

**Environment Canterbury**

# **Elected Members Code of Conduct**

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on 27 October 2005

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# CODE OF CONDUCT: BACKGROUND

## LEGISLATIVE REQUIREMENTS

The Local Government Act 2002 introduced a requirement that each local authority adopted a code of conduct. Schedule 7, clause 15 of the Act is repeated as follows:

### **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 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 undischarged 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.

## ENVIRONMENT CANTERBURY

The Code of Conduct is referenced to Environment Canterbury, which is the promotional name for the Canterbury Regional Council.

## GOVERNANCE POLICIES

Elected members of the Council undertook a specific project on governance during the 1998-year. During this process, the Council essentially conducted a review of its own mode of operating.

The Council adopted the Governance Policies on 17 November 1998.

## DEVELOPMENT OF GOVERNANCE POLICIES

The primary aspect of the process was the creation of specific governance policies in four key areas, including:

- **Governance Process** – policies which spell out the way in which the Council would conduct its own business.
- **Council/Chief Executive Relationships** – policies which spell out the model of accountability and the way in which the Council transferred its authority to the Chief Executive.
- **Chief Executive Limitations** – policies which set limitations on the Chief Executive's discretion to develop and implement programmes and organisational activities to achieve the Council's outcomes.
- **Ends (Outcomes)** – policies which spell out the overall outcomes or results which the Council wants to achieve.

## INCORPORATION OF GOVERNANCE POLICIES INTO THE CODE OF CONDUCT

The new Code of Conduct requirement to set out the understandings and expectations about the manner in which members may conduct themselves, including behaviour towards one another, staff and the public have strong links to the Council's Governance Policies.

The benefits of incorporating the Governance Policies into the Code of Conduct include, all specific policies are together in one place and better facilitate clarity in the document.

## CASCADING POLICIES

The Governance Policies include the concept of "cascading" policies – that the Council works down through the levels of articulation of policy until it is satisfied it has said enough to provide clear direction and notification of its intentions. Another term used for this concept is "logical containment" – the notion that policies are worked through in a logical hierarchy from the broadest level down to contain all the detail that is necessary.

## OTHER GOVERNANCE ISSUES

There will be requirements addressing other wider Governance issues from time to time including review of the arrangement, structure, number of Council committees and frequency of meetings.

# ENVIRONMENT CANTERBURY: CODE OF CONDUCT

## PART ONE: INTRODUCTION

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 code of conduct provides guidance on the standards of behaviour that are expected from the Chair and elected members of Environment Canterbury. The code 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.

The objective of the code is to enhance:

- the effectiveness of the Council as the autonomous local authority with statutory responsibilities
- for the good local government of the Canterbury Region
- the credibility of the Council within its community
- the accountability of the Council to the community
- mutual trust, respect and tolerance between the elected members as a group and between the elected members and management, and the accountability of each elected member to other elected members
- representation of community views.

This code of conduct seeks to achieve its objectives by recording:

- an agreed statement of roles and responsibilities (recorded in Part Two of the code)
- agreed general principles of conduct (recorded in Part Three of the code)
- specific codes of conduct applying to particular circumstances or matters (also recorded in Part Three of the code).

Elected members are primarily accountable to the electors of the region 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.

The code of conduct that follows is based on the following general principles of good governance:

## CODE OF CONDUCT

- 1.1 The Council expects of itself and its members ethical, professional and business-like behaviour and adherence to generally observed standards, in the performance of the powers, authorities and duties imposed on it by virtue of the relevant empowering legislation.

- 1.2 Council members must represent loyalty to the interests of the citizens of the entire region. This overall accountability supersedes any conflicting loyalty to any single member constituency or district, advocacy or interest group, or organisation, and supersedes the private and personal interest of any Council member.
- 1.3 Council members must avoid any pecuniary conflict of interest, in accordance with legislative requirements (the Members Interest Act 1968, Sections 99-105 of the Crimes Act 1961 and the Secret Commissions Act 1910).
- 1.4 Council members must avoid any personal or other conflict of interest situations- for example in resource consents processes if there is a relationship between a Council member and any of the parties concerned.
- 1.5 Council members have no individual authority to, and shall not, instruct the Chief Executive or staff.
- 1.6 Council members will avoid public criticism of staff or any other action that undermines staff in the performance of their professional duties.
- 1.7 Council members will act positively to maintain the dignity and decorum of Council and will not obstruct the work of the Council.
- 1.8 Council members will extend towards each other respect, integrity, courtesy and fairness and will avoid public criticism of other Council members or seek to undermine other Council members in the performance of their duties as an elected member. Along with activities that might impede participation in the decision-making process, respect to colleagues includes refraining from use of mobile phones and laptops in Council meetings.
- 1.9 The onus is on Council members to acquaint themselves with the requirements of legislation concerning conflict of interest.
- 1.10 Where Council members are unsure whether a conflict of interest exists, they must make the issue known, take the advice of Council officers and err on the side of caution in all instances.
- 1.11 The onus is on Councillors to acquaint themselves with and adhere to the ethics, rules and procedures relevant to the situation.
- 1.12 At all times treat the residents of Canterbury with respect and courtesy.

## **PART TWO: ROLES AND RESPONSIBILITIES**

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

Members on election are required to make oral and written declaration as follows:

“I ... declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Canterbury region, the powers, authorities, and duties vested in, or imposed upon me as member of Environment Canterbury by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.” (Local Government Act Schedule 7, 14(3))

### **COUNCIL**

- **Governing Style**

2.1 The Council will approach its governance responsibilities with a governing style that emphasises:

- (a) outward vision rather than internal preoccupation
- (b) encouragement of diversity of viewpoints
- (c) strategic leadership rather than administrative detail
- (d) a clear distinction of Council and Chief Executive roles
- (e) collective rather than individual decisions
- (f) a focus on the future rather than the past or present
- (g) proactivity rather than reactivity and
- (h) integrity, as befits the governing body of a public organisation.

2.2 The Council will:

- (a) operate in ways mindful of its public stewardship obligations
- (b) direct and inspire the organisation through the establishment of broad written policies that reflect Council values and priorities about Outcomes to be achieved and Means to be avoided, rather than getting involved in micromanagement or the mechanics of administration
- (c) enforce upon itself whatever discipline is necessary to govern with excellence, including:
  - respect for clarified roles and self-policing of any tendency to stray from the
  - governance role and the governance principles established in Council policy
  - preparation for meetings and regular attendance
  - orientation of new members in the Council's governance process
  - participation in relevant continuing education and training
  - periodic discussion of Council improvement
- (d) cultivate a sense of group responsibility (emphasising the Council as a whole, rather than individuals), and use the expertise of individual members to enhance the ability of the Council as a body
- (e) initiate considered policy rather than reacting in an ad hoc manner
- (f) not allow any councillor, committee or officer to thwart the Council's fulfilment of commitments

- (g) in the event of split decisions or when minority votes take place, allow the minority to express their dissent, but require respect for the majority decision and not allow undermining of that decision
- (h) treat everyone in a courteous, dignified and fair manner.

- **Council Responsibilities**

- 2.3 The Council is responsible for strategic leadership, through the creation of policies based on the legislative mandate. Policies should be clear, relevant and achievable.
- 2.4 The main responsibilities of the Council are
  - (a) interaction with people and communities, as well as governmental and relevant stakeholder bodies
  - (b) the establishment of written governing policies on:
    - Outcomes
    - the Council/Chief Executive Relationship
    - Chief Executive Limitations
    - Governance Process and
    - the formal adoption of other cascading policies required by legislation
  - (c) the establishment of specific policy approaches or rules which are based on “best practice”, not just on a “regulatory” approach
  - (d) the assurance of organisational performance, in which the review and assessment of the Chief Executive’s performance (against the achievement of Outcomes and compliance with Chief Executive Limitations) constitutes review and assessment of the performance of the organisation as a whole.

- **Cost of Governance**

- 2.5 The Council has a responsibility to ensure the integrity of the democratic process. In fulfilling this responsibility, the Council will make sure that, within the constraints of relevant legislation, the resourcing requirements to fund its own governance processes, including the requirement for public consultation and interaction with the community, are provided for adequately.
- 2.6 In doing so, the Council will be mindful of its legislative and moral obligation to adhere to the principles of efficiency and prudence in all its financial arrangements.
- 2.7 The Council and individual councillors will adhere to the levels set out in the Corporate Policy Manual, and to the rules and procedures also set out therein, for remuneration, claims for meeting allowances, other allowances and for other claimable expenses.
- 2.8 The Council will, as required, facilitate involvement of external parties in relation to interaction in Council processes.
- 2.9 The Council will review its committee structure regularly within the constraints of its principles and expressed values relating to the cost of governance, and will not establish any or additional committees without researching the financial impact.
- 2.10 The Council will consider its financial impact on the organisation (and productivity of staff in achieving Outcomes priorities), by limiting its requests for reports providing

information on operational Means to those issues which directly affect discussion on Outcomes policies.

- **Statutory Policy Making and Regulatory Process**

- 2.11 Two major job responsibilities of the Council are:
- (a) the establishment of governing policies through the governance process and legislative policies through formal adoption of statutory plans required by legislation and
  - (b) the establishment of specific policies and rules under the Resource Management Act and other relevant resource-related legislation.

In doing so, the Council will adhere to its legislative mandate in relation to resource planning and resource management processes and requirements and also will ensure the integrity of the democratic process.

- 2.12 The Council may at times undertake informal discussion of policy matters in a workshop situation but will not proceed to formal resolution or decision in a workshop situation, in accordance with legislative requirements.
- 2.13 The Council may, from time to time, choose to appoint commissioners to resource consent hearings, or councillors may take up this responsibility themselves. Councillors must not lobby to have themselves appointed to a hearing panel.
- 2.14 Where councillors are involved in resource consent hearings or other quasi-judicial processes, they must ensure that the process is apolitical and must avoid any actual or potential conflict of interest (see requirements of councillors in this respect under Code of Conduct, 3.2, 3.3 and 4.1 to 4.3.) (Refer to The Controller and Auditor-General booklet "Conflicts of Interest – A Guide to the Local Authorities (Members' Interests\_ Act 1968 and Non-pecuniary Conflicts of Interest" August 2004.)
- 2.15 The Council will ensure that, in appointing councillors to resource consent hearings, it will:
- (a) have regard to the relevant experience and expertise of individual councillors
  - (b) have regard to issues of equity and the integrity of the democratic process
  - (c) give no preference to the constituency representative in which the activity or applicant is located.
- 2.16 The Council will employ commissioners in situations where the Council:
- (a) has an interest
  - (b) has expressed a view
  - (c) is the applicant.
- 2.17 Where individual councillors are involved in resource consent hearings or other quasi-judicial processes, councillors will personally conduct themselves in a professional behaviour and in accordance with the statutory requirements and principles of administrative law.

## **CHAIRPERSON**

The Chairperson is elected by the members of the Council at the first meeting following the triennial election. As one of the elected members the Chairperson shares the same responsibilities as other members of Council. In addition to this the Chairperson has the following roles.

- 2.18 The responsibility of the Chairperson of the Council is to provide leadership to encourage the Council to conduct itself in a manner consistent with its legislative mandate and its own governance policies and rules.
- 2.19 The Chairperson is empowered to:
  - (a) chair Council meetings with all the commonly recognised authority of that position
  - (b) enforce Standing Orders
  - (c) speak on behalf of the Council and act as an advocate for it, including taking the primary responsibility for interaction with the media and representing the Council at meetings with external parties.

## **DEPUTY CHAIRPERSON**

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

## **COMMITTEES AND SUBCOMMITTEES**

### **• Meetings**

- 2.20 The requirements for notification and the conduct of formal meetings of Council shall conform to the requirements of legislation and the process specified in Council's adopted set of Standing Orders.
- 2.21 The Council will avail itself of informal meeting processes as is appropriate to the needs of strategic debate and discussion and to facilitate interaction with stakeholders and the public.
- 2.22 The Council will review its Standing Orders on a regular basis, for compatibility with its other governance processes, and to ensure that formal meeting process does not inhibit the accessibility of Council meetings to the public and the facilitation of participation of stakeholders in Council processes.
- 2.23 The Council may suspend Standing Orders as appropriate, to facilitate open discussion and to encourage participation.
- 2.24 The Council will make use of workshop sessions as required to progress discussion on specific issues, or to address education and training requirements.
- 2.25 Workshops will be used for information and discussion purposes and not to adopt or approve policy. Formal adoption of policy will take place at formally notified Council meetings.

- **Committee/Sub-Committees**

- 2.26 The Council may establish committees and sub-committees to help it carry out its responsibilities.
- 2.27 Committees and sub-committees will:
  - (a) operate at a governance level
  - (b) support the job of the Council as a whole, within their delegations
  - (c) concern themselves with policy making and consideration of Outcomes (rather than undertaking the work of staff and becoming involved with the consideration of Means)
  - (d) will not interfere with delegation from the Council to the Chief Executive.
- 2.28 Council committees and sub-committees are established to implement specific terms of reference.
- 2.29 Council committees, sub-committees and their chairperson may not speak or act for the Council as a whole, except where formally delegated that authority for specific and defined purposes.
- 2.30 Council committees and sub-committees are established to help the Council perform its job.
- 2.31 Members of Council committees and sub-committees should avoid over-identification with one part of the organisation, rather than the whole.
- 2.32 Committees will assist the Council by preparing policy alternatives and implications for Council deliberation, will make recommendations to Council and will not operate simply as a conduit to “rubber stamp” staff recommendations en route to Council.

- **Committee/Sub-Committee, Chairperson’s Role**

- 2.33 The responsibility of the chairperson of a committee or sub-committee is to provide leadership to encourage the committee to conduct itself in a manner consistent with its terms of reference.
- 2.34 The committee or sub-committee chairperson is empowered to:
  - (a) chair committee meetings with all the commonly recognised authority of that position
  - (b) enforce Standing Orders
  - (c) speak on behalf of the committee or sub-committee and act as an advocate for it, including taking the primary responsibility for interaction with the media and representing the committee at meetings with external parties
  - (d) report to the Council on the work of the committee or sub-committee.

- **Councillor Training**

- 2.35 The Council will seek to ensure that both new and existing members are equipped with the information and, where necessary, training for the effective performance of their duties as a Council member.

- 2.36 The Council will ensure that adequate induction of Council members is carried out at the commencement of each new Council term and for any new members commencing during the term.
- 2.37 The Council will ensure that its own governance education and training needs are adequately provided for, and that funds are available to facilitate attendance of councillors at relevant conferences, as appropriate, and the provision of in-house workshops or training sessions, as needed.
- 2.38 Governance education and training will include training on understanding of relevant cultural protocols, practice and values.
- 2.39 The Council will formally review its training and education requirements annually and provide Councillors with appropriate assistance.

## **CHIEF EXECUTIVE**

The Chief Executive is appointed by the Council in accordance with sections 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.

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

The Council in terms of the Chief Executive employment matters must observe statutory requirements, in particular, the Employment Relations Act 2000 including the provisions of a good employer.

- 2.40 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 (including negotiation of the terms of employment for the staff of the local authority).

- **Accountability**

- 2.41 The Council is responsible for establishing the Outcomes to be achieved.
- 2.42 In achievement of the Outcomes, the Council is responsible for the appointment of a Chief Executive and review of his/her performance.
- 2.43 The implementation of Council policies, together with subsidiary policy development and the design of strategies and plans to achieve Council policies, is the operational Means, which is delegated to the Chief Executive.

- 2.44 The Chief Executive is held to account for:
- (a) the achievement of Outputs
  - (b) reporting on Outcomes to Council
  - (c) non-violation of Council policies.
- 2.45 The Council as a whole is only authorised to give instructions to the Chief Executive and the Chief Executive is accountable to the Council as a whole and not to individual Council members or committees.
- 2.46 The delegation to staff of all Council authority is delegated through the Chief Executive. All authority and accountability of staff is considered to be the accountability of the Chief Executive to the Council. Individual staff are accountable to the Chief Executive and are not directly accountable to the Council, Council committees, sub-committees or individual councillors.
- 2.47 The operational policies, strategies and plans are designed and managed by the Chief Executive.
- 2.48 The Council does not generally become involved in the design and implementation of operational Means. However, where it is apparent that the implementation of certain Means is likely to have a negative or undesirable impact on the achievement of Council Outcomes, the Council may involve itself in consideration of Means, in order to amend or modify its Outcomes policies or Chief Executive Limitations policies. The inquisitorial why and understanding of why certain Means have been selected is an appropriate governance question for the Council.
- 2.49 The Council observes and recognises there are exemptions in legislation relevant to local government requiring a different arrangement to the model of accountability and delegation outlined in the policies set out above. Examples include the Maritime Transport Act, Civil Defence Emergency Management Act, Privacy Act, and Electoral Officer functions under the Local Electoral Act.

- **CEO Delegation**

- 2.50 The Council will instruct the Chief Executive (i.e. will transfer its authority to management) through written policies that:
- (a) prescribe the Outcomes to be achieved (the specification of certain results) and
  - (b) describe organisational situations and actions to be avoided (Chief Executive Limitations, specifying the constraints on Chief Executive discretion)
- and will then allow the Chief Executive *any reasonable interpretation* of these policies.
- 2.51 The Council will develop Outcomes policies to guide the Chief Executive on the achievement of certain results or benefits, for certain recipients, at a certain cost. These policies will be developed from the broadest to more detailed and defined levels.
- 2.52 Key policy documents that expand on the overall Outcomes framework and further guide the Chief Executive include the Long Term Council Community Plan (LTCCP), the Annual Plan and the Funding and Financial Policies.

- 2.53 The Council will develop policies (Chief Executive Limitations) that:
- (a) limit the latitude the Chief Executive may exercise in choosing operational Means
  - (b) provide the framework within which the Chief Executive will work.

These policies will be developed from the broadest to the more detailed levels and will be expressed negatively as restrictions (being proscriptive rather than prescriptive in format). If the Council has not said 'no', it means 'yes' in relation to Chief Executive discretion.

- 2.54 The Chief Executive is authorised to establish all further policies, make all decisions, take all actions and develop all activities without interference from or intrusion by the Council, as long as these are consistent with *any reasonable interpretation* of Council policies.
- 2.55 The Council may change its policies, thereby shifting the boundary between the Council and Chief Executive domains and the degree of choice open to the Chief Executive. However, as long as any particular delegation is in place, the Council will respect the Chief Executive's choices.

- **CEO Performance Review**

- 2.56 As the Council's sole official connection to the operating organisation, the Chief Executive's performance will be considered to be synonymous with the operational performance of the organisation.
- 2.57 The Council and the Chief Executive at all times will observe good faith in negotiations and discussion in issues of performance and employment.
- 2.58 The performance and remuneration of the Chief Executive shall be as follows:
- Performance review shall be reviewed by 31 October each year.
  - Remuneration review process shall be commenced by 31 October each year.
- 2.59 The Chief Executive's performance will be assessed in two areas (and reflect the performance review framework set out in the Report of the Controller and Auditor-General 2002 "Managing the Relationship Between a Local Authority's Elected Members and its Chief Executive"):
- (a) organisational achievement of Council Outcomes (results), as outlined firstly in its LTCCP and further in its key documents such as the Annual Plan, and Funding and Financial Policies
  - (b) organisational operation within the boundaries established in the Council's Chief Executive Limitations policies.
- 2.60 Any evaluation of Chief Executive performance (and termination of the Chief Executive's contract for non-performance) may be conducted only in relation to the above criteria and monitoring only from data relating to these two aspects.
- 2.61 Deciding (and recording) what is expected of the Chief Executive must precede monitoring and evaluation.
- 2.62 The Council will conduct an annual, formal evaluation of Chief Executive performance, but such evaluation is also the product of more frequent, informal monitoring and gathering of data. This will include quarterly meetings of the Chief Executive with the Chief Executive Performance Review Committee.

2.63 The formal annual review by the Council will be supported by the reports to the Finance and Audit Committee on progress towards the completion of project outputs. Following the Finance and Audit Committee consideration of this report the Council could take the opportunity to discuss with the Chief Executive any implications arising out of the report.

2.64 The Council in development of the Draft Annual Plan will discuss with the Chief Executive:

- Likelihood of delivering outputs within the proposed budget
- To make known any additional expectation of the Chief Executive on the forthcoming financial year, with agreement reached.

2.65 Any other reviews during the year should take place in relation to specific matters that may have arisen with the objective of ensuring that good communication practice is observed. Such meetings should occur on the resolution of the Council and notice to the Chief Executive.

2.66 All appraisal processes will be undertaken in open and effective communication and with the genuine intention to observe the statutory obligations as they relate to good faith.

- **CEO Treatment of Citizens**

2.67 Interaction with citizens shall not be disrespectful, discriminatory, unfair or undignified.

2.68 The Chief Executive shall not allow treatment of citizens that:

- (a) violates generally understood Council principles of customer service and generally understood standards associated with adherence to these principles
- (b) involves unnecessarily complicated procedures or processes
- (c) violates legislative or generally accepted standards of confidentiality or privacy
- (d) fails to utilise appropriate methods of collection, transmission, storage or review of customer/citizen information
- (e) fails to establish with citizens and customers clear understandings and expectations about the delivery of services
- (f) fails to take account of tangata whenua values.

- **CEO Treatment of Staff**

2.69 The Chief Executive, as the employer, shall not allow treatment of staff that is unfair, unsafe or undignified or that is in breach of any specific provisions in relevant legislation or that violates the principles or general intent of 'good employer' legislation.

- **Financial Planning, Budgeting and Management**

2.70 Financial planning, budgeting and management for any fiscal year or the remaining part of any current fiscal year shall not:

- (a) deviate materially from the LTCCP or its Annual Plan (unless authorised by Council resolution)
- (b) be inconsistent with the prescribed legislative principles of financial management (Local Government Act 2002) and with the Council's Funding and Financial Policies.

- 2.71 The Chief Executive shall not allow financial planning, budgeting and management that:
- (a) contains insufficient detail to explain assumptions, revenue, expenditure and overall cashflows
  - (b) plans or allows expenditure that exceeds the appropriate funds available or prudent revenue projections
  - (c) uses reserve funds other than for the purpose for which they were collected
  - (d) allows liquidity to fall below levels necessary to meet outgoings
  - (e) fails to provide for adequate internal controls and procedures
  - (f) allows investments or borrowings other than in accordance with the Council's Treasury policy
  - (g) is in breach of any financial requirements in relevant legislature (Local Government (Rating) Act 2002, Local Government Act)
  - (h) is in breach of Council delegations
  - (i) fails to report key financial information to Council on a monthly basis
  - (j) allows payment of remuneration and benefits to employees, consultants and contract workers that jeopardises the Council's fiscal integrity or its public image.

- **Asset Protection**

2.72 Council assets<sup>1</sup> shall not be inadequately maintained or unnecessarily risked.

2.73 In protection of the Council's assets, the Chief Executive shall not:

- (a) fail to ensure prudent purchasing and disposal practices
- (b) subject buildings, plant and equipment to improper use, wear and tear or insufficient maintenance
- (c) fail to assess and mitigate exposure to risk
- (d) dispose of any depot or office of the Council without the specific agreement of the Council.

<sup>1</sup> Assets referred to here include corporate assets such as buildings, plant and equipment. This does not include infrastructural assets such as catchment works.

- **Emergency CEO Succession**

2.74 To protect the Council from sudden loss of the Chief Executive's services, the Chief Executive shall not fail to ensure that at least two senior executives are kept adequately briefed on Council and Chief Executive issues and processes, sufficient to assume office.

- **Communication and Support to Council**

2.75 The Chief Executive shall not allow the Council to be uninformed and unsupported in its work. The Council shall not be uninformed of:

- (a) the true and accurate position relating to the results of implementation of the Council's (ends and operational limitations) policies
- (b) significant management issues arising from time to time about which the Council should be informed
- (c) all matters having significant real or potential legal considerations for the organisation.

- 2.76 The Chief Executive shall not:
- (a) neglect to submit timely, accurate, relevant and understandable information
  - (b) fail to inform the Council of:
    - significant trends
    - actual or potential adverse media coverage
    - pending or significant Council agenda items
    - implications of Council decisions
    - issues arising from policy matters
    - material external or internal changes
    - changes in the basic assumptions upon which the Council's policies are based
  - (c) fail to provide a range of staff and external points of view, issues and options as needed to enable Council to make informed decisions and choices
  - (d) present information in a way that restricts Council's understanding of the key aspects of an issue
  - (e) fail to inform Council of actual or potential non-compliance of governance policies
  - (f) fail to inform the Council when it violates one of its own policies or makes decisions which impact on the Chief Executive's ability to carry out his/her responsibilities
  - (g) fail to ensure effective communication channels relevant to Council's activities
  - (h) fail to communicate with Council as a whole (except when responding to individual/committee requests for information)
  - (i) fail to ensure that councillors are provided with an adequate level of administrative support, to assist them in the performance of their governance role
  - (j) fail to ensure that staff and contracted personnel treat councillors with respect, integrity and fairness
  - (k) fail to make staff reasonably available to advise and assist councillors.

- **Programmes and Services**

2.77 Programmes and services shall not be undertaken which are not in accordance with the Council's Outcomes, its LTCCP, its Annual Plan and other statutory documents.

- 2.78 The Chief Executive shall not:
- (a) establish programmes which are unable to be adequately resourced
  - (b) establish new programmes/services which inhibit or in any way have a detrimental impact on core programmes and services or priorities as defined in the Council's LTCCP
  - (c) establish programmes which have not been adequately
    - scoped
    - researched
    - costed
  - (d) fail to monitor the outcomes of all programmes regularly
  - (e) close any depot or office of the Council without the specific agreement of Council
  - (f) fail to ensure the implementation of environmentally sound practice in all Council offices and operations
  - (g) fail to apply quality management and best practice principles
  - (h) fail to select measures of performance which ensure accurate reporting of achievement of outcomes
  - (i) fail to ensure delegations from the Council are properly exercised

- (j) use methods other than those specified in statutory planning documents (e.g. Regional Policy Statement, Regional Coastal Environment Plan, Regional Pest Management Strategy)
- (k) introduce METRO public passenger transport services in communities that do not want them
- (l) fail to consult with the community on natural hazard mitigation measures
- (m) fail to consult with pest rating districts on pest management measures.

## **PART THREE: RELATIONSHIPS AND BEHAVIOURS**

This part of the code sets out the Council's agreed standards of behaviour. Some of the matters described in this part of the code reflect other legislation such as the Local Authorities (Members' Interests) Act 1968. The majority of the code is material that the Council has decided to include of its own initiative.

### **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.

- 3.1 Members will conduct their dealings with each other in ways that:
- (a) maintain public confidence in the office to which they have been elected
  - (b) are open and honest
  - (c) focus on issues rather than personalities
  - (d) avoid aggressive, offensive or abusive conduct.
- 3.2 Council Portfolio Group members must respect the legitimacy of constituency councillors to communicate to their own constituents should this be the wish of the constituency councillor. The only councillor who has the support of Council to assume the right to communicate portfolio policies across the whole region without reference to individual councillors is the Chairperson of the Council.

### **RELATIONSHIPS WITH STAFF**

- 3.3 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:
- (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) make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times
  - (c) treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees)
  - (d) observe any guidelines that the Chief Executive puts in place regarding contact with employees
  - (e) not do anything which compromises, or could be seen as compromising, the impartiality of an employee
  - (f) avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee
  - (g) raise concerns about employees only with the Chief Executive, and concerns about the Chief Executive only with the Chairman or the Chief Executive Review Committee.

Elected members should be aware that failure to observe this portion of the code of conduct may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and audit sanctions.

## LINKAGE TO THE COMMUNITY

- 3.4 The Council represents and acts on behalf of people and communities of the Canterbury region. As such, the Council will at all times recognise the trust placed in it, and will endeavour to meet the requirements and expectations they have of the Council and the organisation.
- 3.5 The Council will demonstrate its commitment through:
- (a) its attitude, expressed as appropriate behaviours towards people and communities
  - (b) seeking information from the people about their concerns, needs, requirements and expectations, demands and fears
  - (c) consultation and communication
  - (d) reflecting the diversity of people and communities
  - (e) taking account of Maori values and views
  - (f) remaining up-to-date in matters concerning peoples' and communities' interests.

## 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.

- 3.6 The following rules apply for media contact *on behalf of Council*:
- (a) the Chairperson is the first point of contact for the official view on any issue. Where the Chairperson is absent, any matters will be referred to the Deputy Chair or relevant committee chairperson
  - (b) the Chairperson may refer any matter to the relevant committee chairperson or to the Chief Executive for their comment
  - (c) no other member may comment *on behalf of Council* without having first obtained the approval of the Chairperson.
- 3.7 Elected members are free to express a *personal view* in the media, at any time, provided the following rules are observed:
- (a) media comments must not state or imply that they represent the views of Council
  - (b) 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
  - (c) media comments must observe the other requirements of the code of conduct, e.g. not disclose confidential information, or compromise the impartiality or integrity of staff.
  - (d) Council members' interaction with the public, press or other external entities must recognise the same limitation and the lack of authority conferred on individuals to speak for the Council as a whole.
  - (e) while an issue is still being debated during a meeting, councillors will not supply information to the media until a Council resolution is decided or agreement reached.
  - (f) Council members will observe the provisions of "Suggested Guidelines for Advertising and Publicity by Local Authorities" Office of the Controller and Auditor General, as the basis of good practice in media relations, publicity and

advertising and that unless there are extraordinary circumstances Councillors should refrain from making publicly funded statements in the three-month period to the triennial local authority elections.

- (g) that any extraordinary and urgent matters arising during the three-month pre-period may be considered at the discretion of the Chairman.

## **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.

- 3.8 Elected members shall not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.
- 3.9 Elected members must be aware that failure to observe these provisions will impede the performance of Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose Council to prosecution under the Privacy Act 1993 and/or civil litigation.
- 3.10 Elected members must be aware that any information that they hold as a member of the Council shall be deemed to be official information held by the Council and in terms of the Local Government Official Information and Meetings Act 1987 is to be made publicly available unless good reasons exist to withhold it.

## **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.

- 3.11 Elected members are 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.
- 3.12 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/partner 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.
- 3.13 Any member in doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest should seek guidance from the Chief Executive *immediately*.
- 3.14 Elected members may 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 partner/spouses or their companies that exceed the \$25,000 annual limit.

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

## **DECLARATION OF INTERESTS REGISTER**

- 3.16 Members may annually 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 (Appendix 2). The declaration must notify the Council of the nature and extent of any interest, including:
- (b) any employment, trade or profession carried on by the member or the member's partner/spouse for profit or gain
  - (c) any company, trust, partnership etc for which the member or their partner/spouse is a director, partner, trustee or beneficiary
  - (d) the address of any land in which the member has a beneficial interest and which is in the Canterbury Region
  - (e) the address of any land where the landlord is Environment Canterbury and:
    - the member or their partner/spouse is a tenant, or
    - the land is tenanted by a firm in which the member or partner/spouse is a partner, or a company of which the member or partner/spouse is a director, or a trust of which the member or spouse is a trustee or beneficiary
  - (f) 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.

## **STANDING ORDERS**

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

## **ETHICS**

- 3.18 Environment Canterbury seeks to promote the highest standards of ethical conduct amongst its elected members. Accordingly, elected members will:
- (a) 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
  - (b) 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
  - (c) not use Council resources for personal business (including campaigning)
  - (d) not solicit, demand, or request any gift, reward or benefit by virtue of their position
  - (e) notify the Chief Executive if any gifts are accepted
  - (f) where a gift to the value of \$50 or more is offered to a member in their capacity as an elected member, the elected member must immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

## **DISQUALIFICATION OF MEMBERS FROM OFFICE**

- 3.19 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.
- 3.20 The Council 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 code of conduct and mechanisms for the review of the code of conduct.

If an elected member has a complaint that they do not wish to discuss with the Chair or Deputy Chair they should refer the complaint to the Chief Executive.

### COMPLIANCE

- 4.1 Elected members are bound to comply with the provisions of this code of conduct (Local Government Act 2002, Schedule 7, section 15(4)).
- 4.2 Members are 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 is attached in the Appendix to this code.
- 4.3 Compliance with the code, by members, will be monitored by a Conduct Review Board (the Board) consisting of the Chairperson, Deputy Chairperson and one person (who may be an elected member of the Council) from the Council appointed panel<sup>1</sup>. If any alleged breach is against the Chairperson or Deputy Chairperson that member will not be a member of the Board.
- 4.4 The Board may investigate an alleged breach on its own motion.
- 4.5 The Board must apply the principles of natural justice in resolving situations. These principles will include:
  - (a) All alleged breaches of the code must be reported to the Board in writing, make a specific allegation of a breach of the code, and provide corroborating evidence.
  - (b) Board investigations of alleged breaches should be conducted confidentially.
  - (c) Before beginning any investigation, the Board will notify the member in writing of the alleged breach and afford the member a full opportunity to respond to the complaint.
  - (d) The Board has a responsibility to explore informal means for resolving the alleged breach before a recommendation to censure or otherwise penalise a member is made.
  - (e) For the avoidance of doubt, the Board is not a committee or a subcommittee of the Council to which the requirements of Local Government Official Information and Meetings Act apply. The Board shall enquire into and deliberate upon, all complaints.

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<sup>1</sup>. - The Council appointed Carolyn Bull, David Collins, David Close and Cr Alec Neill as members of a panel from which the third member of the Conduct Review Board is appointed should a breach or a potential breach be identified.  
- The Chief Executive is to make any such third member appointment to the Board.

- 4.6 The Council will consider the report in open meeting of Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

A flow chart detailing processes to be followed when an alleged breach of the Code occurs is attached as Appendix 3.

## **RESPONSES TO BREACHES OF THE CODE**

- 4.7 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.
- 4.8 Where there are statutory provisions:
- (a) breaches relating to members' interests render members liable for prosecution by the Auditor- General under the Local Authority (Member's Interests) Act 1968
  - (b) 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
  - (c) 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.

- 4.9 The Council may take the following action when a breach of the code has occurred.
- (a) censure
  - (b) removal of the elected member from Council committees and/or other representative type bodies
  - (c) dismissal of the elected member from a position as Deputy Chairperson or Chair of a committee.

A decision to apply one or more of these actions requires a Council resolution to that effect.

## **REVIEW**

- 4.10 A code of conduct continues in force until amended by the Council. The code can be amended at any time but cannot be revoked unless the Council replaces it with another code. Once adopted, amendments to the code of the conduct require a resolution supported by 75 per cent or more of the members of the Council present.
- 4.11 Council will formally review the code as soon as practicable after the beginning of each triennium. The results of that review will be presented to Council for their consideration and vote.

## **COUNCIL PERFORMANCE REVIEW**

- 4.12 The Council will review, monitor and discuss its own performance.

- 4.13 The Council will undertake a formal self-evaluation of its own annual performance concurrently with the CEO Performance Review. In addition to the annual review, the Council may undertake more regular, informal reviews of its performance.
- 4.14 Council self-monitoring will include comparison of Council's activity and adherence to policies in governance process and Council/Chief Executive relationship.
- 4.15 In evaluating its own effectiveness, the Council will consider:
- (a) its structure and composition
  - (b) strategic direction
  - (c) policies
  - (d) relationship with the Chief Executive
  - (e) meeting effectiveness and efficiency
  - (f) processes for monitoring organisational effectiveness
  - (g) councillor responsibilities
  - (h) committee and overall Council performance
  - (i) external relationships
  - (j) Council training and education requirements.

## **APPENDIX TO THE CODE: LEGISLATION BEARING ON THE ROLE AND CONDUCT OF ELECTED MEMBERS**

This is a list of the legislation requirements that mainly apply to this Council and has some bearing on the duties and conduct of elected members. Copies of these statutes can be found in the Council offices or on the Council's intranet (Statutes).

### **LOCAL AUTHORITY (MEMBERS' INTERESTS) ACT 1968**

This Act<sup>1</sup> 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.

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<sup>1</sup> The Audit Office publication *Financial Conflicts of Interest of Governing Bodies* (2001) provides further guidance on this Act.

## **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.

## **APPENDIX I**

### **LEGISLATION WHICH CONFERS OBLIGATIONS OR RESPONSIBILITIES ON ENVIRONMENT CANTERBURY**

Ashley River Improvement Act 1925  
Biosecurity Act 1993  
Civil Defence Emergency Management Act 2002  
Commerce Act 1986  
Conservation Act 1987  
Ellesmere Lands Drainage Act 1905  
Employment Relations Act 2000  
Forest and Rural Fires Act 1977

Hazardous Substances and New Organisms Act 1996  
Health and Safety in Employment Act 1992  
Higher Salaries Commission Act 1977  
Human Rights Act 1993  
Land Transport Act 1998  
Land Transport Management Act 2003  
Local Authorities (Members' Interests) Act 1968  
Local Electoral Act 2001  
Local Government (Rating) Act 2002  
Local Government Act 2002  
Local Government Official Information and Meetings Act 1987  
Maritime Transport Act 1994  
Minimum Wage Act 1983  
Ngai Tahu Claims Settlement Act 1998  
Ombudsmen Act 1975  
Privacy Act 1993  
Public Works Act 1981  
Reserves Act 1977  
Resource Management Act 1991  
Soil Conservation and Rivers Control Act 1941  
South Canterbury Catchment Board Act 1946 and 1958  
Transit New Zealand Act 1989  
Transport Act 1962  
Treaty of Waitangi Act 1975  
Transport Services Licensing Act 1989  
Waimakariri River Improvement Act 1922

## APPENDIX 2

### REGISTER OF INTERESTS

*Member's Name:*

*Member's Partner's Name:*

*Effective Date:*

This statement is given in accordance with the Code of Conduct adopted by Environment Canterbury. The information contained in this statement is to the best of my knowledge complete and accurate as at the Effective Date. I confirm that I have included in this statement details of any interests held by me or my partner through trusts or companies.

Signed .....

Date .....

Interest	Member	Partner
<b>Interests in land in Canterbury Region:</b> <i>(address or legal description)</i>		
<b>Investments in Partnerships, joint ventures or other business:</b>		
<b>Shares in Companies:</b> <i>(Other than shares in a listed company held through a managed fund)</i>		
<b>Tenancy of any land where landlord is Environment Canterbury or land is tenanted by a firm/company/trust of which the member or spouse/partner is a director/partner/trustee or beneficiary.</b>		

Interest	Member	Partner
<b>Occupation:</b>		
<b>Employers name:</b>		
<b>Employment Status:</b>		
<b>Gifts:</b> <i>(over NZ\$50 received in the capacity of an elected member within the 12 months excluding family gifts)</i>		
<b>Membership of Charitable Trusts:</b>		

# APPENDIX 3: COMPLIANCE

## FLOW CHART TO PROCESS ALLEGED BREACHES OF THE CODE OF CONDUCT

