

Governance Policies

Southland Regional Council

Issued 27 March 2013



Chairman's Foreword

It is important in local government, to recognise that the job of governance is different from management and operational roles. Councils and Councillors are elected to do the former and need to strive to do it well. There are times when the two roles are necessarily mixed but that is done knowing the difference and to achieve better outcomes. To help us in our respective roles, Council has adopted and is guided by this set of governance policies.

I am confident that these policies will focus us on the real issues, enable us to know whether our staff do a good job and ensure that the organisation delivers positive outcomes for our community.

The document contains policies in three key areas:

ie: Council-Chief Executive Linkage
 Executive Limitations
 Governance Process

Our desired "Ends" policies, or outcomes, are contained in our published plans.

The general approach that has been adopted was to write policies which specify what shall not be done and to allow Councillors and staff the freedom to act outside those limitations. That principle enables Councillors and staff to contribute their best.



Ali Timms
Chairman

27 March 2013

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Council-Chief Executive Linkage Policies

Council-Chief Executive Linkage

Policy Type - Global Council-Chief Executive Linkage

Level One

The Council's sole connection with the operations of the organisation, its achievements and its conduct will be through a Chief Executive.

Unity of Control

Policy Type – Council-Chief Executive Linkage

Level Two

Only decisions of the Council acting as a whole are binding on the Chief Executive.

Level Three

1. Decisions or instructions of individual Council members (including the Chairman), or committees or workshops are not binding on the Chief Executive except in those instances when the Council has specifically authorised such exercise of authority.
2. In the case of individual Council members, committees or workshops requesting information or assistance without Council authorisation, the Chief Executive can refuse such requests if they require, in the Chief Executive's opinion, a material amount of staff time or funds, or are disruptive, or are contrary to Council policy or practice.

Accountability of the Chief Executive

Policy Type - Council-Chief Executive Linkage

Level Two

The Chief Executive is the Council's only link to operational achievement and conduct, so that all authority and accountability of staff, as far as the Council is concerned, is considered the authority and accountability of the Chief Executive.

Level Three

1. The Council and Councillors will never give instructions to persons who report directly or indirectly to the Chief Executive. Where it is necessary to refer to named officers other than the Chief Executive this will be considered an instruction to the Chief Executive.
2. The Council and Councillors will refrain from evaluating, either formally, or informally, any staff other than the Chief Executive unless invited to as part of the Performance Development Process.
3. The Council will treat the Chief Executive's performance and organisational performance as one and the same thing in terms of the achievement of its Ends policies and the quality of its processes.
4. The Councillors will not rely on the advice of staff, other than when given in a written report to a properly constituted meeting of Council or its Committees, or when given verbally in answer to a question at such meetings, as a defence against proceedings under the Public Audit Act 2001 for recovery of a loss incurred by Council (*updated 26 September 2001*)

Delegation to the Chief Executive

Policy Type - Council-Chief Executive Linkage

Level Two

The Council will instruct the Chief Executive through written policies that prescribe the organisational Ends to be achieved and describe organisational situations and actions to be avoided, allowing the Chief Executive any reasonable interpretation of these policies

Level Three

1. The Council will develop policies instructing the Chief Executive to achieve certain results, for certain recipients at a specified cost. These policies will be developed systematically from the broadest, most general to more defined levels and will be called ***Ends policies***.
2. The Council will develop policies that limit the latitude the Chief Executive may exercise in choosing the organisational means. These policies will be developed systematically from the broadest, most general level to progressively more defined levels and will be called ***Executive Limitations policies***.
3. As long as the Chief Executive uses ***any reasonable interpretation*** of the Council's Ends and Executive Limitations policies, the Chief Executive is authorised to establish all further policies, make all decisions, take all actions, establish all practices and develop all activities.
4. The Council may change its Ends and Executive Limitations policies, thereby shifting the boundary between Council and Chief Executive domains. By doing so the Council changes the latitude of choice given to the Chief Executive but, as long as any particular delegation is in place, the Council will respect and support the Chief Executive's choices.

Level Four (Updated 28 August 2002)

The Chief Executive is delegated the power to appoint an Acting Chief Executive in the event of the Chief Executive's absence from the work place and/or incapacity, subject to the following conditions:

1. the Acting Chief Executive shall have all of the powers, functions and duties of the Chief Executive as the appointee;
2. the Chief Executive may further delegate the power to appoint an Acting Chief Executive to any of the Directors employed in the second tier of management of Council;

3. the exercise of this delegation shall be reported to Council via his monthly report, before the event where possible, and in all other cases to the Chairman forthwith, then to the Council at the first ordinary meeting after the event.
4. nothing in this policy of delegation shall limit the Chief Executive's power to make a standing delegation to any Director for them to deal with a defined range of administration matters during any period of absence.

Monitoring Chief Executive Performance

Policy Type - Council-Chief Executive Linkage

Level Two

The Council will undertake continuous, systematic and rigorous monitoring of Chief Executive job performance and will provide regular formal and informal performance feedback to the Chief Executive. Chief Executive performance will be judged solely against appropriate policy criteria.

Level Three

1. The Council will only monitor against criteria that have been identified and agreed with the Chief Executive in advance.
2. The Council will acquire monitoring data by one or more of three methods:
 - (a) ***Internal Report*** - Chief Executive discloses compliance information to the Council.
 - (b) ***External Report*** - an independent external party selected by the Council assesses compliance with the appropriate policy criteria.
 - (c) ***Direct Council Inspection*** - a designated Councillor or group of Councillors assess compliance with the appropriate policy criteria
3. In every case the standard for compliance by the Chief Executive shall be any reasonable interpretation of the Council policy being monitored.
4. All policies that instruct the Chief Executive will be monitored at a frequency and by a method chosen by the Council. The Council can monitor any policy at any time by any method but will usually depend on a routine schedule.
5. The Council, as a body, will make a judgement about the quality of the Chief Executive's performance adopting a longer-term view. Aspects of the collection and analysis of performance data to assist the Council's deliberations may be, however, be delegated to the Chairman (and/or designated committee).
6. There will be a formal appraisal of the Chief Executive's performance. The timing, format and process for these meetings will be negotiated and agreed upon between the Chief Executive and the Council before the commencement of the monitoring period. Performance appraisal meetings will be held at least once per year.
7. The Council will review the remuneration of the Chief Executive annually following the completion of the performance review cycle.

Level Four

1. A Monitoring Schedule will be agreed between the Council and the Chief Executive at the start of each financial year. The initial monitoring schedule is as follows:

Policy	Method	Frequency
Treatment of Customers	Internal	Annually
Treatment of staff	Internal	Annually
Financial planning and budgeting	Internal	Quarterly
Financial condition and activities	Internal	Monthly
	External	Annually
Emergency Chief Executive succession	Internal	Annually
Protection of assets	Internal	Six monthly
Remuneration and benefits	External	Annually
Communication and support	Direct inspection	Annually
Ends focus of contracts and grants	Internal	Six monthly
Equal employment opportunity	Internal	Annually
Programmes and services	Internal	Quarterly
Public Affairs	Internal	Quarterly
Business continuation	Internal	Six monthly
	External	Annually
Ends	Internal	Annually

2. In addition to the regular, policy specific monitoring described in the Schedule, the Chief Executive will furnish to the Council at the same time as he presents the draft Annual Report, a summary document. This will outline, for the Financial Year just completed, an overview assessment of the achievement of Council's Ends policies and a commentary on the extent to which, if at all, Executive Limitation policies were not met.
3. These reports will form the basis for a formal discussion between the Council and the Chief Executive regarding his/her overall performance over the last financial year. This discussion will be held no later than 30 November each year.
4. From time to time the Council may engage outside assistance in the conduct of an assessment of the Chief Executive's performance. The process and extent of any external evaluation will be negotiated between the evaluator and the Council. Any such evaluator is a contractor to the Council, not the Chief Executive, and as such will negotiate all aspects of the evaluation with the Council.

Chief Executive Appointment

Policy Type - Council-Chief Executive Linkage

Level Two

The Council will employ the best available person for the job of Chief Executive, will utilise an open and transparent appointment process and will be a good employer providing fair and appropriate terms and conditions of employment.

Level Three

1. The responsibility for appointing and terminating the employment of the Council's Chief Executive lies with the Council.
2. The Chief Executive's terms and conditions of employment are contained in the contract negotiated and signed by an authorised Council representative and the Chief Executive.
3. The process for termination of the Chief Executive's contract is contained in that contract.
4. On an annual basis, after the Council's acceptance of its audited Annual Report, the Chief Executive's remuneration and conditions of employment are reviewed on criteria developed in advance by the Council.
5. When the Chief Executive has a grievance this shall be addressed in accordance with the procedures specified in the Chief Executive's Employment contract.
6. Where necessary, the Council will initiate a replacement process no later than the next scheduled Council meeting.
7. When a new Chief Executive is to be appointed, the position will be advertised in order to attract the widest possible range of potential applicants.
8. While the process of identifying and short-listing suitable candidates may be delegated to a Council committee the final decision for the appointment of the Chief Executive will be made by the full Council.

Executive Limitations Policies

Overarching Executive Limitation

Policy Type - Executive Limitations

The Chief Executive shall not engage in, or cause or allow any practice, activity, organisational circumstance, or decision which is in any way unethical, unlawful, imprudent or which violates any organisational policy or expressed values, or any applicable business or professional ethic.

Community Relationships

Policy Type - Executive Limitations

Level Two

With respect to users or providers of Council services and the community generally, the Chief Executive shall not cause or allow conditions, procedures or decisions that are unsafe, undignified, unnecessarily intrusive, or that fail to provide appropriate confidentiality or privacy.

Level Three

The Chief Executive shall not:

1. make requests for, or use application forms that elicit information for which there is no clear necessity;
2. use methods of collecting, reviewing, transmitting, or storing consumer information that fail to protect against improper access to or use of the material elicited;
3. maintain facilities that fail to provide a reasonable level of privacy;
4. fail to establish with users of Council services a clear understanding of what may be expected and what may not be expected from the services offered;
5. fail to inform consumers of the policy, or to provide a grievance process to those who believe they have not been accorded a reasonable interpretation of their rights under the policy;
6. violate any of the provisions contained in relevant legislation e.g. the Local Government Official Information and Meetings Act, Privacy Act, Consumer Rights Act, Commerce Act, etc;
7. fail to communicate with customers of Council services and other stakeholders in an appropriate manner.

Treatment of Staff

Policy Type - Executive Limitations

Level Two

The Council acknowledges that under the Local Government Act the Chief Executive has primary responsibility for matters relating to the employment and management of staff but wishes to ensure that they will be managed in a sound, fair and respectful manner.

With respect to the treatment of staff, the Chief Executive may not cause or allow conditions that are unfair, unsafe or undignified.

Level Three

The Chief Executive shall not:

1. operate without written personnel policies that clarify personnel rules for staff, provide for the fair and effective handling of grievances, and protect against wrongful conditions and grossly preferential treatment for personal reasons;
2. deny to any employees the right to express ethical dissent;
3. deny the right of any staff member to join a relevant professional association or union or to have access to the services of that union as these relate to the workplace and related conditions;
4. fail to keep the Council fully informed about impending disputes and grievances which may lead to unbudgeted material changes in financial condition or to legal or political action against the Council;
5. fail to enter into, for all staff members, a written employment contract, either individual or collective;
6. prevent staff from taking grievances through appropriate processes and/or to appropriate authorities;
7. fail to ensure that all staff are acquainted with their rights under this policy.

Financial Planning and Budgeting

Policy Type - Executive Limitations

Level Two

Financial planning and budgeting for any fiscal year, including the remaining part of the current year, shall not deviate markedly from the Council's Ends priorities or risk imprudent financial conditions, fail to be derived from the Long-term Plan and the Annual Plan, or be inconsistent with the principles and requirements of the Local Government Act.

Level Three

The Chief Executive shall not prepare and present a draft Long-term Plan or Annual Plan or any other budget which:

1. fails to reflect the Council's long-term view;
2. contains insufficient detail to provide an accurate and credible projection of revenues, expenditures, capital movements, and disclosure of planning assumptions;
3. in any way disguises the cash flow position which would result from the adoption and application of the relevant financial plan or budget;
4. contains projected expenditures which exceed the projected reasonable estimate of revenue plus approved use of identified reserves and any borrowings required during the period covered by the budget;
5. reduces the current assets at any time to less than twice current liabilities;
6. provides for less than needed to meet the Council's own requirements as defined in the Annual Plan (see Cost of Governance Policy);
7. proposes the use of the Council's reserves in a manner inconsistent with policies related to Reserves;
8. is inconsistent with the principles defined in the Local Government Act 2002;
9. is inconsistent with the Council's funding, investment or borrowing management policies.

Financial Conditions and Activities

Policy Type - Executive Limitations

Level Two

With respect to the actual, ongoing financial conditions and activities, the Chief Executive shall not cause or allow a material deviation of actual expenditures from Council priorities established in Ends policies or the development of imprudent financial conditions.

Level Three

The Chief Executive is responsible for the day-to-day financial management of the organisation and shall carry out this duty in a manner which shall in no way threaten its financial strength. To ensure the affairs are managed on a prudent basis, the Chief Executive shall not:

1. fail to maintain accurate financial records;
2. allow any one person alone to have complete authority over any of the Council's financial transactions;
3. contravene Council funding, investment and borrowing management policies;
4. neglect to ensure that there are appropriate limitations on expenditure using credit cards and adequate controls on their issuance and use;
5. depart from generally accepted accounting standards and practices;
6. fail to act in accordance with delegations;
7. operate outside the approved budget or in any manner which is not supported by the Council's policy;
8. authorise expenditure on unbudgeted-for items without authorisation from the Council;
9. authorise expenditure from a Reserve other than in terms of an approved budget and the policy for the use of that Reserve;
10. cause the Council to incur unauthorised indebtedness;
11. expend more funds than have been received in the financial year to date unless offset by approved borrowings or approved withdrawals from reserves;

12. use any organisational funds, or enter into any contracts or accept other liabilities, other than for the furtherance of its purposes and priorities as approved by the Council in its Ends policies;
13. use restricted or “tagged” reserves for any purposes other than those authorised;
14. fail to pay staff when due;
15. allow tax payments or other government ordered payments or returns to be overdue or inaccurately completed;
16. allow undisputed invoices from suppliers of goods and services to the Council to remain unpaid beyond agreed trade credit terms agreed with those suppliers;
17. approve expenditure which, although in keeping with the Ends policies, is beyond the Council’s ability, using budgeted resources, to meet;
18. fail to report any material variances of revenue or expenditure from budget figures;
19. acquire, encumber or dispose of land and buildings without authorisation from the Council;
20. fail to assertively pursue receivables overdue.

Emergency Chief Executive Succession

Policy Type - Executive Limitations

Level Two

In order to protect the Council from sudden or unexpected loss of its Chief Executive's services and during approved absences, the Chief Executive shall not fail to ensure that there is at least two other persons, agreed in advance with the Council, who are capable of assuming the Chief Executive role and tasks and who are familiar with Council issues, priorities and processes.

Level Three

The Chief Executive shall not fail to ensure that the persons occupying second tier positions within Council, namely the Directors, are capable of assuming the role of Chief Executive.

Protection of Assets

Policy Type - Executive Limitations

Level Two

The Chief Executive shall not allow the assets of the Council to be unprotected, inadequately maintained, or unnecessarily placed at risk.

Level Three

The Council aims at all times to prevent disrepair, excessive risk, untraceable transactions, or conflicts of interest in the management of resources.

The Chief Executive shall not:

1. receive, process or disburse funds under controls that are insufficient to meet the standards acceptable to the duly appointed Auditor;
2. allow Council monies to be placed with institutions or funds other than those approved under the Council Investment Policy;
3. make any purchase of goods or services:
 - (a) without protection against conflict of interest;
 - (b) in a manner inconsistent with the Council's financial delegations.
4. pay for goods and services not yet received unless in circumstances in accordance with acceptable business practice and where the Council is not exposed to undue risk;
5. allow abuse or misuse of assets;
6. subject Council plant and equipment to improper wear and tear or insufficient maintenance or allow inappropriate and unauthorised use;
7. fail to ensure that all property/fixed assets are recorded in an appropriate and up-to-date asset register;
8. fail to ensure that there are appropriate and effective security systems in place to adequately safeguard against loss, damage, or theft of staff, customer and Council property and information;
9. allow assets to be insured for less than is considered necessary for prudent risk management;

10. allow employees to drive the Council's or rental vehicles if their driving record or condition would cause the vehicle insurance to be voided or cancelled;
11. allow intellectual property, information or files to be used for purposes other than in the Council's best interests;
12. unnecessarily expose or fail to insure the organisation, the Council and staff against claims of liability (including foreseeable claims for public liability);
13. endanger the Council's public image or credibility, particularly in ways that would hinder the accomplishment of the Council's Ends policy;
14. contravene the exclusion clauses of insurance policies.

Remuneration and Benefits

Policy Type - Executive Limitations

Level Two

With respect to employment, compensation and benefits to employees, consultants, and contractors, the Chief Executive shall not in any way jeopardise the Council's financial integrity or good name in the community.

Level Three

The Chief Executive shall not:

1. change his/her own remuneration or benefits without approval from the Council;
2. promise or imply permanent or guaranteed employment;
3. establish staff remuneration or benefits that vary markedly from industry averages in the sector having regard for the employee's skills and experience and the market conditions for such skills and experience;
4. create obligations that cannot be met over the projected period of the individual's term of employment or over a period longer than that for which revenues can realistically be projected;
5. cause unfunded liabilities to occur or in any way commit the Council to benefits which incur unpredictable or unsustainable future costs;
6. allow any employee to accrue leave entitlements beyond 24 months;
7. allow any employee to lose accrued benefits due under existing contract arrangements;
8. establish or change superannuation benefits so as to cause unpredictable or inequitable situations.

Communication and Support to the Council

Policy Type - Executive Limitations

Level Two

The Chief Executive shall not allow the Council to be uninformed or unsupported in its work.

Level Three

The Chief Executive reports to the Council as a whole and keeps it informed of the true and accurate position of the outcomes of policy implementation as identified in the Council's Ends and Executive Limitations policies. He also keeps it informed about significant management issues arising from time to time about which the Council should be informed, and all matters having real or potential legal considerations for the Council.

The Chief Executive shall not:

1. neglect to submit data in a timely, accurate and understandable fashion addressing the governance level issues to be monitored by the Council;
2. fail to inform the Council of significant trends, implications of Council decisions, issues arising from policy matters or changes in the basic assumptions upon which the Council's policies are based;
3. present information in a manner that inhibits Council member understanding of the issues contained therein;
4. fail to inform Council members when for any reason there is actual or anticipated non-compliance with a Council policy;
5. fail to marshal for the Council as many staff and external points of view, issues and opinions as needed for fully informed Council choices;
6. fail to inform the Council of such occasions when it violates one of its own policies, particularly when this relates to the Chief Executive's ability to carry out his/her responsibilities;
7. fail to ensure that there are effective communication channels relevant to the Council's tasks;
8. fail to deal with the Council as a whole except when responding to reasonable individual requests for information or requests from Council committees or working parties.

Ends Focus of Contracts or Grants

Policy Type - Executive Limitations

Level Two

The Chief Executive may not enter into any contract or grant arrangements that do not emphasise, primarily, the achievement of Ends and, secondarily, the avoidance of unacceptable means.

Equal Employment Opportunities

Policy Type - Executive Limitations

Level Two

The Chief Executive shall not allow conditions to occur that are inconsistent with the principles of equal opportunities in employment, training and promotion or which would constitute discrimination as defined in the Human Rights Act.

Programmes and Services

Policy Type - Executive Limitations

Level Two

The Chief Executive shall not allow programmes and services to be established which are not thoroughly researched prior to commencement and carefully managed, monitored and reviewed thereafter.

Level Three

The Chief Executive shall not:

1. establish and maintain programmes and services that are not aligned to the Council's mission, key results areas and priorities;
2. establish and maintain programmes and services which are unable to be resourced, taking account of approved budgets, existing demands on staff and other physical resources;
3. establish programmes and services which have not been carefully and accurately costed and accommodated within approved budgets;
4. fail to regularly monitor and review the outcomes of all programmes and services.

Public Affairs

Policy Type - Executive Limitations

Level Two

The Chief Executive shall not approve or in any way support any advocacy and public affairs action or activity which is inconsistent with the Council's Ends policies or in any way brings the Council's name into ill-repute.

Level Three

The Chief Executive shall not:

1. approve or initiate the publication of material or the making of statements by any staff member, or outside agency on behalf of the Council, unless the content is consistent with the Council's policies or its agreed position on any matter referred to;
2. make any statements to the press or any other public media that are derogatory or in any way damaging to the Council;
3. engage personally, or allow key staff to engage, in any other public role or public activity which is inconsistent with the achievement of the Council's Ends policies;
4. endanger the Council's public image or credibility, particularly in ways that would hinder the accomplishment of the Council's Ends policies.

Business Continuation

Policy Type - Executive Limitations

Level Two

The Chief Executive shall not allow a situation to occur whereby the Council is unable to function effectively and to provide essential services.

Level Three

The Chief Executive shall not:

1. fail to carry out and maintain in an up-to-date form appropriate assessments and evaluations of the risk factors which could conceivably disrupt the organisation's effective and efficient operation;
2. fail to ensure that the Council has in place current and operable plans and systems which, in the event of disruptive events, will allow continuity of the Council's business.

Governance Process Policies

Global Governance Process Policy

Policy Type - Governance Process

The purpose of the Council is to meet the current and future needs of communities for good quality local infrastructure, local public services and performance of regulatory functions in a way that is most cost effective for households and businesses.

Governing Style

Policy Type - Governance Process

Level Two

The Council will govern with an emphasis on:

1. the interests of the region as a whole;
2. outward vision rather than internal preoccupation;
3. encouraging diversity in viewpoints;
4. strategic leadership rather than administrative detail;
5. ensuring there is a clear distinction between the Council and Chief Executive roles;
6. collective rather than individual decisions;
7. the future rather than the past or present;
8. proactivity rather than reactivity.

Council Job Description

Policy Type - Governance Process

Level Two

The specific job output of the Council is a policy framework that converts community interests and expectations into organisational performance and achievement and enables the Council to give effect to its responsibilities under the Local Government Act and other relevant legislation.

Level Three

1. The Council will define and nurture the link between the Council and the community.
2. In order to fulfil its governing responsibility to provide leadership and a framework of accountability for the Council's operational performance, the Council will produce written governing policies that, at the broadest levels, address each category of organisational decision.
 - A ***Executive Limitations***: establishing constraints on executive authority that establish the prudence and ethical boundaries within which all staff activity and decisions must take place.
 - B ***Council-Chief Executive Linkage***: defining the nature of the relationship between the Council and the Chief Executive. How power is delegated and its proper use monitored and evaluated. Defining the authority and accountability of the Chief Executive role.
 - C ***Governance Process***: specifying how the Council conceives, carries out, monitors its own task and improves its own performance over time.
 - D ***Ends***: defining desirable and/or statutory organisational products, effects, benefits, outcomes, recipients, and their cost or relative worth (“what good, for which recipients, at what cost”).
3. The Council will produce assurance of Chief Executive performance against policies in #2A and #2B.

Level Four

To accomplish its job products with a governance style consistent with Council policies, the Council will follow an annual agenda that:

1. completes re-examination of Ends policies annually; and
2. continually improves Council performance through Council training and development, performance review and enriched contributions and deliberations.

Level Five

1. The cycle will conclude each year on the last day of November so that administrative planning and budgeting for the next 12 month segment can be based on the accomplishment of the most recent statement of the Council's long term Ends policies.
2. The cycle will start with the Council's development of its agenda and work programme for the next year:
 - A Consultation with defined groups of "owners" and stakeholders, and any other means of obtaining input from owners in particular will be defined and scheduled for the balance of the year.
 - B Governance performance education and education related to ends determination (e.g. presentations and discussions with advocacy groups and staff) will be defined and scheduled for the balance of the year.
 - C The Council will undertake an annual assessment of its effectiveness based on the fulfilment of its overall responsibilities as defined in these policies
3. Throughout the year the Council will attend to Approvals agenda items as expeditiously as possible.
4. Chief Executive performance monitoring (over and above that referred to in the Linkage policies) will be included on the agenda if policy criteria are to be reviewed or if monitoring reports show repeated policy violations.
5. Chief Executive remuneration will be decided after a review of monitoring reports received in the last year no later than the month of November.

The Chairman's Role

Policy Type - Governance Process

Level Two

The Chairman's role is primarily to assure the integrity and fulfilment of the Council governance processes and, secondarily, in line with the Council's authorisation, to represent the Council to outside parties.

Level Three

1. The job result of the Chairman is that the Council behaves consistently with its own rules and those legitimately imposed on it from outside the organisation.
 - A Meeting discussion content will be confined to those issues that, according to Council policy, clearly belong to the Council not the Chief Executive, to decide.
 - B Deliberation will be fair, open and thorough but also timely, orderly and to the point.
2. The authority of the Chairman is in relation to the decision-making processes within topics covered by Council policies on Governance Process and Council-Chief Executive Linkage, except where the Council specifically delegates portions of this authority to others. The Chairman is authorised to use any reasonable interpretation of the provisions contained in these policies.
 - A The Chairman is empowered to chair Council meetings with all the commonly accepted power of the position (e.g. ruling, recognising, etc).
 - B The Chairman has no authority to make decisions about policies created by the Council within Ends and Executive Limitations policy areas. Therefore, the Chairman has no authority, separate from the Council, to supervise or direct the Chief Executive.
 - C The Chairman may represent the Council to outside parties in announcing Council-stated policies and in stating Chair decisions and interpretations within the areas delegated to them.
 - D The Chairman may delegate this authority but remains accountable for its use.

Council Members' Code of Conduct (change adopted 24 September 2003)

Policy Type - Governance Process

Level Two

1. The Council commits itself and its members to ethical, businesslike and lawful conduct, including proper use of authority, and appropriate decorum when acting as Council members or representing the position of the Southland Regional Council.
2. The Code is designed to assist carrying out the declaration made by each member prior to taking office that before acting as a member of Council, an oral and written declaration is made by each individual as follows:

"I,, declare that I will faithfully and impartially, and according to the best of my skill and judgment, execute and perform, in the best interests of Southland, the powers, authorities, and duties vested in, or imposed upon, me as (chairperson or member) of the Southland Regional Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act."

Level Three

1. Councillors of the Council must act with loyalty to the interests of the ownership of the Southland Regional Council. This accountability supersedes any conflicting loyalty such as that to constituency, advocacy or special interest groups, or as a result of membership of any other organisation whether by virtue of governor, staff or contractor appointment. It also supersedes the personal interests of any Council member acting as a consumer of the Council's services.
2. Councillors must avoid conflict of interest with respect to their fiduciary responsibility.
 - A Except as procedurally controlled, there must be no conduct of private business or personal services between any Council member and the Council, to assure openness, competitive opportunity and equal access to inside information.
 - B When the Council is to decide on any issue about which a member has an unavoidable conflict of interest that member shall absent herself or himself from the table without comment so they take no part in the deliberations or the vote on that matter. The minutes shall record that the Councillor withdrew from the table for the duration of the decision on the issue.

- C Council members must not use their positions to obtain employment or other favourable treatment or position for themselves, family members or close associates. Should a member desire employment by Southland Regional Council they must first resign from the Council or other governance structures of the Council.
 - D Councillors will annually disclose to Council their involvements with organisations, vendors, or any other associations that might produce a conflict.
3. Council members may not attempt to exercise individual authority over the organisation except as set forth in Council policies.
- A Councillors' interaction with public, news media, or other entities must recognise the same limitation and the inability of any Council member to speak for the Council except within the bounds of explicitly stated Council decisions or policy. The Chairman is the first point of contact for the Council's view on any issue, but the Chairman may refer the media contact on to the most appropriate Councillor, as required. Members remain free to express a personal view in the media, but any comments made must observe all the requirements of this Code and must state, if the comment is contrary to a Council decision or Council policy, that the comment is a minority view.
 - B Individual Councillors will give no weight or voice to their or others' individual judgments of Chief Executive or other staff performance.
 - C Individual Councillors shall not engage in formal or informal discussions about staff performance with staff other than the Chief Executive.
4. Councillors must not intervene in an enforcement, consent or compliance issue in a way which would compromise the actions or intended actions of Council or the Chief Executive.
- A Except as provided in a Council policy or decision, implementing compliance action is the domain of staff.
 - B The Chief Executive shall advise Councillors of enforcement actions being taken in their constituencies, shall recognise situations where Councillor support can assist/resolve a compliance issue and shall use that support in those situations.
 - C Councillors shall not commit the Council to any outcome, course of action or agreement unless in terms expressly authorised by Council.
 - D Councillors should avoid meetings on enforcement, consent or compliance issues where staff are not present to support them.
 - E Councillors should not initiate contact with persons who have an interest in enforcement, compliance or consents issues that is greater than the public at large, other than according to approved Council policies and procedures.

- F The actions or intended actions of the Council or Chief Executive will not be deemed to be compromised when a Councillor who acts as an advisor or represents the interest of a constituent in an enforcement, compliance or consents matter, discloses that intent to the Chief Executive and excludes themselves, or is excluded by the Council from Committee or Council consideration of the matter. The Chief Executive shall notify the Council and any other parties of the Councillor's disclosure forthwith.

Level Four

1. Expectations of members

Council members and appointed members to Council Committees and Sub-committees are included as members to whom the Code applies.

All members should expect and may insist on the respect and dignity of their office in their dealings with each other, management and the public recognising that positive interaction is encouraged by a friendly and informal approach where possible. Members will:

- A ensure they are informed about the roles, functions and processes of the Council;
- B ensure that they become aware of the statutory obligations imposed on members and on Councils;
- C be adequately prepared for meetings, including reading agendas and other relevant material prior to attendance, and, if appropriate and where possible, putting forward questions to the Chief Executive in advance;
- D approach decision making with an open mind, taking into account only relevant considerations and arriving at decisions based upon the individual merits of a matter, free from actual or perceived bias;
- E undertake appropriate professional development;
- F recognise that they have no personal power to commit Council to any particular policy or course of action unless they have delegated authority from Council or the appropriate Committee to do so;
- G respect the decisions that are made at Council meetings and ensure that any public statement giving a point of view contrary to a Council decision is identified as a personal, minority view;
- H comply with the Local Authority (Members Interest) Act 1968 and, where appropriate, disclose particular interest to the Chief Executive so that the interests of the Councillor and the Council may be safeguarded;
- I declare to the Council on coming into office, or immediately on being adjudicated bankrupt, if they are an undischarged bankrupt.

2. **Relationships with other members**

Members must conduct their dealings with each other in ways that:

- A maintain public confidence in the office to which that have been elected;
- B are open and honest;
- C focus on issues rather than personalities;
- D avoid conflict which is aggressive, offensive or abusive or which may constitute unlawful or inappropriate harassment.

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

- E demonstrating courtesy and respect to their fellow Members of Council;
- F respecting the diversity of opinion that may exist and the right of different points of view to be heard;
- G encouraging and supporting each other in a manner that recognises and respects individual strengths and weaknesses.

3. **Relationship with public**

Members will conduct their dealings with the public recognising that effective Council decision making depends on productive relationships between elected members and the community at large.

- A Members must act in a manner that encourages and values community involvement in local democracy.
- B Members must be available to listen to community views and concerns.
- C Members must strive to understand different points of view within the community.
- D The views of members of the public must be accorded respect with members listening to, and deliberating on, concerns carefully and patiently.

When dealing with members of public, members must:

- E be honest, fair and equitable;
- F behave in a courteous and sensitive manner and not discriminate against any person;
- G avoid promising things the member cannot deliver;
- H avoid aggressive or abusive behaviour.

4. **Relationship with staff/employees**

Members and employees will seek to achieve a team approach in an environment of mutual respect, trust, informality where possible, and acceptance of their different roles in achieving the Council's objectives.

To ensure trust and co-operation is maintained members must:

- A 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 or instruct or censure an employee;
- B be aware of the legislative requirements in respect of employees;
- C be clear about the distinction in the roles of members and staff and how they work together for the benefit of the community;
- D observe any guidelines the Chief Executive should put in place regarding contact with employees;
- E show employees courtesy and respect;
- F demonstrate respect for employees' professional opinion and expertise;
- G not do anything which compromises, or could be seen as compromising, the impartiality of an employee;
- H be aware that failure to observe this portion of the Code may compromise Council's obligations to act as a good employer and may expose Council to civil litigation and audit sanctions.

5. **Disclosure of information**

Members will avoid improper use of information obtained in their activities.

- A Information received by a member in his or her capacity as an elected member must not be used or disclosed for any purpose other than Council business.
- B Information received by a member in his or her capacity as an elected member must not be used or disclosed for any purpose other than the purpose for which it was supplied.
- C Members will not withhold any information that affects the ability of Council to fulfill any legal obligations.

Where a member from time to time becomes privy to confidential information that may affect Council activities, the confidentiality of this information will be protected and not disclosed until a resolution of Council to release the information is made. If information is offered on a confidential basis, the member must:

- D inform the supplier of the information that the member may have a disclosure obligation under this Code;
- E inform the supplier that public disclosure of information received by the Council is governed by the Local Government Official Information and Meetings Act 1987 (LGOIMA) and that under LGOIMA public disclosure may occur without the supplier's consent;
- F decline to receive the information if the supplier insists upon absolute confidentiality.

Level Five

1. Compliance with Code and consequences of a breach

- A Compliance with the Code is mandatory for all elected members (Schedule 7, Section 15(4)) and is made mandatory for other members as by Council resolution.
- B The members themselves shall monitor compliance with this Code.
- C Natural justice shall prevail in any instance of alleged breach.
- D Alleged breaches or failure to comply with the Code that are not subject to any statutory provisions will be dealt with internally by Council, confidentially or otherwise as Council determines at the time.
- E Alleged breaches of the Code shall be reported to the Chief Executive or Chairman as appropriate and where it is considered that the matter is of substance, a report shall be submitted for the consideration of Council after appropriate investigative enquiries, including interviews with the alleged transgressor and other appropriate members, employees or members of the public.
- F If there are no statutory provisions for non-compliance, only Council can censure the member if Council determines that a breach has occurred. Such censure shall not include monetary penalty or suspension (temporary) from Council or Committee, but may include (and is not limited to) a vote of no confidence in the member, or the removal of the member from appointed positions. For co-opted members, censure may include removal from the relevant committee/sub-committee.

2. Legislation applicable to members

Extracts of legislation (but not necessarily all) relevant to the conduct of members follows:

Local Government Act 2002

10 Purpose of Local Government

The purpose of local government is –

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

12. Status and powers—

- (1) A local authority is a body corporate with perpetual succession.
- (2) For the purposes of performing its role, a local authority has—
 - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not—
 - (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a co-operative activity; or
 - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
 - (c) restrict the activities of a council-controlled organisation.

14 Principles Relating to Local Authorities

- (1) In performing its role, a local authority must act in accordance with the following principles:
 - (a) a local authority should -
 - (i) conduct its business in an open, transparent, and democratically accountable manner; and
 - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:
 - (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and
 - (c) when making a decision, a local authority should take account of—
 - (i) the diversity of the community, and the community's interests, within its district or region; and
 - (ii) the interests of future as well as current communities; and
 - (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:
 - (d) a local authority should provide opportunities for Maori to contribute to its decision-making processes:
 - (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and

- (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and
 - (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and
 - (h) in taking a sustainable development approach, a local authority should take into account -
 - (i) the social, economic, and cultural well-being of people and communities; and
 - (ii) the need to maintain and enhance the quality of the environment; and
 - (iii) the reasonably foreseeable needs of future generations.
- (2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).

15. Triennial agreements—

- (1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement containing protocols for communication and co-ordination among them during the period until the next triennial general election of members.
- (2) Each agreement must include a statement of the process for consultation on proposals for new regional council activities.
- (3) After the date specified in subsection (1), but before the next triennial general election of members, all local authorities within each region may meet and agree to amendments to the protocols.
- (4) An agreement remains in force until replaced by another agreement.

16. Significant new activities proposed by regional council—

- (1) This section applies if,—
 - (a) in the exercise of its powers under section 12(2), a regional council proposes to undertake a significant new activity; or
 - (b) a regional council-controlled organisation proposes to undertake a significant new activity; and
 - (c) in either case, 1 or more territorial authorities in the region of the regional council—
 - (i) are already undertaking the significant new activity; or
 - (ii) have notified their intention to do so in their long-term council community plans or their annual plans.
- (2) When this section applies, the regional council—
 - (a) must advise all the territorial authorities within its region and the Minister of the proposal and the reasons for it; and
 - (b) must include the proposal in its draft long-term council community plan.
- (3) A proposal included in a draft long-term council community plan must include—
 - (a) the reasons for the proposal; and
 - (b) the expected effects of the proposal on the activities of the territorial authorities within the region; and
 - (c) the objections raised by those territorial authorities, if any.
- (4) If, after complying with subsection (2), the regional council indicates that it intends to continue with the proposal, but agreement is not reached on the proposal among the regional council and all of the affected territorial authorities, either the regional council or 1 or more of the affected territorial authorities may submit the matter to mediation.
- (5) Mediation must be by a mediator or a mediation process—
 - (a) agreed to by the relevant local authorities; or
 - (b) in the absence of an agreement, as specified by the Minister.
- (6) If mediation is unsuccessful, either the regional council or 1 or more affected territorial authorities may ask the Minister to make a binding decision on the proposal.

- (7) Before making a binding decision, the Minister must—
- (a) seek and consider the advice of the Commission; and
 - (b) consult with other Ministers whose responsibilities may be affected by the proposal.
- (8) This section does not apply to—
- (a) a proposal by a regional council to establish, own, or operate a park for the benefit of its region; or
 - (b) a proposal to transfer responsibilities; or
 - (c) a proposal to transfer bylaw-making powers; or
 - (d) a reorganisation proposal; or
 - (e) a proposal to undertake an activity or enter into an undertaking jointly with the Crown.
- (9) For the purposes of this section,—
- “affected territorial authority” means a territorial authority—
- (a) the district of which is wholly or partly in the region of a regional council; and
 - (b) that undertakes, or has notified in its long-term council community plan or annual plan its intention to undertake, the significant new activity
- “annual plan”—
- (a) means a report adopted under section 223D of the Local Government Act 1974; and
 - (b) includes such a report that section 281 applies to
- “new activity”—
- (a) means an activity that, before the commencement of this section, a regional council was not authorised to undertake; but
 - (b) does not include an activity authorised by or under an enactment
- “regional council-controlled organisation” means a council-controlled organisation that is—
- (a) a company—
 - (i) in which equity securities carrying 50% or more of the voting rights at a meeting of the shareholders of the company are—
 - (A) held by 1 or more regional councils; or
 - (B) controlled, directly or indirectly, by 1 or more regional councils; or
 - (ii) in which 1 or more regional councils have the right, directly or indirectly, to appoint 50% or more of the directors of the company; or
 - (b) an organisation in respect of which 1 or more regional councils have, whether or not jointly with other regional councils or persons,—
 - (i) control, directly or indirectly, of 50% or more of the votes at any meeting of the members or controlling body of the organisation; or
 - (ii) the right, directly or indirectly, to appoint 50% or more of the trustees, directors, or managers (however described) of the organisation.

39 Governance Principles

A local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of members, is clear and understood by members and the community; and
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities; and
- (d) a local authority should be a good employer; and
- (e) a local authority should ensure that the relationship between members and management of the local authority is effective and understood.

40 Local Governance Statements

- (1) A local authority must prepare and make publicly available, following the triennial general election of members, a local governance statement that includes information on -
 - (a) the functions, responsibilities, and activities of the local authority; and
 - (b) any local legislation that confers powers on the local authority; and
 - (c) the electoral system and the opportunity to change it; and
 - (d) representation arrangements, including the option of establishing Maori wards or constituencies, and the opportunity to change them; and
 - (e) members' roles and conduct (with specific reference to the applicable statutory requirements and code of conduct); and
 - (f) governance structures and processes, membership, and delegations; and
 - (g) meeting processes (with specific reference to the applicable provisions of the Local Government Official Information and Meetings Act 1987 and standing orders); and
 - (h) consultation policies; and
 - (i) policies for liaising with, and memoranda or agreements with, Maori; and
 - (j) the management structure and the relationship between management and elected members; and
 - (k) equal employment opportunities policy; and
 - (l) key approved planning and policy documents and the process for their development and review; and
 - (m) systems for public access to it and its elected members; and
 - (n) processes for requests for official information.
- (2) A local authority must comply with subsection (1) within 6 months after each triennial election of members of the local authority.
- (3) A local authority must update its governance statement as it considers appropriate.

41. Governing bodies—

- (1) A regional council must have a governing body consisting of—
 - (a) members elected in accordance with the Local Electoral Act 2001; and
 - (b) a chairperson elected by members of the regional council in accordance with clause 25 of Schedule 7.
- (2) ...
- (3) A governing body of a local authority is responsible and democratically accountable for the decision-making of the local authority.
- (4) A chairperson of a regional council, or a mayor of a territorial authority, is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.
- (5) An employee of a local authority who is elected to be a member of the local authority's governing body must resign from his or her position as an employee of the local authority before taking up his or her position as a member of the local authority.

43 Certain Members Indemnified

- (1) A member of a local authority (or a committee, community board, or other subordinate decision-making body of that local authority) is indemnified by that local authority, whether or not that member was elected to that local authority or community board under the Local Electoral Act 2001 or appointed by the local authority, for--
 - (a) costs and damages for any civil liability arising from any action brought by a third party if the member was acting in good faith and in pursuance (or intended pursuance) of the responsibilities or powers of the local authority (or committee, community board, or other subordinate decision-making body of that local authority); and
 - (b) costs arising from any successfully defended criminal action relating to acts or omissions in his or her capacity as a member.

- (2) Subsection (1) does not apply to a member's liability for a loss under section 46.
- (3) To avoid doubt, a local authority may not indemnify a director of a council-controlled organisation for any liability arising from that director's acts or omissions in relation to that council-controlled organisation.

44 Report by Auditor-General on Loss Incurred by Local Authority

- (1) For the purposes of this section and sections 45 and 46, a local authority is to be regarded as having incurred a loss to the extent that any of the following actions and omissions has occurred and the local authority has not been fully compensated for the action or omission concerned:
 - (a) money belonging to, or administrable 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.
- (2) If the Auditor-General is satisfied that a local authority has incurred a loss, the Auditor-General may make a report on the loss to the local authority, and may include in the report any recommendations in relation to the recovery of the loss or the prevention of further loss that the Auditor-General thinks fit.
- (3) The Auditor-General must send copies of the report to the Minister and every member of the local authority.

45 Local Authority to Respond to Auditor-General

- (1) On receipt of a report from the Auditor-General, the local authority must, within 28 days, respond in writing to the Auditor-General, and send a copy of the response to the Minister.
- (2) The local authority's response must--
 - (a) respond to each of the Auditor-General's recommendations; and
 - (b) include a statement as to what action, if any, the local authority intends to take in respect of the loss.
- (3) The Minister may extend the period of time within which the local authority must forward its response.
- (4) An individual member of the local authority may respond to the Auditor-General--
 - (a) by making a separate response to the Auditor-General, and sending a copy to the local authority and the Minister, within the time required for the local authority's response; or
 - (b) with the consent of the local authority, by incorporating that member's response in the local authority's response.
- (5) The local authority must, as soon as practicable after the expiry of the time for forwarding its response, table in a meeting of the local authority that is open to the public a copy of the Auditor-General's report, the local authority's response, and any response of an individual member of the local authority not incorporated in the local authority's response.

46 Members of Local Authority Liable for Loss

- (1) If the Auditor-General has made a report on a loss to a local authority under section 44, then, without limiting any other person's liability for the loss, the loss is recoverable as a debt due to the Crown from each member of the local authority jointly and severally.
- (2) If the members of the local authority or any other person or persons do not pay the amount of the loss to the Crown or the local authority within a reasonable time, the Crown may commence proceedings to recover the loss from any or all of those members.
- (3) Any amount recovered by the Crown under subsection (2), less all costs incurred by the Crown in respect of the recovery, must be paid by the Crown to the local authority concerned.

- (4) It is a defence to any proceedings under subsection (2) if the defendant proves that the act or failure to act resulting in the loss occurred---
- (a) without the defendant's knowledge; or
 - (b) with the defendant's knowledge but against the defendant's protest made at or before the time when the loss occurred; or
 - (c) contrary to the manner in which the defendant voted on the issue at a meeting of the local authority; or
 - (d) in circumstances where, although being a party to the act or failure to act, the defendant acted in good faith and in reliance on reports, statements, financial data, or other information prepared or supplied, or on professional or expert advice given, by any of the following persons:
 - (i) an employee of the local authority whom the defendant believed on reasonable grounds to be reliable and competent in relation to the matters concerned;
 - (ii) a professional adviser or expert in relation to matters that the defendant believed on reasonable grounds to be within the person's professional or expert competence.

47 Members may be Required to Pay Costs of Proceeding in Certain Cases

- (1) This section applies if, in a proceeding commenced by the Attorney-General, the local authority is---
- (a) held to have---
 - (i) disposed of, or dealt with, any of its property wrongfully or illegally; or
 - (ii) applied its property to any unlawful purpose; or
 - (iii) permitted the reserves that it must manage to be used for purposes not authorised by law; or
 - (b) restrained from acting in the ways referred to in paragraph (a).
- (2) If subsection (1) applies, costs and other expenses arising out of the proceeding or incurred in doing the things to which the proceeding relates---
- (a) must not be paid out of general revenues by the local authority; and
 - (b) must be paid, by order of the Court, by the members of the local authority who, by voting or otherwise, assented to the acts concerned.
- (3) The Court must not make an order under subsection (2) against a member of the local authority if the member proves that, in doing the act concerned,---
- (a) the member acted in good faith and in accordance with the written advice of the solicitor to the local authority; or
 - (b) the member acted honestly and reasonably and, having regard to all the circumstances of the case, the member ought fairly to be excused.

Schedule 7

1 Disqualification of members

- (1) A person's office as a member of a local authority is vacated if the person, while holding office as a member of the local authority,---
- (a) ceases to be an elector or becomes disqualified for registration as an elector under the Electoral Act 1993; or
 - (b) is convicted of an offence punishable by a term of imprisonment of 2 years or more.
- (2) If subclause (1)(b) applies,---
- (a) The disqualification does not take effect---
 - (i) until the expiration of the time for appealing against the conviction or decision; or
 - (ii) if there is an appeal against the conviction or decision, until the appeal is determined; and
 - (b) The person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a member during that time, and is not capable of acting as a member during that time.

- (3) A person may not do an act as a member while disqualified under subclause(1) or while on leave of absence under subclause (2).

15 Code of Conduct

- (1) A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.
- (2) The code of conduct must set out -
- (a) understandings and expectations adopted by the local authority about the manner in which members may conduct themselves while acting in their capacity as members, including -
 - (i) behaviour toward one another, staff, and the public; and
 - (ii) disclosure of information, including (but not limited to) the provision of any document, to elected members that -
 - (A) is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and
 - (B) relates to the ability of the local authority to give effect to any provision of this Act; and
 - (b) a general explanation of -
 - (i) the Local Government Official Information and Meetings Act 1987; and
 - (ii) any other enactment or rule of law applicable to members.
- (3) A local authority may amend or replace its code of conduct, but may not revoke it without replacement.
- (4) A member of a local authority must comply with the code of conduct of that local authority.
- (5) A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an un-discharged bankrupt.
- (6) After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
- (7) To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

Local Authority (Members' Interests) Act 1968

This Act regulates the circumstances where a member has a pecuniary interest in a matter before the Council.

Contractual interests

No person may be elected to a Council, or once elected remain a member, if the value of any contracts between the Council and that member exceed \$25,000 in any financial year. This prohibition applies to all forms of contract, including ongoing supply contracts and one-off contracts (including contracts for the sale of property by or to the Council). In the event of breach the member is automatically disqualified from office and may not seek a re-election at the by-election which follows. The member is however authorised to stand at the next triennial election. On a conviction for an offence the member may be fined up to \$200.

Other pecuniary interests

A member may not participate in the discussion or voting on a matter in which the member directly or indirectly has a pecuniary interest, except an interest in common with the public. If a member is convicted of a breach of this requirement then a fine of up to \$100 may be imposed and disqualification from office is automatic. A disqualified member may however stand for election at a by-election.

Additional points

- The interests covered by this Act extend to include interests held by the member's spouse, companies in which the member holds shares or is a director, other business structures or trusts in which the member has an interest. The word "spouse" is not defined in the statute, but the prudent course is to use this word in a modern ie. domestic partner sense, a "spouse" ceases to be a spouse on separation
- the Audit Office has an ability to grant exemptions on application. A retrospective exemption may be granted in respect of contractual arrangements but not in respect of other pecuniary interests

The requirements of this Act are complex. It is strongly recommended that members familiarise themselves with the provisions of the Act. The publication by Audit New Zealand "Financial Conflicts of Interest of Members of Governing Bodies" published in September 2001 is a very useful starting point.

Local Government Official Information And Meetings Act 1987 (LGOIMA)

Official Information

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 s.7 of the Act.

The obligations of LGOIMA are binding on members and apply to the disclosure of information by a member in respect of any information held by that member (in his or her capacity as member) to a member of the public. It does not apply to the disclosure of information to the Council in accordance with the requirements of the Code of Conduct.

Qualified Privilege

Sections 52 and 53 of LGOIMA provide that written or oral statements on any matter before a meeting of the Council, committee or community board is privileged unless the statement is proved to be made with malice. This type of privilege is known as qualified privilege. Qualified privilege is a protection afforded by the law on certain occasions to a person acting in good faith and without any improper motive who makes a statement defamatory about another person.. It is established law that meetings of local authorities are privileged occasions. This would include now community boards. The reason given by the courts is that those who represent local government electors should be able to speak freely on any matter they believe affects the interests of their residents.

The situation regarding statements made outside a formal meeting are not so clear. The statutory protection of sections 52 and 53 would not extend outside a meeting

If malice can be established by the maker of the statement then the privilege is lost. With the question of malice, motive can be crucial. If it is established the maker of the statement had some other dominant and improper motive then malice will be established. Generally speaking, malice is a desire to injure the defamed person and this desire must be the dominant motive for the statement. The maker should guard against making reckless statements.

What is required for qualified privilege to apply is a positive belief in the truth of what is said, and that there is no suggestion of personal spite or ill-will by the maker.

Meetings

LGOIMA also regulates and sets out the procedural requirements for meetings of local authorities (including territorial authorities), the publication of agenda, procedures for discussion with the public excluded and access by the public to the minutes of meetings.

Secret Commissions Act 1910

It is unlawful for 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. (A conviction triggers the disqualification provisions in Clause 1 of Schedule 7 of the Act and result in automatic disqualification of the member from office.

Crimes Act 1961

It is unlawful for 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 the member's duties for monetary gain or advantage by the member, or any.

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

Securities Act 1978

The Securities Act places members in the same position as company directors whenever Council offers shares in a company 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. (These circumstances will arise only very rarely, if ever).

Council Committee Principles

Policy Type - Governance Process

Level Two

Council committees, when used, will be assigned responsibility in a way that reinforces the wholeness of the Council's job and does not interfere with the delegation from Council to the Chief Executive.

Level Three

1. Council committees are to help the Council do its job and never to help or advise the Chief Executive and staff. Committees will ordinarily assist the Council by preparing policy alternatives and implications for Council deliberation. In keeping with the Council's broader focus, Council committees will normally not have dealings with current staff operations.
2. Council committees may not speak for the Council except when formally given such authority for specific and time-limited purposes. Expectations and authority will be carefully stated in order not to conflict with authority delegated to the Chief Executive.
3. Council committees cannot exercise authority over the Chief Executive or other staff. Because the Chief Executive works for the Council as a whole, he will not be required to obtain the approval of a committee before taking an executive action.
4. Council committees are to avoid over-identification with organisational parts rather than the whole. A Council committee that has helped the Council create policy on some topic will not be used to monitor organisational performance on that same subject.
5. Committees will be used sparingly and will normally be established to facilitate the completion of a specific task within a defined time frame.
6. This policy applies to any group that is formed by Council action whether or not it is called a committee and regardless of whether the group includes Council members. It does not apply to committees formed under the authority of the Chief Executive.

Cost of Governance

Policy Type - Governance Process

Level Two

Because poor governance costs more than learning to govern well, the Council will invest in increasing its governance capacity and performance.

Level Three

1. Council skills, methods and supports will be sufficient to assure governing with excellence.
 - A Training and retraining will be used to orient new Council members and potential future members, as well as to maintain and increase existing member skills and understandings.
 - B Outside monitoring assistance may be arranged so that the Council can exercise confident control over organisational performance. This includes but is not limited to attestation audit.
 - C Outreach mechanisms will be used as necessary to ensure the Council's ability to listen and understand owner and key stakeholder viewpoints and values.
2. Costs will be prudently incurred, though not at the expense of endangering the development and maintenance of superior governing capability. Funding will be considered annually.

Policy-Making

Policy Type - Governance Process

Level Two

Policies are designed to provide clear, unambiguous guidelines for the implementation of the various operational elements of the organisation. Policies provide continuity and a consistent point of accountability.

Policy-making shall follow set procedures to ensure the efficacy of the process and the overall policy framework.

There shall be two types of policy making:

1. Council-level policy including:

- A ***Executive limitations*** - policies defining the limits of the Chief Executive's freedom to act.
- B ***Council-Chief Executive linkages*** - relationship policies defining the nature of the Council's relationship with the Chief Executive.
- C ***Governance Process*** - policies defining the Council's own operating practices
- D ***Strategic ends*** - policies defining the outcomes sought from all operational effort.

2. Operational policies

These are developed by the Chief Executive defining day-to-day operational frameworks/guidelines for staff. All operational policies shall be consistent with the principles, boundaries and definitions contained in the Council-level policies. The Chief Executive will establish the procedures for the development of all operational policies.

Level Three

- 1. All Council-level policies will be approved by the Council at a formally constituted Council meeting.
- 2. The need for new policies may be proposed by individual Council members or the Chief Executive.

3. Whenever possible, policies will be developed in response to the potential for future use or in advance of an event rather than in response to an event, crisis or problem.
4. All policies will be reviewed for continuing relevance and effectiveness on a regular basis.
5. All Council-level policies shall be available to all Council members, the Chief Executive and to staff as appropriate via the Chief Executive.
6. The Chief Executive is responsible for the development of all operational policies.
7. All operational policies shall be freely available to all staff.
8. Operational policies shall be available to the Council or its agents upon request.
9. The Council will play no part in the development of operational policies nor shall these policies be included in the Council's policy manual.

Council Member Induction

Policy Type - Governance Process

Level Two

All Council members are expected to contribute to Council meetings to the best of their ability. To facilitate this, the Council will guarantee a thorough induction into the affairs of both the Council and the organisation at large, its issues, current concerns, staff, its financial position and its liabilities and assets.

Level Three

1. New Councillors will receive briefing material which will include not less than a copy of all Council-level policies together with a copy of the Annual Plan and the Long Term Financial Strategy and a copy of year-to-date financial statements.
2. At the start of a new Triennium the new Council will undertake a specific governance induction programme. New Councillors appointed at other times will have an induction programme tailored to their needs that will be led by the Chairman.
3. New Councillors will meet with the Chief Executive for an operational familiarisation. This may include briefings, field trips as appropriate, meetings with staff, and an opportunity for the Chief Executive and staff to share views on the issues facing the Council.

Meeting Process

Policy Type - Governance Process

Level Two

The Council is committed to the achievement of effective and efficient meetings.

Meetings (including of committees) will:

1. be based on a pre-prepared agenda, the content of which is the responsibility of the Chairman or in his/her absence the Deputy Chairman. Such an agenda should reflect the Council's governing role;
2. include the Chief Executive as of right. From time to time at the suggestion of the Chief Executive, staff may be invited to the meeting by the Council to present an issue or provide information or advice;
3. have the right to go "in committee" at any time it chooses but in doing so will:
 - make the legislative reasons for this clear
 - reserve the right to include or exclude any non-Council member it so chooses
 - make all efforts to look ahead and signal any such "in committee" session in the agenda or at the beginning of the meeting;
4. be held with the expectation that members have prepared for them and will participate in all discussions at all times within the boundaries of behaviour considered acceptable by the Council;
5. agendas and meeting papers will be dispatched to Councillors no less than five working days before meetings.

Ends Policies

The Ends Policies of the Council are articulated in the current Long-term Plan adopted from time to time by the Council. The Long-term Plan is informed by the Regional Policy Statement and other documents such as the Regional Pest Management Strategy.