

Appendix 2 - Proposed Amendment to Standing Orders

To be inserted as a new Part 4 to Standing Orders

PART 4 – ADDITIONAL MEETING PROCEDURES FOR THE ELECTED MEMBER CONDUCT COMMITTEE

4.1 Introduction and effect of Part 4

- (a) Part 4 sets out the standing orders that apply to the proceedings of the Elected Member Conduct Committee.
- (b) For the avoidance of doubt the standing orders in Part 4 apply in addition to the standing orders in Parts 1, 2 and 3.
- (c) The standing orders in Part 4 prevail in the event of a conflict arising with any other Part of the standing orders.

4.2 Members to be informed

4.2.1 Members to be Informed of Allegations Against Them

- (a) Any member raising an alleged breach of standing orders or the Queenstown Lakes District Council code of conduct which involves another member of the Council shall, as soon as reasonably practicable after raising the matter, fully inform that other member of the matter which has been raised.
- (b) The Mayor or Deputy Mayor shall not report to Council that a matter involving another member involves an alleged breach of standing orders or the Queenstown Lakes District Council code of conduct without first informing that member that this is intended.

4.3 Making of a complaint alleging a breach of Standing Orders or the Queenstown Lakes District Code of Conduct

4.3.1 Mediation of matters subject of complaint

Before a complaint alleging a breach of Standing Orders or the Queenstown Lakes District Code of Conduct, the Mayor may first seek to mediate a solution. Where a solution is agreed between the Mayor, and the member who is the subject of the allegation the matter will not be referred to the Elected Member Conduct Committee.

4.3.2 Time elapsed since matter subject of complaint

The Mayor or the Chief Executive is entitled to take into consideration the amount of time that has elapsed since the alleged breach before referring the matter to the Elected Member Conduct Committee and may determine not to refer the matter if as a result of the time elapsed since the alleged breach the Mayor or the Chief Executive is of the view that it would be unfair to do so.

4.4 Quorum of the Elected Member Conduct Committee to be maintained

4.4.1 Conflict of interest

Where a conflict of interest arises because a member of the Elected Member Conduct Committee has either brought an allegation or had an allegation made against them, the Council must appoint an elected member to act as a replacement in the matter in order to maintain the quorum of the Elected Member Conduct Committee.

4.5 Procedure of the Elected Member Conduct Committee

4.5.1 Member to be informed of referral of complaint to Elected Member Conduct Committee

On receipt of a complaint, the Chairperson or Deputy Chairperson of the Elected Member Conduct Committee must give the member(s) alleged to be in breach of the Code of Conduct or Standing Orders:

- (a) written notice of the complaint against him/her;
- (b) the opportunity to be represented by counsel or a support person;

- (c) at least five working days' notice of the date and time of any hearing at which the member must appear;
- (d) written advice of the evidence against him/her;
- (e) adequate time in which to present submissions at any hearing.

4.5.2 Public Excluded

The Elected Member Conduct Committee may conduct its activities with the public excluded to the extent permissible pursuant to the Local Government Official Information and Meetings Act 1987.

4.5.3 Elected Member Conduct Committee to be conducted in accordance with judicial principles

The Elected Member Conduct Committee will conduct its proceedings in accordance with usual judicial principles and may:

- (a) receive any evidence in any form that it considers appropriate to receive;
- (b) call for anything to be provided in evidence which it considers will assist it to make a decision or recommendation;
- (c) call before it a person to give evidence, who in its opinion, will assist in making a decision or recommendation.
- (d) the following provisions of the Commissions of Inquiry Act 1908 apply to every hearing conducted by the Elected Member Conduct Committee:
 - i. section 4, which gives powers to maintain order:
 - ii. section 4B, which relates to evidence:
 - iii. section 4D, which gives power to summon witnesses:
 - iv. section 5, which relates to the service of a summons:
 - v. section 6, which relates to the protection of witnesses:

4.5.4 Duty of elected members to provide all information to Elected Member Conduct Committee

(a) It shall be the duty of all elected members to meet with the Elected Member Conduct Committee as required and to provide all information and documents held by or on behalf of each of them relating to the matter under investigation to the Committee.

(b) Failure to comply with any requirement of the Elected Member Conduct Committee shall itself be a breach of Standing Orders.

(c) Nothing in this Order shall derogate from the right of any elected member under the New Zealand Bill of Rights Act 1990 to refuse to answer any question or to produce any document on the grounds that to do so would or might incriminate such elected member in respect of the matter under investigation.

4.5.5 Misuse of information

The misuse or unauthorised release of information that is confidential, legally privileged or is information that may otherwise be withheld from the public under any of the grounds specified in the Local Government Official Information and Meetings Act 1987 is a breach of Standing Orders.

4.6 Report of Elected Member Conduct Committee

4.6.1 Reporting of determination of the Elected Member Conduct Committee

The Chairperson or Deputy Chairperson will report all determinations of the Elected Member Conduct Committee to the next available Council meeting.

4.6.2 Consideration of report of Elected Member Conduct Committee

The Council will consider the report of the Elected Member Conduct Committee in open meeting of the Council, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public.

4.7 Responses to Breaches of the Code

4.7.1 After consideration of the report of the Elected Member Conduct Committee, the Council may resolve to take no further action or to take any of the following actions:

- (a) Refer the determination of the Elected Member Conduct Committee to the auditor general and/or the New Zealand Police or other appropriate public body;
- (b) Censure;
- (c) Reconstitute a Committee or sub-committee of Council to effect removal of the elected member (either permanently or temporarily) from Council Committees;
- (d) Dismiss the elected member from a position as Deputy Mayor or Chair of a committee;
- (e) Dismiss the elected member from appointment to any other representative bodies (either permanently or temporarily);
- (f) For breaches of the Code of Conduct in relation to electronic resources or communications, authorise the Chief Executive to remove Council owned computer/electronic equipment and terminate (either permanently or temporarily) access to any electronic resources of Council.

4.7.2 A resolution to take one or more of the above actions requires a vote in support of the resolution of not less than 75% of the members present.