

Councillors Code of Conduct

Adopted 21 October 2004

Note: Expenses' Section may alter with Remuneration Authority Determination



**First Printed
August 1998**

Amended 16 February 2001
Amended 24 April 2003
Second print adopted 5 June 2003
Amended 12 February 2004

CODE OF CONDUCT

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TASMAN DISTRICT COUNCIL – CODE OF CONDUCT

First Print Adopted by Council on 6 August 1998

Amended 16 February 2001

Amended 24 April 2003 (to comply with Local Government Act 2002)

Second Print Adopted by Council on 5 June 2003

Amended 12 February 2004

Amended 21 October 2004

Amended 1 July 2005

1 INTRODUCTION

1.1 This code of conduct has been prepared to provide guidance on the standards of behaviour expected of elected members (the Mayor, Councillors and Community Board Members) of the Tasman District Council. It applies to elected members in their dealings with:

- each other
- council management and staff
- the public
- the news media

1.2 The code of conduct also provides guidance on the standards of behaviour required of Council management. This code has been agreed to by the elected members and management to enhance:

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

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

- an agreed statement in respect of responsibilities
- agreed general principles of conduct or etiquette
- specific codes of conduct applying to particular circumstances or matters.

1.4 Without successful teamwork any democratically elected organisation will have difficulty succeeding. No team will be effective unless mutual respect exists between leaders and members. This code seeks to facilitate more effective teamwork.

Note: The Local Government Act 2002 Schedule 7 Part 1 Section 15(4) states “A member of a local authority must comply with the code of conduct of that local authority”

2 RESPECTIVE RESPONSIBILITIES

2.1 The Local Government Act 2002 sets out a clear separation of roles and responsibilities between elected members and management. The office of the Mayor has additional characteristics created as much by custom as by legislation.

2.2 Elected Members (Council as a Whole)

The elected members, acting as the Council, are responsible for:

- the development and approval of Council policy
- determining the expenditure and funding requirements of the Council through the Annual Plan process (including long term financial strategy and funding policy)
- monitoring the performance of the Council against its stated objectives and policies
- for employing, overseeing and monitoring the CEO
- representing the interests of residents and ratepayers of the Tasman District Council “(on election the members’ first responsibility is to the District as a whole)”

2.3 The Council can only act by a majority decision at meetings. Each member has one vote, with the presiding member at any meeting having an additional casting vote in the case of an equality of voting (as per Standing Orders). With certain exceptions, the exercise of the Council’s powers can be delegated to: committees or subcommittees or to individual persons.

2.4 The elected members are accountable to electors through the ballot box. They have declared that:

They will faithfully and impartially, and according to their best skill and judgement, execute and perform in the interests of the Tasman District, the statutory powers, authorities and duties vested in or imposed upon them as members of the Tasman District Council.

2.5 Other Legal Obligations (Elected members have particular responsibilities under various Legislation). For example:

- (a) Responsibility to the Office of the Auditor General, for example in respect of illegal actions or expenditures – Public Finance Act 1977.
- (b) The Local Authorities (Members Interests Act 1968) which disqualifies elected members if they have a financial interest in council contracts (above a certain value).

- (c) The Secret Commissions Act 1910. This Act makes it an offence for elected members to accept or attempt to obtain a gift or reward for doing something (or not doing something).
- (d) The Crimes Act 1961. Section 105 makes it a crime for any council official or elected member to accept or try to obtain a bribe for doing or not doing something within their official capacity.
- (e) All elected members are required at the time of their election to declare whether or not they are an undischarged bankrupt (Local Government Act 2002 Schedule 7 Section 15.5).

2.6 **The Mayor**

The Mayor is one of the elected members, and shares the same collective responsibilities. The Mayor is elected by the District at large and is the presiding member at meetings of the Council, and as such is responsible under standing orders for the orderly conduct of Council business at meetings.

2.7 The Mayor has no power to commit the Council to any particular course of action except where specifically authorised to act under delegated authority.

2.8 The Office of Mayor carries with it an element of community leadership in addition to the statutory role as presiding member of the Council. The leadership role frequently requires the Mayor to act as community advocate, promoting the attributes of the community and representing its interests. Community leadership and advocacy will be more effective where it is carried out with the knowledge and support of the Council.

2.9 The Mayor is required to be a Justice of the Peace while holding office as Mayor.

2.10 **The Deputy Mayor**

In addition to the responsibilities of councillor, the Deputy Mayor is authorised to chair meetings of the Council in the Mayor's absence, and generally to perform the functions and duties of the Mayor:

- This position is elected by Council, and may be reviewed by resolution of Council (per Schedule 7 Section 17 Local Government Act 2002).
- With the Mayor's consent at any time during the Mayor's temporary absence; or
- Without the Mayor's consent at any time while the Mayor is prevented by illness or other cause from performing the functions and duties or exercising the powers of office or while there is any vacancy in the office of Mayor.

2.11 **Standing Committee Chairs**

The Council charges the Chair of a Standing Committee with overseeing the business of that standing committee consistent with the powers delegated to it.

2.12 Standing Committee Chairs are responsible for ensuring the orderly conduct of their committees in carrying out their business.

2.13 **Chief Executive**

the Chief Executive Officer is responsible for the implementation and management of the Council's policies and objectives within the budgetary constraints established by the Council. In terms of section 42 of the Local Government Act 2002, the Chief Executive Officer's responsibilities are:

- (a) implementing the decisions of the Council;
- (b) providing advice to elected members and its community boards;
- (c) ensuring that all functions, duties and powers delegated to the Chief Executive Officer or to any person employed by the Council, or imposed or conferred by any Act, regulation or bylaw are properly performed or exercised;
- (d) ensuring the effective, efficient and economic management of the activities and planning of the local authority;
- (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and
- (f) providing leadership for the staff of the local authority; and
- (g) employing, on behalf of the local authority, the staff of the local authority and;
- (h) negotiating the terms of employment of the staff of the local authority.

The Chief Executive is responsible to Council for ensuring, so far as is practicable, that the management structure of the local authority:

- (a) reflects and reinforces the separation of regulatory responsibilities and decision-making processes from other responsibilities and decision-making processes; and
- (b) is capable of delivering adequate advice to the local authority to facilitate the explicit resolution of conflict.

3 DECISION MAKING

3.1 Predetermination or Bias:

Elected members are expected to approach decision making with an open mind (“faithfully and impartially”). This process requires elected members to listen carefully to competing advice and to weigh up the pros and cons before making their decision. Where Council or a Standing Committee is hearing formal submissions at a hearing elected members should carefully avoid prior public comments which show a predetermined bias or non flexible attitude.

3.2 Decisions are made at various levels within the Council. Effective governance occurs when an organisation’s structure and operating principles recognise through effective delegation, the need to empower elected members and staff to make decision at strategic and operational levels, as appropriate to their role.

3.3 The Council is required to make decisions that take into account and balance the various needs and preferences of its residents. Good decision making requires considered advice that addresses relevant matters and consequences.

3.4 The Council should only make decisions at Council meetings on those matters that are accompanied by management reports that address the considerations outlined in paragraph 3.7. While the Council may hear submissions and delegations, and, within the limits of the legislation, discuss matters raised from the floor of the meeting, no decisions should be made unless the matter is accompanied by a written management report.

3.5 Similarly, Standing Committees of the Council will only make decisions at official Committee meetings where the item to be considered is accompanied by a management report that addresses the considerations outlined in paragraph 3.6.

3.6 Where an item of urgency arises which legitimately can be decided in terms of paragraph 3.7 and the timing precludes the preparation of a management report, the presiding member will call for a verbal report from the relevant manager.

- 3.7 In providing advice on such matters management will ensure that accompanying reports address the significant implications arising from any proposed recommendations, such as fiscal, environmental and/or social implications. Management will strive to ensure that advice meets relevant quality standards in all cases. (See Appendix 1 for example of the quality assurance process.)
- 3.8 Matters not on the agenda will only be dealt with in accordance with section 46A(7) or (7A) of the Local Government Official Information and Meetings Act 1987. this means that minor matters relating to the general business of the Council may be discussed but not acted upon (other than by reference to a subsequent meeting) where the presiding member explains at the beginning of the meeting that the item will be discussed. Otherwise late items may only be dealt with at a meeting if the Council resolves accordingly and the presiding member explains at the meeting the reason why the item is not on the agenda and the reason why discussion cannot be delayed until a subsequent meeting. In either case the presiding member's explanation must be made at a time when the meeting is open to the public.
- 3.9 The above requirements will also be taken into account when agendas are set for meetings of the Council and its Committees. As a rule items should be raised with the Chief Executive Officer and identified sufficiently far in advance to allow management to provide the accompanying analysis and advice.
- 3.10 While the Council (the corporate body made up of all the elected members) is ultimately accountable, its function is not to make detailed decisions on operational matters. The Council, committee structures and members day to day dealings with the Chief Executive Officer should recognise the statutory responsibilities of the Chief Executive Officer for the effective management of the Council.

4 BEHAVIOUR OF MEMBERS

- 4.1 All elected members should insist on the respect and dignity of their office in their dealings with each other, management and the public. Elected members should remember that they have no personal power to commit the Council to particular policy or course of action or expenditure. That can only be done by resolution at a meeting of the Council or a committee with delegated authority.
- 4.2 Councillors who have concerns regarding management matters should not raise them with any employee other than the Chief Executive. Should an elected member have a concern and not be satisfied with the response of the Chief Executive the committee or council process should be used to address the concern. That way elected members will be properly informed, particularly if any public explanation or comment

is required. Statements that are contentious should be raised only after consultation with the Chief Executive Officer.

- 4.3 Elected members, not officers, bear the ultimate responsibility for decisions made by themselves and by officers. Elected members should ensure that the anonymity of individual officers is preserved and should not comment publicly on the management or staff of the Tasman District Council.
- 4.4 When a decision has been made by the Council, and the decision is contrary to a particularly elected member's point of view, that elected member's public statements should make it clear that they represent a minority view.
- 4.5 Elected members should act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the council and the community.
- 4.6 Elected members should make no allegations which are improper or derogatory. In the performance of their official duties they should refrain from any form of conduct which may cause any reasonable person unwarranted offence or embarrassment.

5 EXTERNAL COMMUNICATIONS

- 5.1 Within the limits imposed by standing orders, at any meeting of the Council (or at any committee), every elected member (who has the right to speak at the meeting) has the right to express their opinion on any matter lawfully before the meeting. Once a matter has been lawfully determined at a meeting of the Council, it determines the Council's position on that matter until it is lawfully changed by a subsequent decision of the Council. All elected members and management will respect this position.
- 5.2 Public statements representing Council policy or reporting decisions of the Council will be made only with specific or general authority of the Council, and will clearly state the person's authority for making the statement on behalf of the Council.

Generally:

- The Mayor is authorised to make statements accurately reporting decisions of Council meeting.
- Committee chairpersons are authorised to make statements accurately reporting decisions of their committees, and factual statements relating to decisions of the Council or its committees.
- The Chief Executive Officer is authorised to make statements relating to any of areas for which the Chief Executive Officer has statutory responsibility.

- Departmental managers may make factual statements relating to the functions of their departments.
- 5.3 Otherwise the Chief Executive, Mayor, or any elected member or officer may make specific statements on behalf of the Council only with the specific authority of the relevant Council, committee or subcommittee meeting.
- 5.4 The Mayor may deal with the news media and make public statements relevant to the non-statutory role as a community leader, only where it is clearly stated that the views expressed are the Mayor's own and are not made on behalf of the Council. No statements made in this capacity shall undermine any existing policy or decision of the council.
- 5.5 Elected members are entitled to make public statements expressing their opinion on matters before the Council. All such statements should clearly state that they represent the personal opinion of the elected member and are not made on behalf of the Council. No such statements should criticise the conduct of the Council, other elected members or officers of the Council nor should it undermine any existing policy or decision of the Council.
- 5.6 The Chief Executive Officer, management and staff should not comment publicly on the performance of the Council or elected members.
- 5.7 **Confidential Information/Local Government Official Information and Meetings Act 1987**

Elected members have the responsibility to see that whenever possible business is conducted in "open" meeting. Powers to exclude the public should be used only where absolutely necessary and only for the reasons permitted by law. (These reasons are spelt out in Appendix A of Council's Standing Orders.) Business conducted and confidential documents provided where the public is excluded remains confidential and should not be disclosed to the public until either the Council decides by resolution to make it public or the Chief Executive Officer determines in response to a request under the Local Government Official Information and Meetings Act 1987, or the Privacy Act 1993 that there is no longer good reason to withhold it under the Act. Subject to these Acts, any information of a confidential nature must not be communicated to the public. It is a grave betrayal of trust to disclose information while it is confidential or use such confidential information for private gain.

6 INTERNAL COMMUNICATIONS

- 6.1 The Mayor, Standing Committee Chairs and Chief Executive Officer will meet informally (perhaps six weekly) to maintain and promote effective communication. The function of these meetings is to ensure that all parties are familiar with the work being carried out by each; to improve co-ordination; and to ensure the business of the Council and its Committees is conducted in a timely and effective manner.
- 6.2 At every ordinary meeting of the Council, the Mayor will provide a written report for inclusion in the agenda outlining activities undertaken in the capacity of Mayor (including activities in the community leadership/advocacy role) since the date of the last ordinary meeting or any matters the Mayor wishes to draw to the attention of Council.
- 6.3 At every standing Committee meeting, the Chair of that committee will provide a written report for inclusion in the agenda outlining activities undertaken in the capacity as Chairperson, or any matters the Chairperson wishes to draw to the attention of the committee.
- 6.4 Other elected members will provide reports on their attendances on behalf of the Council. (refer to Section 10)
- 6.5 All meeting agendas will be finalised by the Chief Executive Officer or Departmental Manager in consultation with the presiding member (the Mayor in the case of Council meetings, the relevant Committee Chair in the case of committee meetings). Agendas will include reference to any deputations to be received at the meeting.

7 GIFTS/HOSPITALITY/EXPENSES

- 7.1 Small gifts received by Councillors or staff acting as representatives of Council, that have an assessed value of less than \$60.00, are acknowledged to be a gift to individual Councillors or staff members, rather than a gift to Council itself. Gifts received by Councillors or staff that have an assessed value of more than \$60.00 are to be forwarded to the Mayor or Chief Executive (in the case of staff gifts) who will determine how they are to be formally received by Council, Councillors or staff.

7.2 Expenses and Allowances

An elected member is entitled to claim expenses and allowances in connection with their duties. Rules for claims are attached and should be scrupulously observed.

7.3 Use of Facilities

Transport, stationery, or secretarial services, provided by the Council for use of an elected member, must be used for no other purpose.

8 PUBLIC DUTY

- 8.1 Elected members have a responsibility to the whole community of Tasman District.
- 8.2 Members who are elected on a ward or constituency basis have a special duty to that ward and will be expected to undertake local functions, and represent local issues and the constituents but not to the detriment of their district wide responsibilities.
- 8.3 Actions of all elected members may need to be justified to the public. The reputation of the Council is dependent on elected members' conduct, and the public perception of this conduct.

9 DISCLOSURE OF PECUNIARY AND OTHER INTERESTS

- 9.1 The law makes specific provision requiring the elected member to disclose pecuniary (financial) interest. But interests which are not pecuniary can be just as important. Family connections, kinship, friendship, membership of an association, society, company or trade union, trusteeship and many other kinds of relationships can influence members' judgement and may give the impression that an elected member might be acting for personal motives. A good test is to consider whether others would think that the interest is of a kind to make this possible. If members are in doubt, disclose the interest, seek advice from the Chair or CEO and if necessary withdraw from the meeting.
- 9.2 A member or some firm or organisation with which the elected member is personally connected may have professional, business or personal interest within the area for which Council is responsible. Such interests may be substantial and closely related to the work of one or more of the Council's committees or subcommittees, concerned with (say) planning or developing land, personnel matters, or the letting of contracts for supplies, services or works. Before seeking or accepting membership and particularly the chairing of any such committee or subcommittee, that member should seriously consider whether membership would involve them.
- (a) in disclosing an interest so often that the member would be of little value to the committee or subcommittee; or

- (b) in weakening public confidence in the impartiality of the committee or subcommittee.

9.3 The principles about disclosures of interest should be borne in mind with regard to unofficial relations with other elected members, at informal occasions no less scrupulously than at formal Council or Committee meetings.

10 REPRESENTING THE COUNCIL

10.1 Elected members who are invited or wish to represent the Council at an event such as a seminar or conference, must meet the following conditions:

- The Mayor must approve any requests involving members travelling outside the Nelson//Tasman District at Council expense.
- The cost of representation must be within the annual budgeted figure for such activities unless the Council makes specific authorisation for additional expenditure.
- Following his or her attendance, the member must forward a written report to the Council, or appropriate Standing Committee, which summarises the event including potential significance to the business of the Tasman District Council. Where the Council is represented by a delegation, one member of the party will report back on their behalf.

10.2 These requirements apply to situations where members will be participating as representatives of the Tasman District Council. They do not apply to situations where members attend in a private capacity. In such cases the member may wish to report to the Council on items of interest or general value.

11 IMPLEMENTATION/COMPLIANCE/SUBSEQUENT AMENDMENTS

11.1 This Code is intended to provide guidance to elected members and management in their relationships and the exercising of their functions and duties. It should be read in conjunction with, and does not replace, the obligations set out in the Local Government Act, the Local Government Official Information and Meetings Act 1987, any other Act and the Council Standing Orders.

11.2 The parties to this code agree to abide by its provisions at all times having regard to the declaration of office and Council policy.

Note: Local Government Act 2002 **requires** elected members to comply with their adopted Code of Conduct.

11.3 Subsequent Amendments

The adoption of the first Code of Conduct and the adoption of subsequent amendments require a vote in support by not less than 75% of the members present.

12 **COMMUNITY BOARD MEMBERS/CO-OPTED MEMBERS**

The obligations of co-opted members and Community Board Members are generally the same as for Councillors.

Appendix One

POLICY QUALITY

The following guidelines will be applied as appropriate to ensure that the advice provided by Management to the Council and its Committees meets accepted quality standards.

To the extent that they are relevant and appropriate to the particular case, the following eight tests will be applied to all work produced:

- *clear purpose* – papers set out clearly what is to be addressed, the background, land status (if appropriate).
- *flow logically* – arguments are set out coherently, the reader is taken logically through the arguments, all conclusions are justified and recommendations arise from the arguments in the paper.
- *accurate* – claims made are justifiable, facts are accurate, references can be identified.
- *timely* – work is produced to agreed timelines; any delays are signalled in advance and re-negotiated; parties are given the longest possible time to provide input.
- *provides assessed options* – alternative options for action are identified; implications and consequences of options are explored; options are linked to strategic goals and outcomes.
- *reflects consultation* - work is based on good consultation practice as defined; all views are canvassed and taken into account; consultation practice includes stakeholders as well as membership and staff (where appropriate for internal processes).
- *proposals practical as to implementation* – proposals put forward have been tested for workability and likelihood of being achievable in application.
- *material clearly presented and error free* – material is presented in a modern professional style, free of gender bias, and with a minimum of jargon.
- *costs/savings are identified* - both in terms of financial and social costs/savings.

Appendix Two

For Information (Not part of the Code of Conduct)

EXPENSES AND ALLOWANCES

Councillors and Community Board Members Reimbursement

Salaries and Claims

1 SALARIES

The Remuneration Authority gazetted the following Elected Members Determination effective from 1 July 2006:

Mayor	\$93,271.00
Committee Chair (4)	\$35,679.00
Councillor	\$26,759.00

Community Boards

Chair	\$10,704.00
Member	\$5,352.00

NB: Elected members do not receive meeting allowances.

2 MILEAGE CLAIMS

Every reasonable effort should be made by individuals to share transport and so reduce costs. Mileage claims can be made for:

- 2.1 (a) Where elected members are ex officio members of Hall, Domain and other such Committees they are entitled to one mileage claim per year for attendance at these meetings.
- 2.1 (b) When representing the Council by Committee resolution or Mayoral request. Councillors may claim mileage in terms of 2.3 below.
- 2.2 Community Board members can only claim mileage allowances for Community Board meetings.
- 2.3 Mileage claims are based on travel from elected member's normal residence and any variation to this must be with the approval of the Mayor.
- 2.4 Councillors may also make mileage claims for other vehicle mileage incurred on Council related matters up to a maximum of 3,000 kilometres per annum.

3 MEALS AND OVERNIGHT ALLOWANCE

When it is unreasonable for a councillor to return home from an authorised meeting, meals and overnight allowance may be claimed. This allowance is up to \$90.00 per night, reimbursable with receipts.

4 TOLL CALLS AND CELL PHONE CALLS

Reasonable business toll and cell phone calls may be reimbursed on presentation of a telephone account with details showing to whom the call was made.

5 FACSIMILE MACHINES

Council will reimburse any line charges specific to the machines where they are used for Council business. Consumables will be provided on request.

Where the Mayor or Councillors own their facsimile machines a nominal rental fee will be paid and this will be reviewed every three years. This amount will be \$39.95 per month from 1 July 2004.

6 COMPUTERS

Council will reimburse any charges incurred on Jetstream connections or Xtra dialup facilities, where the computer is used for Council business. This amount will be \$39.95 per month from 1 July 2004. Consumables will be provided on request.

Where the Mayor or Councillors provide their own computer, a nominal rental fee will be paid, and this will be reviewed every three years. This amount will be \$59.95 per month from 1 July 2004.

7 ATTENDANCE AT CONFERENCES ETC.

Councillors and Community Board Members wishing to attend Conferences or travel out of the region need prior approval of the Mayor. All conference bookings, travel and hotel bookings must be done through the staff to ensure the discounts Council has negotiated are picked up (reference Tina Marshall).

8 OTHER EXPENSES

8.1 Claims for expenses such as meals must be accompanied by receipts and details of the reasons for the claim, (e.g.) Councillors from Motueka attending a meeting in the morning and again in the afternoon (both in Richmond).

8.2 Any queries regarding claims should be directed to the Corporate Services Manager.

Appendix Three

HINTS FOR CHAIRPERSONS

1 Leadership

The Chair is the leader – must be impartial and give every member a fair opportunity to be heard.

2 Preparation

- With Executive Officer
- Setting up agendas
- Choosing what goes on agendas
- Doing your homework

3 Starting the Meeting

- Welcome
- Special arrangements
- Time objective

4 Minutes

- True and correct record – Move/Second/put
- Signature required

5 Motions

- “I will now put the motion, those in favour will say ‘aye’
those against will say ‘no’
the motion is carried/lost
- Invite a motion (e.g.) is someone prepared to move the
recommendation?
Is there a seconder?

6 Orderly Meetings

- One speaker at a time
- Each member may only speak once (except mover who has a right of reply).
- Speaker should not become disrespectful, offensive or use malicious language.

7 Amendments

- Must be seconded
- Take precedence over original motion
- If carried becomes the substantive motion and must be put again.

8 Procedural Motions

(e.g.) “That the motion be now put” or “That we move to the next business”

- If seconded take precedence over other business, and must be put to the vote without any further discussion.

9 Quorums

- Half or better for Council
- At least two members for Community Board or Committee