

1. Report: Whangarei District Council Briefing Wednesday 10 May 2017

Report of a Briefing to the Whangarei District Council held in the Council Chamber, Forum North on Wednesday 10 May 2017 at 11.00am

Present:

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

Apology/Absent

Cr Christie

In Attendance:

Chief Executive (Rob Forlong), General Manager Strategy and Democracy (Jill McPherson), Governance Manager (Jason Marris), Legal Counsel (Kathryn Candy) and Senior Meeting Co-ordinator (Carolyne Brindle)

1 Elected Member Code of Conduct

Facilitators: Her Worship the Mayor
Jill McPherson

Her Worship the Mayor convened the meeting by welcoming everyone, including the public in attendance, to Part two of the Code of Conduct review process.

Council initially reviewed and discussed the draft Code of Conduct template developed and published by LGNZ at a Council Briefing held 14 March.

Kathryn Candy began by outlining the purpose of the briefing, which is to review the amendments proposed by elected members and to seek feedback on any matters not discussed at the last briefing due to time constraints.

Ms Candy clarified the legislative requirements. Council must adopt a code of conduct and can amend or replace its code of conduct. The current code, introduced in 2002 and amended slightly over the years, is in need of a good review. The current code remains in force until another code is adopted.

Ms Candy then covered the content of the briefing as outlined in the agenda report and attached presentation.

Review of feedback from the first briefing

Media

Sections 6 & 6.2 Contact with the media - pages 10 and 11 were rewritten to reflect feedback and include social media

- 6.2 - replace bullet point one with the following words - *'comments to the media must state that they represent the personal view of the elected member'*.

Several were of the opinion that this proposed change makes it clear that a member is stating a personal view, not necessarily the official council view. The official view of council would be a decision made by formal resolution of council.

- 6.2 - replace section 6.2 with the relevant section from the current code and include narrative from the beginning statement in section 6 of the proposed code.

Mr Marris noted the extensive work undertaken by LGNZ, research, legal review and input from councils' nationally, in developing the code and advised certain changes may change the intent.

The merits of the two suggested options, and variations of the same were discussed. Staff will consider the merits of all options in finalising the code prior to presenting to council for decision making.

Complaints

- 12.2 – under the draft code members of the public could not make a complaint. The code has now been amended to ensure members of the public can make a complaint.

Gift value

- Bullet point 4 – disclosure of gifts – what should the limit be? The current policy provides that members must disclose any gifts they receive that have a value of over \$500 to the CE. The reason for proposing a lower limit is to encourage the habit of always disclosing. Most members supported lowering the limit to either \$50 or \$100 to be open and transparent. Several members thought anything less than \$50 would be impractical. Setting a limit doesn't preclude members from disclosing anyway. Staff response to the question 'how do we deal with gifts in kind?', is 'if in doubt declare'.

Amend code to allow for a gift value of \$100. Members to debate at the meeting.

Participation

Clause 11 – members considered the text in the draft code to be too prescriptive. The text has been simplified.

Several suggestions relating to values and culture were proposed;

Suggest we include the words '.....tolerance and solution focussed' or 'constructive culture', Neither of the proposed wording changes were supported mainly because the majority appeared to be of the opinion that this document is about how members behave, the introduction of other objectives would diminish the focus.

Complaint process

Ms Candy outlined the complaints procedure as outlined in the flow chart (tabled) and then invited feedback on the proposed procedure.

Questions/feedback on proposed process:

- Clarified the investigator provides a recommendation to the CE and the CE puts their findings /recommendation on the agenda for council decision making. The proposed process removes the CE from the process, all complaints are reviewed by an independent investigator.
Later in the briefing, acknowledging that the CE has the responsibility for the agenda, it was agreed that wording to the effect of “the investigators Finding Document recommendations be presented to council for decision making”, be included in the code.
- Timeframe? Staff will consider this.
- Right of appeal – appeals would be by judicial review of the council decision. The review would focus on the process not the outcome.
- Anyone can make a complaint (under the code). Staff are satisfied that the process is robust and consider the properly defined process will provide protection for all parties. It is important the identity of the complainant remains anonymous, we need to ensure people are not afraid of making a complaint.
- Suggest the process include mediation as a step in the process.
- Clarified council can't recover costs – cost of democracy.
- Pool of investigators – ensure process of selection is impartial.
We are currently looking at options – regional approach or LGNZ Equip service. Consider costs and members proximity to Whangarei when considering suitability for the pool.

Post workshop feedback

- Clause 7.2 – page 12 – receipt of confidential information
Feedback received suggested this section was too prescriptive. Other legislation such as LGOIMA applies therefore paragraph 2 of clause 7.2 has been removed.

Ms Candy gave a brief overview of members obligations under LGOIMA and other relevant legislation such as the Official Information Act.

Members should be aware of the reasons for confidentiality. An assessment is made as to whether a matter remains confidential or not. Public interest is a factor when assessing. Elected members don't have a duty to disclose information given to them in a personal capacity.

There is no reason why members cannot discuss developments with developers as long as they are not appointed as Commissioners on any consenting process related to the development. When in conversations with developers etc members should make it clear whether they are acting in their personal capacity or as an elected member.

Staff undertook to remove paragraph 3 also.

Final decision maker

Advice is that council should retain the authority to make the final decision rather than delegate to a committee or other decision making body. No change to template, the final decision maker will remain council.

Any further feedback?

Final feedback:

- Independent investigator pool – ensure the pool is representative of a range of expertise and ability
- Prefer representatives to come from Northland
- Where mutually agreeable – look at mediation early in the process
- Keep it simple
- Several material changes for consistency were suggested, these were noted by staff.

Conclusion

Mr Marris thanked members for their feedback and advised there is further work required on the investigator pool before bringing to council for decision making, likely to be June or July

The adoption of a new code requires a vote of not less than 75% of the members present. The current code and process will remain if the 75% threshold is not reached.

The meeting closed at 2 46 pm