GORE DISTRICT COUNCIL

CODE OF CONDUCT

Adopted by the Gore District Council on 11 November 2025

RURAL CITY LIVING

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1.0 Introduction

Kupu whakataki

Congratulations on being elected as a member of the Gore District Council. Your community has bestowed a unique and special honour on you to represent them and make decisions on their behalf that will provide benefit for current and future generations. It's an honour that should not be taken lightly. The way you conduct yourself while participating as a member of the Council the Council should reflect the responsibility you have been given and requires you to be inclusive of all, respectful, and to uphold the mana of your position.

The Code of Conduct is designed to ensure that the governance of our local authorities is undertaken with the highest degree of integrity while also providing a safe and rewarding environment in which all elected members can thrive.

All Councils have a statutory obligation under the Local Government Act 2002, to adopt a code of conduct. The Code has been based on a document produced by Local Government New Zealand to assist the Council and Community Board in meeting that obligation and includes

- supplementary information, including an overview of the legislation that sets standards for ethical behaviour, criteria for assessing alleged breaches and actions that local authorities can take where a complaint has been upheld.

2.0 Why a code of conduct?

He aha te take o te tikanga whanonga?

Codes of conduct are common features in local government. They complement specific statutes, such as the Local Government and Meetings Act 1987 (LGOIMA), designed to ensure openness and transparency. Codes of conduct are an important part of building community confidence in our system and processes, and contribute to:

(a) good governance of the city, district, or region,
(b) effective decision-making and community engagement,
(c) the credibility and accountability of the local authority to its communities, and
(d) a culture of mutual trust and respect between members of the local authority and with management.

Codes of conduct should promote effective working relationships within a local authority and between the authority and its community. It should promote free and frank debate which should in turn result in good decision making.

Codes of conduct are not a means of preventing members from expressing their personal views provided they are clearly signaled as personal views. Rather the code is designed to promote robust debate and the expression of all views by providing a framework to ensure that debate is conducted in a civil and respectful way.

A code of conduct sets boundaries on standards of behaviour and provides a means of resolving situations when elected members breach those standards.

2.1 Codes of conduct cannot stand alone

Codes of conduct work best when they are supported by other mechanisms. For example, codes should be linked to other procedural documents, such as Standing Orders, which provide rules for the conduct for meetings, while a code governs day-to-day and less formal relationships.

2.2 Adopting a code of conduct

To be effective a code needs to be "owned" by elected members; members must be comfortable with the content and the processes for investigating breaches. Nothing is more likely to promote non-compliance than elected members being expected to adhere to something they have had no input into. To reinforce the importance of the code, the Local Government Commission recommends that the code is included in the statutory briefing made at each local authority's inaugural meeting.

2.3 Review and amendment

Once adopted, the code continues in force until amended by the Council. It can be amended at any time but cannot be revoked unless the Council replaces it with another code. Amendments require a resolution supported by 75 per cent of the Council members present at the Council meeting at which the amendment is considered.

3.0 Code of Conduct

Wāhanga Tuatahi: Anga Tikanga Whanonga

The Gore District Council Code of Conduct has been adopted in accordance with the requirements of the Clause 15, Schedule 7 of the LGA 2002, which requires every local authority to adopt a code of conduct for members of the local authority.

Members' commitment Ngā herenga a ngā mema

These commitments apply when conducting the business of the local authority as its representative or the representative of an electorate, and communicating with other members, the media, the public, or staff. By adopting the Code of Conduct members agree that they will:

1. treat all people fairly,
2. treat all other members, staff, and members of the public, with respect,
3. share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties,
4. operate in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi,
5. make it clear, when speaking publicly, that statements reflect their personal view, unless otherwise authorised to speak on behalf of the local authority,
6. take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of a member,
7. not bully, harass, or discriminate unlawfully against any person,
8. not bring the local authority into disrepute,
9. not use their position to improperly advantage themselves or anyone else or disadvantage another person,
10. not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority,
11. not disclose information acquired, or given, in confidence, which they believe is of a confidential nature.

Please note: a failure to act in accordance with these commitments may result in a complaint being taken against you.

The Code of Conduct sets standards for the behaviour of members towards other members, staff, the public and the media. It is also concerned with the disclosure of information that members receive in their capacity as members. Members of a local authority must comply with the Code of Conduct of that local authority. More detail explaining the Code of Conduct is set out in clause 4.

A copy of clause 15 of Schedule 7 of the LGA, which sets out the requirements for a code of conduct,

is set out in clause 5.

4.0 Explanation of the Code of Conduct
He whakamārama mō te Tikanga Whanonga

4.1 Definitions

For the purposes of this Code "member" means an elected or appointed member of:

- the governing body of the local authority,
- any committee or sub-committee of the local authority,
- any community board of the local authority.

Local authority means the Council, or community board which has adopted this Code.

4.2 Te Tiriti o Waitangi

The Gore District Council commits to operating in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi and acknowledges the following principles:

1. Tino Rangatiratanga: The principle of self-determination provides for Māori self-determination and mana motuhake. This requires local authorities to be open to working with mana whenua partners in the design and delivery of their work programmes,
2. Partnership: The principle of partnership implies that local authorities will seek to establish a strong and enduring relationship with iwi and Māori, within the context of iwi and Māori expectations. The Council should identify opportunities, and develop and maintain ways, for Māori to contribute to the Council decisions, and consider ways the Council can help build Māori capacity to contribute to Council decision-making,
3. Equity: The principle of equity requires local authorities to commit to achieving the equitable delivery of local public services,
4. Active protection: The principle of active protection requires local authorities to be well informed on the wellbeing of iwi, hapū and whanau within their respective rohe,
5. Options: The principle of options requires local authorities to ensure that its services are provided in a culturally appropriate way that recognises and supports the expression of te ao Māori.

4.3 Principles of good governance

Members recognise the importance of the following principles of good governance.

- **Public interest:** members should act solely in the public interest.
- **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
- **Tāria te wā and kaitiakitanga/stewardship:** members should use long-term perspective when making decisions. Decisions, which impact on past, current and future generations, also affect collective well-being.

- **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
- **Openness:** members should act and take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** members should be truthful and not misleading.
- **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.

4.4 Behaviours

To promote good governance and build trust between the local authority, its members and citizens, members **agree** to the following standards of conduct when they are:

(a) conducting the business of the local authority,
(b) acting as a representative of the local authority,
(c) communicating with other members, the media, the public and staff, and
(d) using social media and other communication channels.[1]

Where a member's conduct falls short of these standards, members accept that they may be subject to a complaint made under the Council's "Policy for alleged breaches of the Code of Conduct".

4.5 Respect

Members will treat all other members, staff and members of the public, with respect.

Respect means politeness and courtesy in behaviour, speech and writing. Debate and differences are all part of a healthy democracy. As a member of a local authority you can challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You must not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Offensive behaviour lowers the public's expectations of, and confidence in, your local authority. In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening, you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police.

4.6 Bullying, harassment, and discrimination

Members will treat all people fairly and will not:

[1] Please refer to the Guidelines for the responsible use of social media in the LGNZ Good Governance Guide

(a) bully any person,
(b) harass any person, or
(c) discriminate unlawfully against any person.

For the purpose of the Code of Conduct, bullying is offensive, intimidating, malicious, or insulting behaviour. It represents an abuse of power through means that undermine, humiliate, denigrate or injure another person. It may be:

(d) a regular pattern of behaviour, or a one-off incident,
(e) occur face-to-face, on social media, in emails or phone calls, happen in the workplace, or at work social events, and
(f) may not always be obvious or noticed by others.

Harassment means conduct that causes alarm or distress, or puts people in fear of violence, and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination occurs when a person is treated unfairly, or less favourably, than another person because of any of the following[2]:

age	skin, hair, or eye colour	race
disability	employment status	ethical belief
ethnic or national origin	family status	marital status
political opinion	religious belief	gender identity
sex	sexual orientation.	

4.7 Sharing information

Members will share with the local authority any information received that is pertinent to the ability of the local authority to properly perform its statutory duties.

Occasionally members will receive information in their capacity as members of the governing body, which is pertinent to the ability of their Council to properly perform its statutory duties. Where this occurs, members will disclose any such information to other members and, where appropriate, the Chief Executive. Members who are offered information on the condition that it remains confidential

[2] See Human Rights Commission https://www.govt.nz/browse/law-crime-and-justice/human-rights-in-

nz/human-rights-and-freedoms/

will inform the person making the offer that they are under a duty to disclosure such information, for example, to a governing body meeting in public exclusion.

4.8 Expressing personal views publicly

Members, except when authorised to speak on behalf of the local authority, will make it clear, when speaking to the media, on social media, or in hui and presentations, that statements reflect their personal view.

The media play an important role in the operation and efficacy of our local democracy and need accurate and timely information about the affairs of the local authority to fulfil that role. Members are free to express a personal view to the media and in other public channels at any time, provided the following rules are observed:

- they do not purport to talk on behalf of the local authority, if permission to speak on behalf of the authority has not been given to them
- their comments must not be inconsistent with the Code, for example, they should not disclose confidential information or criticise individual members of staff, and
- their comments must not purposefully misrepresent the views of the local authority or other members.

4.9 Provide equitable contribution

Members will take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of them.

Being a member is a position of considerable trust, given to you by your community to act on their behalf. To fulfil the expectations of your constituents and contribute to the good governance of your area it is important that you make all reasonable efforts to attend meetings and workshops, prepare for meetings, attend civic events, and participate in relevant training seminars.

The local government workload can be substantial, and it is important that every member contributes appropriately. This requires members to often work as a team and avoid situations where the majority of the work falls on the shoulders of a small number of members.

4.10 Disrepute

Members will not bring the local authority into disrepute.

Member are trusted to make decisions on behalf of their communities and as such their actions and behaviours are subject to greater scrutiny than other citizens. Members' actions also reflect on the local authority as well as themselves and can serve to either boost or erode public confidence in both.

Behaviours that might bring a local authority into disrepute, and diminish its ability to fulfil its statutory role, include behaviours that are dishonest and/or deceitful. Adhering to this Code does not in any way limit a member's ability to hold the local authority and fellow members to account or

constructively challenge and express concerns about decisions and processes undertaken by their local authority.

4.11 Use of position for personal advantage

Members will not use, or attempt to use, their position to improperly advantage themselves or anyone else, or disadvantage another person.

Being a member of a local authority comes with certain opportunities and privileges, including the power to make choices that can impact on others. Members must not take advantage of such opportunities to further their own or others' private interests or to disadvantage anyone unfairly. A member found to have personally benefited by information gained as an elected member may be subject to the provisions of the Secret Commissions Act 2010.

4.12 Impartiality

Members will not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They must not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers to gain understanding of their thinking and decision-making, however, they must not seek to influence officials to change their advice or alter the content of a report, other than in a meeting or workshop, if doing so would prejudice their professional integrity. Members should:

- make themselves aware of the obligations that the local authority and Chief Executive have as employers and always observe these requirements, such as the obligation to be a good employer, and
- observe any protocols put in place by the Chief Executive concerning contact between members and employees, and not publicly criticise individual staff.

If you have concerns about the behaviour of an official, whether permanent or contracted, you should raise your concerns with the local authority's Chief Executive, or, if the concerns are to do with the Chief Executive, raise them with the Mayor or the Chief Executive's performance appraisal committee.

4.13 Maintaining confidentiality

Members will not disclose information acquired, or given, in confidence, which they believe is of a confidential nature, unless.

1. they have the consent of a person authorised to give it,
2. they are required by law to do so,
3. the disclosure is to a third party to obtain professional legal advice, and that the third party agrees not to disclose the information to any other person, or
4. the disclosure is reasonable and in the public interest, is made in good faith, and in compliance

with the reasonable requirements of the local authority.

5.0 Requirement for a code of conduct

Te herenga kia whai tikanga whanonga

Clause 15, Schedule 7 of the Local Government Act 2002 requires every local authority to adopt a code of conduct for members of the local authority. It states:

15 Code of conduct

A local authority must adopt a code of conduct for members of the local authority as soon as practicable after the commencement of this Act.

The code of conduct must set out –

1. 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:
    a. behaviour towards one another, staff and the public; and
    b. disclosure of information, including (but not limited to) the provision of any document, to elected members that –
        i. is received by, or is in possession of, an elected member in his or her capacity as an elected member; and
        ii. relates to the ability of the local authority to give effect to any provision of this Act; and
    c. a general explanation of –
        i. the Local Government Official Information and Meetings Act 1987; and
        ii. any other enactment or rule of law applicable to members.
2. A local authority may amend or replace its code of conduct but may not revoke it without replacement.
3. A member of a local authority must comply with the code of conduct of that local authority.
4. A local authority must, when adopting a code of conduct, consider whether it must require a member or newly elected member to declare whether or not the member or newly elected member is an undischarged bankrupt.
5. After the adoption of the first code of conduct, an amendment of the code of conduct or the adoption of a new code of conduct requires, in every case, a vote in support of the amendment of not less than 75% of the members present.
6. To avoid doubt, a breach of the code of conduct does not constitute an offence under this Act.

6.0 Process to be followed

6.1 Process for determining and investigating complaints

Te tukanga whakatau me te tirotiro i ngā amuamu

Step 1: Chief Executive receives complaint

All complaints made under this Code of Conduct must be made in writing and forwarded to the Chief Executive who will refer the complaint to the initial assessor. The Chief Executive will also:

(a) inform the complainant that the complaint has been referred to an independent person and refer them to the process for dealing with complaints as set out in the Code of Conduct; and
(b) inform the respondent that a complaint has been made against them and the name of the initial assessor overseeing the process and refer them to the policy for dealing with complaints as set out in the Code of Conduct.

Step 2: Initial assessor makes an assessment and arranges mediation

(a) The initial assessor will undertake an assessment of the merits of the complaint. If they consider it is not valid, the complaint will be dismissed. The complainant will have no recourse or appeal. Grounds for concluding that a complaint has no merit include that it is trivial, vexatious, frivolous, or politically motivated.
(b) If deemed to have merit, the initial assessor will contact the parties to seek their agreement to independently facilitated mediation. If the parties agree and the issue is resolved by mediation the matter will be closed and no further action is required.
(c) If the parties do not agree to mediation, or mediation is unsuccessful in resolving the matter, the initial assessor will refer the complaint to an independent investigator selected from a panel established by the Chief Executive at the start of the triennium, or service contracted to the local authority. The initial assessor will also inform the complainant and the respondent that the complaint has been referred to the independent investigator and the name of the independent investigator.

Step 3: Selecting an independent investigator

The Chief Executive is responsible for compiling a panel or list of independent investigators.

At the beginning of each triennium the Chief Executive, in consultation with the Council, will compile a list of independent investigators. In selecting them, a Chief Executive may consider:

- the Council's legal advisors,
- a national service specialising in public sector integrity,
- a national service providing assessment and investigation services, or
- an individual with relevant skills and competencies.

Please note: Given the litigious nature of some code of conduct disputes, independent investigators

should have relevant liability insurance, provide on their own behalf or by the local authority. The

Chief Executive also needs to ensure that investigations are undertaken within budgetary limits negotiated in advance.

Step 4: Independent investigator to inquire and conclude on the matter

If the complaint is found to be a breach of the Code of Conduct the independent investigator will inform the initial assessor, who will inform the complainant and respondent. The independent investigator will then assess the nature and effect of the breach and prepare a report for the Council on the seriousness of the breach and recommend actions commensurate with that breach. In preparing that report the independent investigator may:

(a) consult with the complainant, respondent, and any affected parties,
(b) undertake a hearing with relevant parties, and/or
(c) refer to any relevant documents or information.

At any stage in their inquiry the independent investigator may find that a breach has not occurred, or the matter should be referred to a relevant agency. If this is the case the independent investigator will inform the initial assessor who will inform the complainant and respondent that the complaint is dismissed or has been referred to a relevant named agency.

On receipt of the independent investigator's report the Chief Executive, or initial assessor, will prepare a report for the Council, which will meet to consider the findings and implement any recommended actions. The report will include the full report prepared by the investigator.

Step 5: Process for considering the investigator's report

(a) The Chief Executive's report, containing the independent investigator's recommendations and report, will be presented to the governing body, or committee/sub-committee with delegated authority to consider code of conduct complaints,
(b) The governing body, or community board, will ensure that members with an interest in the complaint are not present during the discussion on the independent investigator's recommendations.
(c) The report will be received in public meeting unless grounds, such as s.48 LGOIMA, exist for the exclusion of the public.
(d) The Chief Executive's report may also outline the plan for the report's public release, for the governing body's information and comment.
(e) The governing body, community board, or committee/sub-committee with delegated authority, may accept the investigator's recommendations or, if they believe it is justified, amend the independent investigator's recommendations. As part of these considerations the complainant may be asked to appear before the governing body or committee and answer questions from members.

6.2 Actions that may be applied when a breach has been confirmed Ngā mahi ka whāia pea ina whakatauhia tētahi takahanga

Where a complaint that the Code of Conduct was breached has been upheld, any actions taken against the member found to be in breach should be consistent with the following principles.

(a) Actions should be commensurate with the seriousness of the breach.
(b) Actions should be applied in a manner that is culturally appropriate and safe for the members involved.
(c) Actions should, to the degree practical, contribute to an inclusive culture in the local authority by focusing on constructive mediation, learning, and member improvement.

In determining a response to a breach of the Code of Conduct, one or more of the following could be selected:

1. That no action is required.
2. That the member meets with the Mayor for advice.
3. That the member attends a relevant training course.
4. That the member agrees to cease the behaviour.
5. That the member work with a mentor for a period.
6. That the member tenders an apology.
7. That the member participates in voluntary mediation (if the complaint involves a conflict between two members).
8. That the local authority sends a letter of censure to the member.
9. That the local authority passes a vote of no confidence in the member.
10. That the member loses certain the Council-funded privileges (such as attendance at conferences).
11. That the member loses specific responsibilities, such as committee chair, deputy committee chair or portfolio holder.
12. That the member be subject to restricted entry to the Council offices, such as no access to staff areas (where restrictions may not previously have existed).
13. That the member be subject to limitations on their dealings with the Council staff, other than the Chief Executive or identified senior manager.
14. That the member be suspended from committees or other bodies to which the member has been appointed.
15. That the member be invited to consider resigning from the council.

Please note: Actions 1-6 will typically not be reported to the local authority. Actions 7-15, which have a high degree of public interest, namely democratic representation, should be considered in an open meeting, unless there are grounds, such as those set out in LGOIMA, for not doing so.

Responses to statutory breaches

In cases where a breach of the Code of Conduct is found to involve regulatory or legislative

requirements, the Chief Executive will refer the complaint to the relevant agency. For example:

- Breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under LAMIA).
- Breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under section 44 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).

7.0: Case studies for assessing potential breaches: Ngā rangahau whakapūaho mō te aromatawai i ngā tūpono takahanga

Example one: staff accused of improper motives

Councillor Smith was elected on a platform of stopping the sale of the Council housing. The Council has made a decision to sell the Council housing. Cr Smith makes media comments against the decision after it is made. Those same statements suggested that the Council staff advising on the sale "must have owned shares" in the company that proposed to buy the houses.

Cr Smith's actions in releasing a media statement criticising a decision after it has been made would probably not in and of itself constitute a breach of a reasonable code of conduct. Cr Smith has a right to express a viewpoint and, provided that he makes it clear he is expressing a personal view, then issuing a critical press statement is an action he is entitled to take. If his statements failed to make it clear that he was expressing a personal or minority view then it may be a non-material breach of the Code, probably one where censure would be the appropriate response.

However, this media statement includes an allegation that staff advice was based on improper motives or corruption. This is a breach of most codes of conduct. It is most likely to be a material breach given the potential impact on the Council's reputation and the reputation of staff.

Also, there is no qualified privilege attached to public statements about employees which are false and damaging. In other words, elected members may be sued for defamatory statements made about employees.

Example two: leak of confidential information

Cr Jones is on the Council's Capital Works Committee. The Committee is currently considering tenders for the construction of a new wastewater treatment plant and has received four tenders in commercial confidence. The Committee has recommended to the Council that it award the contract to the lowest tenderer. Cr Jones is concerned the lowest tender proposes to treat sewage to a lesser standard than others. She leaks all four tenders to the local media. A subsequent investigation by the Council conclusively traces the leak back to her.

In leaking the tender information to the media, Cr Jones will have breached most codes of conduct. This breach has potentially serious consequences for the Council as a whole. It not only undermines elected members trust of each other, it also undermines the confidence of suppliers in the Council, which may lead to them not dealing with the Council in future, or even complaints under the Privacy Act 2020.

In circumstances such as these where an elected member fails to respect a commercial confidence censure and removal from the committee is an obvious first step. The Council may be liable for prosecution under the Privacy Act 2020 and even to civil litigation.

In the event that the Council suffers financial loss it may elect to ask the Auditor-General to prepare a report on the loss (or the Audit Office may do so on its own initiative), which may result in Cr Jones

having to make good the loss from her own pocket.

Example three: member purports to speak on behalf of the Council

Eastland District Council is conducting a performance review of the Chief Executive. It has established a Chief Executive Performance Management Committee to conduct the review. In the course of that review the committee meets informally with the Chief Executive to review which performance targets were met and which were not. The meeting notes that the Chief Executive has been unable to meet two of his twenty targets and resolves to formally report this to the full the Council for its consideration. At the conclusion of that meeting Cr Black leaves to find a local reporter waiting outside and makes the comment that "Jack White won't be getting a pay increase this year because he didn't meet all his targets".

This action will probably constitute a breach of most codes of conduct in that it:

- breached a confidence,
- presumed to speak on behalf of the Council,
- purported to commit the Council to a course of action before the Council had made a decision (or even met to consider the matter), and
- failed to treat a staff member with respect and/or courtesy.

In addition to the provisions of the Code of Conduct, Cr Black's actions will severely undermine the relationship between the Chief Executive and the Council, which may well constitute grounds for litigation against the Council both in terms of employment and privacy law.

Example four: member criticises staff performance in media

Cr Mary Fogg, concerned about the failure of her the Council to respond quickly to resident complaints about flooding in their neighbourhood, expressed her frustration when speaking at a public meeting and, as part of her response to questions stated that the Council staff had dropped the ball and failed to take residents' concerns seriously.

The Councillor's remarks were reported in the local suburban paper and were read by the Council staff, some of whom felt that they had been unfairly criticised and raised the matter with their Chief Executive. The Chief Executive felt it necessary to lodge a complaint under the Council's Code of Conduct because the member's comments were disrespectful of staff.

The question for the initial assessor is whether, publicly expressing disappointment in the performance of the staff is a breach of the Code of Conduct. Considerations might include:

- Whether there was a basis of fact for the member's comments.
- How the member's views were expressed, that is, as a form of constructive criticism or not.
- The right of an employer (staff are employed by the local authority) to express a view should an organisation fail to live up to expectations.
- Whether a general statement about the performance of staff is in anyway comparable to a public criticism of an individual staff member, which would be a clear breach and might be an example of intimidation of harassment.

In this case, the initial assessor concluded that it was not unreasonable for a member to make general statement about the performance of staff as a collective, indeed, one of her pre-election commitments was to improve the responsiveness of the Council staff. However, the assessor also concluded that the article lacked sufficient context to explain why she was disappointed, especially when some of the concerns were outside the control of staff and recommended that the member meet with the mayor to get guidance on how to raise such concerns in the future.

Example five: member accused of using sexist language and humour

Towards the end of the first year of the new triennium, the Chief Executive received a complaint, signed by four Councillors, alleging that Cr Rob Jones regularly used sexist language in meetings, workshops and other official engagements. The Councillors who made the complaint alleged that his tendency to call female colleagues 'girls'; interrupt them while speaking or ignore their comments; and that his use of sexist humour was demeaning to women and inconsistent with the behaviours set out in the Code of Conduct; the commitment to treat other members, staff and members of the public with respect. The Chief Executive forwarded the complaint to the independent investigator.

The investigator, having access to minutes, video recordings and the testimony of other members, was able to easily confirm that the complaint was justified and that both Cr Jones' language and behaviour was inconsistent with the Code. That left the Investigator with the task of determining how serious the breach was and what actions should be taken. Factors that the investigator took into consideration included:

- that the issue had been raised with Cr Jones earlier in the year by a colleague, with no obvious change in behaviour;
- that Cr Jones was one of the Council's representatives on its Youth Committee, bringing him into regular contact with young people; and
- that the Council had adopted a specific policy to be a safe and supportive workplace for both elected members and staff.

Taking these factors into account the Investigator recommended that Cr Jones be removed from his role as a Council representative on the Youth Committee; should be enrolled in a relevant course to better understand offensive behaviour and its impacts; and meet monthly with the Mayor to monitor his behaviour.

Example six: Councillor Facebook page used to disparage others

Crs Sarah Smith and William Getty share political views in common and have recently established a Facebook group through which they promote debate and discussion with like-minded people in their district. Some of the participants in that Facebook Group make posts that include explicit criticism of other Councillors, sometimes using explicit language, commenting on things like the way they voted, their motivations and personal matters. Some of the Councillors targeted by the abuse complained to Crs Smith and Getty who, in response, closed the Facebook page to other Councillors, preventing them from joining or viewing the content.

Rather than solve the concerns, the decision to close the Facebook to others created additional anxiety for some Councillors who became concerned that the page may be sharing their personal details and mis-representing their views. A complaint was made to the Chief Executive that the Code of Conduct had been breached, on the basis that the decision to exclude them from the website, and the fact that it appeared to me unmoderated, was intimidating, potentially exposed them to harm and allowed promoted statements about them and the council that were clearly untrue. The Chief Executive referred the complaint to the council's independent investigator.

The investigator found that, while Crs Smith and Getty were not directly mis-representing the views of their colleagues, they were indirectly encouraging it, which breached the Code. Because this was the first complaint, and because the two Councillors believed that by limiting access to the website, they had addressed the initial concerns, the investigator did not regard the breach as material. She recommended that the two Councillors remove the block preventing other Councillors from joining or accessing the site and install a system for approving posts, such as a moderator, before they are published.