



**Masterton District Council**

# **Local Governance Statement**

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# Masterton District Council - Local Governance Statement

## 1. PURPOSE

The purpose of the Governance Statement is to outline information on the responsibilities, structure and governance processes of the Council as required by section 40 of the Local Government Act 2002.

The Governance Statement must be updated within six months of each triennial general election of members of the local authority and whenever the local authority considers it appropriate.

The Governance Statement is available to the public either from the Council offices or the Council web-site, [www.mstn.qovt.nz](http://www.mstn.qovt.nz).

## 2. FUNCTIONS, RESPONSIBILITIES AND ACTIVITIES

The purpose of the Masterton District Council is to enable democratic local decision-making to promote the social, economic, environmental and cultural well-being of the Masterton District in the present and for the future.

In meeting its purpose the Masterton District Council has a variety of roles, including but not limited to:

- Formulating the District's strategic direction in partnership with the community - through the Long Term Council Community Plan (L TCCP) and reporting on progress made to achieving identified Community Outcomes
- Determining the services and activities to be undertaken by the council
- Administering various regulations and up-holding the law, including the formulation and enforcement of bylaws
- Managing local infrastructure including network infrastructure (e.g. roads, sewage disposal, water supplies, stormwater) and community infrastructure (public library, parks and recreational facilities)
- Facilitating solutions to meet local needs
- Advocating on behalf the local community with central government, other local authorities and other agencies
- Environmental management
- Ensuring local communities are encouraged to be part of the decision making processes of local government
- Ensuring effective succession of Elected Members

## 3. LOCAL LEGISLATION

The Masterton District Council is not bound by any local legislation (Acts that apply specifically to it).

## 4. ELECTORAL SYSTEM

Masterton District Council currently operates its elections under the first past the post electoral system. This form of voting is used in parliamentary elections to elect Members of Parliament to constituency seats. Electors vote by indicating their preferred candidate(s), and the candidate(s) that receives the most votes is declared the winner regardless of the proportion of votes that candidate(s) obtained. Electors have a vote for each vacant position.

The other option permitted under the Local Electoral Act 2001 is the single transferable vote system (STV). This system is used in district health board elections. Electors rank candidates in order of preference. The number of votes required for a candidate to be elected (called the quota) depends on the number of positions to be filled and the number of valid votes. The necessary number of candidates to fill all vacancies is achieved first by the counting of first preferences then by a transfer of a proportion of votes received by any candidate where the number of votes for that candidate is in excess of the quota, and then by the exclusion of the lowest polling candidates and the transfer of these votes in accordance with voters' second preferences.

Under the Local Electoral Act 2001 the Council can resolve to change the electoral system to be used at the next two elections or conduct a binding poll on the question, or electors can demand a binding poll. A poll can be initiated by at least 5 per cent of electors signing a petition demanding that a poll be held.

Once changed, an electoral system must be used for at least the next two triennial general elections, ie we cannot change our electoral system for one election and then change back for the next election.

The Council's last review of electoral systems was in August 2003. No change was made to Council's electoral system for the 2004 elections. Accordingly, either the Council could resolve in 2005 to change the system for the 2007 elections or to conduct a poll, or electors could demand a poll.

#### 5. REPRESENTATION ARRANGEMENTS - WARDS AND CONSTITUENCIES

- The Masterton District is divided into two wards; Urban Ward and Rural Ward
- Councillors are elected from within the wards and there are no councillors elected from the district at large.
- The mayor is elected from the district at large. The current mayor is Mr Bob Francis.

Ward	N° Councillors	N° Resident Electors	Councillors
Urban	7	12,164	Cr Garry Daniell
			Cr Brent Goodwin
			Cr Bruce Bishop
			Cr Jonathan Hooker
			Cr Owen Perry
			Cr Chris Peterson
			Cr Jane Terpstra
Rural	3	3,495	Cr Rod McKenzie
			Cr Judith Callaghan
			Cr Derek Daniell

#### 6. MAORI WARDS AND CONSTITUENCIES

The Local Electoral Act 2001 gives Council the ability to establish separate wards for Maori electors. The Council may resolve to create separate Maori wards or conduct a poll on the matter, or the community may demand a poll. The demand for a poll can be initiated by a petition signed by five percent of electors within the district.

The Masterton District Council currently does not have separate Maori wards.

The law allows the Council to resolve in 2005 to introduce separate Maori wards for the 2007 elections or to conduct a poll, or electors can demand a poll.

#### **7. POLICIES FOR LIAISING WITH MAORI**

Masterton District Council is committed to developing and maintaining positive working relationships with local tangata whenua and taura here. These relationships will recognise the spirit of the Treaty of Waitangi and the values of signatory parties.

Masterton District Council is currently discussing protocols and memoranda of understanding with the tangata whenua of the Masterton district. This memoranda will be included in the Governance Statement when it is completed and has been ratified by both parties.

#### **8. REVIEW OF REPRESENTATION ARRANGEMENTS**

The Council is required to review its representation arrangements at least once every six years. This review must include the following:

- The number of elected members (within the legal requirement to have a minimum of six and a maximum of 30 members, including the Mayor)
- Whether the elected members (other than the Mayor) shall be elected by the entire district, or whether the district will be divided into wards for electoral purposes, or whether there will be a mix of 'at large' and 'ward' representation
- If election by wards is preferred, then the boundaries and names of those wards and the number of members that will represent each ward
- Whether or not to have separate wards for electors on the Maori roll
- Whether to have community boards and if so how many, their boundaries and membership and whether to subdivide a community for electoral purposes.

The Council must follow the procedure set out in the Local Electoral Act 2001 when conducting this review, and should also follow guidelines published by the Local Government Commission. The Act gives electors the right to make a written submission to the council, and the right to be heard if you wish. Electors also have the right to appeal any decisions on the above to the Local Government Commission which will make a binding decision on the appeal.

Further details on the matters that the council must consider in reviewing its membership and basis of election can be found in the Local Electoral Act 2001. The Council last conducted a review in 2000. It is not legally required to review representation again until 2006.

#### **9. THE REPRESENTATION REORGANISATION PROCESS**

The Local Government Act 2002 sets out procedures which must be followed during proposals to:

- Make changes to the boundaries of the district
- Create a new district
- Create a unitary authority, ie transfer all of the functions of the Wellington Regional Council to Masterton District Council
- Transfer a particular function or functions to another council.

The procedures for resolving each type of proposal are slightly different. In general they begin with a proposal either from the local authority, the Minister of Local Government, or by a petition signed by 10 per cent of electors.

Proposals for a boundary alteration or transfer of functions from one local authority to another will be considered by one of the affected local authorities, or by the Local Government Commission if the local authorities refer the proposal to the Commission or if they cannot agree on which of them should deal with matter.

Proposals for the establishment of a new district or for the creation of a unitary authority will be dealt with by the Commission.

Further information on these requirements can be found in the Local Government Act. The Local Government Commission has also prepared guidelines on procedures for local government reorganisation.

## **10. MEMBERS' ROLES AND CONDUCT**

### **10.1 Roles of Mayor and Councillors**

The Mayor and the Councillors of the Masterton District Council have the following roles:

- Setting the policy direction of council
- Monitoring the performance of the council
- Representing the interests of the district (on election all members must make a declaration that they will perform their duties faithfully and impartially, and according to their best skill and judgment in the best interests of the district)
- Employing the Chief Executive (under the Local Government Act the local authority employs the Chief Executive, who in turn employs all other staff on its behalf).

### **10.2 Role of the Mayor**

The Mayor is elected by the district as a whole and, as one of the elected members, shares the same responsibilities as other members of council. In addition the Mayor has the following role:

- Presiding member at council meetings. The Mayor is responsible for ensuring the orderly conduct of business during meetings (as determined in standing orders).
- Advocate on behalf of the community. This role may involve promoting the community and representing its interests. Such advocacy will be most effective where it is carried, out with the knowledge and support of the council.
- Ceremonial head of council.
- Providing leadership and feedback to other elected members on teamwork and chairing committees.

### **10.3 Role of the Deputy Mayor**

The Deputy Mayor is elected by the members of council at the first meeting of the council. The Deputy Mayor exercises the same role as other elected members. In addition, if the Mayor is absent or incapacitated, or if the office of Mayor is vacant, then the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the powers of the Mayor (as ummarized above). The Deputy Mayor may be removed from office by resolution of council.

### **10.4 Council Committees**

The council may create one or more committees of council. A committee chairperson is responsible for presiding over meetings of the committee, ensuring that the committee acts within the powers delegated by council. A committee chairperson may be removed from office by resolution of council.

## **10.5 The Chief Executive**

The Chief Executive is appointed by the council in accordance with section 42 and clauses 33 and 34 of Schedule 7 of the Local Government Act 2002. The Chief Executive implements and manages the council's policies and objectives within the budgetary constraints established by the council. Under section 42 of the Local Government Act 2002, the responsibilities of the Chief Executive are:

- Implementing the decisions of the council
- Providing advice to the council and community boards
- 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 council effective and efficiently
- Maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the council
- Providing leadership for the staff of the council
- Employing staff (including negotiation of the terms of employment for the staff).

## **10.6 Conduct of Elected Members**

Elected members have specific obligations as to their conduct in the following legislation:

- Schedule 7 of the Local Government Act 2002, which includes obligations to act as a good employer in respect of the Chief Executive and to abide by the current code of conduct and standing orders.
- The Local Authorities (Members' Interests) Act 1968 which regulates the conduct of elected members in situations where there is, or could be, a conflict of interest between their duties as an elected member and their financial interests (either direct or indirect).
- The Secret Commissions Act 1910, which prohibits elected members from accepting gifts or rewards which could be seen to sway them to perform their duties in a particular way
- The Crimes Act 1961 regarding the acceptance of gifts for acting in a certain way and the use of official information for private profit

## **10.7 Code of Conduct**

The Masterton District Council has adopted a code of conduct. The code sets out the council's understanding and expectations of how the Mayor and councillors will relate to one another, to staff, to the media and to the general public in the course of their duties. It also covers disclosure of information that is received by or is in the possession of elected members, and contains details of the sanctions that the council may impose if an individual breaches the code.

All elected members are required to adhere to the code of conduct. Adopting such a code is a requirement of the Local Government Act 2002. Once adopted, the code of conduct may only be amended by a 75 per cent or more vote of the council.

A copy of the full code of conduct can be obtained from the Community Services Manager or from the Masterton District Council website [www.mstn.govt.nz](http://www.mstn.govt.nz)

# **11. GOVERNANCE STRUCTURES**

## **11.1 Council Meetings**

Council meetings are held every four weeks. In addition special meetings may be called from time to time to deal with important issues that arise. A meeting schedule is available from the Community Services Manager or from the council web-site [www.mstn.govt.nz](http://www.mstn.govt.nz)

## 11.2 Standing Committees

The council reviews its committee structures after each triennial election. At the last review the council established the following standing committees:

- **Policy and Finance (Chair: Cr Garry Daniell)** - rates, land information, preparation of revenue and financing policies and developer contributions policies, oversight of the treasury function, Masterton District Public Library, properties, corporate policies, forestry
- **Resource Management (Chair: Cr Chris Peterson)** – Environmental policies, management of community resources, resource consents and the district plan - oversight of all the inspectorate and licensing functions of the council.
- **Audit (Chair: His Worship the Mayor)** – matters relative to the Council's accounts, audit and service contracts.
- **Hearings Committee (Chair: Cr Jane Terpstra)** – submissions, contested applications and appeals.

Committees meet on a four weekly cycle except for Audit and Hearings which meet as required. A schedule of meeting dates can be found on the council website. Further details on these committees, including their terms of reference, membership and meeting arrangements can be obtained from the above contacts or from the council website.

Council may, from time to time, establish ad hoc committees to consider a particular issue or issues.

## 12. CONDUCT OF MEETINGS

The legal requirements for council meetings are set down in the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 (LGOIMA).

All council and committee meetings must be open to the public unless there is reason to consider some item 'in committee'. Although meetings are open to the public, members of the public do not have speaking rights unless prior arrangements are made with council.

The LGOIMA contains a list of the circumstances where councils may consider items with the public excluded. (These circumstances generally relate to protection of personal privacy, professionally privileged or commercially sensitive information, and the maintenance of public health, safety and order).

The council agenda is a public document, although parts may be withheld if the above circumstances apply.

The Mayor or committee chairperson is responsible for maintaining order at meetings and may, at his or her discretion, order the removal of any member of the public for disorderly conduct, or remove any member of council who does not comply with standing orders.

Minutes of meetings must be kept as evidence of the proceedings of the meeting. These must be made publicly available, subject to the provisions of the LGOIMA. For an ordinary meeting of council, at least 14 days notice of the time and place of the meeting must be given. Extraordinary meetings generally can be called on 3 working days notice.

During meetings the Mayor and councillors must follow standing orders (a set of procedures for conducting meetings). The council may suspend standing orders by a vote of 75 per cent of the members present.

A copy of the code of conduct can be obtained from the Community Services Manager or from the council website [www.mstn.govt.nz](http://www.mstn.govt.nz).

A copy of the standing orders can be obtained from the Community Services Manager.

### **13. CONSULTATION POLICY Special Consultative Procedure**

#### **13.1 Special Consultative Procedure**

The Local Government Act 2002 (section 83) sets out certain consultation principles and a procedure that local authorities must follow when making certain decisions. This procedure, the special consultative procedure, is regarded as a minimum process. The council can and does consult outside of the special consultative procedure.

When it is adopting its long-term council community plan, annual plan or district plan, or when adopting amending or reviewing a bylaw, Council must use the special consultative procedure. The special consultative procedure must also be used when a decision is deemed significant by virtue of the Council's Significance Policy, or can be used by the Council in any other situation at its discretion.

The special consultative procedure consists of the following steps:

- **Step One:** Preparation of a statement of proposal and a summary. The council must prepare a description of the proposed decision or course of action. The statement must be available for distribution throughout the community and must be available for inspection at the council office and may be made available elsewhere. The council also has to prepare a full and fair summary of the proposal which must be distributed as widely as the council considers to be reasonably practicable. That statement must be included on an agenda for a council meeting.
- **Step Two:** Public notice. The council must publish a notice in one or more daily newspapers, or in other newspapers of equivalent circulation, of the proposal and of the consultation being undertaken.
- **Step Three:** Receive submissions. The council must acknowledge all written submissions and offer submitters a reasonable opportunity to make an oral submission. The council must allow at least one month (from the date of the notice) for submissions.
- **Step Four:** Deliberate in public. All meetings where the council deliberates on the proposal or hears submissions must be open to the public (unless there is some reason to exclude the public under the LGOIMA). All submissions must be made available unless there is reason to withhold them under LGOIMA.
- **Step Five:** Follow up. A copy of the decision and a summary of the reasons must be provided to submitters. There is no prescribed format for such a summary. By law, the council must follow the special consultative procedure before it:
  - adopts a long-term council community plan (L TCCP) or annual plan
  - amends an L TCCP
  - adopts, revokes, reviews or amends a bylaw
  - changes the mode of delivery for a significant activity (for example from the council to a council-controlled organisation or from a council-controlled organisation to a private sector organisation) if that is not provided for in an L TCCP. The council may be required to use the special consultative procedure under other legislation, and it may use this procedure in other circumstances if it wishes to do so

## **13.2 Non-Statutory Consultation**

It is impossible to give a precise blueprint for non-statutory consultation because every situation is different. The council's consultation policy provides the following guidelines.

### **13.2.1 Prior to Consultation**

Where a decision to consult has been made by Councilor the committee responsible careful analysis of the issue should be carried out. This will cover -

- (a) What is the target group?
- (b) What is the precise wording of the issue?
- (c) How much is already known by the community on the issue in question? The target groups must be fully informed to be able to give their opinion.
- (d) What method is planned to deliver information?
- (e) Which officer or councillor is to be primarily responsible for the correct procedure being carried out?
- (f) What level of response from the target group will be considered adequate?
- (g) How will Council quantify its mandate. Will it be sufficient to have informed and consulted or will a clear expression of support or rejection be required when an eventual decision is made?
- (h) How will Council's conclusions from the consultation process be relayed back to the target group?

### **13.2.2 The Consultation Process**

The vast range of topics and situations that may require consultation means that as Council decides consultation shall take place it shall also provide a clear picture of how that will occur.

A typical consultation process will involve one or more of the following steps

- (1) Public notification as described in Step 2 of the Special Consultative Procedure above. (This would be appropriate for issues involving the wider community.)
- (2) Convening a meeting of the residents who will be most affected, both detrimentally and beneficially. Careful assessment of this group should be made.
- (3) Survey of residents.
- (4) Calling and advertising a public meeting giving a clear indication of the decisions that will be made from that meeting.
- (5) Hold a referendum.
- (6) Advertising and calling for submissions.
- (7) Summarising issue(s) in a newspaper or direct mail with a questionnaire.

This list is by no means all-embracing, methods of consultation are as varied as the issues and people involved.

## **13.3 General Rules Applying to Both Forms of Consultation**

Any councillor appointed to participate in the consultation process shall make clear at the commencement of consultation that while their views will be taken into account, the final decision will always lie with Council. On no account is any indication or undertaking to be given which will lead those persons consulted to believe that a certain decision will be made.

Where the process of consultation changes the original proposal significantly Council may at its discretion put the new proposal through the same consultation process or through an amended process.

The final step, before decision making, is to ensure that those people or groups who have provided input, know the effect of that input and how the decision process will take their concerns into account.

#### **13.4 Other Statutory Forms of Consultation**

Other legislation which the council is bound by may have statutorily specified consultation processes to be used when the Special Consultative Procedure is not applied, (eg The Resource Management Act).

#### **14. MANAGEMENT STRUCTURES AND RELATIONSHIPS**

The Local Government Act 2002 requires council to employ a Chief Executive whose responsibilities are to employ other staff on behalf of the council, implement council decisions and provide advice to the council.

Under the Local Government Act the Chief Executive is the only person who may lawfully give instructions to a staff member. Any complaint about individual staff members should therefore be directed to the Chief Executive, rather than the Mayor or councillors.

The Chief Executive Officer is Mr Wes ten Hove. Mr ten Hove can be reached on 06-378-9666 or by email: [west@mstn.govt.nz](mailto:west@mstn.govt.nz).

Council management is organised into four divisions. These are:

- **Community Services** - council secretariat, community liaison, council agencies, pensioner housing, libraries, communications and public information - contact Mrs Jan Gerritsen, Community Services Manager 06-378-9666, email: [jang@mstn.govt.nz](mailto:jang@mstn.govt.nz)
- **Assets & Operations** - roads, water, stormwater, sewage, stockwater, parks and reserves, sportsgrounds, forestry, waste management and recycling - contact: Mr Kevin Montgomerie, Assets & Operations Manager 06-378-9666, email: [kevinm@mstn.govt.nz](mailto:kevinm@mstn.govt.nz)
- **Regulatory and Planning** - animal control, health inspection, building inspection, amusement devices, dangerous goods licences, resource consents and the district plan - contact: vacant but contact Chief Executive Office as above.
- **Finance** - rates, financial management, investment management, payroll, information technology and land information - contact: David Paris, Finance Manager, 06-378-9666, email [davidp@mstn.govt.nz](mailto:davidp@mstn.govt.nz).

#### **15. EQUAL EMPLOYMENT OPPORTUNITIES POLICY**

The Masterton District Council supports the principles and practices of Equal Employment Opportunities (EEO) as a means of ensuring all employees and potential employees are treated equitably and fairly when applying for jobs, promotions, or training opportunities, and in their working conditions.

The Council is committed to ensuring equality of opportunity in all forms of paid employment and therefore rejects unfair discrimination on any grounds, including race, nationality, ethnic origin, gender, disability, religion, involvement in Union activities, sexual orientation, age, marital status, and family responsibilities.

The Council believes fair employment practices are essential for an efficient and effective workforce to be maintained, and are basic to the principles of good management.

The Council believes it is important that the composition of the staff reflects the community it serves at all levels within the organisation. The Council believes it should avail itself of as wide a cross-section of talent as possible in its recruitment. It acknowledges that the organisation will benefit from a diverse workforce. It is committed to recognising and valuing the different skills, talents, experiences and perspective's of its employees.

The Council supports EEO as a means of recognising the aims and aspirations of Maori thereby contributing to the spirit of partnership envisaged by the Treaty of Waitangi.

The Council is strongly committed to a policy of appointment on the basis of merit. The interpretation of merit is comprehensive, and includes experience and personal qualities as well as formal qualifications. Efforts will be made to identify and eliminate any practices which unwittingly place any group at a disadvantage in selection and career opportunities.

***In accordance with the above, the Council strives to ensure:***

1. that all staff are consulted on employment policies and practices;
2. that staff are selected in an open and non-discriminatory manner
3. that all Council communications are expressed in non-sexist and non-racist language;
4. that people with disabilities are recognised on merit in applications for employment, training and promotion. The Council will avail itself of advice, training assistance and any necessary employment assistance to facilitate this;
5. that it produces a welcoming positive environment free from discrimination and harassment of any kind;
6. that resources will be made available to implement and co-ordinate its Equal Employment Opportunity Policy and to monitor results;
7. that an ongoing plan of action is put in place to achieve the objectives of the EEO policy and utilise the full potential of all employees.

## **16. KEY APPROVED PLANNING AND POLICY DOCUMENTS**

- 16.1 Masterton District Council District Plan** - Councils have certain responsibilities to carry out under the Resource Management Act. These are achieved primarily through the District Plan, which details the environmental features of the District and how the Council proposes to manage and monitor these. The Act requires the Council to monitor the effectiveness of the District Plan and to monitor the state of the environment within the District. The District plan is, therefore, a living document and is continuously being reviewed.

The Masterton District Council's District Plan became operative in June 1997. The District Plan is the Council's principal planning document, setting out the methods and processes Council will use to manage the District's natural and built environment.

The District Plan outlines which activities, that may have an effect on the environmental well-being of the district, are permitted and which are controlled. Controlled activities may either require a resource consent or in some cases may be prohibited.

The District Plan can be viewed at the Masterton District Council offices, 64 Chapel Street, Masterton; or can be purchased from the Masterton District Council at a cost of \$75.00 GST inclusive.

## **16.2 Long Term Council Community Plan**

The Long Term Council Community Plan outlines the Community Outcomes developed by the community vision for the future of the district, the roles the council sees itself undertaking to achieve the vision and the activities council plans to undertake to carry out these roles. It also outlines the council's financial policies and proposed spending for the coming ten years. It also gives the underlying financial rationale for how rates are levied, who pays what and why.

The Long Term Council Community Plan is reviewed every three years. It can, if necessary, be amended during the three year document life-cycle, but any amendment must be undertaken using the Special Consultative Procedure and is subject to external audit.

The Long Term Council Community Plan was adopted for 2003/04 on 25<sup>th</sup> June 2003.

## **16.3 Community Outcomes** - Under the Local Government Act 2002 council is required to develop a set of Community Outcomes in partnership with the community. This is done through consultation with community groups and the community at large.

Community Outcomes outline the aspirations of the community and are owned by the community.

The purposes of the identification of community outcomes are-

- To provide opportunities for communities to discuss their desired outcomes in terms of the present and future social, economic, environmental, and cultural well-being of the community; and
- To allow communities to discuss the relative importance and priorities of identified outcomes to the present and future social, economic, environmental, and cultural well-being of the community; and
- To provide scope to measure progress towards the achievement of community outcomes; and
- To promote the better co-ordination and application of community resources; and
- To inform and guide the setting of priorities in relation to the activities of the local authority and other organisations.

The council must develop a process to facilitate the identification of community outcomes but must: before finally deciding on that process, take steps-

- To identify, so far as practicable, other organisations and groups capable of influencing either the identification or the promotion of community outcomes; and
- To secure, if practicable, the agreement of those organisations and groups to the process and to the relationship of the process to any existing and related plans; and must ensure that the process encourages the public to contribute to the identification of community outcomes.

Council must monitor and, not less than once every 3 years, report on the progress made by the community in achieving the community outcomes for the district or region.

The process for identifying Community Outcomes must be carried out at least every six years and is now under consideration.

Once the Community Outcomes have been identified these will be able to be viewed on the Masterton District Council web-site [www.mstn.govt.nz](http://www.mstn.govt.nz) or in the 2004/2005 Long Term Council Community Plan.

The current Long Term Financial can be viewed on the Masterton District Council website [www.mstn.govt.nz](http://www.mstn.govt.nz) or at the Masterton District Council offices, 64 Chapel Street, Masterton; or at the Masterton District Council Public Library, 98 Queen Street, Masterton; or a copy can be obtained free of charge from the Masterton District Council.

- 16.4 Triennial Agreement** - The Triennial Agreement details how the local authorities of the Wairarapa region have agreed to work together to promote cooperation and avoid duplication when engaging communities, exercising general empowerment and providing services.

The agreement requires that all local authorities within the region will have reached agreements for communication and coordination by the beginning of March in the year following a full local government election. This requirement constitutes a review process.

## 17. PUBLIC ACCESS TO THE COUNCIL AND ELECTED MEMBERS

### 17.1 Masterton District Council:

**Address** 64 Chapel Street  
MASTERTON

**Phone** 06-378-9666  
**Fax** 06-378-8400  
**E-mail** [mdc@mstn.govt.nz](mailto:mdc@mstn.govt.nz)  
**Web-site** [www.mstn.govt.nz](http://www.mstn.govt.nz)

### 17.2 Elected Members

Elected members may be contacted at the council offices or alternatively:

<b>Mayor</b>	<b>Address</b>	<b>Phone</b>	<b>Fax</b>
<i>Bob Francis</i>	<i>12 Rewa Place</i>	<i>377 0447</i>	<i>370 2332</i>
	<i>Masterton</i>	<i>0274 447 677</i>	
		<i>bobf@mstn.govt.nz</i>	
<b>Councillor</b>	<b>Address</b>	<b>Phone</b>	<b>Fax</b>
<i>Bruce Bishop</i>	<i>3B Kauri Grove</i>	<i>377 4638</i>	<i>377 4638</i>
	<i>Masterton</i>	<i>025 222 7642</i>	
<i>Judith Callaghan</i>	<i>"Dursley" RD 11</i>	<i>372 4804</i>	<i>372 4845</i>
	<i>Masterton</i>	<i>dursley@actrix.gen.nz</i>	
<i>Derek Daniell</i>	<i>32A Kahikatea Road, R D 6</i>	<i>370 3884</i>	<i>377 2177</i>
	<i>Masterton</i>	<i>021 751 163</i>	
		<i>derek@toptup_wairere.co.nz</i>	
<i>Garry Daniell</i>	<i>Te Ore Ore Road</i>	<i>378 2174</i>	<i>377 3961</i>
	<i>Masterton</i>	<i>021 101 2486</i>	
<i>Brent Goodwin</i>	<i>12 Allenby Street</i>	<i>377 0423</i>	<i>370 5335</i>
	<i>Masterton</i>	<i>027 630 3987</i>	
		<i>brent@regent3.co.nz</i>	
<i>Jonathan Hooker</i>	<i>2 Nursery Road</i>	<i>377 1572</i>	<i>3771572</i>
	<i>Masterton</i>	<i>0274 486 645</i>	
		<i>oasis.trust@xtra.co.nz</i>	
<i>Rod McKenzie</i>	<i>Palmer Road, R D 2</i>	<i>372 5828</i>	<i>372 5828</i>
	<i>Masterton</i>		
<i>Owen Perry</i>	<i>61 Te Ore Ore Road</i>	<i>377 3874</i>	<i>377 7139</i>
	<i>Masterton</i>	<i>027 286 9719</i>	
		<i>operry@ihug.co.nz</i>	
<i>Chris Peterson</i>	<i>Mt Holdsworth, RD 1</i>	<i>378 9163</i>	<i>378 9163</i>
	<i>Carterton</i>	<i>027 243 3414</i>	
		<i>chrisp@wise.net.nz</i>	
<i>Jane Terpstra</i>	<i>R D 6</i>	<i>377 1948</i>	<i>377 3298</i>
	<i>Masterton</i>	<i>025 585 368</i>	
		<i>aandj@ihug.co.nz</i>	

## **18. OFFICIAL INFORMATION**

### **18.1 Requests for Official Information**

Under the Local Government Official Information and Meetings Act 1987 (LGOIMA) any person may request information from the council. Any request for information is a request made under LGOIMA. Residents do not have to say you are making a request under LGOIMA.

Once a request is made the council must supply the information unless reason exists for withholding it.

The LGOIMA says that information may be withheld if release of the information would:

- endanger the safety of any person
- prejudice maintenance of the law
- compromise the privacy of any person
- reveal confidential or commercially sensitive information
- cause offence to tikanga Maori or would disclose the location of waahi tapu
- prejudice public health or safety
- compromise legal professional privilege
- disadvantage the local authority while carrying out negotiations or commercial activities
- allow information to be used for improper gain or advantage.

The council must answer requests within 20 working days (although there are certain circumstances where this time-frame may be extended). The council may charge for official information under guidelines set down by the Ministry of Justice.

### **18.2 Records Held by Council**

Records kept by the District Council are stored in the District Council Building, 64 Chapel Street and include the following:-

- Standard files containing Inward and Outward Correspondence, Memorandums, Reports, etc., held on all aspects of Councils activities.
- Financial Records, Annual Budgets and Audited Accounts.
- Order Papers, Agendas and Minutes of Council and Standing Committee Meetings.
- A Register of Policy Decisions made by Council.
- A Register of Authorities delegated by Council to its Committees and Senior Officers.
- Applications, Proceedings of Hearings and Decisions under Resource Management Act 1991 and previous Town Planning Legislation.
- Maps relating to Land Use.
- Aerial Photographs of Streets.
- Plans of Underground Reticulation and Services (water, sewerage, stormwater and drains).
- District Civil Defence Plans.
- Contract Documents.
- Local Government Act and other Acts relating to the activities of the Council.
- Lease documents and Deeds of Council-owned real estate.

### **18.3 Personal Information Requests**

Where possible, requests should include specific details as to desired information.

Personal information can only be requested by the person concerned or by a properly authorised agent of the person concerned.

**18.4 Information Classified as Confidential**

Information which has previously been treated as confidential or handled by the District Council or its predecessors "in committee" can only be released by the Chief Executive following a written application and subject to it not being contrary to the public interest to release such information.

**18.5 Charges for Provision of Official Information**

There may be a charge for providing official information when photocopies are required or extensive research involved. Council will, however, contact the person seeking information before any charges are incurred.

**18.6 Initial Requests for Official Information**

In the first instance you should address requests for official information to:

Mrs Jan Gerritsen  
Community Services Manager  
Masterton District Council  
PO Box 444  
MASTERTON

[Adopted by Council on .....]

## MASTERTON DISTRICT COUNCIL CODE OF CONDUCT

### INTRODUCTION

This code of conduct provides guidance on the standards of behaviour that are expected from elected members (together and individually referred to in this code as "member") of the Masterton District Council ("Council") in their dealings with:

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

The objectives of this code are to enhance:

- the effectiveness of the Council as an autonomous local authority with statutory responsibility for good local government in Masterton District
- the credibility of the Council within its community
- mutual trust, respect and tolerance among members as a group and between members and those people with whom members may deal in the course of their duties as members

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

- **Public Interest** - Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.
- **Honesty and Integrity** - Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.
- **Objectivity** - Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.
- **Accountability** - Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.
- **Openness** - Members should be as open as possible about their actions and those of their Council, and should be prepared to give reasons for those actions.
- **Personal Judgement** - Members may take account of the views of others, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.
- **Respect for Others** - Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of Council staff.
- **Duty to Uphold the Law** - Members should uphold the law and, on all occasions,

act in accordance with the trust that the public is entitled to place in them.

- **Stewardship** - Members should do whatever they are able to do, to ensure that their Council's use of resources is prudent and in accordance with the law.
- **Leadership** - Members should promote and support these principles by leadership and by example and should always endeavour to act in the best interests of the community.

### **Scope of this Code**

This code applies to:

- all elected members of the Council, namely: the Mayor and Councillors
- all persons appointed to any Committee of the Council or sub-committee.

## **ROLES AND RESPONSIBILITIES**

### **Members**

Members, acting as the Council, are responsible for:

- the development and adoption of Council policy
- monitoring the performance of the Council against its stated objectives and policies and identified community outcomes
- prudent stewardship of Council resources
- employment of the Chief Executive
- representing the interests of the residents and ratepayers of Masterton District
- ensuring overall compliance by the Council with its obligations and responsibilities under the Local Government Act 2002 ("the Act")
- ensuring overall compliance by the Council with its obligations and responsibilities under any other enactment. A list of those enactments is attached as Appendix A

Members, as individuals, must comply with:

- the requirements of this code
- those enactments and other rules of law applicable to the conduct of members. Extracts from, or brief explanations of, those enactments are set out in Appendix B.

### **Mayor**

The Mayor is elected by the District as a whole and shares the same responsibilities as other members of Council. The Mayor is the ceremonial head of the Council. The Mayor is also responsible for:

- presiding at Council meetings and ensuring the conduct of meetings in accordance with standing orders
- advocacy on behalf of the community, with the knowledge and support of the Council
- providing leadership to members

## **Deputy Mayor**

The Deputy Mayor exercises the same role as any other members but if the Mayor is absent or incapacitated the Deputy Mayor must perform all of the responsibilities and duties of the Mayor, and may also exercise the powers of the Mayor in case of absence.

## **Committee Chairpersons**

A committee chairperson exercises the same role as any other member but has responsibility to preside over all meetings of the relevant committee and to ensure that the committee acts within the powers delegated to it by the Council (as set out in the Council's Delegations Manual).

## **Chief Executive**

The Chief Executive is responsible for:

- employing staff on behalf of the Council (Including negotiation of the terms of employment for the staff of the local authority) and providing leadership to that staff
- providing advice to the Council
- implementing the decisions of the Council
- ensuring that all responsibilities, duties and powers delegated to, or imposed or conferred upon, the Chief Executive are properly performed or exercised
- managing the Council's activities effectively and efficiently
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the Council
- ensuring overall compliance by the Council with its obligations and responsibilities at law

## **RELATIONSHIPS AND BEHAVIOURS**

### **Relationships with Other Members**

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

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

### **Relationships with Staff**

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

- recognise that the Chief Executive is the employer (on behalf of Council) of all staff. Only the Chief Executive may hire or dismiss, or instruct or censure, an employee
- make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times. In particular, but without limitation, members must comply with Council's anti-harassment policies
- treat all staff with courtesy and respect, avoiding conduct which is aggressive offensive or abusive or may constitute unlawful or inappropriate harassment
- observe any guidelines which the Chief Executive has put in place regarding contact with employees
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee
- avoid publicly criticising a staff member in any way, including criticism that reflects on the competence and integrity of the staff member
- raise concerns about staff only with the Chief Executive
- raise concerns about the Chief Executive only with the Mayor or the Performance Review Committee

Members must be aware that any failure to observe this portion of the code may compromise the Council's obligations to act as a good employer, resulting in the Council being exposed to civil litigation, and individual members being exposed to responsibility for loss under s.46 of the Act.

### **Relationships with the Community**

Members should act in a manner that encourages and values community involvement in local democracy. The views of members of the public must be accorded respect with members listening to and deliberating on concerns carefully and patiently. Members should avoid aggressive or abusive behaviour towards members of the public.

### **Contact with the Media**

The media plays an important role in the effective operation of local government. In order to fulfill this role the media needs access to accurate, timely information about the affairs of Council.

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

- no member may speak to the media on behalf of Council unless first approved to do so by resolution of the Council, or of a Committee of the Council, or by the Mayor as set out below
- the Mayor is the first point of contact for the Council view on any issue. If the Mayor is absent, or unable to act, a matter may be referred to the Deputy Mayor or to the relevant committee chairperson (in that order) for a response
- the Mayor may refer any matter to the relevant committee chairperson, a member or to the Chief Executive for comment
- Elected members remain free to express a personal view in the media at any time but any comments made must observe all requirements of this code and must state that
  - the comments represent a personal view only

- (if the comment is contrary to a Council decision or Council policy) that the comment is a minority view

### **Confidential Information**

In the course of their duties members will receive information that is confidential. This will generally be Council information that is either commercially sensitive or is personal to a particular individual or organisation. Members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member. Any failure to observe these provisions may affect the Council's performance, by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose the Council to prosecution under the Privacy Act 1993 or civil litigation, and may expose individual members to responsibility for loss under s.46 of the Local Government Act (2002).

For the purpose of this part of the code "disclose confidential information" in relation to information disclosed:

- from outside the Council to the member in his or her capacity as an elected member on a confidential basis, means "disclose confidential information to any other person". (These circumstances will arise only very rarely. See also the section on "Information Sharing" below)
- to the member in a public excluded meeting of the Council or a committee, means "disclose confidential information to any person who was not present at that publicly excluded meeting"
- to the member in his or her capacity as an elected member, means "disclose confidential information to any other person who is not a member or employee of the Council (but with any disclosure to a member or employee being made on a "need to know" basis)

### **Information Sharing**

The purpose of this part of the code is not only to ensure a co-operative sharing of information among members but also to enable the Council to fulfill its obligations under LGOIMA generally and under s.44A LGOIMA (Land Information Memorandum) and s.31 of the Building Act 1991 (Project Information Memorandum).

A member may occasionally be offered information, including documents, in his or her capacity as an elected member which relate to the ability of the Council to give effect to the provisions of the Act, or any other legislation for which the Council is responsible (for example, without limitation, Resource Management Act, Building Act or Dog Control Act). Such information, when received, must be shared with other members and, in an appropriate case, the Chief Executive.

If information of that nature is offered on a confidential basis the member must:

- inform the supplier of the information that the member may have a disclosure obligation under this code
- inform the supplier that public disclosure of information received by the Council is governed by the Local Government Official Information and Meetings Act 1987 ("LGOIMA") and that under LGOIMA public disclosure may occur without the supplier's consent
- decline to receive the information if the supplier insists upon absolute confidentiality

The only exception to the requirement of this part of the code arises where file information in question would, once received, be exempt from disclosure upon a request for disclosure made under LGOIMA. Determination of the availability of an exemption under LGOIMA is delegated to the Chief Executive, and all such matters must be referred to the Chief Executive (or his delegate) before the information or document is received.

One possible outcome of consideration of the availability of an exemption is that internal dissemination of the information or document may be restricted on a "need to know" basis.

### **Conflicts of Interest**

The phrase "Conflicts of Interest" is used to describe three distinct and separate circumstances where there is or may be a conflict between the personal interests, or the conduct of a member, and that member's duties as an elected member. The statutory and common law rules relating to conflicts of interest are part of the rules of natural justice. They reflect the expectation of the community that, when making decisions on behalf of the community, members will act impartially and in a manner appropriate to the nature of the decision. Members performing their duties will on occasion be making political decisions (for example when making policy or adopting planning documents) and on other occasions be acting in a judicial or semi judicial capacity (for example when considering resource consent applications or matters relating to exemptions from statutory requirements or bylaws). There is some limited scope for flexibility in respect of political decisions, but absolutely no scope for flexibility in relation to judicial or semi judicial decisions.

The three classes of conflict of interest are:

1. a pecuniary interest in the matter before the Council, which gives rise to a presumption that there is a conflict with the member's duties. The pecuniary interest may be direct or indirect and involve either financial gain or financial loss. These matters are regulated, in part, by the Local Authorities (Members' Interests) Act 1968. The provisions of that Act are summarised in Appendix B.
2. non-pecuniary interest, which may give rise to a perception of conflict between interest and duty. These may be interests or relationships arising out of kinship, marriage, domestic relationships, wider family relationships, employment or membership of community organisations.
3. demonstrated bias, that is the circumstances where a member by words or action has indicated a commitment to a particular view in respect of an issue such that it is unlikely that the member may approach the consideration of a decision on that issue with an open mind.

A separate situation can arise whereby members are appointed or elected to public or private trusts and/or organization with whom Council has a range of transactions.

- In case of any financial relationship. If members stand to gain by way of remuneration from the nature of such transactions (ie a change in Council funding resulting in a direct change in directors' fees) then the pecuniary interest noted in 1. above is clear.
- In the case of any Council monitoring role or resource consent hearing, a non pecuniary conflict of interest can arise between the members' duty as a Councillor and the duty of the appointed/elected member as a trustee/director of the trust or organization. Members would be expected to stand aside in respect of such circumstances.

- In the case of any other non pecuniary interest issue, members are not prevented from contributing to policy positions of the Council that form the basis of the relationship between the Council and the organizations.

Members must take a precautionary approach to all conflicts of interest. Members must ensure that where an Audit Office ruling is sought, under the Local Authorities (Members' Interests) Act 1968, the application for exemption is made on a timely basis. Where a conflict of interest is established members must take no part in the discussion of the matter nor the decision. In a case of doubt a member should withdraw.

Members withdrawing:

- should (in protection of their own and the Council's interests) ensure that their actions are appropriately minuted and where appropriate absent themselves from the meeting room.

The issue of conflicts of interest is a difficult one for members. Commonly issues may arise on short notice. Matters which seem straightforward at the outset can also commonly become less clear as a matter progresses. Vigilance by members is required. While the decision to disqualify is ultimately a matter for the member alone, members are encouraged to seek guidance and assistance from their colleagues or the Chief Executive.

### **Register of Interests**

To assist in the fulfillment of obligations in relation to conflicts of interest members are required to make a written statement, within 3 months of the date of election or within 3 months of the date of adoption of this code, and annually thereafter on or before 31 January in each year, of the nature of their interests which may give rise to conflicts of interest. The matters to be covered by the member's statement are details of:

- interests in land, whether as owner or tenant, identified by street address or, if there is no street address, by legal description
- investments in companies partnerships or joint ventures. Members are not however required to disclose details of shareholdings in publicly listed companies if those shares are held by the member through a managed fund in respect of which the number has no control over share trading decisions and/or the details of those shareholdings are not reasonably ascertainable by the member
- bankers or any other person firm or organisation with whom the member has invested money or other assets
- occupation, employment status and name of employer and, if self-employed, the name of the member's business
- membership of community organisations, for example clubs, environmental protection organisations, churches or charitable bodies
- appointments (except appointments made by the Council) such as appointments to a Health Board, University Councilor government agency
- all of the above in respect of the member's domestic partner
- Travel undertaken in the previous 12 months where the member's expenses were defrayed, in whole, or in part, by a 'third' party (other than by way of a gift from a member's partner or a relative)
- Gifts received by the member in the previous 12 months valued at \$NZ150 or more from any person (other than a gift from the member's partner or a relative)

- When making this statement the member must treat any interest in land or investment held by a trust of which the member is a trustee or beneficiary or a company of which the member is a director or shareholder in the same manner as if that interest was held by the member

A worked example of a Statement of Interests Is attached as Appendix 3.

### **Ethics**

Members must observe the highest personal standards of ethical conduct. Members must:

- claim only for legitimate expenses laid down by any remuneration determination and any policy of Council developed in accordance with that determination
- not influence, or attempt to influence, any Council employee to take actions that may benefit the member, or the member's family or other interests associated with the member
- not use Council resources for personal business (including campaigning)
- not solicit, demand, or request any gift, reward or benefit by virtue of their position
- notify the Chief Executive if any gifts are accepted by a member, in his or her capacity as a member. If the gift exceeds \$150.00 in value, the Chief Executive will immediately make an appropriate entry in the member's register of interests.

### **Standing Orders**

Members must abide by the standing orders adopted by Council.

### **Conduct Review Sub - Committee**

Compliance with the code, by members, will be monitored by a Conduct Review Sub Committee. This sub committee will consist of any two of the Mayor, and/or the Deputy Mayor and Chairperson of the Hearings Committee plus one person who is not an elected member nor a staff member and who has dispute resolution skills. (It is anticipated this third person would be appointed at the beginning of each term)

All alleged breaches of the code must be reported to the sub committee in writing, make a specific allegation of a breach of the code, and provide corroborating evidence. The sub committee may also investigate an alleged breach on its own motion. The sub committee will investigate the alleged breach, determine whether any further investigation is necessary and may prepare a report for consideration by Council. Before beginning any investigation, the sub committee will notify the member in writing of the complaint and afford the member a full opportunity to respond to the complaint. The Council will consider any report in open meeting of Council, except where the alleged breach relates to the misuse of confidential information, or which would otherwise be exempt from public disclosure under LGOIMA.

For the avoidance of doubt, the sub committee is not a committee or a sub-committee of the Council to which the requirements of LGOIMA apply. The sub committee shall enquire into and deliberate upon, all complaints and own motion investigations, in private.

## **Consequences of a breach**

Where an alleged breach of the code is reported to the Council by the Conduct Review Committee and the Council finds, by **75%**, that the member has breached the code then the Council may apply such sanctions as are lawfully within its power.

The form of any penalty that the Council may apply will depend on the nature of the breach, and may include the following:

- censure of the member, by letter and/or in open meeting
- removal of the member from representation on Council committees or other bodies as representative of the Council
- removal of any special status of the member, such as the position of Deputy Mayor or Chair of a committee.
- if it appears that a breach of the code also constitutes a statutory offence then the Council may refer the circumstances of that breach to the relevant body for further action.

A resolution by the Council that a breach of the code has occurred, and/or recording the penalty to be applied, will be final and binding on the member to whom that resolution relates and all other members. With the exception only of an allegation of a breach of the rules of natural justice, no member shall seek to review or challenge the outcome under standing orders.

## **APPENDIX A**

Legislation that confers obligations or responsibilities on local authorities

Airport Authorities Act 1966  
Animals Act 1967  
Animals Law Reform Act 1989  
Arts Council of New Zealand Toi Aotearoa Act 1994 Auctioneers Act 1928  
Biosecurity Act 1993  
Building Act 1991  
Building Research Levy Act 1969  
Burial and Cremation Act 1964  
Bylaws Act 1910  
Children's Health Camp Act 1972  
Citizenship Act 1977  
Civil Aviation Act 1990  
Civil Defence Act 1983  
Civil List Act 1979  
Commerce Act 1986  
Companies Act 1993  
Conservation Act 1987  
Consumer Guarantees and Fair Trading Act Copyright Act 1994  
Counties Insurance Empowering Act 1941  
Dangerous Goods Act 1974  
Disabled Persons Community Welfare Act 1975 District Courts Act 1947  
Dog Control Act 1996  
Dog Control and Hydatids Act 1982  
Earthquake Commissions Act 1993  
Electricity Act 1992  
Employment Relations Act 2000  
Energy Companies Act 1992  
Engineers Registration Act 1924  
Fencing Act 1978  
Fencing and Swimming Pools Act 1987  
Financial Reporting Act 1993  
Fire Services Act 1975  
Food Act 1981  
Foreshore and Seabed Endowment Revesting Act 1991 Forest and Rural Fires Act 1977  
Gas Act 1992  
Goods and Services Tax Act 1985  
Harbours Act 1950  
Health Act 1956  
Health and Safety in Employment Act 1992  
Higher Salaries Commission Act 1977  
Historic Places Act 1993  
Housing Act 1955  
Housing Corporation Act 1974  
Human Rights Act 1993  
Income Tax Act 1994

Impounding Act 1955  
Insolvency Act 1967  
Interpretation Act 1999  
Land Act 1948  
Land Drainage Act 1908  
Land Settlement Promotion and Land Acquisition Act 1952 Land Transfer Act 1952  
Land Transport Act 1993  
Libraries and Mechanics' Institute Act 1908  
Litter Act 1979  
Local Authorities (Members' Interests) Act 1968  
Local Electoral Act 2001  
Local Government (Rating) Act 2002  
Local Government Official Information and Meetings Act 1987 Machinery Act 1950  
Meat Act 1981  
Minimum Wage Act 1983  
Municipal Insurance Act 1960  
National Provident Fund Restructuring Act 1990  
New Zealand Bill of Rights Act 1990  
New Zealand Geographic Board Act 1946  
New Zealand Library Association Act 1939  
New Zealand Walkways Act 1990  
Noxious Plants Act 1978  
Oaths and Declarations Act 1957  
Ombudsmen Act 1975  
Pawnbrokers Act 1908  
Petroleum Act 1937  
Plumbers and Gasfitters and Drainlayers Act 1976  
Privacy Act 1993  
Property Law Act 1952  
Prostitution Reform Act 2003  
Public Works Act 1981  
Queen Elizabeth the Second National Trust Act 1977 Railway Safety and Corridor  
Management Act 1992 Rating Valuations Act 1998  
Rates Rebate Act 1973  
Reserves Act 1977  
Residential Tenancies Act 1986  
Resources Management Act 1991  
Sale of Liquor Act 1989  
Secret Commissions Act 1910  
Securities Act 1978  
Securities Transfer Act 1991  
Smoke-free Environments Act 1990  
Soil Conservation and Rivers Control Act 1941 Sovereign's Birthday Observance Act  
1952 Standards Act 1988  
Statutes Amendment Acts 1936-1951  
Statutory land Charges Registration Act 1928 Summary Offences Act 1981  
Survey Act 1986  
Swimming Pools Act 1987  
Te Ture Whenua Maori Act 1993  
Telecommunications Act 1987  
Transit New Zealand Act 1989

Transport Act 1962  
Treaty of Waitangi Act 1975  
Trespass Act 1980  
Trustee Act 1956  
Unit Titles Act 1972  
Wild Animal Control Act 1977  
Wildlife Act 1953

## APPENDIX B

Legislation relevant to the conduct of members (Copies of these Acts can be found in the Council Library)

Local Government Act 2002 (extracts):

### "10 PURPOSE OF LOCAL GOVERNMENT

*The purpose of local government is -*

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and*
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.*

### 14 PRINCIPLES RELATING TO LOCAL AUTHORITIES

*(1) In performing its role, a local authority must act in accordance with the following principles:*

- (a) a local authority should
    - (i) conduct its business in an open, transparent, and democratically accountable manner; and*
    - (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:
      - (b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and*
      - (c) when making a decision, a local authority should take account of
        - (i) the diversity of the community, and the community's interests, within its district or region; and*
        - (ii) the interests of future as well as current communities; and*
        - (ii)i the likely impact of any decision on each aspect of well-being referred to in section 10:**
      - (d) a local authority should provide opportunities for Maori to contribute to its decision-making processes;*
      - (e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and*
      - (f) a local authority should undertake any commercial transactions in accordance with sound business practices; and*
      - (g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and*
      - (h) in taking a sustainable development approach, a local authority should take into account
        - (i) the social, economic, and cultural well-being of people and communities; and*
        - (ii) the need to maintain and enhance the quality of the environment; and*
        - (iii) the reasonably foreseeable needs of future generations.****
- (2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).*

### 39 GOVERNANCE PRINCIPLES

A local authority must act in accordance with the following principles in relation to its governance:

- (a) *a local authority should ensure that the role of democratic governance of the community, and the expected conduct of members, is clear and understood by members and the community; and*
- (b) *a local authority should ensure that the governance structures and processes are effective, open, and transparent; and*
- (c) *a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for nonregulatory responsibilities; and*
- (d) *a local authority should be a good employer; and*
- (e) *a local authority should ensure that the relationship between members and management of the local authority is effective and understood.*

#### 40 LOCAL GOVERNANCE STATEMENTS

- (1) *A local authority must prepare and make publicly available, following the triennial general election of members, a local governance statement that includes information on*
  - (a) *the functions, responsibilities, and activities of the local authority; and*
  - (b) *any local legislation that confers powers on the local authority; and*
  - (c) *the electoral system and the opportunity to change it; and*
  - (d) *representation arrangements, including the option of establishing Maori wards or constituencies, and the opportunity to change them; and*
  - (e) *members' roles and conduct (with specific reference to the applicable statutory requirements and code of conduct); and*
  - (f) *governance structures and processes, membership, and delegations; and*
  - (g) *meeting processes (with specific reference to the applicable provisions of the Local Government Official Information and Meetings Act 1987 and standing orders); and*
  - (h) *consultation policies; and*
  - (i) *policies for liaising with, and memoranda or agreements with, Maori; and*
  - (j) *the management structure and the relationship between management and elected members; and*
  - (k) *equal employment opportunities policy; and*
  - (l) *key approved planning and policy documents and the process for their development and review; and*
  - (m) *systems for public access to it and its elected members; and*
  - (n) *processes for requests for official information.*
- (2) *A local authority must comply with subsection (1) within 6 months after each triennial election of members of the local authority.*
- (3) *A local authority must update its governance statement as it considers appropriate.*

41. GOVERNING BODIES

- (1) .....
- (2) *A territorial authority must have a governing body consisting of members and a mayor elected in accordance with the Local Electoral Act 2001.*
- (2A) *A governing body of a local authority is responsible and democratically accountable for the decision-making of the local authority.*
- (3) *A chairperson of a regional Council, or a mayor of a territorial authority, is a Justice of the Peace during the time that he or she holds the office of chairperson or mayor.*
- (4) *An employee of a local authority who is elected to be a member of the local authority's governing body must resign from his or her position as an employee of the local authority before taking up his or her position as a member of the local authority.*

43 CERTAIN MEMBERS INDEMNIFIED

*A member of a local authority (or a committee, community board, or other subordinate decision-making body of that local authority) is indemnified by that local authority, whether or not that member was elected to that local authority or community board under the Local Electoral Act 2001 or appointed by the local authority, for-*

- (a) *costs and damages for any civil liability arising from any action brought by a third party if the member was acting in good faith and in pursuance (or intended pursuance) of the responsibilities or powers of the local authority (or committee, community board, or other subordinate decision-making body of that local authority); and*
- (b) *costs arising from any successfully defended criminal action relating to acts or omissions in his or her capacity as a member.*
- (2) *Subsection (1) does not apply to a member's liability for a loss under section 46.*
- (3) *To avoid doubt, a local authority may not indemnify a director of a council-controlled organisation for any liability arising from that director's acts or omissions in relation to that council-controlled organisation.*

44 REPORT BY AUDITOR-GENERAL ON LOSS INCURRED BY LOCAL AUTHORITY

- (1) *For the purposes of this section and sections 45 and 46, a local authority is to be regarded as having incurred a loss to the extent that any of the following actions and omissions has occurred and the local authority has not been fully compensated for the action or omission concerned:*
  - (a) *money belonging to, or administrable by, a local authority has been unlawfully expended; or*
  - (b) *an asset has been unlawfully sold or otherwise disposed of by the local authority; or*
  - (c) *a liability has been unlawfully incurred by the local authority; or*
  - (d) *a local authority has intentionally or negligently failed to enforce the collection of money it is lawfully entitled to receive.*
- (2) *If the Auditor-General is satisfied that a local authority has incurred a loss, the Auditor-General may make a report on the loss to the local authority, and may include in the report any recommendations in relation to the recovery of the loss or the prevention of further loss that the Auditor-General thinks fit.*

- (3) *The Auditor-General must send copies of the report to the Minister and every member of the local authority.*

45 LOCAL AUTHORITY TO RESPOND TO AUDITOR-GENERAL

- (1) *On receipt of a report from the Auditor-General, the local authority must, within 28 days, respond in writing to the Auditor-General, and send a copy of the response to the Minister.*
- (2) *The local authority's response must*
- (a) *respond to each of the Auditor-General's recommendations; and*
  - (b) *include a statement as to what action, if any, the local authority intends to take in respect of the loss.*
- (3) *The Minister may extend the period of time within which the local authority must forward its response.*
- (4) *An individual member of the local authority may respond to the Auditor General*
- (a) *by making a separate response to the Auditor-General, and sending a copy to the local authority and the Minister, within the time required for the local authority's response; or*
  - (b) *with the consent of the local authority, by incorporating that member's response in the local authority's response.*
- (5) *The local authority must, as soon as practicable after the expiry of the time for forwarding its response, table in a meeting of the local authority that is open to the public a copy of the Auditor-General's report, the local authority's response, and any response of an individual member of the local authority not incorporated in the local authority's response.*

46 MEMBERS OF LOCAL AUTHORITY LIABLE FOR LOSS

- (1) *If the Auditor-General has made a report on a loss to a local authority under section 44, then, without limiting any other person's liability for the loss, the loss is recoverable as a debt due to the Crown from each member of the local authority jointly and severally.*
- (2) *If the members of the local authority or any other person or persons do not pay the amount of the loss to the Crown or the local authority within a reasonable time, the Crown may commence proceedings to recover the loss from any or all of those members.*
- (3) *Any amount recovered by the Crown under subsection (2), less all costs incurred by the Crown in respect of the recovery, must be paid by the Crown to the local authority concerned.*
- (4) *It is a defence to any proceedings under subsection (2) if the defendant proves that the act or failure to act resulting in the loss occurred*
- (a) *without the defendant's knowledge; or*
  - (b) *with the defendant's knowledge but against the defendant's protest made at or before the time when the loss occurred; or*
  - (c) *contrary to the manner in which the defendant voted on the issue at a meeting of the local authority; or*
  - (d) *in circumstances where, although being a party to the act or failure to act, the defendant acted in good faith and in reliance on reports, statements, financial data, or other information prepared or supplied, or an professional or expert advice given, by any of the following persons:*
    - (i) *an employee of the local authority whom the defendant believed on reasonable grounds to be reliable and competent in relation to the matters concerned;*
    - (ii) *a professional adviser or expert in relation to matters that the defendant believed on reasonable grounds to be within the person's professional or expert competence.*

47 MEMBERS MAY BE REQUIRED TO PAY COSTS OF PROCEEDING IN CERTAIN CASES

- (1) *This section applies if, in a proceeding commenced by the Attorney-General, the local authority is*
- (a) *held to have -*
- (i) *disposed of or dealt with, any of its property wrongfully or illegally; or*
- (ii) *applied its property to any unlawful purpose; or*
- (iii) *permitted the reserves that it must manage to be used for purposes not authorised by law; or*
- (b) *restrained from acting in the ways referred to in paragraph (a).*
- (2) *If subsection (1) applies, costs and other expenses arising out of the proceeding or incurred in doing the things to which the proceeding relates*
- (a) *must not be paid out of general revenues by the local authority; and*
- (b) *must be paid, by order of the Court, by the members of the local authority who, by voting or otherwise, assented to the acts concerned.*
- (3) *The Court must not make an order under subsection (2) against a member of the local authority if the member proves that, in doing the act concerned,-*
- (a) *the member acted in good faith and in accordance with the written advice of the solicitor to the local authority; or*
- (b) *the member acted honestly and reasonably and, having regard to all the circumstances of the case, the member ought fairly to be excused.*

**SCHEDULE 7**

**1 Disqualification of members**

- (1) *A person's office as a member of a local authority is vacated if the person, while holding office as a member of the local authority,*
- (a) *Ceases to be an elector or becomes disqualified for registration as an elector under the Electoral Act 1993; or is convicted of an offence punishable by a term of imprisonment of 2 years or more.*
- (2) *If subclause (1)(a) applies,-*
- (a) *The disqualification does not take effect -*
- (i) *Until the expiration of the time for appealing against the conviction or decision; or*
- (ii) *If there is an appeal against the conviction or decision, until the appeal is determined; and*
- (b) *The person is deemed to have been granted leave of absence until the expiration of that time, and is not capable of acting as a member during that time.*
- (3) *A person may not do an act as a member while disqualified under subclause (1) or while on leave of absence under subclause (2).*

**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 is 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. "*

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

This Act regulates the circumstances where a member has a pecuniary interest in a matter before the Council.

### **Contractual interests**

No person may be elected to a Council, or once elected remain a member, if the value of any contracts between the Council and that member exceed \$25,000 in any financial year. This prohibition applies to all forms of contract, including ongoing supply contracts and one-off contracts (including contracts for the sale of property by or to the Council). In the event of breach the member is automatically disqualified from office and may not seek a re-election at the by-election which follows. The member is however authorised to stand at the next triennial election. On a conviction for an offence the member may be fined up to \$200.

### **Other pecuniary interests**

A member may not participate in the discussion or voting on a matter in which the member directly or indirectly has a pecuniary interest, except an interest in common with the public. If a member is convicted of a breach of this requirement then a fine of up to \$100 may be imposed and disqualification from office is automatic. A disqualified member may however stand for election at a by-election.

## **Additional points**

- The interests covered by this Act extend to include interests held by the member's spouse, companies in which the member holds shares or is a director, other business structures or trusts in which the member has an interest. The word "spouse" is not defined in the statute, but the prudent course is to use this word in a modern i.e. domestic partner sense, a "spouse" ceases to be a spouse on separation
- The Audit Office has an ability to grant exemptions on application. A retrospective exemption may be granted in respect of contractual arrangements but not in respect of other pecuniary interests

The requirements of this Act are complex. It is strongly recommended that members familiarise themselves with the provisions of the Act. The publication by Audit New Zealand "Financial Conflicts of Interest of Members of Governing Bodies" published in September 2001 is a very useful starting point.

## **LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 ("LGOIMA")**

### **Official Information**

LGOIMA contains rules relating to the disclosure of information held by a local authority to a member of the public on request. The underlying principle of the Act is that information should be made available unless there is good reason to withhold disclosure. There are a number of grounds for withholding disclosure, principally contained in s.7 of the Act.

The obligations of LGOIMA are binding on members and apply to the disclosure of information by a member in respect of any information held by that member (in his or her capacity as member) to a member of the public. It does not apply to the disclosure of information to the Council in accordance with the requirements of the Code of Conduct.

### **Meetings**

LGOIMA also regulates and sets out the procedural requirements for meetings of local authorities (including territorial authorities); the publication of agenda, procedures for discussion with the public excluded and access by the public to the minutes of meetings.

## **SECRET COMMISSIONS ACT 1910**

It is unlawful for 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 fined up to \$1000, or both. (A conviction triggers the disqualification provisions in Clause 1 of Schedule 7 of the Act and result in automatic disqualification of the member from office.

## **CRIMES ACT 1961**

It is unlawful for 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 the member's duties for monetary gain or advantage by the member, or anyone else

These offences are punishable by a term of imprisonment of 7 years or more. Members convicted of these offences will also be automatically disqualified from office.

### **SECURITIES ACT 1978**

The Securities Act places members in the same position as company directors whenever Council offers shares in a company to the public. 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. (These circumstances will arise only very rarely, if ever).

## APPENDIX C

### Register of Interests

**Member's Name:** Joan Smith

**Member's Partner's Name:** Fred Blogg

**Effective Date:** 30/08/03

This statement is given in accordance with the Code of Conduct adopted by Masterton District Council. 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:</b> (address or legal description)	12 Jones Street, Masterton 15 Marine Parade, Riversdale	12 Jones Street, Masterton 24 Queen Street, Masterton
<b>Investments in Partnerships, joint ventures or other business:</b>	The Pottery Shoppe	None
<b>Shares in Companies:</b> (Other than shares in a listed company held through a managed fund)	Tranz Rail Tower AMP	Fred Blogg Architects Limited 24 Queen Street Limited
<b>Term deposits, bank debentures and mortgages:</b>	National Bank Fisher & Paykel Finance Ltd	RS&B Builders Limited
<b>Occupation:</b>	Elected member	Architect
<b>Employers name:</b>	None	None
<b>Employment Status:</b>	N/A	Self-employed
<b>Bankers:</b>	National Bank ASB	National Bank BNZ
<b>Appointments Held:</b>	Wairarapa Health Board Tinui Pony Club Fred Blogg Architects Ltd	Institute of Architects Fred Blogg Architects Ltd Lansdowne Golf Club
<b>Memberships:</b>	Tinui Pony Club Forest and Bird RSPCA Labour Party	Masterton Golf Club Greenpeace Masterton Club ACT Party
<b>Gifts</b> (over NZ\$150 within the last 12 months excluding family gifts)	Kensington Swan (lunch at Cob & Co on 5 July 2003)	N/A

Interest	Member	Partner
<b>Travel funded by a third party:</b>	Sydney 5-8 June 2003 (WCC)  Beijing 20-30 June 2003 (Chinese Government)  Bali 10-20 August 2003 (RS&B Builders Ltd)	N/A

## APPENDIX C

### 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 Masterton District Council. 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.....

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<b>Investments in Partnerships, joint ventures or other business:</b>		
<b>Shares in Companies:</b> (Other than shares in a listed company held through a managed fund)		
<b>Term deposits, bank debentures and mortgages:</b>		
<b>Occupation:</b>		
<b>Employers name:</b>		
<b>Employment Status:</b>		
<b>Bankers:</b>		
<b>Appointments Held</b>		
<b>Memberships:</b>		
<b>Gifts:</b> (over NZ\$150 within the last 12 months excluding family gifts)		
<b>Travel funded by a third party:</b>		