

Code of Conduct (2004)

Minute Number: 1902/04

Required by Schedule 7, section 15(1) of the Local Government Act 2002.

Adopted 25 September 2003 (CL/SEPT/1479/03)

Amended 29 April 2004 (CL/APR/622/04) - 7.2 Addition: Pre-election Period

Amended 25 November 2004 (CL/NOV/1902/04) - 7.3 Addition: Meeting attendance

MANUKAU CITY COUNCIL

CODE OF CONDUCT

Adopted: 25 September 2003 (CL/SEPT/1479/03)

Schedule of Amendments

Date	Minute No.	Section No.	Subject Matter
29/04/2004	CL/APR/622/04	7.2	Addition: Pre-election Period
25/11/2004	CL/NOV/1902/04	7.3	Addition: Meeting attendance

CODE OF CONDUCT	1
1.0 Legal background - Local Government Act 2002.....	1
1.1. Requirements on members	1
1.2. Declaration by a member	1
1.3. Code of Conduct.....	1
1.4. Standing Orders.....	1
1.5. Governance principles.....	1
1.6. Summary	1
2.0 Democratic governance.....	2
2.1. Accountability of elected members.....	2
2.2. Principles of good governance	2
3.0 Roles	2
3.1. Summaries.....	2
4.0 Relationships	2
4.1. Relationships with other elected members.....	2
4.2. Relationships with staff	3
4.3. Contact with staff	3
5.0 Disclosure of information	3
5.1. Confidential information.....	3
5.2. Media	4
5.3. Public Statements by Management.....	4
6.0 Resolution of problems	4
6.1. Service requests.....	4
6.2. Complaint about another elected member	5
6.3. Complaint about staff member	5
6.4. Disputes.....	5
6.5. Breach of Code of Conduct	5
7.0 Other matters of conduct.....	6
7.1. Dress code.....	6
7.2. Pre-election period.....	6
7.3. Meeting attendance	6
8.0 Pecuniary interest and impartiality.....	7
8.1. Pecuniary interest.....	7
8.2. Register of Interests.....	7
8.3. Hearings Committee protocol	8
8.4. Gifts, Hospitality, Gratuities, Koha.....	8
9.0 Explanation of Legislation.....	9
9.1. Local Government Official Information and Meetings Act 1987	9
9.2. Local Authorities (Members Interests) Act 1968	9
9.3. Crimes Act 1961	9
9.4. Secret Commissions Act 1910	10
9.5. Securities Act 1978 and Securities Amendment Act 1988	10
9.6. Financial Liabilities of a Member	10
9.7. Extraordinary vacancies	12
9.8. Disqualification of Members	12

CODE OF CONDUCT

1.0 LEGAL BACKGROUND - LOCAL GOVERNMENT ACT 2002

1.1. Requirements on members

Clauses 14 to 16 of Schedule 7 require members of a local authority to:

- make a declaration before acting as a member
- comply with a Code of Conduct
- abide by Standing Orders

1.2. Declaration by a member

The member declares that he or she will faithfully and impartially, and according to the best of his or her skill and judgment, execute and perform, in the best interests of the City the powers, authorities and duties vested in, or imposed upon, him or her by any Act.

1.3. Code of Conduct

The Act requires the code of conduct to 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
- (b) an explanation of
 - (i) the Local Government Official Information and Meetings Act 1987; and,
 - (ii) any other Act or rule of law applicable to members.

The Act's requirements on Community Boards do not include a requirement to adopt a Code of Conduct. This Code therefore applies principally to members of the Council.

1.4. Standing Orders

Standing Orders apply principally to the conduct of meetings (Sched 7, cl 27).

1.5. Governance principles

The Act (Section 39) defines governance principles relating to local authorities. The following governance principles are relevant to a Code of Conduct:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of elected members, is clear and understood by elected members and the community;
- (b) a local authority should ensure that the relationship between elected members and management of the local authority is effective and understood.

1.6. Summary

The objectives of a Code of Conduct are to set out:

- the conduct of members toward one another, staff and public
- how information is disclosed
- legislation that applies to the actions of members
- the relationship between elected members and management

2.0 DEMOCRATIC GOVERNANCE

2.1. Accountability of elected members

Elected members are primarily accountable to the electors of Manukau City through the ballot box and other democratic processes. Members must however, note that they are also accountable to the Auditor-General in respect of unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

2.2. Principles of good governance

- **Public Interest** - members should serve only the interests of the City as a whole and should never improperly confer an advantage or disadvantage to any one person, group or organisation;
- **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 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 the scrutiny appropriate to their particular office;
- **Openness** – members should be as open as possible about their actions and those of the Council and should be prepared to justify their actions;
- **Personal Judgement** - members can and should 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 must uphold the law, and on all occasions, act in accordance with the trust the public places in them;
- **Stewardship** – members must ensure the Council uses resources prudently and for lawful purposes, and that the Council maintains sufficient resources to meet its statutory obligations; and
- **Leadership** – members should promote and support these proposals by example, and should always endeavour to act in the best interests of the City.

3.0 ROLES

3.1. Summaries

Summaries of roles of elected members are attached as Appendix "A".

4.0 RELATIONSHIPS

4.1. Relationships with other elected members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind, elected 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; and
- avoid aggressive, offensive or abusive conduct.

4.2. Relationships with staff

The effective performance of Council also requires a high level of co-operation and mutual respect between elected members and staff. To ensure that level of co-operation and trust is maintained, elected members will:

- be cognisant of the fact that Council is the employer of the Chief Executive Officer but recognise that the Chief Executive Officer is the employer of all other Council staff, and as such only the Chief Executive Officer may lawfully instruct an employee;
- make themselves aware of the obligations the Council and the Chief Executive Officer have as employers and observe those requirements at all times;
- recognise the obligations of Council Managers to observe employment law and procedure in their management of staff;
- 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 Officer puts in place regarding contact between elected members and employees;
- not do anything which compromises, or could be seen as compromising, the impartiality of an employee;
- avoid publicly criticising any employee in any way, especially in ways that reflect on the competence and integrity of the employee; and
- only raise concerns about employees with the Chief Executive Officer, and complaints about the Chief Executive Officer through the Mayor.

4.3. Contact with staff

An elected member's principal point of contact with staff shall be through the Chief Executive Officer, Directors or third level managers. In the case of third level managers, the Chief Executive Officer will from time to time advise councillors of such persons that may be directly contacted. Elected members may contact other staff on an agreed basis with the Chief Executive Officer, Director or third level manager, but generally this shall be of a limited nature. In the case of community board matters Ward Co-ordinators are the principal point of contact.

The Chief Executive Officer or a Director may instruct a member of staff to contact an elected member on an issue. The staff member will advise the elected member as to which officer has requested such contact.

Contact with staff at Council, or standing committee meetings, shall be at the discretion of, and through, the committee chairperson. On all other occasions, including functions, seminars, working parties, sounding boards and workshops, elected members and staff shall respect the role and responsibilities of each party.

Service requests by elected members shall normally be through the Council's Customer Call Centre.

5.0 DISCLOSURE OF INFORMATION

5.1. Confidential information

In the course of their duties, elected members will occasionally receive information that may need to be handled in a confidential manner. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Accordingly, members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member.

Requests for information under the Local Government Official Information and Meetings Act 1987 must be passed to the Chief Executive Officer, who will ensure that the request is responded to.

Elected members should be aware that failure to observe these provisions would 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 Council to prosecution under the Privacy Act 1993 and/or civil litigation.

There are specific Standing Orders relating to protocols surrounding the use of confidential information associated with meetings at which the public are excluded (SOs 3.5 & 4.3).

5.2. Media

Elected members of the Council are free to express their personal view in the media, at any time, provided the following rules are observed:

- media comments must not state or imply that they represent the views of Council;
- where an elected member is making a statement that is contrary to a council decision or council policy, the member must not state or imply that his or her statements represent a majority view; and
- media comments must observe the other requirements of this Code of Conduct, in particular the protocols relating to relationships with other members and staff (4.1, 4.2), disclosure of information (5.1, 5.3) and procedures for the resolution of problems (6.1 - 6.5).

In general terms it is expected that spokespersons will be as follows:

- the Mayor will represent the decisions of Council
- Committee Chairperson will represent the decisions of Committees
- Community Board Chairpersons will represent the decisions Community Boards

In support of the above provisions elected members undertake not to use the Council's logo for campaign purposes or personal publicity, including the expression of personal views.

5.3. Public Statements by Management

Official comment to the media or other external agencies on the decisions, actions or management of the Council should only be made by those authorised to do so. Council officers, if so authorised by the Chief Executive Officer, may comment on the implementation of the policy or decision. The Chief Executive Officer, Directors or the Communications Unit are the only officers who have the mandate to talk to the media. The Chief Executive Officer and Directors have the ability to delegate to officers who they believe have more detailed, up-to-date and relevant information.

Officers should not comment on policy, limiting their comments to explanation of factual matters and the implementation of policy only.

While officers have the same rights of free speech as members of the public, officers have a duty not to compromise their employer. Any comment criticising the Council, its elected members or policies will be viewed as a breach of that duty.

6.0 RESOLUTION OF PROBLEMS

6.1. Service requests

Service requests initiated by elected members are in the first instance to be referred to the Call Centre for action. The service request will be actioned and response received within seven days. Inquiries in respect of progress on this should be via the Call Centre.

Where response has been unsatisfactory or previously reported, details of the service request should be referred to the Chief Executive Officer's Executive Officer for action.

6.2. Complaint about another elected member

Elected members wishing to lodge a complaint in respect of another elected member will refer the matter, in the first instance, to the Mayor (or Deputy Mayor in the Mayor's absence).

6.3. Complaint about staff member

Elected members wishing to lodge a complaint in respect of a staff member, or staff wishing to lodge a complaint in respect of an elected member, shall in the first instance report the issue to the Chief Executive Officer.

Complaints in respect of staff will be managed in a way that meets the Manukau City Council's Human Resources policy and procedures.

6.4. Disputes

The approach to all dispute resolution processes will be based on the achievement of win-win solutions for the parties involved.

Principled negotiation is based on:

- Identification of the issues;
- Focusing on the interests of the parties involved;
- Generation of options to effect mutual gain; and
- Achievement of outcomes based on objective criteria.

Where resolution cannot be achieved, the issue will be referred for mediation between the parties involved.

Situations that indicate misconduct on the part of elected members will be subject to sanctions by the Mayor in consultation with the Chief Executive Officer. Remedial action may include, but not be limited to, retraction of statements, or other action as deemed appropriate.

Situations indicating staff misconduct will be acted upon by the Chief Executive Officer. Remedial action will be in accordance with Manukau City Council's Human Resources policy and procedures.

6.5. Breach of Code of Conduct

A complaint about a wilful breach of the Code of Conduct should be made in the first instance to the Mayor who will counsel the member concerned. (Where the complainant is a staff member, this will be through the Chief Executive Officer.)

At his discretion, the Mayor may refer the matter to the Council, recommending a process to address the issue.

The Local Government Act 2002 does not introduce provisions for sanctions. In the case of a serious breach, elected members should be aware that one or more of the following sanctions are available under existing procedures:

- public censure by letter or at a full Council meeting;
- removal of the elected member from Council Committees and/or other bodies on which they represent the Council;
- dismissal of the elected member from a position as Deputy Mayor or chair of a committee;
- prosecution under the provisions of the Local Authorities (Members' Interests) Act 1968. (The decision on prosecution under this Act is made by the Auditor – General); and
- inviting the Auditor-General to prepare a report on any financial loss or damage suffered by a local authority as the result of the breach (this could potentially lead to the member having to personally make good the loss or damage).

A decision to apply the first three sanctions will require a Council resolution to that effect.

Any member of the public may seek redress against the Council in respect of the last two items. The Council may also invite the Office of the Auditor-General to investigate, of its own volition, by passing a resolution to that effect. Once a matter is passed onto the Auditor – General, decisions on how the breach will be resolved will pass to the person holding that position.

7.0 OTHER MATTERS OF CONDUCT

7.1. Dress code

It is expected that members will dress in a manner that does not bring discredit to Council.

7.2. Pre-election period

(Added by Minute Number CL/APR/622/04)

During the three months prior to polling day for local body elections Council resources should not be used in any way that could be deemed to give any sitting member an electoral advantage or by any sitting member solely in their capacity as a candidate for the elections.

During this period the following practice will be observed:

PRINCIPLES	EXAMPLES
A local authority must not promote, nor be perceived to promote, the re-election prospects of a sitting member. Therefore, the use of Council resources for re-election purposes is unacceptable and possibly unlawful.	Not Permitted: - using Council stationery, email, postage or fax/phone facilities or any other Council resource explicitly for campaign purposes.
A Council's communications policy should also recognize the risk that communications by or about Members, in their capacities as spokespersons for Council, during a pre-election period could result in the Member achieving electoral advantage at ratepayers' expense. The chief executive officer (or his or her delegate) should actively manage the risk in accordance with the relevant electoral law.	Permitted: - photographs of members where it is the practice to include them, such as the Annual Report or website - communication by spokespersons of Council business to the public Not Permitted: - any use of Council communications that could be construed as giving a sitting member an unfair electoral advantage through raising their profile where this is not necessary

Complaints in regard to any matter relating to the conduct of the elections are to be made through the Electoral Officer. If any complaint involves the use of Council resources the Electoral Officer will bring the complaint to the attention of the Chief Executive Officer.

7.3. Meeting attendance¹

Councillors are expected to fulfil their obligations as members of Committees by preparing for meetings, attending and taking part in discussion. It is recognised that despite best endeavours there are occasionally times when other commitments prevent attendance. Nevertheless, the persistent non-attendance at Committee meetings by a member such as to cause concern to the Committee Chairperson can be raised by the Chairperson as a breach of the Code of Conduct to be dealt with under 6.5 'Breach of Code of Conduct'."

¹ Amended under Minute No. CL/NOV/1902/04

8.0 PECUNIARY INTEREST AND IMPARTIALITY

8.1. Pecuniary interest

The Local Authorities (Members' Interests) Act 1968 makes specific provision requiring the elected member to disclose pecuniary (financial) interests. Interests, other than pecuniary, which may in any way influence an elected member's decision-making, must be declared. Elected members must not knowingly place themselves in a position that may be construed as personally beneficial as a result of the decision. A good test is to consider whether others would think that the interest is of a kind to make this possible.

The ability of elected members to make impartial, objective and transparent decisions is paramount to the community's confidence in the Council's ability to govern.

If members are in doubt, they should:

- disclose the interest;
- seek advice from the chairperson or Chief Executive Officer, and
- if necessary, withdraw from the meeting or decision-making process (the nature of the interest does not have to be declared, only that there is an interest).

It is possible a member or an organisation with which the elected member is personally connected may have professional, business or personal interest within the area for which Council is responsible. Such interests may be substantial and closely related to the work of one or more of the Council's committees or subcommittees concerned with Resource Management Act 1991 activities, personal matters or the letting of contracts for supplies, services or works. Before seeking or accepting membership and particularly the chairing of any such committee or sub committee, that member should seriously consider whether membership would involve them in:

- a) disclosing an interest so often that the member would be of little value to the committee or sub-committee; or
- b) weakening public confidence in the impartiality of the committee or sub-committee.

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

8.2. Register of Interests

To assist in the fulfilment 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 Council or 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 \$NZ 150 or more from any person (other than a gift from the member's partner or a relative)
- whether the member is an undischarged bankrupt

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 the same manner as if that interest was held by the member.

8.3. Hearings Committee protocol

The Hearings Committee conducts hearings on matters of policy, consents and bylaws under the Local Government Act 2002, Resource Management Act 1991 and other legislation. The Committee hears and deliberates in a quasi-judicial capacity, with most of its decisions being subject to appeals or references to courts of law. Consequently, process and the manner in which elected members conduct themselves are subject to ongoing scrutiny.

Elected members are required to have a mind open to persuasion when sitting on a hearing. This does not predispose an absence of a view, but does require that an elected member must hear evidence in an open manner, be able to be persuaded by the evidence presented and come to a conclusion on the matters before the committee. An elected member in a hearing is not an advocate for any particular position.

An elected member sitting in a hearing capacity must not offer an opinion on the matter prior to, or during the hearing. To do so would introduce an element of predetermination, which may be challenged in a court of law. Should an elected member wish to perform a function as an advocate for the community, then that elected member should clearly indicate that he or she will not sit as a committee member on that hearing.

8.4. Gifts, Hospitality, Gratuities, Koha

There are times when the receipt of gifts, gratuities and koha offered in the course of an elected member conducting his/her duty is unavoidable. This act may be the cause of concern because receipt of these items may be seen as rewards or benefits for personal gain. As these situations have the potential to compromise the integrity of elected members, these gifts should be treated as gifts to Manukau City Council and recorded in the 'gift register' held in the Chief Executive Officer's office.

An exception to this is where it has been made explicit that the gift is personal. In this situation an elected member may retain the gift if it has a value of less than \$150. Personal gifts above this value must be registered. Where there is any question as to the ownership of the gift the issue should be raised with the Mayor or Chief Executive Officer as appropriate.

Council staff, in exercising their duty, should not solicit or accept gifts, rewards, koha, or benefits that might compromise, or be seen to compromise the integrity of the Council. Where offers of gifts or inducements are made they should be reported by the staff member to his or her manager to determine the appropriate response.

9.0 EXPLANATION OF LEGISLATION

9.1. Local Government Official Information and Meetings Act 1987

Official Information

This Act requires councils to make all information public unless there is good reason for withholding it. Good reasons for withholding information may include privacy of an individual, commercial sensitivity of a company, damage to the public interest, safety of an individual or that the maintenance of law may be prejudiced. Members of the public may challenge any decisions to withhold information.

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.

Meetings

Decision-making meetings of councils and their committees are open to the public. Councils must publish a list of all their meetings, their time and place, in advance, each month. They must also make agendas and reports to be considered, available to the public before the meeting.

Councils may only exclude the public from all of a meeting or part of a meeting for good reason. Good reasons may include privacy of an individual or another need for confidentiality. The Act sets down the possible reasons.

9.2. Local Authorities (Members Interests) Act 1968

This Act disqualifies a person from election to, appointment to, or membership of a council or committee if they have an interest in contracts to be let by that council or committee above a certain value (currently \$25,000).

This Act also prohibits council or committee members from voting on, or taking part in, discussions on any matter in which they have a direct or indirect financial interest.

These situations are covered elsewhere in the Code. The Office of the Auditor General publishes a booklet summarising this Act. A copy can be obtained through the Manager Democratic Processes.

Non-compliance with the Act can lead to disqualification.

9.3. Crimes Act 1961

Sections 105 and 105A relate to corruption and bribery of official and corrupt use of official information.

It is unlawful for a 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.

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.

9.4. Secret Commissions Act 1910

This Act makes it an offence for a Member to accept or attempt to obtain for themselves (or any other person) a gift, inducement or reward for doing or not doing something or for knowingly presenting a false receipt.

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.

9.5. Securities Act 1978 and Securities Amendment Act 1988

This Act deals with, among other matters, the responsibilities of those having "inside knowledge" that could be used for personal gain.

9.6. Financial Liabilities of a Member

Local Government Act 2002

43 CERTAIN MEMBERS INDEMNIFIED

- (1) 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 on 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.

9.7. Extraordinary vacancies

Local Government Act 2002, Schedule 7, clause 5

- (1) The office of a member of a local authority becomes vacant, and the vacancy that is created is an extraordinary vacancy, if the member—
 - (a) dies; or
 - (b) becomes a mentally disordered person within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
 - (c) is disqualified from, or is ousted from, office; or
 - (d) is absent without leave of the local authority from 4 consecutive ordinary meetings of the local authority; or
 - (e) resigns under clause 4.
- (2) Sections 117 to 120 of the Local Electoral Act 2001 apply to extraordinary vacancies.

9.8. Disqualification of Members

Local Government Act 2002, Schedule 7, clause 1

- (1) A person's office as 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
 - (b) is convicted of an offence punishable by a term of imprisonment of 2 years or more.
- (2) If subclause (1)(b) 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).

ELECTED MEMBER ROLES

Mayoral Role

The Mayor has a city-wide electoral mandate with an expectation of a strong leadership role. The position is that of first among equals, sharing the collective responsibilities of the Council. In addition, the Mayor is the presiding member at the meetings of Council and as such is responsible under Standing Orders for the orderly conduct of Council business at the Council meetings.

The Mayor has no legal authority to commit the Council to any particular course of action, except as where expressly authorised to act under duly delegated authority.

The office of Mayor is that of a community leader and performance of civic duties as the ceremonial head of Council. The role carries with it a strong element of community leadership in addition to the statutory role as a presiding member of Council. The role requires the Mayor to act as a City advocate in regional and national forums including promotion of the City's attributes. The Mayor will also provide leadership and feedback to other elected members on teamwork and chairmanship of committees.

Deputy Mayor

The Deputy Mayor undertakes the same roles as other elected members. In the event of the absence or incapacitation of the Mayor, the Deputy Mayor must perform all of the responsibilities and duties, and may exercise the powers, and duties of the Mayor.

Councillors

Elected members, acting as the Council, are responsible for:

- The development and approval of Council policies;
- Determining the expenditure and funding requirements of the Council through the annual plan process (including the long term Council Community Plan and funding policy);
- Monitoring the performance of the Council against its stated community outcomes, objectives and policies;
- Employing, overseeing and monitoring the Chief Executive Officer;
- Representing the interests of the residents and ratepayers of Manukau City (on election, the member's first responsibility is to the City as a whole).

The Council acts by majority decision at meetings. Each member has one vote. With certain exceptions, the exercise of the Council's powers can be delegated to:

- Committees or subcommittees; or
- Community Boards
- Individual members or Council officers
- Others, as provided by statute, such as planning commissioners and enforcement officers

Any individual member (including the Mayor) has no authority to act on behalf of the Council unless the Council has expressly delegated such authority.

The role of the councillor is to represent the communities' interests, ensuring ongoing community and economic development, the effective stewardship of existing assets, sustainable management of the environment and the prudent management of the City's financial resources.

Specific accountabilities include:

- Participation in the development of a vision and strategic direction for the wider community in consultation with stakeholders while being cognisant of the diverse issues facing the community;
- Providing input into and approving the strategies and plans of Council;
- Consulting with community members/agencies and obtaining their perspectives on the development of Council strategies and plans;

APPENDIX A

Page 2

- Participating in standing committees/sub-committees by being fully prepared and informed on issues under consideration;
- Representing Council as an appointed member of external committees/agencies/boards as requested;
- Participating in the review of the performance of the chief executive as requested;
- Supporting the Mayor and fellow councillors in the promotion of the City;
- Developing positive working relationships with fellow councillors and management to ensure effective governance processes are maintained;
- Developing positive working relationships with counterparts in neighbouring local and regional authorities, identifying opportunities for community/economic development and joint benefit;
- Being accessible to the community/electors, assisting them to resolve problems by directing them to the appropriate Council officer and following up as appropriate.

Standing Committee Chairperson Role

The role of the Council standing or special committee chairperson is to oversee, co-ordinate and direct all activities of the committee within its specific term of reference and delegated authorities. Responsibilities include the provision of guidance and direction to committee members and liaising with management in setting the content and prioritising meeting agendas.

Additional responsibilities of this role include:

- Speaking as an advocate on behalf of the committee;
- Reporting to Council recommendations made by the committee and its subcommittees;
- Presiding over committee meetings, ensuring the committee carries out its business in an orderly manner and enforcing standing orders as required; and
- Ensuring effective and efficient communication between Council committees.

Community Board Chairperson

The role of the Community Board Chairperson is to lead and direct the business of the Community Board in a manner consistent with the powers delegated by the Council.

Specific accountabilities include:

- Co-ordinating and directing all activities of the Community Board;
- Providing guidance and direction to Board Members;
- Calling meetings and liaising with board members and Council officers/management in setting the content and priorities of meeting agendas;
- Speaking on behalf of the Community Board and acting as an advocate for it;
- Establishing community consultation processes by scheduling, planning and chairing public meetings to seek input into community issues and Council's planning and strategy development processes;
- Reporting to Council (or its Committees) on local community issues, any Board recommendations and on the work being undertaken by the Community Board
- Presiding over the meetings of the Community Board, ensuring meetings are conducted in an orderly manner and enforcing standing orders as required;
- Participating in Board and working party meetings by being fully prepared and up to date on issues under consideration;
- Representing the Board and local community interests as an appointed member of external committees, agencies or boards as requested; and
- Ensuring effective and efficient communications between the Community Board, members of the Board, Council, and Council management and between members of the public and Council.

Community Board Member

The role of the Community Board member is to represent interests of the local community by contributing to its ongoing community and economic development. Effective stewardship of existing assets, sustainable management of the environment and the prudent management of the communities' delegated financial resources also form part of this role.

Specific accountabilities include:

- Consultation with stakeholders in the community;
- Co-ordination and assistance in the running of public meetings;
- Representing the Board and Council as an appointed member of external committees/agencies/boards as requested;
- Supporting the Community Board Chairperson and fellow Board Members in the promotion of the community;
- Developing positive working relationships with community stakeholders and counterparts in other authorities;
- Being accessible to the community and directing issues for remedy with management.

Chief Executive Officer

The Chief Executive Officer is responsible for:

- Implementing the decisions of the Council, its committees and community boards;
- Providing advice to all elected members;
- Ensuring legislative obligations required by act regulation or bylaw are properly performed;
- Ensuring the effective and efficient management of planning and other local government business activities; and
- Employment, leadership and management of staff.