



A GUIDE TO GOOD GOVERNANCE

Rotorua District Council
Code of Conduct
Pursuant to Clause 15, Schedule 7, Local Government Act 2002

GUIDE TO GOOD GOVERNANCE - ROTORUA DISTRICT COUNCIL

PART ONE: INTRODUCTION	2
1.1 Overview	2
1.2 Objective of the guide	2
1.3 Attainment of objectives	2
1.4 Accountability of Elected Members	2
1.5 Principles for good governance	3
PART TWO: ROLES AND RESPONSIBILITIES	4
2.1 Elected Members	4
2.2 Mayor	4
2.3 Deputy Mayor	4
2.4 Committee Chairpersons	4
2.5 Chief Executive	5
PART THREE: RELATIONSHIPS AND BEHAVIOURS	6
3.1 Relationships with Other Members	6
3.2 Relationship with Chief Executive	6
3.3 Relationships with Staff	6
3.4 Relationships with the Community	7
3.5 Contact with the Media	7
3.6 Confidential Information	7
3.7 Conflicts of Interest	8
3.8 Standing Orders	9
3.9 Ethics	9
3.10 Disqualification of Members from Office	9
PART FOUR: COMPLIANCE AND REVIEW	10
4.1 Compliance	10
4.2 Responses to Breaches of the Code	10
4.3 Review	10
Appendix 1 Role of Elected Members – Relevant Legislation	12

PART ONE: INTRODUCTION

This part of the guide gives an overview of the “Guide to Good Governance”, and lays the principles for Members conduct.

1.1 Overview

Schedule 7 of the Local Government Act 2002 (the Act) requires each local authority to adopt a Code of Conduct. Once adopted, all elected members are required to comply with the code. This Guide to Good Governance provides guidance on the standards of behaviour that are expected from the Mayor and elected members of Rotorua District Council. The guide applies to elected members in their dealings with:

- each other
- the Chief Executive
- all staff employed by the Chief Executive on behalf of the Council
- the media
- the general public.

1.2 Objective of the guide

The objective of the guide is to enhance:

- the effectiveness of the Council as the local authority with statutory responsibilities for good government of the Rotorua District
- the credibility and accountability of the Council within the Rotorua community
- mutual trust, respect and tolerance between the elected members as a group and between the elected members and management.

1.3 Attainment of objectives

This guide seeks to achieve its objectives by recording:

- an agreed statement of roles and responsibilities
- agreed general principles of good governance
- specific governance codes applying to particular circumstances or matters.

1.4 Accountability of Elected Members

Elected members are primarily accountable to the electors of the district through the democratic process. However members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

1.5 Principles for good governance

The following are the guiding principles for good governance for the Rotorua District Council

- **Leadership.** Members should promote and support the following principles:
- **Community pride.** Decisions made will be in the best interests of the Rotorua community, and will assist in ensuring that the Rotorua district continues to be one where people want to live work and play.
- **Enjoyment** Members should enjoy the governance role they perform for the district of Rotorua.
- **Public interest.** Members should serve the interests of the district as a whole.
- **Honesty and integrity.** Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.
- **Objectivity.** Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Elected members should also note that, once elected, their primary duty is to the interests of the entire district.
- **Accountability.** Members should be accountable to the public for their actions.
- **Openness.** Members should be as open as possible about their actions and those of the Council.
- **Personal judgment.** Members can and will take account of the views of others, but should reach their own conclusions on the issues before them.
- **Respect for others.** Members should promote equality by not discriminating unlawfully against any person, and shall always treat people with respect.
- **Duty to uphold the law.** Members should uphold the law, and on all occasions, act in accordance with the trust the public places in them.
- **Stewardship.** Members must ensure that the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations.

PART TWO: ROLES AND RESPONSIBILITIES

This part of the Guide describes the roles and responsibilities of elected members, the additional roles of the Mayor and Deputy Mayor, and the role of the Chief Executive.

2.1 Elected Members

Elected members, acting as the Council, are responsible for:

- the development and adoption of Council policy
- monitoring the performance of the Council against its stated objectives and policies
- prudent stewardship of Council resources
- employment of the Chief Executive
- representing the interests of the residents and ratepayers of the Rotorua District Council. On election, the members' responsibility is to the district as a whole.

Unless otherwise provided in the Local Government Act 2002 or in standing orders, the Council can only act by majority decisions at meetings. Each member has one vote. Any individual member (including the Mayor) has no authority to act on behalf of the Council unless the Council has expressly delegated such authority, or is requested by Members to do so.

2.2 Mayor

The Mayor is elected by the district as a whole and as one of the elected members shares the same responsibilities as other members of Council. The Mayor also has the following roles as a:

- presiding member at all Council meetings;
- advocate on behalf of the community. This role may involve promoting the community and representing its interests;
- ceremonial head of Council;
- Assist in providing leadership and feedback to other elected members;
- Justice of the Peace, while the Mayor holds office.

The Mayor must follow the same rules as other elected members about making public statements and committing the Council to a particular course of action.

2.3 Deputy Mayor

The Deputy Mayor must be elected by the members of Council, at the first meeting of the Council. The Deputy Mayor exercises the same roles as other elected members, and if the Mayor is absent or incapacitated, the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the powers, of the Mayor (as summarised above). The Deputy Mayor may be removed from office by resolution of Council.

2.4 Committee Chairpersons

The Council may create one or more committees of Council. A committee chairperson presides over all meetings of the committee, ensuring that the committee acts within the powers delegated by Council, and as set out in the Council's *Delegations Manual*. The committee Chairpersons and/or the Mayor shall act as an official spokesperson on particular issues relating to the Committee that they Chair. They may be removed from office by resolution of Council.

2.5 Chief Executive

The Chief Executive is appointed by the Council in accordance with Section 42 of the Local Government Act 2002.

The Chief Executive is responsible for implementing and managing the Council's policies and objectives within the budgetary constraints established by the Council. In terms of Section 42 of the Act, the responsibilities of the Chief Executive are:

- implementing the decisions of the Council
- providing advice to the Council
- ensuring that all responsibilities, duties and powers delegated to the Chief Executive or to any person employed by the Chief Executive, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised
- managing the activities of the local authority effectively and efficiently
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority
- providing leadership for the staff of the local authority
- employing staff on behalf of the local authority.

Under section 42 of the Local Government Act 2002 the Chief Executive employs all other staff on behalf of the local authority.

PART THREE: RELATIONSHIPS AND BEHAVIOURS

This part of the guide sets out the Council's agreed standards of behaviour. Some of the matters described in this part of the guide reflect other legislation such as the Local Authorities (Members' Interests) Act 1968.

3.1 Relationships with Other Members

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

- maintain public confidence in the office to which they have been elected
- are open and honest
- focus on issues rather than personalities
- avoid aggressive, offensive or abusive conduct.

3.2 Relationship with Chief Executive

The relationship of Elected Members and the Management of the Council requires a high level of cooperation and mutual respect. To ensure that level of cooperation and trust is maintained at the highest level the relationship of Members with the Chief Executive will be based on:

- a commitment to governance as a team
- spending time together to be an effective governance unit
- openness and understanding about difference of opinion
- continued commitment to understanding the complexities that face Council
- ensuring sufficient time and effort is given to responding to the challenges of changing local government environments
- working together to ensure policies are developed in an orderly, efficient, and effective manner
- Sincere, but not unquestioning, support for the office of the Chief Executive and management.

3.3 Relationships with Staff

The effective performance of Council also requires a high level of cooperation and mutual respect between elected members and staff. To ensure that level of cooperation and trust is maintained, elected members will:

- recognise that the Chief Executive is the employer (on behalf of Council) of all Council employees, and as such only the Chief Executive may hire, dismiss or instruct or censure an employee
- make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times
- treat all employees with courtesy and respect
- observe any guidelines that are in place regarding contact with employees
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee
- avoid public criticism of Council employees
- raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Mayor and/or the Chief Executive's Performance Review Committee.

Elected members should be aware that failure to observe this portion of the guide may compromise the Council's obligations to act as a good employer and, could result in action under the Employment Relations Act 2002.

3.4 Relationships with the Community

Effective Council decision-making depends on productive relationships between elected members and the community at large.

- Members should ensure that individual citizens are accorded respect in their dealings with the Council, have their concerns listened to, and deliberated on in accordance with the requirements of the Act.
- Members should act in a manner that encourages and values community involvement in local democracy.

3.5 Contact with the Media

The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of Council. From time to time, individual members will be approached to comment on a particular issue either on behalf of Council, or as an elected member in their own right. This part of the code deals with the rights and duties of Councillors when speaking to the media on behalf of Council, or in their own right.

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

- the Mayor and/or Chairpersons on issues related to the Committee they chair are the first point of contact for the official view on Council and Committee issues. Where the Mayor is absent, any matters will be referred to the Deputy Mayor or relevant committee chairperson. The Mayor will represent Council's view on the matter
- the Mayor may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment

Elected members are free to express a *personal view* in the media, at any time, provided the following are observed:

- comments made to the media must not state or imply that they represent the views of Council, this includes any correspondence members may have in the paper such as letters to the editor. If an issue is a Member's personal opinion this should be stated as so.
- where an elected member is making a statement that is contrary to a Council decision or Council policy, the member must not state or imply that his or her statements represent a majority view
- comments made to the media must observe the other requirements of this guide, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff.

3.6 Confidential Information

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

- Elected members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.
- Elected members should be aware that failure to observe these provisions will impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may result in prosecution under the Privacy Act 1993 and/or civil litigation.

3.7 Conflicts of Interest

Elected members must be careful that they maintain a clear separation between their personal interests and their duties as an elected member. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived). Members therefore need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.

The Act provides that an elected member is disqualified from office, or from election to office, if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest. Members must declare their interests at Council meetings where matters in which they have a pecuniary interest arise.

Members shall make a general declaration of interest as soon as practicable after becoming aware of any such interests. These declarations are recorded in a register of interests maintained by Council. The declaration must notify the Council of the nature and extent of any interest, including:

- any employment, trade or profession carried on by the member or the member's spouse for profit or gain
- any company, trust, partnership etc for which the member or their spouse is a director, partner, trustee or beneficiary
- the address of any land in which the member has a beneficial interest and which is in the Rotorua District Council district
- the address of any land where the landlord is the Rotorua District Council and:
 - the member or their spouse is a tenant, or
 - the land is tenanted by a firm in which the member or spouse is a partner, or a company of which the member or spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary
- any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member.

If the member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive or Group Manager Corporate and Customer Services promptly.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate a particular decision made, or the action taken, by Council. Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the unfortunate event of a conviction elected members can be removed from office.

3.8 Standing Orders

Elected members must adhere to the standing orders adopted by Council under the Local Government Act 2002. These standing orders are subject to the same legal requirements as a code of conduct with regard to their adoption and amendment.

3.9 Ethics

Rotorua District Council seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will:

- claim only for legitimate expenses as laid down by any determination of the Remuneration Authority then in force, and any lawful policy of Council developed in accordance with that determination
- not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or business interests
- not use Council resources for personal business (including campaigning)
- not solicit, demand, or request any gift, reward or benefit by virtue of their position
- notify the Chief Executive if gifts are accepted
- where a gift to the value of \$250.00 or more is offered to a member, immediately disclose this to the Chief Executive for inclusion in the register of interests.

3.10 Disqualification of Members from Office

Elected members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more years imprisonment, or if they cease to be or lose their status as an elector or of certain breaches of the Local Authorities (Members' Interests) Act 1968.

Under the Local Government Act 2002, local authorities, when adopting a code of conduct, must consider whether or not they will require members to declare whether they are an undischarged bankrupt. This Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgment in general. The Council therefore requires elected members who are declared bankrupt to notify the Chief Executive as soon as practicable after being declared bankrupt.

PART FOUR: COMPLIANCE AND REVIEW

This part deals with ensuring that elected members adhere to the Guide to Good Governance and mechanisms for the review of the Guide.

4.1 Compliance

Elected members must note that they are bound to comply with the provisions of this code (Local Government Act 2002, Schedule 7, section 15(4)).

Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to elected members. Short explanations of the obligations that each of these has with respect to conduct of elected members are given in Appendix 1.

4.2 Responses to Breaches of the Code

The exact nature of the action the Council may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

- breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authority (Member's Interests) Act 1968
- breaches which result in the Council suffering financial loss or damage may be reported on by the Auditor-General under the Local Government Act 2002, which may result in the member having to make good the loss or damage
- breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

In these cases the Council may refer an issue to the relevant body, any member of the public may make a complaint, or the body itself may take action of its own initiative.

Where there are no statutory provisions, the Council may take the following action:

- censure
- removal of the elected member from Council committees and/or other representative type bodies
- dismissal of the elected member from a position as Deputy Mayor or Chair of a committee. A decision to apply one or more of these actions requires a Council resolution to that effect.

4.3 Review

Once adopted, the code of conduct - Guide to Good Governance continues in force until amended by the Council. The guide can be amended at any time but cannot be revoked unless the Council replaces it with another code for Members' conduct. Once adopted, amendments to the code of conduct require a resolution supported by 75 per cent or more of the members of the Council present.

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

APPENDIX 1
ROLE OF ELECTED MEMBERS – RELEVANT LEGISLATION

ROLE OF ELECTED MEMBERS – RELEVANT LEGISLATION

This is a summary of the legislation requirements that has some bearing on the duties and BOB of elected members. Copies of these statutes can be found in the Council libraries or in the office of the Chief Executive.

Local Authority (Members' Interests) Act 1968

This Act regulates situations where a members' personal interests impinge, or could be seen as impinging on their duties as an elected member.

The Act provides that an elected member is disqualified from office if that member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.

Additionally, elected members are prohibited from participating in any Council discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authority (Members' Interests) Act 1968. In the event of a conviction elected members can be ousted from office.

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 sets out a list of meetings procedures and requirements. Of particular importance for the roles and conduct of elected members is the fact that the chair has the responsibility to maintain order at meetings, but all elected members should accept a personal responsibility to maintain acceptable standards of address and debate. No elected member should:

- create a disturbance or a distraction while another Councillor is speaking
- be disrespectful when they refer to each other or other people
- use offensive language about the Council, other Councillors, any employee of the Council or any member of the public.

Secret Commissions Act 1910

Under this Act it is unlawful for an elected 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 fines up to \$1000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

Crimes Act 1961

Under this Act it is unlawful for an elected 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 their duties for their, or another persons, monetary gain or advantage.
- These offences are punishable by a term of imprisonment of 7 years or more. Elected members convicted of these offences will also be automatically ousted from office.

Securities Act 1978

The Securities Act 1978 essentially places elected members in the same position as company directors whenever Council offers stock to the public. Elected members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.