council's Standing Orders.)

The contracting rule

A member is disqualified from office if he or she is “concerned or interested” in contracts with their Council if the total payments made, or to be made, by or on behalf of the Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval, and in limited cases, retrospective approval for contracts that would otherwise disqualify you under the Act. It is an offence under the Act for a person to act as a member of the Council (or committee of the Council) while disqualified.

Non-pecuniary conflicts of interest

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

“Is there a real danger of bias on the part of the 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?”

The question is not limited to actual bias, but relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not members believe they are not biased is irrelevant.

Members focus should be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Members' statements or conduct indicate that they have predetermined the decision before hearing all relevant information (that is, members have a "closed mind"); and
- Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, members must also take into account the context and circumstance of the issue or question under consideration. For example, if a member has stood on a platform and been voted into office on the promise of implementing that platform, then voters would have every expectation that the member would give effect to that promise, however he/she must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of community board members is the fact that the chairperson has the responsibility to maintain order at meetings, but all community board members should accept a personal responsibility to maintain acceptable standards of address and debate. Consistent with the sentiments of the Act no community board member should:

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

Secret Commissions Act 1910

Under this Act it is unlawful for a community board 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 two years, and/or fines up to \$1000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for a community board 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; and
- Use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

Community board members convicted of these offences will automatically cease to be members.

Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously 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.

The Local Government Act 2002

The Local Government Act 2002 (LGA 2002) sets out the general powers of local government, its purpose and operating principles, and details the personal liability of members. Although having qualified privilege, community board members can be held personally accountable for losses incurred by a local authority where, following a report from the Auditor General under s44 LGA 2002, it is found that one of the following applies:

- a) Money belonging to, or administered by, a local authority has been unlawfully expended; or
- b) An asset has been unlawfully sold or otherwise disposed of by the local authority; or
- c) A liability has been unlawfully incurred by the local authority; or
- d) A local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.⁸⁹⁰

Members will not be personally liable where they can prove that the act or failure to act resulting in the loss occurred as a result of one of the following:

- a) Without the member's knowledge;
- b) With the member's knowledge but against the member's protest made at or before the time when the loss occurred;
- c) Contrary to the manner in which the member voted on the issue; and
- d) In circumstances where, although being a party to the act or failure to act, the member acted in good faith and relied on reports, statements, financial data, or other information from professional or expert advisers, namely staff or external experts on the matters.

In certain situation members will also be responsible for paying the costs of proceedings (s.47 LGA 2002).

Appendix C: Process where a complaint is referred to an independent investigator

The following process is a guide only and community boards are encouraged to adapt the process to their own specific circumstances.

Step 1: Chief Executive receives complaint

On receipt of a complaint under the Code, whether from a member (because the complaint involves the Mayor) or from the Mayor after an initial assessment, the Chief Executive will refer the complaint to an investigator selected from a list agreed at the start of the triennium. . The Chief Executive will also:

- Inform the complainant that the complaint has been referred to the independent investigator and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- Inform the respondent that a complaint has been made against them, the name of the investigator and remind them of the process for dealing with complaints as set out in the Code.

Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

1. The complaint is trivial or frivolous and should be dismissed;
2. The complaint is outside the scope of the Code and should be re-directed to another agency or institutional process;
3. The complaint is minor or non-material; or
4. The complaint is material and a full assessment is required.

In making the assessment, the investigator may make whatever initial inquiry is necessary to determine their recommendations, including interviewing relevant parties, which are then forwarded to the Council's Chief Executive. On receiving the investigator's preliminary assessment, the Chief Executive will:

1. Where an investigator determines that a complaint is trivial or frivolous, inform the complainant, respondent and other members (if there are no grounds for confidentiality) of the investigator's decision.
2. In cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform the Chief Executive who will then inform the complainant, the respondent and members.

Step 3: Actions where a breach is found to be non-material

If the subject of a complaint is found to be non-material, but more than trivial or frivolous, the investigator will inform the Chief Executive and, if they choose, recommend a course of action appropriate to the breach, such as:

- That the respondent is referred to the Mayor for guidance; and/or
- That the respondent attend appropriate courses or programmes to increase their knowledge and understanding of the matters resulting in the complaint.

The Chief Executive will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and the Council.

Step 4: Actions where a breach is found to be material

If the subject of a complaint is found to be material, the investigator will inform the Chief Executive, who will inform the complainant and respondent. The investigator will then prepare a report for the Council on the seriousness of the breach. In preparing that report, the investigator may:

- Consult with the complainant, respondent and any directly affected parties; and/or
- Undertake a hearing with relevant parties; and/or
- Refer to any relevant documents or information.

On receipt of the investigator's report, the Chief Executive will prepare a report for the Council or adjudicative body charged with assessing and ruling on material complaints, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The Chief Executive's report will include the investigator's full report.

Step 5: Process for considering the investigator's report

The investigator's report will be considered by the Council or adjudicative body established for considering reports on Code of Conduct complaints, or any other body that the Council may resolve, noting that the process will meet the principles set out in section 12.1 of the Code.

The Council or adjudicative body established to consider the Chief Executive's report will do so in open meeting, except where the alleged breach concerns matters that justify, in accordance with LGOIMA, the exclusion of the public. Before making any decision on a specific complaint, the relevant body will give the respondent an opportunity to appear and speak in their own defense. Members with an interest in the proceedings, including the complainant and the respondent, should not take part in these proceedings in a decision-making capacity. The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in clause 12.1 of the Code. Where the report of the adjudicative body is referred to the Council it will be heard, in open session, unless grounds for exclusion of the public exist, and its recommendations accepted, without debate.

PROJECT UPDATES

Project 1: Picnic in the Park

Board Member Muller will provide a verbal update.