

1. Report: Whangarei District Council Briefing Tuesday 14 March 2017

Report of a Briefing to the Whangarei District Council held in the Council Chamber, Forum North on Tuesday 14 March 2017 at 9.00am

Present:

Her Worship the Mayor Sheryl Mai, Crs Stu Bell, Crichton Christie, Vince Cocurullo, Tricia Cutforth, Shelley Deeming, Sue Glen, Jayne Golightly, Cherry Hermon, Phil Halse, Greg Innes, Greg Martin, Sharon Morgan and Anna Murphy

Apologies/Absent

Cr Golightly - Apologies for lateness (arrived 10.05am).

In Attendance:

Chief Executive (Rob Forlong), Governance Manager (Jason Marris), Legal Counsel (Kathryn Candy), Senior Meeting Co-ordinator (Jennie Thomas), General Manager Strategy and Democracy (Jill McPherson), General Manager District Living (Alison Geddes), General Manager Community (Sandra Boardman) and General Manager Support Services (Alan Adcock).

1 Elected Member Code of Conduct Review

Facilitators: Her Worship the Mayor
Jason Marris and Kathryn Candy

Her Worship the Mayor convened the meeting.

Kathryn Candy covered the content of the briefing as outlined in the agenda report and attached presentation including:

- Why we have a code?
- The Current Code
- LGNZ Code of Conduct Template
- Objectives of New Code
- LGNZ Draft Code - Major Changes
 - Contact with Media
 - Reduced gift value
 - Specific requirement to participate in activities to promote trust, respect, tolerance
 - Complaints and how to deal with them
- Pros and Con of LGNZ Draft Code
- Next step

Discussion/comment/feedback

Contact with the Media

- Under the Draft Code of Conduct policy queries would need to be directed to the Mayor or Committee of the whole Chair, operational to the CE.

- Elected members may express opinion but must be presented as personal view.
- Elected members discussed their need to comment on matters with their wards and make statements on topics.
- Defining the media - social media included - local newsletters.
- The Current Code of Conduct statement regarding contact with the media is simple and covers social media.
- The Code of Conduct section on dealing with the media needs to be kept simple.

Reduced Gift Value

- Draft Code of Conduct reducing gift value from \$500 to \$50 before the gift needs to be declared.
- Email advice of gift to Council's Legal Counsel who will add to register.
- Unclaimed benefits e.g. mileage could be added to the register.
- Discussion on what constitutes a gift/in kind. Is a "win" deemed to be a gift?
- If attending an event, consider whether Council business vs personal.
- The register is discoverable but protects elected members.

Participation

- Discussion on ramifications of not participating.
- Standing orders already apply to attendance.
- More discussion needed.

Complaint Process

- Members of the public cannot make a complaint under the draft code.
- Only elected member or CE. Public would have to go through an Elected Member. Further discussion needed on complaints only being able to be lodged with elected members or the CE.
- Other Northland councils (Far North and Kaipara) have adopted and NRC are about to adopt their new Code of Conduct.
- Discussions have taken place with these councils regarding utilising the same pool to draw from to investigate complaints.
- Panel needs to be clear and transparent.
- The investigator would get complaint passed on from CE.
- The investigator would make preliminary determination on whether complaint was material or non-material.
- Discussion on possible costs of investigative panel.
- Would there be a Code of Conduct Committee or would complaints go to Council?
- Staff members will provide more detail around independent criteria of investigators and skill sets required.

Conclusion

Next briefing will be used to provide and discuss further details and other sections of the draft Code of Conduct. The current Code of Conduct remains in force until another code is adopted.

The meeting closed at 10.35

Council Briefing Tuesday 14 March 2017

Elected Members Code of Conduct Review

**Kathryn Candy, Legal Counsel
Jason Marris, Governance Manager**

Why have a Code

- Legislation says we have to – Local Government Act 2002, schedule 7, clause 15.
- To build citizen confidence and trust in Council
- To document “in-house” rules that govern relationships and behaviour
- To promote effective working relationships to enable good decision making

The current Code

- Based on a previous template developed in 2002
- Has been amended slightly over the years
- Covers off on all mandatory elements of a Code
- Lacks clear direction on dealing with compliance with the Code

LGNZ Code of Conduct template

- Developed by LGNZ with advice from Simpson Grierson and input from several other Councils
- Focuses on promoting an inclusive and positive governance culture
- Incorporates recent legislative change, new approaches to good governance and better advice on how to deal with alleged breaches of the Code
- Designed to promote debate and that views of members are to be respected
- ...but sets boundaries on behaviour when expressing and promoting those views.
- Provides clear pathway for resolving complaints

LGNZ Code of Conduct template

- Objectives of the new Code (pg. 4):
 - Enhance effectiveness of Council and the provision of good local government
 - Promote effective decision making and community engagement
 - Enhance the credibility and accountability of Council to its communities
 - Develop a culture of mutual trust, respect and tolerance between members and between members and staff

8 LGNZ Draft Code Major Changes

- Contact with the media
- Reduced gift value
- Specific requirement to participate in activities to promote trust, respect, tolerance
- Complaints and how to deal with them

⁹ LGNZ Draft Code

Contact with the Media (Pg. 8/9)

- Operational questions to CE, policy questions to Mayor or other member with authority – e.g. Committee of the whole Chair.
- Mayor is first point of contact unless the above applies or approval from Mayor
- Members may express personal view, but rules around this

¹⁰ LGNZ Draft Code

Reduced gift value (Pg. 12)

- Current code – gift over \$500 must be declared to CE.
- Draft code – gift over \$50 must be declared.

¹¹ LGNZ Draft Code Participation (Pg. 12)

- Participate in activities that promote culture of mutual trust, respect and tolerance:
 - Post-election induction to set vision, goals, objectives, operating style
 - Assessment of performance and operating style during term
 - Take steps to have skills and knowledge to fulfil role of elected member and contribute to good governance

¹² LGNZ Draft Code Complaints (Pg. 13/14)

- Only CE or elected member can make a complaint for alleged breach of Code
- All complaints go to an independent investigator
- Guiding principles for investigation
 - **Proportionality**
 - **Separation of roles during investigation**
 - **Natural justice and fairness**

LGNZ Draft Code

Complaints (Pg. 14)

- Materiality - definition: if breach proven would bring elected member or Council into disrepute or if not addressed would reflect adversely on another elected member
- Penalties for material breach:
 - Censure
 - Apology
 - Vote of no confidence
 - Removal of privileges
 - Restricted entry to council offices
 - Limitation on dealing with staff
 - Suspension from committees etc.
 - Invitation to consider resigning

14 LGNZ Draft Code Complaints (Pg. 14)

- Mitigation options:
 - Attend training
 - Work with mentor
 - Mediation
 - Apology

Outcome of complaint process public unless LGOIMA applies.

Consider whether full Council considers complaints or a Code of Conduct Committee is established.

LGNZ Draft Code

Complaint process (Pg. 21)

1. CE refers complaint to independent investigator and informs parties involved
2. Investigator makes preliminary determination:
 - Dismissed
 - Redirected to another agency
 - Complaint is non-material
 - Complaint is material

LGNZ Draft Code

Complaint process

3. If found to be non-material
 - Investigator to advise the CE and they may recommend action – e.g. seek guidance from Mayor or attend training
 - Decisions and recommendations are not open to be challenged - they are non-binding on Council and the respondent
4. If found to be material
 - Investigator investigates more fully
 - Upon receiving the investigators report the CE writes report for council to consider findings and decide action

LGNZ Draft Code

Independent panel – our thoughts

- Could create a panel with all Northland's council's to draw from
- Could use experienced people (e.g. retired judge/Police)
- Could include people with different skill sets
- Could include people based in different council districts to avoid any perception of bias

18 LGNZ Draft Code Pros and Cons

Pros

- Fairer/stronger process for all concerned
- Clearer than current code
- Updated to reflect best practice

Cons

- More expensive but level of complaints are low
- Public cannot make a complaint under the code

19 LGNZ Draft Code Next Steps

- Use the LGNZ template as a base
- Amend to reflect council feedback
- Report to council for adoption – note that 75% majority required to amend the code of conduct

20 LGNZ Draft Code Major Changes

- Contact with the media
- Reduced gift value
- Specific requirement to participate in activities to promote trust, respect, tolerance
- Complaints and how to deal with them



Appendix 2: Complaints Procedure – Flow Diagram

