



Te Kaunihera o
te tai o Aorere

TASMAN DISTRICT COUNCIL (TE KAUNIHERA O TE TAI AORERE) CODE OF CONDUCT

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Contents

Part One:Code of Conduct Wāhanga Tuatahi: Anga Tikanga Whanonga	4
Appendix 1: The Code of Conduct explained He whakamārama mō te Tikanga Whanonga	6
1. Definitions	6
2. Te Tiriti o Waitangi.....	6
3. Principles of good governance.....	7
4. Behaviours	7
Respect.....	8
Bullying, harassment, and discrimination.....	8
Relationships with the Chief Executive and staff.....	9
Sharing information	10
Expressing personal views publicly.....	10
Provide equitable contribution.....	11
Disrepute.....	11
Use of position for personal advantage.....	12
Impartiality.....	12
Maintaining confidentiality.....	12
Local Government Act 2002 and Local Authorities (Member’s Interests) Act 1968 – Members Interests	13
Appendix 2: Requirement for a code of conduct	14
Te herenga kia whai tikanga whanonga	14
Code of conduct.....	14
Appendix 3: Summary and explanation of legislation which sets standards for ethical behaviour	15
The Local Government Act 2002.....	15
The Local Government Official Information and Meetings Act 1987	16
The Local Authorities (Members’ Interests) Act 1968 (LAMIA)	17
Protected Disclosures (Protection of Whistleblowers) Act 2022.....	19
The Serious Fraud Office Act 1990.....	20

The Local Government Act 2002 as amended by the Local Government ((Pecuniary Interests Register) Act 2022	21
The Health and Safety Act at Work Act 2015.....	21
The Harmful Digital Communications Act 2015.....	22
Appendix 4: Elected Member Internet and Social Media Guidelines	24
Guidelines for work related use.....	24
When to use social media	24
Other key differences to consider are	24
Consider the benefits of engaging with social media	24
Consider the risks and implications of engaging with social media	25
Ask yourself a couple of questions	25
Engaging online	25
Personal use of social media.....	26

Part One: Code of Conduct

Wāhanga Tuatahi: Anga Tikanga Whanonga

The Tasman District Council (Te Kaunihera o te tai o Aorere) Code of Conduct has been adopted in accordance with the requirements of Clause 15, Schedule 7 of the LGA 2002, which requires every local authority to adopt a code of conduct for members of the local authority.

The Code of Conduct sets standards for the behaviour of members towards other members, staff, the public, and the media. It is also concerned with the disclosure of information that members receive in their capacity as members. Members of a local authority must comply with the Code of Conduct of that local authority.

Members' commitment - Ngā herenga a ngā mema

These commitments apply when conducting the business of the local authority as its representative or the representative of an electorate, and communicating with other members, the media, the public, or staff. By adopting the Code of Conduct members agree that they will:

1. treat all people fairly,
2. treat all other members, staff, and members of the public, with respect,
3. share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties,
4. operate in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi,
5. make it clear, when speaking publicly, that statements reflect their personal view, unless otherwise authorised to speak on behalf of the local authority,
6. take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of a member,
7. not bully, harass, or discriminate unlawfully against any person,
8. not bring the local authority into disrepute,
9. not use their position to improperly advantage themselves or anyone else or disadvantage another person,
10. not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority,
11. not disclose information acquired, or given, in confidence, which they believe is of a confidential nature.

More detail explaining the Code of Conduct is set out in **Appendix 1**. A copy of clause 15 of Schedule 7 of the LGA, which sets out the requirements for a code of conduct, is contained in **Appendix 2**. A summary and explanation of the legislation which sets standards for ethical behaviour is contained in **Appendix 3**. Council's Social Media Guidelines are contained in **Appendix 4**.

Appendix 1: The Code of Conduct explained He whakamārama mō te Tikanga Whanonga

1. Definitions

For the purposes of this Code “member” means an elected or appointed member of:

- the governing body of the local authority,
- any committee or sub-committee of the local authority,
- any local board of the local authority, or
- any community board of the local authority.

Local authority means the kaunihera, local board or community board which has adopted this Code.

2. Te Tiriti o Waitangi

The Tasman District Council (Te Kaunihera o te tai o Aorere) commits to operating in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi and acknowledges the following principles:

1. Tino Rangatiratanga: The principle of self-determination provides for Māori self-determination and mana motuhake. This requires local authorities to be open to working with mana whenua partners in the design and delivery of their work programmes,
2. Partnership: The principle of partnership implies that local authorities will seek to establish a strong and enduring relationship with iwi and Māori, within the context of iwi and Māori expectations. Kaunihera should identify opportunities, and develop and maintain ways, for Māori to contribute to kaunihera decisions, and consider ways kaunihera can help build Māori capacity to contribute to council decision-making,
3. Equity: The principle of equity requires local authorities to commit to achieving the equitable delivery of local public services,
4. Active protection: The principle of active protection requires local authorities to be well informed on the wellbeing of iwi, hapū and whanau within their respective rohe,
5. Options: The principle of options requires local authorities to ensure that its services are provided in a culturally appropriate way that recognises and supports the expression of te ao Māori.

3. Principles of good governance

Members recognise the importance of the following principles of good governance.

- **Public interest:** members should act solely in the public interest.
- **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
- **Tāria te wā and kaitiakitanga/stewardship:** members should use long-term perspective when making decisions. Decisions, which impact on past, current and future generations, also affect collective well-being.
- **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
- **Openness:** members should act and take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** members should be truthful and not misleading.
- **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.

4. Behaviours

To promote good governance and build trust between the local authority, its members, and citizens, members **agree** to the following standards of conduct when they are:

- conducting the business of the local authority,
- acting as a representative of the local authority,
- acting as a representative of their electorate,
- communicating with other members, the media, the public and staff, and
- using social media and other communication channels.¹

¹ Please refer to the Elected Member Internet and Social Media Guidelines in **Appendix 4**

Where a member's conduct falls short of these standards, members accept that they may be subject to a complaint made under Council's "Policy for Investigating and Ruling on Alleged Breaches of the Code of Conduct".

Respect

Members will treat all other members, staff, and members of the public, with respect.

Respect means politeness and courtesy in behaviour, speech, and writing. Debate and differences are all part of a healthy democracy. As a member of a local authority you can challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You must not, however, subject individuals, groups of people or organisations to personal attack. For clarity, it is not civil to engage in aggressive and repetitive correspondence.

In your contact with the public, you should treat them politely and courteously. Offensive behaviour lowers the public's expectations of, and confidence in, your local authority. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police.

Bullying, harassment, and discrimination

Members will treat all people fairly and will not:

- bully any person,
- harass any person, or
- discriminate unlawfully against any person.

For the purpose of the Code of Conduct, bullying is offensive, intimidating, malicious, or insulting behaviour. It represents an abuse of power through means that undermine, humiliate, denigrate, or injure another person. It may be:

- a regular pattern of behaviour, or a one-off incident,
- occur face-to-face, on social media, in emails or phone calls, happen in the workplace, or at work social events, and
- may not always be obvious or noticed by others.

Harassment means conduct that causes alarm or distress, or puts people in fear of violence, and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination occurs when a person is treated unfairly, or less favourably, than another person because of any of the following²:

age	skin, hair, or eye colour	race
disability	employment status	ethical belief
ethnic or national origin	family status	marital status
political opinion	religious belief	gender identity
sex	sexual orientation.	

Relationships with the Chief Executive and staff

An important element of good governance involves the relationship between the Council, its Chief Executive and Council staff. Elected members should behave in a professional, and appropriate way towards staff at all times, including:

- Raising any concerns about employees, officers or contracted officials with the Chief Executive (recognising that the Chief Executive is the employer of all Council employees, and as such only the Chief Executive or his or her delegated appointees may hire, dismiss, instruct, or censure an employee);
- There will be times when members are given information or asked to enquire into the behaviour, actions, or decisions of staff. Elected members should listen to these approaches fairly and objectively, seek clarification, and report them to the Chief Executive or relevant second tier manager as appropriate.
- Raising any concerns about the performance or behaviour of the Chief Executive with the Mayor;
- Making themselves aware of the obligations that the Council and the Chief Executive always have as employers and observe those requirements — such as duties to be a good employer and to provide a workplace free from harm including by taking steps to identify and prevent bullying and harassment of any kind;

² See Human Rights Commission <https://www.govt.nz/browse/law-crime-and-justice/human-rights-in-nz/human-rights-and-freedoms/>

- Treating all employees with courtesy and respect and avoid publicly criticising any employee;
- Observing any protocols put in place by the Chief Executive concerning contact between members and employees;
- Avoiding doing anything which might compromise, or could be seen as compromising, the impartiality of an employee;
- Participating, when asked, in any investigation by the Chief Executive about complaints made by staff in relation to member conduct.

Please note: Elected members should be aware that failure to observe this portion of the Code may compromise the Council's obligations to be a good employer and consequently expose the Council to civil litigation or affect the risk assessment of Council's management and governance control processes undertaken as part of the Council's audit.

Sharing information

Members will share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties.

Occasionally members will receive information in their capacity as members of the governing body, which is pertinent to the ability of their kaunihera to properly perform its statutory duties. Where this occurs members will disclose any such information to other members and, where appropriate, the chief executive. Members who are offered information on the condition that it remains confidential will inform the person making the offer that they are under a duty to disclosure such information, for example, to a governing body meeting in public exclusion.

Expressing personal views publicly

Members, except when authorised to speak on behalf of the local authority, will make it clear, when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

The media play an important role in the operation and efficacy of our local democracy and need accurate and timely information about the affairs of the local authority to fulfil that role. Members are free to express a personal view to the media and in other public channels at any time, provided the following rules are observed:

- they do not purport to talk on behalf of the local authority, if permission to speak on behalf of the authority has not been given to them

- their comments must not be inconsistent with the Code, for example, they should not disclose confidential information or criticise individual members of staff, and
- their comments must not purposefully misrepresent the views of the local authority or other members.

Council's Social Media Guidelines are contained in **Appendix 4**. Members must fully acquaint themselves, and adhere strictly to, these guidelines.

More information and guidance on social media protocols is available in Local Government New Zealand's Good Governance Guide, available at <https://www.lgnz.co.nz/assets/Induction/The-Good-Governance-Guide.pdf>

Provide equitable contribution

Members will take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of them.

Being a member is a position of considerable trust, given to you by your community to act on their behalf. To fulfil the expectations of your constituents and contribute to the good governance of your area it is important that you make all reasonable efforts to attend meetings and workshops, prepare for meetings, attend civic events, and participate in relevant training seminars.

The local government workload can be substantial, and it is important that every member contributes appropriately. This requires members to often work as a team and avoid situations where the majority of the work falls on the shoulders of a small number of members.

Disrepute

Members will not bring the local authority into disrepute.

Members are trusted to make decisions on behalf of their communities and as such their actions and behaviours are subject to greater scrutiny than other citizens. Members' actions also reflect on the local authority as well as themselves and can serve to either boost or erode public confidence in both.

Behaviours that might bring a local authority into disrepute, and diminish its ability to fulfil its statutory role, include behaviours that are dishonest and/or deceitful. Adhering to this Code does not in any way limit a member's ability to hold the local authority and fellow members to account or constructively challenge and express concerns about decisions and processes undertaken by their local authority.

Use of position for personal advantage

Members will not use, or attempt to use, or be perceived to use their position to improperly advantage themselves or anyone else or disadvantage another person.

Being a member of a local authority comes with certain opportunities and privileges, including the power to make choices that can impact on others. Members must not take advantage of such opportunities to further their own or others' private interests or to disadvantage anyone unfairly. A member found to have personally benefited by information gained as an elected member may be subject to the provisions of the Secret Commissions Act 2010.

Impartiality

Members will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They must not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers to gain understanding of their thinking and decision-making, however, they must not seek to influence officials to change their advice or alter the content of a report, other than in a meeting or workshop, if doing so would prejudice their professional integrity. Members should:

- make themselves aware of the obligations that the local authority and chief executive have as employers and always observe these requirements, such as the obligation to be a good employer, and
- observe any protocols put in place by the chief executive concerning contact between members and employees, and not publicly criticise individual staff.

If you have concerns about the behaviour of an official, whether permanent or contracted, you should raise your concerns with the local authority's chief executive, or, if the concerns are to do with the chief executive, raise them with the mayor, or chief executive officer review subcommittee.

Maintaining confidentiality

Members will not disclose information acquired, or given, in confidence, which they believe is of a confidential nature, unless.

1. they have the consent of a person authorised to give it,
2. they are required by law to do so,
3. the disclosure is to a third party to obtain professional legal advice, and that the third party agrees not to disclose the information to any other person, or

4. the disclosure is reasonable and in the public interest, is made in good faith, and in compliance with the reasonable requirements of the local authority.

Local Government Act 2002 and Local Authorities (Member's Interests) Act 1968 – Members Interests

Members will comply with the requirements of the Local Government Act 2002 (as amended by the Local Government (Pecuniary Interests Register) Act 2022) in relation to member's pecuniary interests and the requirements of the Local Authorities (Members Interests) Act 1968 in relation to members interests (financial and non-financial). Information on the requirements of both Acts is set out in the summary and explanation of legislation provided in **Appendix 3**.

Appendix 2: Requirement for a code of conduct

Te herenga kia whai tikanga whanonga

Clause 15, Schedule 7 of the Local Government Act 2002 requires every local authority to adopt a code of conduct for members of the local authority. It states:

Code of conduct

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.

The code of conduct must set out –

1. 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:
 - a. behaviour towards one another, staff, and the public; and
 - b. disclosure of information, including (but not limited to) the provision of any document, to elected members that –
 - i. is received by, or is in possession of, an elected member in his or her capacity as an elected member; and
 - ii. relates to the ability of the local authority to give effect to any provision of this Act; and
 - c. 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.
2. A local authority may amend or replace its code of conduct but may not revoke it without replacement.
3. A member of a local authority must comply with the code of conduct of that local authority.
4. 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.
5. 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.
6. To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

Appendix 3: Summary and explanation of legislation which sets standards for ethical behaviour

Ngā ture e whakatakoto ana i ngā paerewa mō ngā whanonga matatika

Clause 15 of Schedule 7 of the Local Government Act (the Act) 2002, requires that the Code of Conduct provides members with a general explanation of the Local Government Official Information and Meetings Act 1987, and any other enactment or rule of law that affects members.

The key statutes that promote ethical behaviour are the Local Government Act 2002 (LGA), Local Government Official Information Act 1987 (LGOIMA), the Local Authorities (Members' Interests) Act 1968 (LAMIA), the Protected Disclosures (Protection of Whistleblowers) Act 2022, the Serious Fraud Office Act 1990, the Local Government (Pecuniary Interests Register) Act 2022, the Health and Safety at Work Act 2015, and the Harmful Digital Communications Act 2015.

The Local Government Act 2002

The LGA 2002 is local government's empowering statute. It establishes our system of local government and sets out the rules by which it operates. Those rules include the principles underpinning kaunihera decision-making, governance principles, Te Tiriti obligations as set by the Crown, and the role of the chief executive which is:

1. implementing the decisions of the local authority,
2. providing advice to members of the local authority and to its community boards, if any and
3. ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed, or exercised,
4. ensuring the effective and efficient management of the activities of the local authority,
5. facilitating and fostering representative and substantial elector participation in elections and polls held under the Local Electoral Act 2001,
6. maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority,
7. providing leadership for the staff of the local authority,
8. employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy), and
9. negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).

The Local Government Official Information and Meetings Act 1987

The LGOIMA sets rules for ensuring the public are able to access official information unless there is a valid reason for withholding it. All information should be considered public and released accordingly unless there is a compelling case for confidentiality. Even where information has been classified as confidential, best practice is for it to be proactively released as soon as the grounds for confidentiality have passed.

There are both conclusive and other reasons for withholding information set out in sections 6 and 7 of LGOIMA, which include:

Conclusive reasons for withholding – if making the information available would likely:

- prejudice the maintenance of the law, including the prevention, investigation and detection of offences, and the right to a fair trial; or
- endanger the safety of any person.

Other reasons for withholding – withholding the information is necessary to:

- protect the privacy of natural persons, including that of deceased natural persons;
- protect information where it would disclose a trade secret or would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information;
- in the case of an application for resource consents or certain orders under the Resource Management Act 1991, to avoid serious offence to tikanga Māori, or to avoid the disclosure of the location of waahi tapu;
- protect information the subject of an obligation of confidence, where making that information available would prejudice the supply of similar information (and it is in the public interest for this to continue), or would be likely otherwise to damage the public interest;
- avoid prejudice to measures protecting the health or safety of members of the public;
- avoid prejudice to measures that prevent or mitigate material loss to members of the public;
- maintain the effective conduct of public affairs through free and frank expression of opinions between or to members and local authority employees in the course of their duty or the protection of such people from improper pressure or harassment;
- maintain legal professional privilege;
- enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations); or
- prevent the disclosure or use of official information for improper gain or improper advantage.

Regarding these ‘other’ reasons, a public interest balancing test applies. In these cases the kaunihera must consider whether the withholding of that information is outweighed by other considerations

that render it desirable, in the public interest, to make that information available. Decisions about the release of information under LGOIMA need to be made by the appropriately authorised people within each kaunihera, and elected members must work within the rules adopted by each kaunihera.

The LGOIMA also sets the rules that govern public access to meetings and the grounds on which that access can be restricted, which occurs when meetings consider matters that are confidential.

The role of the Ombudsman

An Ombudsman is an Officer of Parliament appointed by the Governor-General on the recommendation of Parliament. An Ombudsman's primary role under the Ombudsmen Act 1975 is to independently investigate administrative acts and decisions of central and local government departments and organisations that affect someone in a personal capacity. Ombudsmen investigate complaints made under LGOIMA.

Anyone who has a complaint of that nature about a local authority may ask an Ombudsman to investigate that complaint. Investigations are conducted in private. The Ombudsman may obtain whatever information is considered necessary, whether from the complainant, the chief executive of the local body involved, or any other party. The Ombudsman's decision is provided in writing to both parties.

If a complaint is sustained, the Ombudsman may recommend the local authority takes whatever action the Ombudsman considers would be an appropriate remedy. Any such recommendation is, however, not binding. Recommendations made to the local authority under this Act will, in general, become binding unless the local authority resolves otherwise. However, any such resolution must be recorded in writing and be made within 20 working days of the date of the recommendation.

The Local Authorities (Members' Interests) Act 1968 (LAMIA)

Pecuniary interests

The LAMIA provides rules about members discussing or voting on matters in which they have a pecuniary interest and about contracts between members and the council. LAMIA has two main rules, referred to here as the contracting rule (in section 3 of the LAMIA) and the participation rule (in section 6 of the LAMIA).

- The **contracting rule** prevents a member from having interests in contracts with the local authority that are worth more than \$25,000 in any financial year, unless the Auditor-General approves the contracts. Breach of the rule results in automatic disqualification from office.
- The **participation rule** prevents a member from voting or taking part in the discussion of any matter in which they have a financial interest, other than an interest in common with the public. The Auditor-General can approve participation in limited circumstances. Breach of the rule is a criminal

offence, and conviction results in automatic disqualification from office.

Both rules have a complex series of subsidiary rules about their scope and exceptions.

The LAMIA does not define when a person is “concerned or interested” in a contract (for the purposes of section 3) or when they are interested “directly or indirectly” in a decision (for the purposes of section 6). However, it does set out two situations where this occurs. These are broadly where:

- a person’s spouse or partner is “concerned or interested” in the contract or where they have a pecuniary interest in the decision; or
- a person or their spouse or partner is involved in a company that is “concerned or interested” in the contract or where the company has a pecuniary interest in the decision.

However, in some situations outside the two listed in the Act a person can be “concerned or interested” in a contract or have a pecuniary interest in a decision, for example, where a contract is between the members family trust and the kaunihera.

Non-pecuniary conflicts of interest

In addition to the issue of pecuniary interests, which are addressed through the LAMIA, there are also legal rules about conflicts of interest more generally. These are rules that apply to non-pecuniary conflicts of interest and include the common law rule about bias. To determine if bias exists, consider this question: Is there a real danger of bias on the part of the member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?

The question is not limited to actual bias but relates to the appearance or possibility of bias. This is in line with the principle that justice should not only be done but should be seen to be done. Whether or not you believe that you are not biased is irrelevant. The focus should be on the nature of any conflicting interest or relationship, and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- statements or conduct indicate that a member has predetermined the decision before hearing all relevant information (that is, they have a “closed mind”), or
- a member has close relationship or involvement with an individual or organisation affected by the decision.

Seeking exemption from the Auditor-General

Members who have a financial conflict of interest that is covered by section 6 of the LAMIA, may apply to the Auditor-General for approval to participate. The Auditor-General can approve participation in two ways.

1. Section 6(3)(f) allows the Auditor-General to grant an exemption if, in their opinion, a member's interest is so remote or insignificant that it cannot reasonably be regarded as likely to influence the councillor when voting or taking part in the discussion.
2. Section 6(4) allows the Auditor-General to grant a declaration enabling a member to participate if they are satisfied that:
 - a. the application of the rule would impede the transaction of business by the council; or
 - b. it would be in the interests of the electors or residents of the district/region that the rule should not apply.

More information on non-pecuniary conflicts of interest and how to manage them can be found in the Auditor-General's Guidance for members of local authorities about the law on conflicts of interest.

Protected Disclosures (Protection of Whistleblowers) Act 2022

The Protected Disclosures (Protection of Whistleblowers) Act 2022 is designed to facilitate the disclosure and investigation of serious wrongdoing in the workplace, and to provide protection for employees and other workers who report concerns. A protected disclosure occurs when the discloser believes, on reasonable grounds, that there is, or has been, **serious wrongdoing** in or by their organisation, they disclose in accordance with the Act, and they do not disclose in bad faith.

A discloser is a person who has an employment type relationship with the organisation they are disclosing about and includes current and former employees, homeworkers, secondees, contractors, volunteers, and board members. Serious wrongdoing includes:

- an offence
- a serious risk to public health, or public safety, or the health or safety of any individual, or to the environment
- a serious risk to the maintenance of the law including the prevention, investigation and detection of offences or the right to a fair trial
- an unlawful, corrupt, or irregular use of public funds or public resources
- oppressive, unlawfully discriminatory, or grossly negligent or that is gross mismanagement by a public sector employee or a person performing a function or duty or exercising a power on behalf of a public sector organisation or the Government.

Kaunihera need to have appropriate internal procedures that identify who in the organisation a protected disclosure may be made to, describe the protections available under the Act, and explain how the organisation will provide practical assistance and advice to disclosers. A discloser does not have to go through their organisation first. An appropriate authority can include the head of any public sector organisation and any officer of Parliament, such as the Ombudsman and Controller and Auditor-General. Ombudsmen are also an "appropriate authority" under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

The Serious Fraud Office Act 1990

The Serious Fraud Office (SFO) is the lead law enforcement agency for investigating and prosecuting serious financial crime, including bribery and corruption. The SFO has an increasing focus on prevention by building awareness and understanding of the risks of corruption – noting that the extent of corruption is influenced by organisational frameworks and support given to staff. The SFO encourages organisations to adopt appropriate checks and balances and build a culture based on ethics and integrity.

The four basic elements of best practice organisational control promoted by the SFO involve:

- Operations people with the right skills and experience in the relevant areas, with clear accountability lines.
- Risk mitigation to manage risks that can't be eliminated through segregation, discretion reduction, delegations, management oversight, and audit.
- Basic standards of behaviour moderated by a Code of Conduct, ongoing interests and gift processes (not simply annual declaration), plenty of opportunities and ways to speak up, disciplinary options, training and support.
- Design and oversight based on a clear understanding of operational realities (design, governance, management, audit, investigation, business improvement, and legal).

The Local Government Act 2002 as amended by the Local Government ((Pecuniary Interests Register) Act 2022

Following passage of the Local Government (Pecuniary Interests Register) Amendment Bill in 2022, a local authority must now keep a register of the pecuniary interests of their members, including community and local board members. The purpose of the register is to record members' interests to ensure transparency and strengthen public trust and confidence in local government processes and decision-making. Registers must comprise the following:

- the name of each company of which the member is a director or holds or controls more than 10% of the voting rights and a description of the 30 main business activities of each of those companies,
- the name of every other company or business entity in which the member has a pecuniary interest, other than as an investor in a managed investment scheme, and a description of the main business activities of each of those companies or business entities,
- if the member is employed, the name of each employer of their employer and a description of the main business activities of those employers,
- the name of each trust in which the member has a beneficial interest,
- the name of any organisation or trust and a description of the main activities of that organisation or trust if the member is a member of the organisation, a member of the governing body of the organisation, or a trustee of the trust, and the organisation or trust receives funding from the local authority, local board, or community board to which the member has been elected,
- the title and description of any organisation in which the member holds an appointment by virtue of being an elected member,
- the location of real property in which the member has a legal interest, other than an interest as a trustee, and a description of the nature of the real property,
- the location of real property, and a description of the nature of the real property, held by a trust if the member is a beneficiary of the trust and it is not a unit trust (disclosed under subclause 20) or a retirement scheme whose membership is open to the public.

Each council must make a summary of the information contained in the register publicly available; and ensure that information contained in the register is only used or disclosed in accordance with the purpose of the register; and is retained for seven years.

The Health and Safety Act at Work Act 2015

The Health and Safety at Work Act 2015 aims to create a new culture towards health and safety in workplaces. A council is termed a Person Conducting a Business or Undertaking (PCBU) - all involved in work, including elected members, are required to have a duty of care. Elected members are "officers" under the Act and officers are required to exercise due diligence to ensure that the PCBU complies with its duties.

However, certain officers, such as elected members, cannot be prosecuted if they fail in their due diligence duty. Despite this, as officers, the key matters to be mindful of are:

- stepping up and being accountable,
- identifying and managing your risks,
- making health and safety part of your organisation's culture, and
- getting your workers involved.

Councils have wide discretion about how these matters might be applied, for example:

- adopting a charter setting out the elected members' role in leading health and safety – with your chief executive,
- publishing a safety vision and beliefs statement,
- establishing health and safety targets for the organisation with your chief executive,
- ensuring there is an effective linkage between health and safety goals and the actions and priorities of your chief executive and their senior management, or
- having effective implementation of a fit-for-purpose health and safety management system.

Elected members, through their chief executive need to ensure their organisations have sufficient personnel with the right skill mix and support, to meet the health and safety requirements. This includes making sure that funding is sufficient to effectively implement and maintain the system and its improvement programmes.

The Harmful Digital Communications Act 2015

The Harmful Digital Communications Act (HDCA) was passed to help people dealing with serious or repeated harmful digital communications. The Act covers any harmful digital communications (like text, emails, or social media content) which can include racist, sexist and religiously intolerant comments – plus those about disabilities or sexual orientation and sets out 10 communication principles for guiding communication online. Under the Act a digital communication should not:

- disclose sensitive personal facts about an individual
- be threatening, intimidating, or menacing
- be grossly offensive to a reasonable person in the position of the affected individual
- be indecent or obscene
- be used to harass an individual
- make a false allegation
- contain a matter that is published in breach of confidence

- incite or encourage anyone to send a message to an individual for the purpose of causing harm to the individual
- incite or encourage an individual to commit suicide
- denigrate an individual by reason of colour, race, ethnic or national origins, religion, gender, sexual orientation or disability

More information about the Act can be found at [Netsafe](#).

Appendix 4: Elected Member Internet and Social Media Guidelines

Āpitianga Whā: Kaikaunihera ngā Aratohu mō Ipurangi me ngā Pae Pāpāho Pāpori

Guidelines for work related use

As with traditional media, we have an opportunity and a responsibility to effectively manage the Council's reputation online. The following guidelines will help you decide when to engage and participate in the many online conversations that mention Tasman District Council every day.

When to use social media

Unlike traditional media, social media provides tools for two-way conversations that others are able to see and join in if they wish. This provides an opportunity to build relationships and rapport with not just the person you're talking with, but potentially a whole community of people. This provides both potential benefits and risks that need to be managed.

Other key differences to consider are

- Social media operates in a 24/7 world — it requires resourcing and time that must be considered before you engage. For example, responses and comments to your postings should be actioned as soon as practical.
- Tone tends to be more personal, less corporate and less formal.
- You have little control over the use of your content once it's been posted – regardless of whether you edit it or delete it. Your contributions may be accessible and traceable forever, and by anybody in the world, so a little bit of extra care is needed.
- You often need to agree to a social media provider's terms of service when using their product or platform.

Consider the benefits of engaging with social media

Social media tools enable us to:

- Take advantage of the large audiences already using social media networks
- Reach new audiences
- Demonstrate an open culture and provide a personal face to the organisation online
- Communicate faster and be more flexible

- Use the power of video and images to tell stories about the issues we are involved in
- Make our key messages visible in existing social networks
- Get feedback, opinions and ideas from a different segment of our community

Consider the risks and implications of engaging with social media

There are many types of social media tools, from video and photo sharing tools, to literally millions of blogs, wikis, discussion forums and platforms such as Twitter.

There are also risks associated with engaging with social media, from resourcing issues and time commitment, to potentially provoking a contentious issue.

Ask yourself a couple of questions

Here are some tests to apply in making decisions about whether you should engage:

- What is the effort?
- What is the ongoing commitment likely to be? Once you post one comment, you might become engaged in a lengthy online conversation or debate. Social media etiquette means that you shouldn't post a comment then hide under a rock - this could impact negatively on the Council's reputation as an organisation.
- Will it enable you to target a priority audience for your programme/project?

If you wish to discuss this issue in more detail for your area of the Council, please contact the Community and Change Manager.

Engaging online

It is important that you are aware of the implications of engaging in social media and online conversations that reference the Council and your relationship with the Council.

The following 7 principles guide how online spokespeople should represent the Council in an online, official capacity when they are speaking 'on behalf of Tasman District Council'.

1. Be an authorised spokesperson. Only elected members authorised to speak to the media on Council's behalf should engage in social media on Council's initiated sites.
2. Follow all Council policies. As a representative of the Council you must act with honesty and integrity in all matters. This commitment is true for all forms of social media. In addition, several other policies govern your behaviour as a Council spokesperson in the social media space, including the Code of Conduct.

3. Be mindful that you are representing Council. As a Council representative, it is important that you be professional and honest in all your communications. Be respectful of all individuals, races, religions and cultures; how you conduct yourself in the online social media space not only reflects on you – it is a direct reflection on the Council.
4. Fully disclose you are an elected member of Tasman District Council. The Council requires all representatives who are communicating on behalf of the Council to always make it clear they are doing so. State your relationship with the Council from the outset, e.g., 'Hi, I'm [name] and I am a Tasman District Councillor....' Remember to be honest and be smart. It takes a long time to earn trust online but only takes a moment to destroy it. This disclosure is equally important for any vendor/partner/third party who is representing the Council online. They must disclose that they work with the Council.
5. When in doubt, do not post. You are personally responsible for your words and actions, wherever they are. As an online spokesperson, you must ensure that your posts are completely accurate and not misleading, and that they do not reveal sensitive or confidential information about the Council, our citizens or staff. Use sound judgement and common sense, and if there is any doubt, do not post it. If you ever feel unsure about how to respond to a post, send the link to Community Relations Manager.
6. Be responsible. We understand that representatives engage in social media activities for legitimate purposes and that these activities may be helpful for Council business. However, we encourage everyone to exercise sound judgement and common sense.
7. Know that the internet is permanent. Once information is published online, it is essentially a permanent record, even if you 'remove/delete' it later or attempt to make it anonymous.

Personal use of social media

There's a big difference in speaking 'on behalf of Council' and speaking 'about' the Council. While Council respects your rights to free speech please remember that there are justified limitations on these rights. Also remember that customers and colleagues may have access to what you post. These 7 principles refer to personal or unofficial online activities where you might refer to Council.

1. Adhere to the Code of Conduct and other applicable policies. All elected members are subject to the relevant Council policies in every public setting. In addition, legislation such as the Privacy Act and LGOIMA govern the disclosure of any information online.

2. You are responsible for your actions. Anything you post that can potentially damage the Council's image will ultimately be your responsibility. We do encourage you to participate in the social media space, but urge you to do so properly, exercising sound judgement and common sense. Stop and think first. Think about it this way – would you be prepared to defend and prove a negative post about a person on Facebook or Twitter in Court? Would you like your name and our Council associated with your posting in the newspaper?
3. Be an 'advocate' for compliments and criticism. Even if you are not an official online spokesperson for the Council, you are one of our most important advocates for monitoring the social media landscape. If you come across positive or negative remarks about the Council or its activities online that you believe are important, consider sharing them by forwarding them to Community Relations Manager.
4. Let the subject matter experts respond to negative posts. You may come across negative or critical posts about the Council or its activities or see third parties trying to spark negative conversations. Unless you are an authorised spokesperson, avoid the temptation to react yourself.
5. Take care mixing your business and personal lives. Elected members need to take extra care when participating in social media. The public may find it difficult to separate personal and Council personas. Commenting online in any forum - particularly if your opinion is at odds with what Council is doing puts Council's reputation at risk.
6. Never disclose sensitive and confidential information from Council (including confidential, public excluded reports and/or commercially sensitive information) and be aware that taking public positions online that are contrary to Council's interests and the Code of Conduct might lead to disciplinary actions.
7. Members' social media pages should be open and transparent (if you choose to have one in your capacity as a member). No members should represent themselves falsely via aliases or differing account names. Members should not block any post or any person on any form of social media that they have an association with unless there is clear evidence they are being actively abused, or that abusive or inflammatory content is being posted. Members who block the comments and opinions of others may be acting contrary to the values of free speech and democracy. Such behaviour can bring the whole Council into disrepute.

