



# **Environment Canterbury**

## **Members' Code of Conduct**

Adopted by Council on 22 September 2016

## Canterbury Regional Council

### Code of Conduct

Environment Canterbury (which is the promotional name for the Canterbury Regional Council) is the regional council and environmental regulator for Canterbury.

Environment Canterbury aims to achieve strong economic growth that is environmentally sustainable and that underpins the standard of living for the people of Canterbury.

Our aim is achieved through strong, enduring working relationships with Territorial Authorities, Iwi, farmers, environmentalists, recreationalists, business leaders and urban dwellers, where everyone “gives a bit to get a bit”.

Our working relationships with agencies empower communities across Canterbury. We believe that the same principles that support those relationships are relevant to how we behave to each other, within the Council.

We acknowledge that we are subject to a legal framework that not only governs how we, as Members, conduct ourselves (for example through the Local Authorities (Members’ Interests) Act 1968) but which also prescribes the nature and extent of the Council’s role (for example, the Local Government Act 2002 and Resource Management Act 1991). There is a brief summary of some of the relevant legislation at the conclusion of this Code.

Within that framework, we work to the following principles:

- a) The Council activities are funded from public money, which should be spent with the same care that we would exercise if it was our own.
- b) Staff are our most valuable resource:
  - Expect them to be managed in an empathetic and concerned way.
  - Expect staff to be treated with courtesy and that they know that their efforts are appreciated.

- c) Principles of how the organisation works
- Staff are expected to work collaboratively with staff of other organisations.
  - Where we have expertise that other organisations do not, then our staff are made available.
  - Staff are to be respectful and helpful to the people we work with and should work with them to assist them to find solutions while meeting the legislated standards and being firm with those who do not conform.
- d) Members of Council work for the good of the people of Canterbury
- Members as far as possible operate on collective responsibility.
  - Members have a philosophy of “how can we work together to solve a problem”?
  - Members have taken responsibility for leadership of individual portfolios.
  - Members have worked with staff and communities to achieve mutually beneficial solutions.

We also have core values that underpin everything we do. They are a promise of how we will go about delivering on our vision, to facilitate sustainable development in the Canterbury region. Those values are:

- People First/Manaakitanga – people, customers and staff come first;
- Integrity/ Pononga – trust in us and our information;
- Collaboration/Whanaungatanga – together works best;
- Can do/ Māiatanga – be brave and make it happen; and
- Stewardship/Kaitiakitanga – good decisions today for tomorrow.

## Part One: Introduction

Schedule 7 of the Local Government Act 2002 requires each local authority to adopt a code of conduct. Once the Code has been adopted, all Members are required to comply with the Code (and of course with all other legislation that governs Council).

This Code of Conduct provides guidance on the standards of behaviour that are expected from the Chair and Members of Environment Canterbury. The Code applies to Members in their dealings with:

- each other;
- the Chief Executive;
- all staff employed by the Chief Executive;
- Ngā Papatipu Rūnanga;
- the media; and
- the general public.

The objective of the Code is to enhance:

- the effectiveness of the Council as the autonomous local authority with statutory responsibilities for the good local government of the Canterbury region;
- the credibility and accountability of the Council within its community; and
- mutual trust, respect and tolerance between the Members as a group and between the Members and management.

This Code of Conduct 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); and
- specific codes of conduct applying to particular circumstances or matters (also recorded in Part Three of the Code).

Members are primarily accountable to the ratepayers of the region. However Members must note that the Auditor-General may hold them to account in respect of unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968 (described further below).

The Code of Conduct that follows is based on the following general principles of good governance as they apply within the local government legal framework and in the context of using public funds:

1. *Public Interest* – Members should serve only the interests of the region as a whole and should never improperly confer an advantage or disadvantage on any one person;
2. *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;
3. *Objectivity* – Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Members should also note that their primary duty is to the interests of the entire region. This holds true for all Members and elected Members should not prefer the interests of the ward that elected them;
4. *Accountability* – Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office;
5. *Openness* – Members should be as open as possible about their actions and those of the Council, and should be prepared to justify their actions;
6. *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;
7. *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 the impartiality and integrity of the Council staff;
8. *Duty to Uphold the Law* – Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them;

9. *Stewardship* – Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations; and
10. *Leadership* – Members should promote and support these proposals by example, and should always endeavour to act in the best interests of the community.

## **Part Two: Roles and Responsibilities**

This part of the Code describes the roles and responsibilities of Members, the additional roles of the Chair and Deputy Chair, Portfolio Leader, Committee Chair, and the role of the Chief Executive.

### **Members**

Members, acting 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 and monitoring of the Chief Executive's performance; and
- representing the interests of the residents and ratepayers of Environment Canterbury.

All Members of Council (whether elected or appointed) have the same functions, powers, responsibilities, and duties.

Unless otherwise provided in the Act or in standing orders, the Council can only act by majority decisions at meetings. Each Member has one vote. Council Members agree that they are collectively responsible for decisions of Council once they have been made – even those decisions with which they might personally disagree or against which they have voted – and to presenting a united front.

Any individual Member (including the Chair) has no authority to act on behalf of the Council unless the Council has expressly delegated such authority. This is particularly important in relation to speaking to the media about Council matters (see further below at page 11).

## **Chair**

The Chair must be elected by the Members of the Council at the first meeting following the triennial election. As one of the Members of the Council, the Chair shares the same responsibilities as other Members of Council (including collective responsibility for Council's decisions).

In addition, the Chair has the following roles:

- the presiding Member at Council meetings. The Chair is responsible for ensuring the orderly conduct of business during meetings (as determined in Standing Orders);
- an advocate on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried out with the knowledge and support of the Council;
- the ceremonial head of council;
- providing leadership and feedback to other Members on teamwork and chairmanship of Committees;
- ensuring Members' compliance with this Code of Conduct;
- a Justice of the Peace (while the Chair holds office).

The Chair 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 unless acting in accordance with the rules for media contact on behalf of the Council or under a delegation of authority from the Council.

The Chair may be removed from office by resolution of Council

## **Deputy Chair**

The Deputy Chair must be elected by the Members of Council, at the first meeting of the Council. The Deputy Chair exercises the same roles as other Members, and in the event of the absence or incapacitation of the Chair, and must perform all of the responsibilities and duties, and may exercise the powers,

and duties of the Chair (as summarised above). The Deputy Chair may be removed from office by resolution of Council.

### **Portfolio Leader**

The Portfolio Leader is chosen by collective agreement of the Members of Council. This person is responsible for the strategic leadership of Council activities in their designated portfolio area. (See also the section titled “Contact with the Media”). A Portfolio Leader may be removed from office by resolution of council.

### **Committee Chair**

The Council may create one or more committees of Council. Committee Chairs must be elected by the Members of Council. A committee Chair is responsible for presiding over all meetings of the committee, ensuring that the committee acts within the powers delegated by Council, and as set out in the council’s Delegations Manual. A committee Chair (or, as appropriate, a Portfolio Leader) may be called on to act as an official spokesperson on a particular issue. Committee Chairs may be removed from office by resolution of council.

### **Chief Executive**

The Chief Executive is appointed by the Council in accordance with clauses 33 and 34 of Schedule 7 of the Local Government Act 2002. The Chief Executive is responsible for the implementation and management of the Council's policies and objectives within the budgetary constraints established by the Council. In terms of section 42 of the Local Government Act 2002, the responsibilities of the Chief Executive are:

- (a) implementing the decisions of the Council;
- (b) providing advice to the Council ;
- (c) 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 are properly performed or exercised; and
- (d) ensuring the effective and efficient management of the activities and planning of the Council

- (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council;
- (f) providing leadership for the staff of the Council; and
- (g) employing staff on behalf of the Council (including negotiation of the terms of employment for the staff of the Council).

Under section 42 of the Local Government Act 2002 the Chief Executive is the only person directly employed by the Council itself.

### **Part Three: Relationships and Behaviours**

This part of the Code sets out the Council's agreed standards of behaviour toward one another, Ngā Papatipu Rūnanga, Council staff and members of the public. Some of the matters described in this part of the Code reflect other legislation such as the Local Authorities (Members' Interests) Act 1968 and the broader legislative framework for regional councils. The majority of the Code is material that the Council has decided to include of its own initiative.

Members will hold to the highest standards of behaviour in all of their interactions and will have regard to Council's principles and values (as noted on page 2 of this Code of Conduct). The following sets out specific expectations for certain relationships.

#### **Relationships With Other Members**

Successful teamwork is a critical element in the success of organisation. No team will be effective unless mutual respect exists between its members. With this in mind Members will conduct their dealings with each other in ways that:

- maintain public confidence in the office that they hold;
- are open and honest;
- focus on issues rather than personalities; and
- treat each other with courtesy and respect.

#### **Relationships with Ngai Tahu**

The ten Canterbury Papatipu Rūnanga hold mana whenua over the region and have intergenerational responsibilities to act as kaitiaki within their respective

rohe (territories). Council is responsible for integrated environmental management within the greater Canterbury region.

In 2012, as an acknowledgement of each other's responsibilities and as a joint affirmation of the importance of an enduring and collaborative relationship, Ngā Papatipu Rūnanga and Council entered into the Tuia Relationship Agreement.

Council also recognises the role of Te Rūnanga o Ngāi Tahu as an Iwi Authority, to support ngā Papatipu Rūnanga and to protect the rights and interests of Ngāi Tahu Whānui.

Members will at all times comply with the terms of the Tuia Relationship Agreement and will work to foster relationships under the terms of that Agreement.

In particular, Members acknowledge that the relationship is based on:

- mutual respect;
- the utmost standards of good faith; and
- confidence that working jointly with Ngā Papatipu Rūnanga will have the greatest benefit for current and future generations to have a thriving relationship with a vibrant environment.

Members will also respect tikanga Māori in their relationships.

### **Relationships with Staff**

Staff are Council's most valuable resource. The effective performance of Council also requires a high level of cooperation and mutual respect between Members and staff. To ensure that level of cooperation and trust is maintained, Members will:

- recognise that the Chief Executive is the employer (on behalf of council) of all council employees, and as such only the Chief Executive may hire, dismiss, instruct or censure an employee;
- make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times;
- treat all employees with courtesy and respect;

- not do 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; and
- raise concerns about employees only with the Chief Executive, and to raise concerns about the Chief Executive only with the Chair or the CEO Review Committee (if any).

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

### **Relationships with Members of the Public**

Members of Council work for the good of the people of the region.

Members are accountable to the public for their actions and the manner in which they carry out their responsibilities. In particular, Members will conduct their dealings with members of the public in ways that:

- maintain public confidence in the office that they hold;
- are open and honest;
- focus on issues rather than personalities; and
- treat members of the public with courtesy and respect.

## Contact with the Media

The media have an important part to play in the process of local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of Council. Members will be offered training to assist them in their dealings with the media.

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. This part of the code deals with the rights and duties of councillors when speaking to the media on behalf of Council, or in their own right.

These rules apply to traditional media as well as to social media.

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

- the Chair is the first point of contact for the official view on any issue. Where the Chair is absent any matters will be referred to the Deputy Chair or relevant Committee Chair or Portfolio Leader;
- the Chair may refer any matter to the relevant Committee Chair, Portfolio Leader or to the Chief Executive for their comment; and
- no other Member may comment ***on behalf of Council*** without having first obtained the approval of the Chair.

Members will also have regard to their collective responsibility for decisions of Council – even those with which they might personally disagree.

Members will as far as practicable, prior to making any media statement ***on behalf of Council***:

- advise all other Members and the Chief Executive of any matters of interest on a “no-surprises” basis; and
- liaise with Council’s communications and media team.

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 Council;

- where a Member is making a statement that is contrary to a Council decision or Council policy, the Member must have regard to Council's policy of collective responsibility and not state or imply that his or her statements represent a majority view;
- advise all other Members and the Chief Executive of any matters of interest on a "no-surprises" basis; and
- 
- media comments must observe the other requirements of the Code of Conduct e.g. not disclose confidential information, or compromise the impartiality or integrity of staff etc.

Refer also to Environment Canterbury's Media Policy for up to date contact details. See <https://punakorero/staff-kete/policies/Pages/Media.aspx>

### **Confidential Information**

In the course of their duties Members will occasionally receive information that may need to be handled in a confidential manner. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Accordingly, 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 legal action under the Privacy Act and/or civil claims.

### **Conflicts of Interest**

A conflict of interest can arise in either of two general ways:

- where a Member stands to benefit from a matter before Council for consideration (whether personally; or through connections with other individuals or businesses with which the Member is involved) ("pecuniary interest"); and
- where a Member holds a bias, or might be perceived to hold a bias, in relation to a matter that is before Council for consideration ("bias").

### Pecuniary interests

Members should familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968.

That 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 in any financial year.

In special cases, the Chief Executive (having informed the Chair) may seek approval from the Auditor-General for contractual payments to Members, their spouses or their companies that exceed the \$25,000 annual limit.

In addition the Act provides that Members with any pecuniary interest in a matter (beyond an interest that the Member has in common with the public) are prohibited from participating in any Council discussion or vote on that matter.

The same rules also apply where the Member's spouse contracts with the Council or has a pecuniary interest.

Members may also 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.

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 that Act. In the event of a conviction Members can be ousted from office.

### Bias

Members must be careful that they maintain a clear separation between their personal interests and their duties as a Members and that they avoid acting in a way that might be perceived to indicate bias in their decisions.

To assist with this, Members are required to make an annual declaration of interest and should also make interim declarations as soon as practicable after becoming aware of any such interests.

These declarations are recorded in a register of interests maintained by Council. The declaration must notify the Council of the nature and extent of any interest, including:

- a) any employment, trade or profession carried on by the Member or the Members' spouse for profit or gain;
- b) any company, trust, partnership etc for which the Member or their spouse is a director, partner or trustee;
- c) the address of any land in which the Member has a beneficial interest and which is in the area of Environment Canterbury ;
- d) the address of any land where the landlord is Environment Canterbury and the Member or their spouse:
  - is a tenant ; or
  - the land is tenanted by a firm in which the Member or spouse is a partner, a company of which the Member or spouse is a director, or a Trust of which the Member or spouse 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)

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 guidance from the Chief Executive *immediately*.

### **Standing Orders**

Members shall 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.

### **Ethics**

Environment Canterbury seeks to promote the highest standards of ethical conduct amongst its Members. According 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;
- not use council resources for personal business (including campaigning); 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 offered to a Member, that Member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

### **Disqualification of Members from Office**

Members are automatically ousted from office if they are convicted of a criminal offence punishable by two or more years' imprisonment, or of certain breaches of the Local Authorities (Members' Interests) Act 1968.

Under the Local Government Act 2002, local authorities must consider when adopting a code of conduct, whether or not they will 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.

### **Part Four: Compliance and Review**

This part deals with the mechanisms for ensuring that Members adhere to the Code of Conduct and mechanisms for the review of the Code of Conduct.

#### **Compliance**

Members must note that they are bound to comply with the provisions of this Code of Conduct (Local Government Act 2002, Schedule 7, clause 15(4)).

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 and the Secret Commissions Act 1910. 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 Members. Short explanations of each of these are attached in the Appendix.

Compliance will be monitored by the Chair

All alleged breaches of the code will be reported to the Chair. The alleged breach will be investigated by the Chair or a sub-committee appointed by the Chair and a report prepared for the consideration of Council. Any allegation of a breach of a Code of Conduct must be in writing, make a specific allegation of a breach of the Code of Conduct, and provide corroborating evidence.

In any case where the Chair is the subject of a complaint, then any complaint should be made to the Deputy Chair who shall assume responsibility for receiving the report and the investigation.

All reports will be considered in open meeting of 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.

## **Sanctions**

The exact nature of any sanctions depends on the nature of the breach and whether there are other statutory provisions dealing with the breach.

### *Statutory Sanctions*

Those provisions where there are statutory sanctions include:

- breaches relating to Members' interests (where Members may be liable for prosecution by the Auditor-General under the Local Authorities (Members' Interests) Act 1968)
- 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 section 44 of the Local Government Act 2002 which may result in the Member having to make good the loss or damage)
- breaches relating to the commission of a criminal offence (which may leave the Member liable for criminal prosecution).

In these cases the council may elect to 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.

### *Sanctions for Other Provisions*

In the case of provisions where there are no statutory sanctions, the council may apply the following sanctions:

1. censure;
2. removal of the Member from Council Committees and/or other representative type bodies;
3. dismissal of the Member from a position as Chair, Deputy Chair, Portfolio Leader or Chair of a Committee.

A decision to apply one or more of the first three sanctions shall require a Council resolution to that effect.

### **Review**

Once adopted a Code of Conduct continues in force until amended by the 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 percent of the Members of the Council present.

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

## **Appendix: Legislation Bearing on the Role and Conduct of Members**

This is a summary of the legislative requirements that have some bearing on the duties and conduct of Members. Those wanting further information can find it from the particular statutes – online at [www.legislation.govt.nz](http://www.legislation.govt.nz) .

### **Local Authorities (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 Member.

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 in any financial year. Additionally, Members with such interests 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 contracts with the authority or has a pecuniary interest.

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

This Act sets out a list of procedures and requirements for meetings. Of particular importance for the roles and conduct of Members is that the Chair has the responsibility for maintaining order at meetings but all Members should accept a personal responsibility to maintain acceptable standards of address and debate.

LGOIMA also provides that all official information held by Council should, on request, be made available unless there is good reason for withholding it. "Official information" includes all information that any member holds by virtue of that role, including Council-related emails sent from a private email address.

### **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 7 years. A conviction therefore would trigger the ouster provisions of the Local Government Act and result in the removal of the Member from office.

### **Crimes Act 1961**

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

- accept or solicit for themselves (or anyone else) any gift, 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 person's, monetary gain or advantage.

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

### **Financial Markets Conduct Act 2013**

The Financial Markets Conduct Act 2013 essentially places Members in the same position as company directors whenever Council offers securities (debt or equity) to the public. Members may be personally liable if investment documents such as a disclosure statement contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.

The Act also prohibits any Member who has information about a listed company that is not generally available to the market, from trading in that company's shares or from disclosing that information.

### **Environment Canterbury (Transitional Governance Arrangements) Act 2016**

The Environment Canterbury (Transitional Governance Arrangements) Act 2016 provides the governance arrangements for Environment Canterbury during the 2016 to 2019 local authority election-cycle period.

It provides that the Council is made up of:

- seven elected members; and
- up to six appointed members, two of whom are nominated by Te Rūnanga o Ngāi Tahu.

It also puts in place certain modified resource management processes for Environment Canterbury.