

Cr Duncan Campbell  
Taupo District Council  
c/- [duncancampbellbythesea@gmail.com](mailto:duncancampbellbythesea@gmail.com)

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Local Government Commission  
c/- [lgc@lgc.govt.nz](mailto:lgc@lgc.govt.nz)

### **LGC Consultation - Draft Standardised Code of Conduct**

I wish to make a submission to the standardisation of the Code of Conduct (CoC) for elected members as per the following. I am a first term Councillor at Taupo District Council and have come to appreciate its implications, and wish to alert to some aspects of which at least a few could give me substantial hesitation to signing.

#### **Complaints from any member of the public or staff**

Elected members are already accountable to the public – every three years at election time. When a sufficient portion of the community votes for and thereby endorses a Councillor or Mayor, that endorsement should not be subject to the inevitable few who disagree, or worse, hold a vendetta against an elected member.

With regards to the public, the disgruntled few should not be able to exploit the Code of Conduct mechanism to harass or otherwise make life difficult for political foes. Elected members should be confident of going about their business, without fearing vexatious complaints from the general public. It is inevitable that certain members of the public would abuse the CoC process for political gain or damage.

With regards to staff, elected members are voted by the public to have oversight of Council staff through the Chief Executive. The Chief Executive, and by extension the staff, are rightly answerable to elected members. In my view, allowing CoC complaints from staff would have the effect of undermining governance by making elected members unacceptably answerable to staff.

Elected members should be granted effective immunity from such abuse during the course of their term. In my view, if a particular elected member is problematic then it should be dealt with through the democratic process of elections only.

#### **Te Tiriti o Waitangi**

Clause 8 of the Local Government Commission (LGC) Draft Code of Conduct make reference to Te Tiriti o Waitangi and seeks to impose expectations upon elected members that the Local Government Act 2002 does not – in particular taking into account various principles of the Treaty of Waitangi.

I refer to s4 of the Local Government Act 2002 (LGA) which states:

#### **4 - Treaty of Waitangi**

In order to recognise and respect the Crown's responsibility to take appropriate account of the principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to local government decision-making processes, Parts 2 and 6 provide principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes.

Please note: It is the Crown, not Councils, who have a “responsibility to take appropriate account of the principles of the Treaty of Waitangi...”. This is because Councils were not signatories to the Treaty and Councils are not part of the Crown. They are separate entities created by statute.

I acknowledge that Councils are required to abide by Parts 2 and 6 of the LGA which the Crown added to fulfil their responsibility under the Treaty. However, nowhere in Parts 2 and 6 does it refer to Tino Rangatiratanga, Partnership, Equity, Active protection and Options that ensure that services are provided in a culturally appropriate way.

For this reason I submit that Clause 8 is Ultra Vires - beyond the legal power or authority of the LGC to have inside its CoC.

#### **Collective Responsibility**

I submit that *collective responsibility* has no place in a Code of Conduct. This concept is imported from the New Zealand Cabinet Manual and applies to Cabinet Ministers where “public dissociation from Cabinet decisions by individual coalition Ministers outside the agreed processes is unacceptable”.<sup>1</sup>

The Cabinet is a subset of Parliament comprising only the Ministers of the various coalition parties who have agreed to work together under a coalition agreement to form a coalition government. The concept is that while Ministers may disagree during a confidential Cabinet Meeting they must maintain public agreement.

This is a poor analogy to a Council which, in my view, should be likened to the whole of Parliament. In Parliament there are opposition parties who ask the tough questions of the government and publicly express and even campaign on differences with the government.

It should not be a breach of the Code of Conduct for Councillors to express public disagreement with decisions made at Council. I believe that is the strong inference of *collective responsibility*.

#### **Conflicts of Interest**

The proposed Code still treats “conflict of interest” in narrow, outdated terms - largely confined to direct financial gain.

In today's governance environment, that's not enough. Board membership of entities negotiating with Councils, institutional loyalties, and indirect benefits must be recognised as legitimate grounds for concern.

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<sup>1</sup> <https://www.dpmc.govt.nz/sites/default/files/2023-06/cabinet-manual-2023-v2.pdf#page=97>

After all, the public doesn't distinguish between legal and ethical breaches - they only see bias.

I strongly urge you to include clearer language about:

- structural or institutional conflicts
- public perception thresholds
- the obligation to declare and seek independent review, not self-assess

In other professions (e.g. engineering, banking, procurement), conflict is often assessed by whether a person can reasonably be seen to favour one outcome - not whether they'll profit personally.

*It's like saying a bank manager is not conflicted even if he is also sitting on the board of a company applying for a loan - he may not profit personally, but his predisposition is obviously to advance the interests of the applicant.*

A very analogous situation to the above has come up just recently at my own Council, and I give my own account here:

<https://duncandoestaupo.com/2025/09/02/the-bottom-line-on-conflicted-interest-is-you/>

### **Confidential Information**

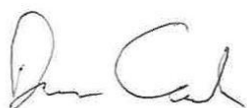
The importance of maintaining confidentiality is mentioned, but nowhere is it explained on whose authority such information is to be deemed confidential. At my own Council I do believe confidentiality is claimed too often without justification, and there seems to be no easy recourse to challenge otherwise.

I believe there could be something in the CoC to not only clarify who gets to deem that information is confidential, but a mechanism to require it be fully documented and properly justified.

### **Conclusion**

The above constitute my most pointed concerns about LGC's draft CoC. I am not completely sure why a national standard is required around the country instead of just issuing guidelines, but this at least does present an opportunity to set something in place which could be universally helpful. I only hope it ends up being something which I am prepared to sign.

Yours sincerely



Councillor Duncan Campbell  
**Taupo District Council**  
(027) 486 1380