

Informal Workshop Notes

Regional Council

Held: 11.00 am, Tuesday 21 February 2023, Council Chambers, Regional House, 1 Elizabeth Street, Tauranga

Chairperson: Chairman Doug Leeder

Deputy Chairperson: Deputy Chairperson Jane Nees – Acting Chair for this workshop

Present: Cr Malcolm Campbell

Cr Stuart Crosby
Cr Toi Kai Rākau Iti (via Zoom)
Cr Matemoana McDonald
Cr Kat Macmillan
Cr Ron Scott
Cr Ken Shirley
Cr Paula Thompson
Cr Lyall Thurston
Cr Andrew von Dadelszen
Cr Te Taru White
Cr Kevin Winters

In Attendance: Fiona McTavish – Chief Executive; Yvonne Tatton – Governance Manager; Kataraina O'Brien – General Manager Strategic Engagement; Tone Nerdrum Smith – Committee Advisor

Apologies: Chairman Leeder – early departure

1. Workshop Papers

1.1 2022 - 2025 Elected Members' Code of Conduct

Presented by: Yvonne Tatton – Governance Manager

1. Investigation Process

Key Points:

- Highlighted guidance previously provided by Councillors now included in the draft code of Conduct were:

- Initial assessment of complaints was to be undertaken by the Chair and Deputy Chair.
- Recommended outcomes or actions as a result of a formal investigation would not be binding on the Council.
- Report back on a formal investigation would be held in the public section of a Council meeting unless legitimate grounds for excluding the public existed.

In Response to Question:

- The LGNZ Code of Conduct template provided for binding vs non-binding recommendations, which meant the Council was either obliged to accept an independent complaints Investigator's recommendation or not.

2. Tiriti o Waitangi Principles

Key Points - Chief Executive:

- The draft Code was withdrawn from the December 2022 Council meeting while Council sought clarification from LGNZ on the reasons for the inclusion of Tiriti principles in the template.

Key Points - Members:

- Sought further discussion around whether or not including Tiriti principles in the Code was appropriate and beneficial
- Considered the Tiriti/Treaty partnership to be constantly changing and evolving
- Considered the wording of the Principles of the Tiriti as included in the LGNZ guidance and template were not embedded in Local Government legislation.
- The interpretation of Tiriti principles in the LGNZ template was a collaboration by a number of contributing agencies
- Considered that inclusion of Tiriti principles reflected the co-governance principles supported and applied by Council
- Considered Tiriti principles did not need to be defined in the Definitions section of the Code of Conduct as they were already referenced in the 'Members' Commitment' along with mutual respect and fairness
- Council's key impact areas included Māori engagement in its decision making processes, which made it unnecessary to also include Tiriti principles in the Code
- Māori should have the right to self-determination/Tino Rangatiratanga
- Emphasized the importance of the Code providing certainty for those subject to it, rather than being open for potential interpretation
- Considered that inclusion of the principles was important as it represented the fundamental purpose of what the Council did when representing its communities
- Council was a recognised leader in the co-governance space through its strategic groups established under the Tiriti/Treaty
- The spirit of the principles should provide the overriding direction for the Code
- Considered that whether including the principles or not was less important than the behaviour displayed through actions, e.g. in the way Council acted in the co-governance space.

11.56 am – Chairman Leeder **withdrew** from the workshop.

- It would not be viable to have a Code of Conduct that not all Councillors supported
- If no agreement could be reached and a new Code was not adopted, the 2019-22 Code of Conduct would remain in place
- Agreed that respect of differing opinions was an important component of healthy debate, even when a mutually agreeable outcome was not reached
- Tiriti principles were embedded in practices and regulations throughout New Zealand
- Noted that Members' Commitment 4: "operate in a manner that recognises and respects the significance of the principles of Te Tiriti o Waitangi"" aligned with the partnership interpretation/principle of Tiriti
- Suggested that Commitment 4 be amended by removing the words "..of the principles..."
- The constantly evolving nature of the interpretation of Tiriti principles meant clarity should be provided/further discussion undertaken before the principles could potentially be included in the Code
- Noted that Section 4 of the LGA 2001 referred to the Treaty of Waitangi and the requirement for creating opportunities for Māori to contribute to council decision making. Suggested that Section 4 of the LGA be included in the Code to provide guidance and clarity.

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.

- Article 3 of Tiriti stated that all citizens had the same rights under common law and statute law. However, there were societal inequities and outcomes that could not be ignored.

Guidance Provided:

- In order to create opportunities for further facilitated discussions to be held where members could express their views and reach a common understanding, the 2019-22 Code of Conduct would remain in place.

12.35 pm - the workshop **closed**.