

# POLICY ON COUNCILLOR INVOLVEMENT IN NEGOTIATIONS



## 1.0 Introduction

The purpose of this policy is to provide parameters and guidance for councillors on when participation in negotiations on behalf of the Gore District Council may be permissible. The policy is not intended to cover other aspects of the operational role of the Council where councillors may have some input.

## 2.0 Statutory Context

2.1 Section 39 of the Local Government Act 2002 stipulates that a local authority must act in accordance with the following principles in relation to its governance:

- (a) a local authority should ensure that the role of democratic governance of the community, and the expected conduct of councillors, is clear and understood by councillors and the community; and
- (b) a local authority should ensure that the governance structures and processes are effective, open, and transparent; and
- (c) a local authority should ensure that, so far as is practicable, responsibility and processes for decision-making in relation to regulatory responsibilities is separated from responsibility and processes for decision-making for non-regulatory responsibilities; and
- (d) a local authority should be a good employer; and
- (e) a local authority should ensure that the relationship between councillors and management of the local authority is effective and understood.

2.2 The role of the Chief Executive of a local authority is set out in Section 42 (2). The responsibilities include:

- (a) implementing the decisions of the local authority; and
- (b) providing advice to members of the local authority and to its community boards, if any; and
- (c) ensuring that all responsibilities, duties, and powers delegated to him or her or to any person employed by the local authority, or imposed or conferred by an Act, regulation, or bylaw, are properly performed or exercised; and
- (d) ensuring the effective and efficient management of the activities of the local authority; and
- (e) maintaining systems to enable effective planning and accurate reporting of the financial and service performance of the local authority; and
- (f) providing leadership for the staff of the local authority; and

- (g) employing, on behalf of the local authority, the staff of the local authority (in accordance with any remuneration and employment policy); and
- (h) negotiating the terms of employment of the staff of the local authority (in accordance with any remuneration and employment policy).

2.3 The conduct of councillors is regulated by a code of conduct that must be adopted by a local authority. Schedule 7, Clause 15 (2) of the Act specifies that a code of conduct must 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, including (but not limited to) the provision of any document, to councillors that –
    - A. is received by, or is in the possession of, an elected member in his or her capacity as an elected member; and
    - B. relates to the ability of the local authority to give effect to any provision of this.

2.4 Schedule 7, Clause 15 (4) explicitly states that an elected member must comply with the code of conduct of that local authority.

### **3.0 Operational Context**

- 3.1 Councillors set the strategic direction of the Council, make key investment and expenditure decisions such as setting of rates and establish and monitor Council policies.
- 3.2 The Chief Executive and staff implement the policy decisions and strategies of the Council.
- 3.3 In broad terms the role of the councillors is governance and oversight, whilst the staff of the Council are viewed as operational.
- 3.4 The boundary between governance and operation can at times be less than bright. When the boundary requires clarification it can be defined via a specific policy.
- 3.5 Undertaking negotiations on behalf of the Council would often be categorised as being operational. However there are times when councillor involvement is desirable and/or necessary.

### **4.0 Policy**

- 4.1 Undertaking negotiations on behalf of the Council is the prime responsibility of the Chief Executive, or their nominee, while the outcome of negotiations may ultimately require the approval of the Council. The discussion, debate and correspondence which may comprise the acts of negotiation, will unless otherwise resolved by the Council, be the responsibility of and led by, the Chief Executive, or his nominee.
- 4.2 In the absence of a Council resolution councillors shall not have any involvement in undertaking negotiations on behalf of the Council.

- 4.3 Councillors need to exercise care in not participating in conversations with a member of the public that relate to a matter, which is currently being negotiated by the Chief Executive or staff on behalf of the Council. Any concerns or inquiries that the elected member may receive in regard to the nature of negotiations being conducted by the Chief Executive or his staff, should be referred to the Mayor without delay.
- 4.4 It is acknowledged that councillors often possess skills and experience that can beneficially assist a negotiation process. Therefore the Council may by resolution approve the inclusion of a particular member or members within a Council negotiating team.
- 4.5 Any elected member appointed to a Council negotiating team will have full rights of participation and will have the same status in terms of authority – unless otherwise resolved – as other members of the team.
- 4.6 Notwithstanding clause 4.1 to 4.5 it is acknowledged that pursuant to Section 42 (2) of the Local Government Act 2002 employment negotiations are the sole responsibility of the Chief Executive.
- 4.7 This policy only covers the actions of councillors. For the avoidance of doubt, the office of the Mayor, which works closely with the Chief Executive, is not bound by this policy.

## **5.0 Breach of Policy**

Should this policy be breached by an elected member, the process of investigation and any sanction deemed appropriate will be governed by the Gore District Council Code of Conduct.

Policy adopted by the Gore District Council on 22 September 2015.

A handwritten signature in black ink, appearing to read 'Stephen Parry', with a stylized flourish at the end.

Stephen Parry  
**Chief Executive**

23 September 2015