



Mackenzie District Council

Elected Members Code of Conduct

STATUS:	Final
VERSION:	1
POLICY OWNER:	Governance Advisor
POLICY APPROVER / S:	CEO Mackenzie District Council
DATE:	Adopted February 9, 2021

“Fostering Our Community”

INTRODUCTION:

This Code of Conduct of Conduct sets out the standards of behaviour expected from Elected Members in the exercise of their duties. Its purpose is to:

- enhance the effectiveness of the local authority and the provision of good local government of the community, and district
- promote effective decision-making and community engagement
- enhance the credibility and accountability of the local authority to its communities
- develop a culture of mutual trust, respect and tolerance between the Elected Members of the local authority and between the Elected Members and Management of the Mackenzie District Council

This purpose is given effect through the Values, roles, responsibilities and specific behaviours agreed in this Code of Conduct of Conduct.

SCOPE:

This Code of Conduct of Conduct has been adopted in accordance with clause 15 of Schedule 7 of the Local Government Act 2002 (LGA 2002) and applies to all Elected Members, including the Elected Members of any community boards that have agreed to adopt it. The Code of Conduct of Conduct is designed to deal with the behaviours(s) of Elected Members towards:

- each other
- the Chief Executive Officer and employees of the Mackenzie District Council
- the media
- the general public

It is also concerned with the disclosure of information that Elected Members receive in their capacity as Elected Members and information which impacts on the ability of the local authority to give effect to its statutory responsibilities.

This Code of Conduct of Conduct can only be amended (or substituted by a replacement Code of Conduct of Conduct) by a vote of at least 75 per cent of Elected Members present at a meeting when amendment to the Code of Conduct of Conduct is being considered. The Code of Conduct should be read in conjunction with the Council's Standing Orders.

PRINCIPLES:

The Code of Conduct is designed to give effect to the following values:

An Elected Member will act in the public interest: Elected Members will serve the best interests of the people within their community, district or region and discharge their duties conscientiously, to the best of their ability.

An Elected Member will build public trust: Elected Members, in order to foster community confidence and trust in their Council, will work together constructively and uphold the values of honesty, integrity, accountability and transparency.

An Elected Member will behave ethically: Elected Members will not place themselves in situations where their honesty and integrity may be questioned, will not behave improperly and will avoid the appearance of any such behaviour.

An Elected Member will consider matters objectively: Elected Members will make decisions on merit; including appointments, awarding contracts, and recommending individuals for rewards or benefits.

An Elected Member will show respect for others: will treat people, including other Elected Members, with respect and courtesy, regardless of their race, age, religion, gender, sexual orientation, or disability. Elected Members will respect the impartiality and integrity of officials.

An Elected Member has a duty to uphold the law: Elected Members will comply with all legislative requirements applying to their role, abide by this Code of Conduct of Conduct, and act in accordance with the trust placed in them by the public.

An Elected Member will make an equitable contribution: Elected Members will take all reasonable steps to ensure they fulfil the duties and responsibilities of office, including attending meetings and workshops, preparing for meetings, attending civic events, and participating in relevant training seminars.

An Elected Member will demonstrate leadership: Elected Members will actively promote and support these values and ensure they are reflected in the way in which the Council operates, including a regular review and assessment of the Council's collective performance.

These values complement, and work in conjunction with, the principles of s.14 of the LGA 2002 and the governance principles of s.39 of the LGA 2002.

ROLE AND RESPONSIBILITIES:

Good governance requires clarity of roles and respect between those charged with responsibility for the leadership of the Council and those responsible for advice and the implementation of Council decisions.

The key roles are:

Elected Members

The role of the governing body includes:

- representing the interests of the people of the district
- developing and adopting plans, policies and budgets
- monitoring the performance of the Council against stated goals and objectives set out in its long term plan
- providing prudent stewardship of the Council's resources
- employing and monitoring the performance of the Chief Executive Officer
- ensuring the Mackenzie District Council fulfils its responsibilities to be a 'good employer' and meets the requirements of the Health and Safety at Work Act 2015
- ensuring that the Principles, Values and Behaviours described are embodied in all interactions

Chief Executive Officer

The role of the Chief Executive Officer includes:

- providing policy advice to the Mackenzie District Council and implementing the decisions of the Mackenzie District Council
- ensuring that all responsibilities delegated to the Chief Executive Officer are properly performed or exercised
- ensuring the effective and efficient management of the activities of the local authority
- maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority
- providing leadership for the employees of the Mackenzie District Council
- employing people on behalf of the Mackenzie District Council (including negotiation of the terms of employment for those people)

- Under s.42 of the LGA 2002 the Chief Executive Officer is the only person *directly* employed by the Mackenzie District Council itself. All concerns about the performance of an individual employee must, in the first instance, be referred to the Chief Executive Officer

RELATIONSHIPS:

This section of the Code of Conduct sets out agreed standards of behaviour between Elected Members; Elected Members and staff; and Elected Members and the public.

Relationships between Elected Members

Given the importance of relationships to the effective performance of the Mackenzie District Council, Elected Members will conduct their dealings with each other in a manner that:

- maintains public confidence
- is open and honest
- is courteous
- is focused on issues rather than personalities
- avoids abuse of meeting procedures, such as a pattern of unnecessary notices of motion and / or repetitious points of order
- avoids aggressive, offensive or abusive conduct, including the use of disrespectful or malicious language
- avoid any form of bullying or sexual harassment

Any failure by Elected Members to act in the manner described above represents a breach of this Code of Conduct.

Please note that nothing in this section of the Code of Conduct is intended to limit robust debate within the Mackenzie District Council as long as it is conducted in a respectful and insightful manner.

Relationships with staff

An important element of good governance involves the relationship between the Mackenzie District Council and its Chief Executive.

Elected Members will respect arrangements put in place to facilitate this relationship, and:

- raise any concerns about employees, officers or contracted officials with the Chief Executive Officer
- raise any concerns about the performance or behaviour of the Chief Executive Officer with the Mayor or the chairperson of the Chief Executive Officer performance review committee (however described)
- make themselves aware of the obligations that the Mackenzie District Council and the Chief Executive Officer have as employers and observe those requirements at all times, such as the duty to be a good employer
- treat all employees with courtesy and respect and avoid publicly criticising any employee
- avoid familiar, aggressive, offensive or abusive conduct towards any employee
- avoid any form of bullying or sexual harassment
- observe any protocols put in place by the Chief Executive Officer concerning contact between Elected Members and employees
- avoid doing anything which might compromise, or could be seen as compromising, the impartiality of an employee

Any failure by Elected Members to act in the manner described above represents a breach of this Code of Conduct.

Please note: Elected Members should be aware that failure to observe this portion of the Code of Conduct may compromise the Mackenzie District Council's obligations to be a good employer and consequently expose

the Mackenzie District Council to civil litigation or affect the risk assessment of Mackenzie District Council's management and governance control processes undertaken as part of the Mackenzie District Council's audit.

Relationship with members of the public

Given that the performance of the Mackenzie District Council requires the trust and respect of individual citizens, Elected Members will:

- interact with members of the public and all community board members in a fair, respectful, equitable and honest manner
- be available to listen and respond openly and honestly to community concerns
- consider all points of view or interests of members of the public and community board members when participating in debate and making decisions
- treat members of the public and community board members in a courteous manner
- act in a way that upholds the reputation of the local authority

Any failure by Elected Member to act in the manner described above represents a breach of this Code of Conduct.

CONTACT WITH THE MEDIA:

The media play an important part in the operation and efficacy of local democracy. In order to fulfil this role the media needs access to accurate and timely information about the affairs of Mackenzie District Council.

From time to time individual Elected Members will be approached to comment on a particular issue either on behalf of the Mackenzie District Council, or as an Elected Member in their own right. When responding to the media Elected Members must be mindful that operational questions should be referred to the Chief Executive Officer and policy-related questions referred to the Mayor or the member with the appropriate delegated authority i.e. portfolio holder or Chair of Standing Committee.

When speaking to the media more generally Elected Members will abide by the following provisions:

Media contact on behalf of the Mackenzie District Council

- the Mayor is the first point of contact for an official view on any issue, unless delegations state otherwise. Where the Mayor is absent requests for comment will be referred to the Deputy Mayor or relevant standing committee chairperson or portfolio holder
- the Mayor may refer any matter to the relevant committee chairperson, portfolio holder, community board chairperson or to the Chief Executive Officer for their comment
- no other Elected Member may comment *on behalf of the Mackenzie District Council* without having first obtained the approval of the Mayor, or his / her delegate

Media comment on a member's own behalf

Elected Members are free to express a *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 the Mackenzie District Council
- media comments which are contrary to a Mackenzie District Council decision or policy must clearly state that they do not represent the views of the majority of Elected Members
- media comments must observe the other requirements of the Code of Conduct; for example, comments should not disclose confidential information, criticize, or compromise the impartiality or integrity of Mackenzie District Council employees
- media comments must not be misleading and should be accurate within the bounds of reasonableness

Any failure by Elected Members to meet the standards set out above represents a breach of this Code of Conduct.

INFORMATION:

Access to information is critical to the effective performance of a local authority and the level of public trust felt by the public.

Confidential information

In the course of their duties Elected Members will occasionally receive information that is confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation. Accordingly, Elected Members agree not to use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the member.

Elected Members should be aware that failure to observe these provisions could impede the performance of the Mackenzie District Council by inhibiting information flows and undermining public confidence in the Mackenzie District Council. Failure to observe these provisions may also expose the Mackenzie District Council to prosecution under the Privacy Act or civil litigation.

Information received in capacity as an Elected Member

Elected Members will disclose to other Elected Members and, where appropriate the Chief Executive Officer, any information received in their capacity as an Elected Member that concerns the Mackenzie District Council's ability to give effect to its responsibilities.

Elected Members who are offered information on the condition that it remains confidential will inform the provider of the information that it is their duty to disclose the information and will decline the offer if that duty is likely to be compromised.

Any failure by Elected Members to act in the manner described above represents a breach of this Code of Conduct.

Please note: failure to observe these provisions may impede the performance of the Mackenzie District Council by inhibiting information flows and undermining public confidence. It may also expose the Mackenzie District Council to prosecution under the Privacy Act and / or civil litigation.

CONFLICTS OF INTEREST:

Elected Members will maintain a clear separation between their personal interests and their duties as Elected Members in order to ensure that they are free from bias (whether real or perceived). Elected Members therefore must familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 (LAMIA).

Elected Members will not participate in any Mackenzie District Council discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. This rule also applies where the member's spouse/partner contracts with the authority or has a pecuniary interest. Elected Members shall make a declaration of interest as soon as practicable after becoming aware of any such interests.

If a member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive Officer *immediately*.

Elected Members may also contact the Office of the Auditor General for guidance as to whether they have a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote.

Please note: Failure to observe the requirements of the LAMIA could potentially invalidate the decision made, or the action taken, by the Mackenzie District Council. Failure to observe these requirements could also leave the Elected Member open to prosecution (*see Appendix A*). In the event of a conviction, Elected Members can be ousted from office.

If Elected Members have a non-pecuniary interest in a matter for decision and for which a member of the public may perceive bias this should be carefully considered by the member as to whether it should also be declared. (*see Appendix A for a further explanation*).

REGISTERS OF INTEREST:

Elected Members will be requested to make a bi-annual declaration of interest at the ordinary Mackenzie District Council meeting held in June and December each year.

These declarations are recorded in a Register of Interests maintained by the Mackenzie District Council and listed on the Mackenzie District Council website. The declaration must include information on the nature and extent of any interest, including:

- any employment, trade or profession carried on by the Elected Member or the members' spouse / partner for profit or gain
- any company, trust, partnership etc. for which the member or their spouse / partner is a director, partner or trustee
- the address of any land in which the member has a beneficial interest within the jurisdiction of the local authority
- the address of any land owned by the local authority in which the member or their spouse / partner is:
 - a tenant
 - the land is tenanted by a firm in which the member or spouse / partner is a partner, a company of which the member or spouse / partner is a director, or a trust of which the member or spouse / partner is a trustee
- any other matters which the public might reasonably regard as likely to influence the member's actions during the course of their duties as a member (if the member is in any doubt on this, the member should seek guidance from the Chief Executive Officer)

Please note: Where a member's circumstances change they must ensure that the Register of Interests is updated as soon as practicable by notifying the Governance Manager.

ETHICAL BEHAVIOUR:

Elected Members will seek to promote the highest standards of ethical conduct. Accordingly Elected Members will:

- claim only for legitimate expenses as determined by the Remuneration Authority and any lawful policy of the Mackenzie District Council developed in accordance with that determination
- not influence, or attempt to influence, any Mackenzie District Council employee, officer or member in order to benefit their own, or families personal or business interests
- only use the Mackenzie District Council resources (such as facilities, staff, equipment and supplies) in the course of their duties and not in connection with any election campaign or personal interests; and not solicit, demand, or request any gift, reward or benefit by virtue of their position and notify the Chief Executive Officer if any such gifts are accepted. Where a gift to the value of \$100 or more is accepted by a member, that member must immediately disclose this to the Chief Executive Officer for inclusion in the publicly available register of interests

Any failure by Elected Members to comply with the provisions set out in this section represents a breach of this Code of Conduct.

Undischarged bankrupt

In accordance with clause 15(5) of Schedule 7 (LGA 2002) any member who is an “undischarged bankrupt” will notify the Chief Executive Officer prior to the inaugural meeting or as soon as practicable after being declared bankrupt. The member will also provide the Chief Executive Officer with a brief explanatory statement of the circumstances surrounding the member’s adjudication and the likely outcome of the bankruptcy. This Mackenzie District Council believes that bankruptcy does raise questions about the soundness of a person’s financial management skills and their judgement in general.

Disqualification from office

Elected Members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more year’s imprisonment, or if they cease to be or lose their status as an elector or of certain breaches of the Local Authorities (Members’ Interests) Act 1968.

CREATING A SUPPORTIVE AND INCLUSIVE ENVIRONMENT:

In accordance with the purpose of the Code of Conduct, Elected Members agree to take all reasonable steps in order to participate in activities scheduled to promote a culture of mutual trust, respect and tolerance.

These include:

- attending post-election induction programmes organised by the Mackenzie District Council for the purpose of facilitating agreement on the Mackenzie District Council’s vision, goals and objectives and the manner and operating style by which Elected Members will work
- taking part in any assessment of the Mackenzie District Council’s overall performance and operating style during the triennium
- taking all reasonable steps to ensure they possess the skills and knowledge to effectively fulfil their Declaration of Office and contribute to the good governance of the district or region

BREACHES OF THE CODE OF CONDUCT:

Elected Members must comply with the provisions of this Code of Conduct (LGA 2002, schedule 5, s. 14(4)). Any member, or the Chief Executive Officer, who believes that the Code of Conduct has been breached by the behaviour of an Elected Member, may make a complaint to that effect. All complaints will be considered in a manner that is consistent with the following principles.

Principles

The following principles will guide any processes for investigating and determining whether or not a breach under this Code of Conduct has occurred:

- that the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the breach complained about
- that the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach
- that the concepts of natural justice and fairness will apply in the determination of any complaints made under this Code of Conduct. This requires, conditional on the nature of an alleged breach, that affected parties:
 - have a right to know that an investigation process is underway
 - are given due notice and are provided with an opportunity to be heard
 - have a right to seek appropriate advice and be represented
 - have their privacy respected

Complaints

All complaints made under this Code of Conduct must be made in writing, making specific reference to any allegation of breach and forwarded to the Chief Executive Officer. On receipt of a complaint from an Elected Member, member of the public or a staff member, the Chief Executive Officer will consult with the Mayor (or if the complaint is against the Mayor, the Chief Executive Officer will consult with the Deputy Mayor) and undertake a preliminary assessment to determine, prima facie, the level of seriousness, as outlined in this Code of Conduct of Conduct.

Investigation, advice and decision

The Code of Conduct of Conduct Committee, established at the start of each triennium, is responsible for overseeing alleged complaints that are considered material, as outlined in clause 12.4.

The Committee may seek advice from the Chief Executive Officer, Mayor, or whomever it considers would assist it in its decision making.

The process, following receipt of a complaint, is outlined in **Appendix B**.

Materiality

An alleged breach under this Code of Conduct is material if, in the opinion of the Chief Executive Officer and / or Mayor, it would, if proven, bring a member or the Mackenzie District Council into disrepute or, if not addressed, reflect adversely on another member of the Mackenzie District Council.

An alleged breach under this Code of Conduct is non-material if, in the opinion of the Chief Executive Officer and / or Mayor, that it does not warrant an investigation then clause 13.3 applies.

PENALTIES AND ACTIONS:

Where a complaint is determined to be material and referred to the Mackenzie District Council the nature of any penalty or action will depend on the seriousness of the breach.

Material breaches

In the case of material breaches of this Code of Conduct, the Code of Conduct of Conduct Committee which holds delegated authority to investigate a material breach, may recommend to the Mackenzie District Council one of the following:

- a letter of censure to the member
- a request (made either privately or publicly) for an apology
- a vote of no confidence in the member
- removal of certain Mackenzie District Council-funded privileges (such as attendance at conferences)
- restricted entry to Mackenzie District Council offices, such as no access to staff areas (where restrictions may not previously have existed)
- limitation on any dealings with Mackenzie District Council staff so that they are confined to the Chief Executive Officer only
- suspension from committees or other bodies
- an invitation for the member to consider resigning from the Mackenzie District Council
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The Mackenzie District Council, or Code of Conduct of Conduct Committee, may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- attend a relevant training course
- work with a mentor for a period of time
- participate in voluntary mediation (if the complaint involves a conflict between two Elected Members)
- tender an apology
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The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in the Local Government Official Information and Meetings Act 1987 (LGOIMA), for not doing so.

Statutory breaches

In cases where a breach of the Code of Conduct is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- breaches relating to Elected Members' interests (where Elected Members may be liable for prosecution by the Auditor-General under the LAMIA)
- breaches which result in the Mackenzie District Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under s.30 of the LGA 2002 which may result in the member having to make good the loss or damage)
- breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the Elected Member liable for criminal prosecution).

Non-material breaches

Either following the Chief Executive Officer and Mayoral assessment or initial feedback from an independent investigator the breach may be considered non-material. In that event, low level resolution of the matter may be pursued including a meeting of the parties, an apology or other courses of action considered appropriate by the Mayor.

REVIEW:

Once adopted, a Code of Conduct of Conduct continues in force until amended by the Mackenzie District Council. The Code of Conduct can be amended at any time but cannot be revoked unless the Mackenzie District Council replaces it with another Code of Conduct (LGA 2002 Schedule 7 s.15). Once adopted, amendments to the Code of Conduct require a resolution supported by 75 per cent of the Elected Members of the Mackenzie District Council present at a Mackenzie District Council meeting where the amendment is considered.

Mackenzie District Council may formally review the Code of Conduct as soon as practicable after the beginning of each triennium. The results of that review will be considered by the Mackenzie District Council in regard to potential changes for improving the Code of Conduct.

DISQUALIFICATION OF ELECTED MEMBERS FROM OFFICE:

Elected Members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more year's imprisonment, or if they cease to be or lose their status as an elector or of certain breaches of the Local Authorities (Members' Interests) Act 1968.