



**TE HAPORI O ŌHINEHOU RAUA KO AHU PĀTIKI  
LYTTELTON/MT HERBERT COMMUNITY BOARD**

**CODE OF CONDUCT**

*Adopted 18 February 2015*

# TE HAPORI O ŌHINEHOU RAUA KO AHU PĀTIKI LYTTELTON/MT HERBERT COMMUNITY BOARD

## CODE OF CONDUCT

### PART 1 — INTRODUCTION

1. This Code of conduct was adopted by the Lyttelton/Mt Herbert Community Board at its meeting on 18 February 2015.
2. The Code is intended to apply to elected and appointed Community Board members in their dealings with:
  - each other.
  - council officers.
  - the public.
  - the media.
3. The objectives of this Code are to enhance:
  - the effectiveness of the Community Boards.
  - the credibility and accountability of the Community Boards within its community.
  - mutual trust, respect and tolerance between Community Board members as a group and between elected and Council officers.
4. This Code of Conduct seeks to achieve its objectives by agreeing upon:
  - general principles of conduct for Community Board members.
  - general standards of behaviour.
  - specific codes of conduct applying to particular circumstances or matters.
5. This Code shall apply to Community Board members acting in their capacity as a Community Board members, and not as private citizens.
6. This Code is based on the following principles of public life:

#### **Public interest**

- Community Board members should serve only the interests of the district as a whole and should never improperly confer an advantage or disadvantage on any one person.

#### **Honesty and integrity**

- Community Board 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**

- Community Board members should make decisions on merit including making appointments, allocating funding, or recommending individuals for rewards or benefits. Community Board members should also note that, once elected, their primary duty is to the interests of the community.

#### **Accountability**

- Community Board members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should cooperate fully and honestly with the scrutiny appropriate to their particular office.

**Openness**

- Community Board members should be as open as possible about their actions and those of the Community Board, and should be prepared to justify their actions.

**Personal judgement**

- Community Board members can and will 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**

- Community Board members shall not discriminate unlawfully against any person on the grounds of their race, age, religion, gender, sexual orientation, disability or opinions and beliefs. They should treat people with respect and should respect the impartiality and integrity of the Council's staff.

**Duty to uphold the law**

- Community Board members must uphold the law, and on all occasions, act in accordance with the trust the public places in them.

**Stewardship**

- Community Board members collectively must ensure that resources are used prudently and for lawful purposes.

**Leadership**

- Community Board members should promote and support these principles by example, and should always endeavour to act collectively in the best interests of the community.

**Confidentiality**

- Community Board members shall respect the confidentiality of any confidential information they may receive.

7. **Attachment 5** is a summary of the legislative requirements that have some bearing on the duties and conduct of Community Board members that have not already been referred to in this code.

## **PART 2 — BEHAVIOUR AND RELATIONSHIPS**

### **Relationships with Other Community Board Members**

8. Community Board members will conduct their dealings with each other in ways that:
  - maintain public confidence in the office to which they have been elected.
  - are open and honest.
  - focus on issues rather than personalities.
  - avoid aggressive, offensive or abusive conduct.
9. Community Board members shall maintain the respect and dignity of their office in their dealings with each other, Councillors, Council staff and the public.
10. Community Board members will act in good faith (ie, honestly, for the proper purpose, and without exceeding their powers) in the interests of the Council and the community.
11. Community Board members should remember that they have no personal power to commit the Council, including a Community Board, to any particular policy, course of action, or expenditure and must not represent they have such authority.
12. Community Board members will make no allegations regarding other elected members or Council officers which are improper or derogatory.
13. In the performance of their official duties, Community Board members should refrain from any form of behaviour which may cause any reasonable person unwarranted offence or embarrassment.

### **Relationships with the Community**

14. Effective Community Board decision-making depends on productive relationships between Community Board members and the community at large.
15. Community Board members should ensure that individual citizens are accorded respect in their dealings with the Community Board and Council, have their concerns listened to, and decisions are deliberated on in accordance with the requirements of the Local Government Act 2002 and other relevant statutes. Community Board members should act in a manner that encourages and values community involvement in local democracy.

### **Relationships with Staff**

16. The effective performance of the Council also requires a high level of cooperation and mutual respect between Community Board members and staff. To ensure that level of cooperation and trust is maintained Community Board members will:
  - recognise that the Chief Executive is the employer (on behalf of the Council) of all Council employees, and as such only the Chief Executive may hire, dismiss, instruct or censure an employee.
  - avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee.
  - make themselves aware of the obligations that the Council and the Chief Executive have as employers and observe those requirements at all times.
  - treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees).
  - observe any guidelines that the Chief Executive puts in place regarding contact with employees.
  - respect the role of Council officers in providing professional advice, including  not do anything which compromises, or could be seen as compromising, the impartiality of the professional advice of an officer.
  - raise concerns about employees with the Chief Executive. Concerns about the Chief Executive should be raised in the first instance with the Mayor.

- raise concerns regarding the quality of a report with the Chief Executive before the meeting at which the report is to be considered takes place.
17. Community Board members should be aware that failure to observe this portion of the Code of Conduct may compromise the Council's obligations to act as a good employer and may expose the Council to civil litigation and audit sanction.
  18. A Community Board member may, on behalf of themselves, a member of staff or a member of the public, initiate the procedures set out in Part 3 (Breaches of the Code) of this Code.

### **Gifts and Hospitality/Expenses**

19. A person in a position of trust, such as a Community Board member, should not make a profit through his or her office.
20. There is legislation in the Crimes Act 1961 and the Secret Commissions Act 1910 which deals with corruption and the obtaining of gifts as an inducement or reward for acts in relation to the Council's affairs. Gifts can include discounts, commissions, bonus or deductions.
21. Acceptance of gifts, services or hospitality may be considered as a bribe or perceived as undue influence. The offer and/or receipt of gifts, including special occasion goodwill gifts, may be reported to the Council Secretary.
22. Gifts, working lunches and social occasions should be received and undertaken with a recognition of the public perception regarding undue influence on Community Board members.

### **Use of Council Facilities and Services**

23. Community Board members are entitled to mileage allowances per Council policy. Use of mileage allowances provided by the Council must only be used for Community Board purposes.
24. Community Board members receive an allowance for stationary. Council resources such as stationery or secretarial services must only be used for Community Board purposes and cannot be used for personal purposes (including election campaigning).

### **Conflicts of Interest**

25. Community Board members are to avoid conflicts of interest and perceptions of conflict of interest, including pecuniary and non-pecuniary (refer **Attachment 2**).

### **Contact with the Media regarding Council and Committee Decisions**

26. The media plays an important part in local democracy. In order to fulfil this role the media needs access to accurate, timely information about the affairs of the Community Board. From time to time, individual Community Board members will be approached to comment on a particular issue either on behalf of the Community Board, or as a Community Board member in his or her own right. This part of the Code deals with the rights and duties of Community Board members when speaking to the media on behalf of the Community Board, or in their own right.
27. Generally:
  - Media comments must observe the requirements of the Code of Conduct.
  - Community Board Chairs are authorised to make statements accurately reporting matters and decisions coming within the terms of reference of their Community Boards.
  - The Chief Executive is authorised to make statements relating to any of the areas for which the Chief Executive has statutory or management responsibility.
28. Public statements representing Community Boards or reporting decisions of the Community Board will be made with the specific or general authority of the Community Board, and will clearly state the person's authority for making the statement on behalf of the Community Board.

29. Otherwise, a Community Board member, Chief Executive or officer may make specific statements on behalf of the Community Board only with the specific authority of the relevant Community Board.
30. Community Board members are entitled to make public statements expressing their opinion on matters before the Community Board. All such statements should clearly state that they represent the personal opinion of the Community Board member and are not made on behalf of the Community Board.
31. Public statements by Community Board Chairpersons on an item before the Community Board should reflect the majority view of the Board. The Chairperson may make clearly identified personal statements if the Chairperson disagrees with the majority view of the Board.
32. Within the limits imposed by Standing Orders, at any meeting of the Community Board (or at any committee), every Community Board member (who has the right to speak at the meeting) has the right to express his or her opinion on any matter lawfully before the meeting. Once a matter has been decided at a meeting of the Community Board that decision establishes the Community Board's position on that matter until it is lawfully changed by a subsequent decision of the Board.

### **Disclosure of Information**

33. In the course of their duties Community Board members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.
34. Community Board members must not use or disclose confidential information for any purpose other than the purpose of debate at meetings for which the information was supplied to the Community Board members. Such confidential information includes all information in the Public Excluded section of an agenda for any meeting.
35. Community Board members should be aware that failure to observe these provisions will impede the performance of the Council by inhibiting information flows and undermining public confidence in the Council. Failure to observe these provisions may also expose the Council to sanction under the Privacy Act 1993 and/or civil litigation.

### **Role of Community Board Members**

36. **Attachment 1** outlines the roles and responsibilities for the Community Board.

### **Alleged Breaches of This Code During Meetings**

37. It is expected that compliance with the provisions of this Code during a meeting shall be dealt with by the Chairperson of that meeting within Standing Orders at the time the breach arises. Community Board members should raise alleged breaches of the Code with the Chairperson at the time. If a Board member believes that an alleged breach of the Code has not been dealt with adequately by the Chairperson at a meeting, that Board member may initiate the procedures set out in **Attachment 4** of this Code.

*The Role of the Community Board*

**Background**

- 4.1 Community Boards are established by the Local Government Act to perform such functions and duties, and exercise such powers as delegated by the territorial authority.
- 4.2 A community board---
- (a) is an unincorporated body; and
  - (b) is not a local authority; and
  - (c) is not a committee of the relevant territorial authority.
- 4.3 The role of a community board is to---
- (a) represent, and act as an advocate for, the interests of its community; and
  - (b) consider and report on all matters referred to it by the territorial authority, or any matter of interest or concern to the community board; and
  - (c) maintain an overview of services provided by the territorial authority within the community; and
  - (d) prepare an annual submission to the territorial authority for expenditure within the community; and
  - (e) communicate with community organisations and special interest groups within the community; and
  - (f) undertake any other responsibilities that are delegated to it by the territorial authority.

**Generic Role Responsibility Template – Community Board Chair****PURPOSE OF ROLE**

To co-ordinate, lead and direct the business of the Community Board in a manner consistent with the powers delegated by Council.

**SPECIFIC ACCOUNTABILITIES INCLUDE:**

1. To oversee, co-ordinate and direct all activities of the Community Board within its specific terms of reference and delegated authorities, providing guidance and direction to Board members, calling meetings, and liaising with Board members and Council officials / management in setting the content and priorities of meeting agendas.
2. To speak on behalf of the Community Board and act as an advocate for it, including managing relationship with the media and representing the Community Board on Council Committees, Community organisations and at meetings with external parties and the public.
3. To establish community consultation processes by scheduling, planning and chairing public meetings to seek input into Community issues and Council's planning and strategy development processes.
4. To report to Council, or its Committees, on local community issues, the recommendations and work the being undertaken by the Community Board.
5. To preside over Board meetings, ensuring that the members carry out business in an orderly manner, and enforcing standing orders as required.
6. To participate in Council Standing Committees / sub-committees (as required) by being fully prepared and up to date on issues under consideration.
7. To represent Council and local community interests as an appointed member of external committees, agencies or boards as required.
8. To ensure effective and efficient communications and co-ordination between Council, Council Committees / Officials and Community Board Members, and between members of the public and Council.



### ***The Role of the Community Board Member***

The role of the Community Board member is similar to that of a Councillor. A key element of the Community Board member role is the function it performs as a conduit between the community and Council.

### ***Generic Role Responsibility Template – Community Board Member***

#### **PURPOSE OF ROLE**

To represent local community interests, contributing to its ongoing community and economic development, the effective stewardship of existing assets, sustainable management of the environment, and the prudent management of the communities' financial resources.

#### **SPECIFIC ACCOUNTABILITIES INCLUDE:**

1. To consult with members of the public, local police, education providers and other community stakeholders to develop a sound understanding of the diverse issues facing the Community and to obtain their perspectives on the development and of Council strategies and plans.
2. To co-ordinate and assist in the running of public meetings in order that the local community is able to have provide feedback and input into the strategies and plans of Council.
3. To represent Council as an appointed member of external committees / agencies / boards as required.
4. To support the Council, the Community Board Chair and fellow Board members in the promotion of the total community.
5. To develop positive working relationships with fellow Board members and Council Officials / Managers to ensure effective community representation.
6. To develop positive working relationships with counterparts in neighbouring local authorities and/or Community Boards, identifying opportunities for community / economic development and joint benefit.
7. To be accessible to the community, assisting them to resolve problems by directing them to the appropriate Council official and following up as appropriate.

**CONFLICTS OF INTEREST AND LAW AGAINST BIAS**

38. A conflict of interest exists where two different interests intersect; in other words, where your responsibilities as a Community Board member could be affected by some other separate interest or duty that you may have in relation to a particular matter. That other interest or duty might exist because of:
- your own financial affairs.
  - a relationship or role that you have.
  - something you have said or done.
39. The common law requires that public decision-making be procedurally fair. In particular, conflicts of interest are usually dealt with under the rule about bias. The law about bias exists to ensure that people with the power to make decisions affecting the rights and obligations of others carry out their duties fairly and free from bias. It is summed up in the saying “no one may be judge in their own cause”.
40. Another way of expressing the issue is:
- *Would a reasonable, informed observer think that your impartiality might have been affected?*
41. The law about bias originally applied to judicial proceedings, but over the years has been extended to a wide range of decision-makers who exercise public functions that can affect the rights or interests of others. The law applies to members of Community Boards.
42. The law applies differently to pecuniary (that is, financial) and non-pecuniary conflicts of interest. When you are considering whether to participate in a Board's decision-making processes about a particular matter, you need to consider the potential for both types of conflict of interest. Different rules apply to each type.

**Pecuniary Interests: The Local Authorities (Members' Interests) Act 1968**

43. The Act deals with that part of the rule against bias as it applies to the pecuniary interests of members of Community Boards. The Act:
- controls the making of contracts worth more than \$25,000 in a financial year between Board members and the Council; and
  - prevents Board members from participating in matters before a Board in which they have a pecuniary interest, other than an interest in common with the public.
44. The Act applies to members of city councils, district councils, regional councils, Community Boards, tertiary institutions, and a range of other public bodies.
45. The Act regulates the actions of individual members of Community Boards, not the actions of the Boards.
46. Board members, not Boards, may be prosecuted for breaches of the Act. The Act also applies to members of committees of Community Boards.

**Non-Pecuniary Conflicts of Interest: Law Against Bias**

47. If a person challenges a Community Board's decision by way of judicial review proceedings, the courts could invalidate the Board's decision because of bias on the part of a member of the decision-making body. The question a Community Board members needs to consider, drawn from case law, is:
- Is there a real danger of bias on the part of a member of the Community Board in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration? It is the appearance of bias, not proof of actual bias that is important.
48. The law about bias does not put a Board member at risk of personal liability. Instead, the validity of the Board's decision could be at risk.

**BANKRUPTCY**

49. Under the Local Government Act 2002 the Council must consider whether Board members should be required to declare whether a Community Board member or a newly elected Community Board member is an undischarged bankrupt.
50. The Council believes that bankruptcy does raise questions about the soundness of a person's financial management skills and their judgement in general.

The Council requires Community Board members who are declared bankrupt, and a newly elected Community Board member who is an undischarged bankrupt, to notify the Chief Executive as soon as practicable after being declared bankrupt or being elected to the Community Board, as the case may be. The Chief Executive shall advise the Council at its next ordinary meeting.

**BREACHES OF THE CODE AND ETHICS SUBCOMMITTEE****Process for Alleged Breach**

51. If a Community Board member believes that this Code has been breached, that Board member must first endeavour to resolve the matter informally by discussion with the Board member alleged to have breached the Code.
52. If that informal resolution is unsuccessful, the Board member alleging the breach may raise an alleged breach of the Code with the Convenor of the Council's Ethics Subcommittee in writing at the earliest opportunity (and not later than one month after the date of the incident giving rise to the allegation). An allegation of breach of the Code must set out the particular provisions of the Code alleged to have been breached and the facts supporting the alleged breach so as to give the person against whom it is made a full opportunity to respond to it.
53. Any Board member raising a matter of breach of the Code which involves another Board member must also, as soon as reasonably practicable after raising the alleged breach with the Convenor, forward to that other Board member a copy of the matter that has been raised with the Convenor.
54. A Board member who made an allegation of an alleged breach of the Code can withdraw that allegation at any time and no further steps shall be taken by the Convenor or the Ethics Subcommittee in respect of that complaint.
55. The Convenor of the Subcommittee shall consider a matter of breach of the Code referred to that person and shall determine if a question of breach of the Code is involved. In considering if a question of breach is involved, the Convenor shall take account of the degree of importance of the matter which has been raised. The Convenor may consult with such persons as that person considers appropriate. No question of breach is involved if, in the opinion of the Convenor, the matter is technical or trivial and does not warrant the fuller attention of the Subcommittee. A decision not to refer a matter to the Subcommittee shall not be reported to the Council.
56. Community Board members should not publicly release a copy of the information provided to the Convenor of the Subcommittee before a decision has been made by the Convenor as to whether the allegation is to proceed to the Subcommittee.
57. If the Convenor considers that a matter involves a question of breach of the Code which warrants referral to the Subcommittee, and if the Convenor is satisfied that informal efforts to resolve the matter have not succeeded, then the matter shall be reported to the Subcommittee. Before reference to the Subcommittee the Convenor will first inform the Board member alleging the breach and the Board member against whom the allegation is made, that it is intended to refer the matter to the Subcommittee.

**Ethics Sub Committee**

58. This Subcommittee will be constituted at the first meeting of the Council following a triennial election. With respect to complaints involving Community Board members it will consist of Community Board members drawn from the Community Board involved in the complaint.
59. One member (who shall be the Convenor of the Subcommittee) shall be a person with dispute resolution skills and who is not a Councillor. All members of the Committee (including the Convenor) shall have one vote. The Convenor of the Subcommittee will not have a casting vote. A quorum for meetings of the Subcommittee shall be three.

**Procedure for the Ethics Sub Committee**

60. The Council expects that any hearing by the Subcommittee is to be conducted without the public being present.
61. Any Board member who makes an allegation of breach of the Code, or who is the subject of such an allegation, may not serve on the Subcommittee considering that allegation.

62. The Subcommittee shall consider and report to the Board on any matters referred to it by the Convenor. The Subcommittee shall regulate its own procedure regarding the conduct of its inquiry into such a matter.

### **Responses and Breaches**

63. The exact nature of the action a Community Board may take for a breach of the Code depends on the nature of the breach and whether there are statutory provisions for dealing with the breach.
64. If there are statutory provisions the breach will be addressed in accordance with those statutory provisions. The Board may refer the matter to the relevant body.
65. Where there are no statutory provisions, the Board may take the following action:
- require a public or private apology to be made
  - censure
  - removal from a Board committee or outside appointment

A decision to apply one or more of these actions requires a Board resolution.

This is a summary of the legislative requirements that have some bearing on the duties and conduct of Community Board members that have not already been referred to in this code.

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

#### **Official Information**

1. LGOIMA contains rules relating to the disclosure of information held by a local authority to 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 Act provides for a Council decision to withhold information to be reviewed by an Ombudsman who makes a recommendation back to the Council.

#### **Meetings**

2. 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. The Act provides that generally meetings of the Community Boards are open to the public unless the meeting has resolved to exclude the public from a part of the meeting. There are limited grounds on which the public can be excluded from a meeting.
3. These grounds to exclude the public are similar to the grounds to withhold information. These include privacy, carrying out commercial activities or commercial negotiations, and taking legal advice.

### **SECRET COMMISSIONS ACT 1910**

4. It is unlawful for Community Board members 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 the Council.
5. 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 the Local Government Act 2002 and result in automatic disqualification of the Community Board members from office.

### **CRIMES ACT 1961**

6. It is unlawful for Community Board members (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 the Council
  - Use information gained in the course of the Community Board members’ duties for monetary gain or advantage by the Community Board members, or any other person
  - These offences are punishable by a term of imprisonment of 7 years or more. Community Board members convicted of these offences will also be automatically disqualified from office.

### **SECURITIES ACT 1978**

7. The Securities Act places Community Board members in the same position as company directors whenever the Council offers shares in a company to the public. Community Board 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.